

# MELAKA

## THE TRANSFORMATION OF A MALAY CAPITAL c.1400-1980

VOLUME TWO

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## An Introduction to Ethnic Segregation in Melaka Town

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**T**HIS chapter has several objectives. First, it reviews briefly previous works concerning ethnic segregation in Peninsular Malaysian towns. Second, it examines the spatial patterns of segregation by depicting the ethnic proportions by individual grouped enumeration blocks, as well as attempting to quantify the level of segregation area by area, the segregation of each community from the remainder of the population, and also the segregation of one ethnic group from another. Thirdly, it seeks explanations for the existence of ethnic residential segregation in Melaka. Finally, it draws some generalizations on the basis of this and other studies concerning Malaysian towns.

Ethnic segregation has been studied extensively in the United States, but less frequently in other parts of the world, including Malaysia. In the case of Malaysia, the earliest discussion of segregation within a particular city (other, that is, than those contained in governmental papers and memoranda) was incorporated in McGee's study of ethnic patterns in Kuala Lumpur, based on 1947 and 1957 census data. This study was part of a wider investigation concerning the cultural role of cities, in which the author applied Redfield and Singer's model (1954) of cultural change to Kuala Lumpur (McGee, 1963). Another study undertaken by Sidhu (1975) used the 1970 census data to examine the ethnic patterns of four Peninsular Malaysian towns: Kuala Lumpur, Petaling Jaya, Keluang, and Bukit Mertajam. This study also identified the various institutional and socio-economic factors responsible for creating ethnic segregation in these towns. Subsequently Clarke and Sidhu (1977) re-examined the data

for the same four towns in a separate study. Lee's (1976) paper, which studies changes in the ethnic composition of urban centres in the Peninsula with particular reference to Kuala Lumpur, also reveals the influence of ethnicity on urban residential patterns. As studies of ethnic segregation in Peninsular towns other than Kuala Lumpur are not overly numerous, it need occasion no surprise that Melaka has not been studied from this point of view.

Ethnic distinctions are politically important in Malaysia, but official, published statistics seldom reveal the relationship between ethnic groupings and residential distributions at the level of the individual enumeration block, which is the smallest census working unit or tract. However, the Malaysian Department of Statistics on request does provide data on the basis of aggregate groupings of three or four enumeration blocks, and it is these which form the areal framework for the present study.

As ethnic segregation is expressed in the number and physical location of Malay, Chinese, Indian, and 'Other' households, it becomes especially amenable to quantitative analysis. Particularly useful in this context is the *Index of Dissimilarity*, which provides a measure of the evenness of distribution of two statistical populations. It may be interpreted as a measure of net displacement, indicating the proportion of the one population which would have to move into other areas in order to reproduce the proportionate distribution of the other population. The Index is computed by halving the sum of the absolute percentage differences between areal units (here grouped enumeration blocks) within two populations. The general formula is

$$I_D = \frac{1}{2} \sum_{i=1}^k |x_i - y_i|$$

where  $x_i$  = the percentage of the x population in the i-th areal sub-unit;  
 $y_i$  = the percentage of the y population in the i-th areal sub-unit;  
 and the summation subsumes all k sub-units within a specified territory [here Melaka Town].

Calculation of the Index of Dissimilarity obtaining between a particular sub-group of a statistical population and the rest of that population yields a measure of the extent to which the sub-group in question is residentially discrete from the remainder of the population. This measure is known as the *Index of Segregation*. The usual formula for its computation is

$$I_S = I - \frac{I_D}{\frac{\sum x_{ai}}{\sum x_{ni}}}$$

where  $I_D$  = the Index of Dissimilarity between the sub-group and the total population;

$\Sigma x_{ai}$  = the total number of the sub-group in the city;  
and  $\Sigma x_{ni}$  = the total population of the city.

There is a full discussion of this and other segregation indices in Duncan and Duncan (1955), with a summary in Timms (1965), and measures of this kind calculated for Melaka Town are discussed in a subsequent section of this paper. But first the overall distribution of ethnic groups will be described.

Except for Singapore, Peninsular Malaysia has the largest proportion of non-indigenous inhabitants of any country in Southeast Asia. Together, the Chinese (35.4 per cent) and Indians (10.5 per cent) made up nearly half the total population of the Peninsula in 1970, while the indigenous Malays (53.1 per cent) formed a bare majority of the inhabitants. The urban picture is rather different, with the non-Malays dominating the urban population. In fact, the Chinese alone formed over half the townspeople in over two-thirds of the Peninsular towns in 1970 (Sidhu, 1976).

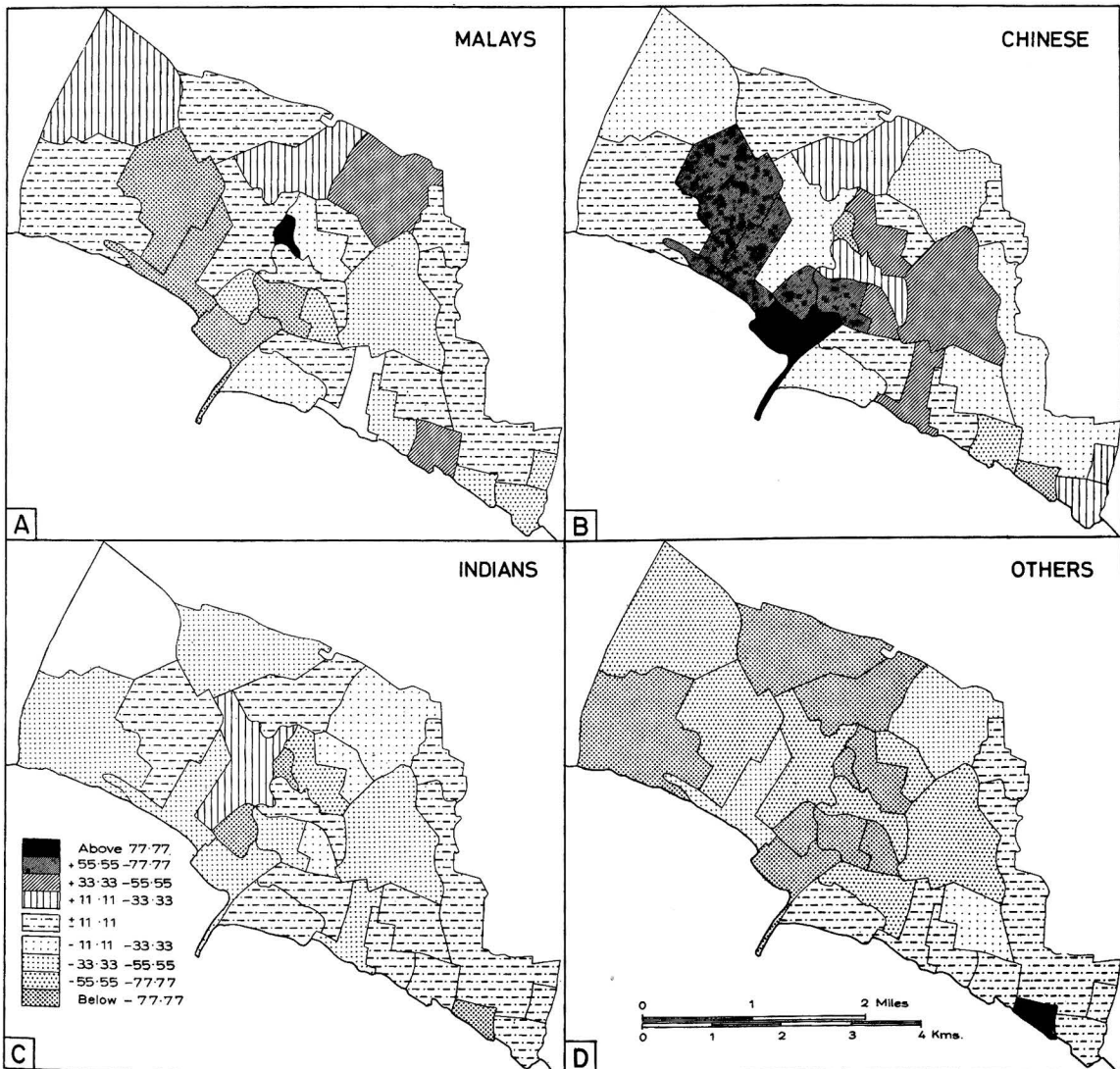
Even during the early period of the Sultanate (Chaps. 3, 4, and 46 in this volume) Melaka attracted traders, missionaries, and adventurers from many parts of Asia, and the city's early multi-ethnic character has been maintained throughout its subsequent history, despite the vicissitudes of political change discussed in previous sections of this volume. In 1678 Melaka's population amounted to 4,884 men, women, and children apportioned ethnically as 145 Dutch burghers, 1,469 Portuguese Eurasians and 'blacks', 426 Chinese, 547 'Moors' (Muslim Indians) and Hindus, 588 Malays, 102 Bugis, and 1,607 slaves (Winstedt, 1962, p. 52, citing a report of Governor Balthasar Bort). Although by 1970 the ethnic proportions had altered tremendously, the multi-ethnic character of the city persisted. Moreover, further examination reveals that Melaka and most other Peninsular towns continue to correspond with Furnivall's description of a plural society. According to this author, the various groups—Europeans, Chinese, Indians, and Natives—'mix but do not combine'. Each group holds by its own religion, its own culture and language, its own ideas and ways. As individuals they meet, but only in the market-place, in buying and selling. There is a plural society, with different sections of the community living side by side, but separately, within the same political unit (Furnivall, 1948, p. 304). Despite changes that have occurred, one can still find on maps from comparatively recent times (such as, for example, the Federated Malay States Surveys Number 562, 1929) several localities within Melaka Town which were named after the ethnic groups formerly residing in them: for example, *Kampung Serani*<sup>1</sup> (Eurasian Village), *Kampung Jawa* (Javanese Village), *Kampung Belanda*<sup>2</sup> (Dutch Village), *Kampung Keling*<sup>3</sup> (South Indian Village), and so forth.

Melaka, like most other west coast towns, has long been dominated by the Chinese, their proportion ranging between two-thirds and three-quarters of the total population during the period 1921–70 (Table 1). The

Table 1  
Ethnic Groups as Proportions of the Total Population of Melaka Town

	<i>Total population</i>					<i>Per cent</i>				
	1921	1931	1947	1957	1970	1921	1931	1947	1957	1970
Total	30,671	38,042	54,507	69,851	87,160	100	100	100	100	100
Chinese	20,758	26,503	40,730	53,149	65,749	67.6	69.6	74.7	76.0	75.4
Malays	5,967	6,281	7,428	9,350	12,961	19.4	16.5	13.6	13.3	14.8
Indians	1,969	2,940	4,199	4,883	6,265	6.4	7.7	7.7	6.9	7.1
Others	1,977	2,318	2,150	2,469	2,185	6.4	6.1	3.9	3.5	2.5

Fig. 1. The main ethnic groups as percentages of the total population of Melaka Town in 1970 (by aggregate groupings of enumeration blocks)



proportion of Malays, on the other hand, has barely reached one-fifth of the town's population, being 14.8 per cent in 1970; while the proportion of Indians has fluctuated between 6 and 8 per cent, the proportion of 'Others'<sup>4</sup> has steadily declined from 6 per cent in 1921 to 2.5 per cent in 1970.

### THE CHINESE

Except for four localities, namely the Portuguese Settlement, the police flats, Kampung Morten, and Kampung Durian Daun Dalam, all sectors of Melaka Town have Chinese majorities (Figs. 1B and 2B). In fact, it is true to say that the Chinese constitute an overwhelming proportion of the population and are ubiquitous within the urban area. Chinese migration to Melaka long antedated the modern period of Chinese settlement on the Peninsula (*c.* 1850—the 1930s), but it was the formation of the Straits Settlements which permitted the emergence of the partially Malayanized community known as Babas (see Chapter 32).

The heaviest concentration of Chinese occurs within the central business district, where the Chinese proportion of the total population exceeds 90 per cent. This is also one of the most densely populated areas in the town. The high densities in the central business district are associated with the traditional urban Chinese habit of living in shophouses, features which are common to most Peninsular Malaysian towns (Sidhu, 1976 and Fig. 2 in Chapter 24 in Volume 1). It has been remarked that it is not uncommon for as many as fifty to a hundred persons to live in a single shophouse, although it should be noted that this figure was recorded during the Emergency (Newcombe, 1956, p. 9; also p. 562 below for an apparently similar figure from 1970). It has also been estimated that in the middle of this century over 50 per cent of the country's urban population lived in shophouses (Concannon, 1951, p. 33). Comparable figures are not available for Melaka, but the proportion is certainly still high even today.

The area lying to the west of the Melaka river, particularly along Jalan Tun Tan Cheng Lock, Jalan Gelanggang, and Jalan To'Kong, forms the core of the old China town, while a more recent counterpart has developed along the southern section of Jalan Bunga Raya and Jalan Munshi Abdullah. The houses in the original China town are old, some of them having been built as long ago as the seventeenth and eighteenth centuries. Earlier this area was occupied mainly by South Indians and Eurasians, but the Chinese, owing to their superior economic resources, were able gradually to establish themselves there.

In addition to the central business district, most other commercial areas located along the main transport routes that radiate from the urban centre (except for the area along the southern end of Jalan Hang Tuah) are dominated by the Chinese. The map showing the indices of Chinese segregation (Fig. 2B) reveals that the concentration of Chinese generally tends to dissipate towards the urban periphery.

## THE MALAYS

The Malays who dominated the town during the period of the Sultanate, now constitute less than one-fifth of the population. The Malay proportion declined steadily until 1957 when it reached a nadir of 13.3 per cent, before increasing to 14.8 per cent in 1970. From Fig. 1A, two things are immediately evident. The first is the virtual absence of Malays in the central business district; the second is the appreciable concentration of Malays in three localities, namely Kampung Morten, Kampung Durian Daun Dalam, and the police flats.

Nowhere in Melaka is the Malay concentration so striking as in Kampung Morten, a settlement of rural appearance which is located on the west bank of the Melaka River, close to the central business district. Virtually all the early Malay residents of this settlement, which comprises an area of about 17 acres, moved there in 1921 when they were compelled to cede the land they had long held in Kampung Jawa to the town administration for the construction of the Central Market and the former Central Bus Station. Since the loan of 10,000 dollars necessary to purchase and clear the land was obtained from the Muhammadan and Hindu Endowment Board through the assistance of the Board's secretary and treasurer, F. J. Morten (who at the time was also the Collector of Land Revenue), it was decided to name the *kampung* after him. The settlement is dominated almost entirely by Malays.<sup>5</sup> Although it is not formally constituted as a Malay reservation, yet it closely resembles one in that an understanding has been reached among the residents of this settlement that no property can be transferred to non-Muslims. This agreement is recorded in the District Office. Because of the proximity of the *kampung* to the central business district, the absence of such a consensus would certainly have resulted in non-Muslim, and presumably mainly Chinese, occupation of the area.

Another district of Malay concentration lies immediately to the west of the Portuguese Settlement (Figs. 1A and 2A). This area contains several multi-storeyed blocks occupied by the police, an occupation dominated by Malays. In 1957, for instance, 87 per cent of Melaka State police, home guard, and prison personnel were Malays. Although no separate figures for the police were recorded in the latest (1970) census, it is very likely that the Malay proportion in the police force has further increased. This particular district affords a good example of the way in which institutional factors induce Malay concentrations in certain residential sectors of the town.

A third prominent area of Malay concentration is Kampung Durian Daun Dalam, which lies within the larger area known as Pengkalan Rama. However, the Malay concentration in this area is diluted, with Malays accounting for only about 50 per cent of the population. Two factors explain their concentration in Kampung Durian Daun Dalam. First, the

area lies on the urban periphery, and a significant proportion of it remains under *padi* cultivation, an occupation virtually monopolized by Malays not only in Melaka but throughout the Malay Peninsula. Second, the presence of a Malay Women Teachers' Hostel within this locality swells the Malay proportion.

Within the town proper, Malay businessmen are concentrated along Jalan Hang Tuah to the south of Kampung Morten. The shophouses in this part of the town were built recently by the Majlis Amanah Rakyat specifically for the benefit of Malays. This and the surrounding areas were formerly occupied by a railway line which was dismantled by the Japanese during World War II. The railway reserve provided the government with an opportunity to build shops for Malays close to the central business district. The proportion of resident Malays in this locality, however, remains low, because Malay businessmen, unlike their Chinese counterparts, rarely live above their shops, and when they do, it still tends to generate lower densities than those in corresponding Chinese areas.

Apart from the areas already discussed, Malays are also found in considerable numbers on the urban periphery (Figs. 1A and 2A), a location which they also occupy in other Peninsular towns such as Kuala Lumpur, Kota Baharu, and Kuala Terengganu. In Melaka such a trend was observed late in the nineteenth century by Isabella Bird who wrote that the Malay shunned the town, and was found living in his *kampung* on the outskirts of Malacca (Bird, 1883, p. 137). Finally, even casual observation reveals that Malays live, usually in their traditional stilted houses, throughout the town with the exception of the central business district. Their continuing presence in such areas is largely explained by other institutional factors, notably a succession of land enactments.

By the second half of the nineteenth century much of the land in Melaka Town had been purchased from the Malays by non-Malays, as a result of which Malays were gradually pushed to the periphery. Had the open-market policy continued, even the remaining Malay-owned lands would certainly have been acquired by economically sophisticated non-Malays, in particular by Chinese. However, recognizing the actual and potential effects of the free-land policy, the Colonial Government passed *Ordinance No. IX of 1886* (see *Appendix* to this chapter). Under this *Ordinance*, the term 'customary land-holder' was applied to 'any person who is in lawful possession according to local customary tenure of land in Malacca which was cleared and occupied by him or by the person under whom he claims by transfer or succession before the twenty-fourth day of November 1876 and includes any person who, though not a customary land-holder within the foregoing definition, has been recognized by the Resident Councillor as a customary land-holder under section 31' (*The laws of the Straits Settlements*, vol. 111, p. 369). Such land could be transferred to individuals qualified to become customary land-holders, who included, in the words of the *Ordinance*, '(a) any Malay domiciled in the Settlement of Malacca;

and (b) any person holding a certificate from the Resident Councillor of Malacca that he is qualified to hold customary land' (op. cit., p. 370).

Although the *National Land Code (Penang and Malacca Titles) Act, 1963 (Act 2 of 1963)*, which was amended in 1965, repealed the *Malacca Lands Customary Rights Ordinance* of 1886, it retained most of its provisions, and in certain instances reinforced them. Under Section 106 of the above mentioned Act of 1963, 'any certificated land [that] at any time, whether by transfer, succession or otherwise becomes registered in the name of any Malay, such land shall thereupon cease to be certificated land . . .' (op. cit., pp. 94–5), and thus cannot be purchased by a non-Malay. Hence, the presence of Malays in several parts of the town was preserved by the Act of 1886. No study of ethnic patterns can afford to ignore this crucial institutional factor.

### THE INDIANS

The proportion of Indians has fluctuated between 6 and 8 per cent during the period from 1921 to 1970. Their small numbers and lack of concentration are noticeable. For example, in the locality of Kampung Keling, which in early times was occupied by Tamils, there are today few Indians of any sort. The area west of Kampung Morten is the only district in which Indians constitute more than one in five of the population (Figs. 1C and 2C). During the period prior to World War II, the railway station, the railway quarters, and the toddy shop<sup>6</sup> were located in this area. Since railway work was a prerogative of Indians—according to the 1931 census report, 64 per cent of the railway force in Melaka State were Indians and Singhalese—the locality attracted a large Indian population. Although the railway was dismantled by the Japanese during the war and was never rebuilt, the largest proportion of Indians in any of the grouped enumeration blocks is still to be found in this locality. It is probable that in the past the Indian proportion exceeded half the total population of the locality. For comparative purposes, it may be noted that, in 1970, the proportion of Indians in the Sentul and Brickfields areas, which house a majority of the railway workers in Kuala Lumpur, was close to 50 per cent. Such patterns continue to exist in several large Peninsular towns which lie on railway lines.

The remainder of the Indians are widely dispersed. Their proportions are extremely low in certain areas such as Kampung Morten, the Portuguese Settlement, the central business district, and the north-western part of the town.

### THE 'OTHERS'

In 1970, the census category 'Others' formed 2.5 per cent of the total population. The majority of the 'Others' in Melaka are descendants of the

Portuguese and Dutch colonists who ruled Melaka successively for a little over three centuries after 1511.

Although the 'Others' constitute only a small proportion of the city's population, they are conspicuous because of their concentration. Nearly two-fifths of them are found in the Portuguese Settlement, where they comprise 90 per cent of the population. In addition, they are found in small groups scattered mainly in the eastern part of the town, particularly in the neighbourhoods adjacent to the Portuguese Settlement (Figs. 1D and 2D).

The Portuguese Settlement has been the subject of study by researchers from various disciplines. It originated in 1933 when two priests, a Frenchman and a Portuguese, persuaded the Colonial Government to lease some 28 acres of land to descendants of Portuguese colonists. Their primary aim in establishing the Settlement was 'to create a community of Portuguese Eurasians in an area in which they could be easily identified' (Chan, 1971, p. 6). Although the original settlers came from all parts of Melaka Town, the majority were from three areas, Tengkeru, Peraya Lane, and Bandar Hilir Road.

#### MIXED AREAS

In Melaka there are certain areas, here characterized as 'mixed', the ethnic composition of which closely resembles that for the entire town. Such areas include Bukit Serindit, Mata Kucing Dalam, Kampung Bandar Kaba, and two districts, Kampung Sembilan and Tengkeru Pantai, in the southwestern part of the town. The reasons for the mixing of ethnic groups in these areas are diverse. The first two areas, for instance, have several municipal housing units which contain workers from all ethnic groups. In Kampung Bandar Kaba the Chinese are largely concentrated along the main roads surrounding the urban village, while the Malays are found congregated behind the shophouses to the south of Jalan Temenggung. A considerable proportion of the Malays are descendants of Arabs and Indian Muslims who owned much of the land in the past. Likewise, in the southwestern districts Chinese settlement hugs the main road, while away from the road the Malay proportion increases, especially towards Kampung Sembilan.

#### INDICES OF SEGREGATION

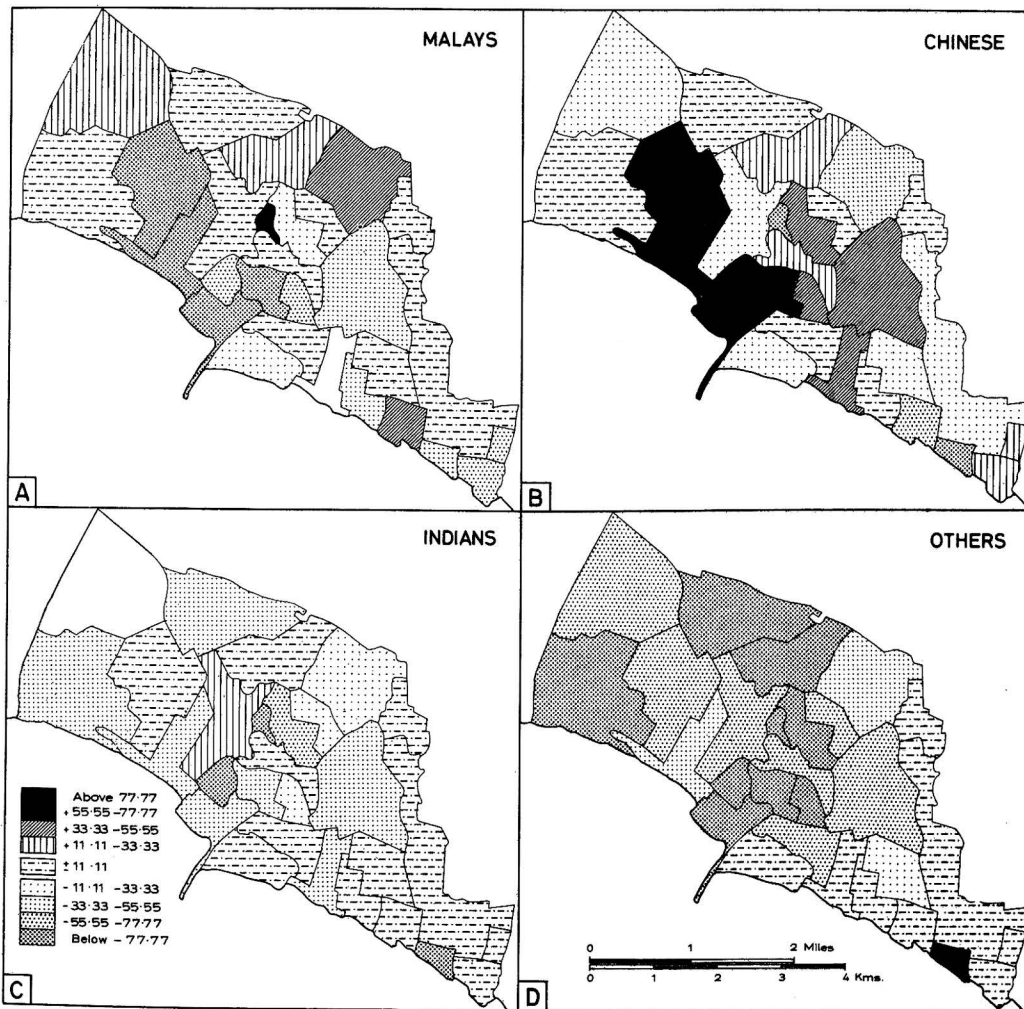
Segregation indices (p. 31 above) are highest for the 'Others' and lowest for the Indians (Table 2a). The high level of segregation of the 'Others' results from their areal concentration, nearly two-thirds of them being found in four grouped enumeration blocks extending from Padang Bandar Hilir to the Portuguese Settlement.

In comparison with towns such as Kuala Lumpur and Keluang, the three major ethnic groups in Melaka exhibit lower indices of segregation.

Table 2  
Indices of Segregation and Dissimilarity for Melaka Town

(a) Segregation						
<i>Ethnic groups</i>	<i>Malays</i>	<i>Chinese</i>	<i>Indians</i>	<i>'Others'</i>		
Indices	44.95	39.42	30.21	61.85		
(b) Dissimilarity						
<i>Ethnic groups</i>	<i>Malays-Chinese</i>	<i>Chinese-Indians</i>	<i>Indians-Malays</i>	<i>Malays-'Others'</i>	<i>Chinese-'Others'</i>	<i>Indians-'Others'</i>
Indices	46.92	33.96	43.92	68.22	63.92	58.32

Fig. 2. Segregation Indices for the main ethnic groups in Melaka Town in 1970 (by aggregate groupings of enumeration blocks).



This is partly because Melaka Town lacks a large Malay reservation such as occurs in both those cities (Clarke and Sidhu, 1977). Furthermore, the virtual ubiquity of the Chinese in the town ensures a low level of segregation for that community.

Calculation of dissimilarity indices confirms the relative isolation of the 'Others', who in this respect are farthest from the Malays and closest to the Indians. This is explained mainly by religious factors. While almost all the 'Others' are Christians, the Malays are Muslims virtually without exception. On the other hand, nearly 10 per cent of the Indians are Christians, a circumstance which inclines them to associate more closely with the 'Others' than with any other group.

The indices of dissimilarity for other pairs of ethnic groups are appreciably lower (Table 2b). Since the Chinese predominate in most parts of the town, the dissimilarity indices between Chinese and Malays, between Chinese and Indians, and between Chinese and 'Others' are close to the index of segregation for the non-Chinese (Tables 2a and 2b). Table 2b also reveals that the Chinese are nearer to the Indians than to the Malays, which implies that, after the 'Others', the Malays are the second most segregated ethnic group.

## CONCLUSION

While residential segregation on ethnic lines and the close association of a particular ethnic group with particular economic activities were inevitable concomitants of the colonial policy followed in Malaysia, these practices are now impeding the process of national integration, which is essential to the very survival of a plural society in which *bumiputera* form barely half the population of the Peninsula, and less than one-third of the urban population. Consequently the government is faced with three related problems. First, it must encourage greater urbanization of the predominantly rural Malays so as to reduce, and ultimately eliminate, the presently wide differences in living standards between the *bumiputera* and the largely urban non-Malays. Second, it must reduce ethnic segregation in existing towns. Third, it must prevent the emergence of ethnic segregation in newly emerging urban settlements.

To overcome these problems, the government should invoke the special rights of the Malays not only as an instrument for increasing the overall urban proportion of that group, but also as a means of redistributing Malay migrants from the countryside throughout the cities, instead of allowing them to settle in traditionally Malay-dominated areas. Rather than building blocks of new shophouses or residential houses exclusively for Malays, which will only exacerbate the problem of residential segregation, the government should make it compulsory for housing developers, as well as quasi-government bodies such as the Urban Development Authority, the Majlis Amanah Rakyat, and the State Economic Develop-

ment Corporations to reserve every alternate, or every third, house (as the situation may warrant) for Malays. Moreover, the government should enlist the co-operation of banks in assisting more Malays to purchase houses reserved for them. In this manner, the government would increase the proportion of urban Malays without creating overcrowded and segregated Malay enclaves in the towns.<sup>7</sup>

## NOTES

1. *Serani* < Arabic *Naṣrānī* = Christian, and as such applied to the earliest European voyagers to reach the Malay world, namely Catholic Portuguese, so that subsequently the term became restricted to Roman Catholics, and particularly to Portuguese.

2. *Belanda* < *Wolanda* < *Hollander* = Dutch, and, where Europe became known through the Dutch, European.

3. *Keling*: see Narinasamy. 'The Melaka Chitties', Chap. 35 in this volume, Note 13.

4. The term 'Others' includes all persons other than Malays, Chinese, and Indians. For example, in Peninsular Malaysia in 1970 there were 69,531 'Others', who comprised 0.8 per cent of the total population. In the case of Melaka Town, the term denotes mainly Eurasians.

5. I am grateful to Tuan Haji Hashim bin Abdul Ghani, an old resident of Kampung Morten, for information relating to this settlement.

6. *Toddy* is an Anglo-Indian corruption of Hindi *tārī*, the fermented sap of the *tār* (*Borassus flabellifera*, Linn.) and other palms. It is a drink much in favour with Indians of the poorer classes.

7. Such a strategy could be applied only to towns and not to New Villages. In the latter, which are predominantly Chinese in population, pig farming is an important feature of the economy, but one which is forbidden to the Muslim Malays. Housing Malays in close proximity to Chinese farmers might well lead to ethnic conflict. On the other hand, denying the Chinese their pig farming would seriously damage the economy of the New Villages.

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## APPENDIX

### ORDINANCE NO. IX of 1886

*An Ordinance to declare and amend the Law relating  
to Customary Rights in Land in Malacca.*

*[5th August, 1886.]*

FRED A. WELD,

*Governor and Commander-in-Chief.*

WHEREAS it is expedient to declare and amend the law relating to customary rights in land in Malacca;

It is hereby enacted by the Governor of the Straits Settlements with the advice and consent of the Legislative Council thereof as follows:

1. This Ordinance may be cited as 'The Malacca Lands Ordinance 1886'. Short title.  
It extends only to Malacca.
2. From and after the passing of this Ordinance the enactments specified in the schedule hereto are hereby repealed to the extent in the said schedule mentioned but this repeal shall not affect any right acquired under any enactment hereby repealed or any proceeding or thing pending or uncompleted at the date of the passing of this Ordinance but every such proceeding or thing may be carried on and completed as if there had been no such repeal; provided that this repeal shall not revive any enactment right privilege matter or thing not in force or existing at the date of the passing of this Ordinance. Repeal.
3. In this Ordinance unless there is something repugnant in the subject or context: Interpretation.
  - 'Prescribed' means prescribed by rules made by the Governor in Council under this Ordinance. 'Prescribed'.
  - 'Customary land-holder' means any person who is in lawful possession according to local customary tenure of land in Malacca which was cleared and occupied by him or by the person under whom he claims by transfer or succession before the 24th day of November 1876 and 'customary land' means any such land so lawfully held as aforesaid. 'Customary land-holder'.
  - Nothing in this Ordinance contained shall be held to include within the expression 'customary land-holder' any grantee or proprietor within the meaning of section nine of Act XXVI of 1861 as to any lands in Malacca not surrendered in the manner recited in section one of the said Act. 'Grantees and proprietors' under Act XXVI of 1861 excluded.
4. A customary land-holder shall be deemed to have a permanent heritable and transferable right of use and occupancy in his customary land subject only: Tenure of customary land-holder defined.
  - (a) to the payment of all such rent or assessment as may from time to time be imposed in respect of customary land under this Ordinance;
  - (b) to the reservation in favour of the Crown of all mines and mineral products and of all buried treasure with full liberty to work and search for the same paying to the customary land-holder such compensation for any damage occasioned thereby as may be assessed by the Collector of Land Revenue; and
  - (c) to the reservation in favour of the Crown of the right of making roads drains and sewers and laying down water-pipes carrying

electric and telegraph wires and using repairing and maintaining the same paying to the customary land-holder such compensation for any damage occasioned thereby as may be assessed by the Collector of Land Revenue.

Forfeiture by non-cultivation for three years. — 5. If any customary land has been out of cultivation for three consecutive years next before the date of the passing of this Ordinance or if at any subsequent date such land has been out of cultivation and the assessment thereon in arrear for three consecutive years the right described in section four hereof in respect of such land shall be deemed to have been forfeited.

Record of rights. 6. Any person being in possession of any land and asserting that he is a customary land-holder in respect thereof and any person who within three years after the death of a customary land-holder claims to be entitled by succession to customary land which was in the possession of such deceased land-holder at the time of his death may apply to the Collector of Land Revenue to make an order declaring that the applicant is so entitled and the Collector of Land Revenue if it appears to him after a notice of such application has been published for such period and in such manner as may be prescribed and after such enquiry as the Collector of Land Revenue may think fit to make that the applicant is so entitled shall make an order to that effect and enter the same in a register to be kept for that purpose and furnish the applicant with a copy thereof.

Appeals. 7. An appeal shall lie from any order made by the Collector of Land Revenue under the last preceding section to such officers and subject to such limitations as to time and such other conditions as may from time to time be prescribed.

Provided also that in all cases after the expiration of the period hereinafter allowed for an application to the Supreme Court if no such application has been made the Governor may call for and review the proceedings if he thinks fit to do so and pass such order thereon consistent with the provisions of this Ordinance as he thinks fit.

Power to enforce attendance of witnesses, &c. 8. For the purposes of any enquiry made by the Collector of Land Revenue under section six hereof or by an officer to whom appeal may be made under section seven hereof such Collector of Land Revenue or officer may require by a summons under his hand any person being within the Colony to attend before him or before some Collector of Land Revenue in such summons named and if necessary to produce all documents in his possession or power relating to any right to or interest in any land in Malacca.

The Collector of Land Revenue or other officer before whom any person so summoned attends may also examine upon oath or solemn affirmation having the force of an oath any person so summoned touching any right to any such land or interest in land.

Every person so summoned or examined shall be legally bound to attend as required by the summons and to produce all such documents as

aforesaid and to answer on oath or affirmation any lawful question put to him.

9. Every order made by the Collector of Land Revenue under section six hereof or by an Officer to whom appeal is made under section seven hereof shall be binding on all parties and shall not be set aside or varied except in the manner in this Ordinance expressly provided.

Appeal to Supreme Court.

Provided always that it shall be lawful for any person who conceives that a right to or interest in land which he claims to have is injuriously affected by any such order to move the Supreme Court within three months after the registration of such order to quash the same and the Court shall try the question whether such order be or be not inconsistent with the rights of the party moving; and if the said Court shall decide that the said order is inconsistent with such rights the same shall be quashed by the said Court and shall be of no effect.

Except as herein expressly provided no Court shall exercise jurisdiction as to any claim or question in respect of which jurisdiction is given by this Ordinance to the Collector of Land Revenue.

Bar to jurisdiction of Courts.

10. All customary land shall in lieu of any payments now payable in respect thereof whether in kind or money be liable to be assessed in the manner hereinafter mentioned.

Assessment in lieu of tithe.

11. The assessment referred to in the last preceding section shall be an annual rate per acre or other superficial measure of the land not exceeding one-tenth of the value of the produce which the land may be fairly estimated to yield in an average year.

Nature of assessment.

The Governor in Council may from time to time make rules for fixing such rates and determining under what circumstances for how long and under what conditions as to periodical re-adjustment any rate of assessment so fixed is to be imposed.

12. (1) The amount of the assessment payable in respect of any customary land shall be communicated to the customary land-holder entitled to such land by a notice to be served or published in the prescribed manner

Notification of amount.

(2) If the customary land-holder be dissatisfied with the amount of assessment he may within thirty days of the service or publication of such notice appeal in writing to the Governor in Council whose order shall be final.

13. Every sum payable as assessment in respect of any customary land shall (if collected in arrear) be due jointly and severally from all persons who have been in possession of such customary land at any time during the year in respect of which such sum is due and unpaid and from all persons who have held under them as tenants and from all mortgages or conditional vendees.

Personal liability for assessment on customary land.

Power to cut and thresh crop for assessment purposes.

14. Subject to any rules made under this Ordinance the Resident Councillor shall have the power to cause the paddy crop on any customary land or any part of such crop to be cut and threshed and the grain to be weighed with a view to estimating the capabilities of the soil.

Erection and repair of boundary-marks.

15. The Collector of Land Revenue may by a notice in writing duly served in the prescribed manner require any customary landholder to erect boundary-marks where necessary sufficient for defining the limits of his customary land or to repair any boundary-marks already existing; and if such land-holder fails to comply with this requisition within a period to be specified in the notice may cause the work to be done and recover the cost thereof as if it were an arrear of revenue due in respect of the land.

Additional powers to make rules.

16. In addition to other matters in respect of which rules may be made the Governor in Council may from time to time make rules consistent with this Ordinance:

- (a) to regulate all appeal proceedings under section seven hereof;
- (b) to determine the date and place of payment of assessment and the person to whom the same is payable;
- (c) to determine the fees to be charged under this Ordinance and the mode in which such fees shall be recovered.
- (d) to prescribe the mode of service or publication of all notices issued under this Ordinance.
- (e) to regulate the power given to the Resident Councillor in section fourteen hereof;
- (f) generally to carry out the provisions of this Ordinance in relation to any matters whether similar or not to those above-mentioned as to which it may be expedient to make rules.

Publication of rules.

17. All rules made by the Governor in Council under this Ordinance shall be laid on the table of the Legislative Council and shall then be published in the *Government Gazette* and at the expiration of six weeks from the date of such publication shall have the force of law if not previously disallowed by resolution of the Legislative Council.

Passed this 5th day of August, 1886.

A. P. TALBOT,  
*Clerk of Councils.*

[Extract from the *Straits Settlements Government Gazette*, 6 August 1886, pp. 1269–72.]