



# Majlis Perundingan Malaysia Agama Buddha, Kristian, Hindu, Sikh dan Tao

Malaysian Consultative Council of Buddhism  
Christianity, Hinduism, Sikhism and Taoism

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123 ,Jalan Berhala, Brickfields, 50470 Kuala Lumpur. Tel: 03-2273 9304 Fax : 03- 2273 9307 Email : mccbchst@yahoo.com Website:<http://harmonymalaysia.wordpress.com>

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## **SCHOLARSHIPS – GAPS POSITION IN CONFLICT WITH CONSTITUTION**

**GAPS (Gagasan Anti Penyelewengan Selangor) President Hamidah Khairuddin** has been reported to have said recently that only Malays and Bumiputras have the right to receive Government Scholarship and Federal Constitution says that only Malays and Bumiputras have the right to receive a Scholarship. This POSITION OF GAPS is UNTENABLE as shown below.

The only provision relating to special position of Malays in the **Federal Constitution Relating to Scholarship is Article 153.**

The following **POINTS** in respect of **Article 153** should be noted:-

- It only talks about special position of the Malays and natives of Sabah and Sarawak. Special rights is not mentioned in the Article.
- The word Bumiputra is not found anywhere in the Federal Constitution.
- Article 153 (1) imposes responsibility on the Yang Dipertuan Agong in addition to safeguarding this special position of the Malays to also safeguard the legitimate interests of the other Communities.
- Article 153 (2) allows (amongst others) reservation for Malays and Natives of Sabah and Sarawak “..... of such proportion as he may deem reasonable

..... of Scholarship .....”. Thus a reasonable proportion of Scholarships awarded can be reserved for Malays and Natives of Sabah and Sarawak.

- The use of the word “**reasonable proportion**” rules out reservation of 100% of Scholarship for Malays. Therefore, after reservation of reasonable proportion, the balance should also be available to the Non-Malays, as they have legitimate interest in it.
- **Article 153** is found under PART XII “**General and Miscellaneous provision**” of the Constitution. It therefore has to strike a balance with Fundamental rights Guaranteed under the Federal Constitution in Part II, for eg. **Article 8 (1)** which states “**All persons are equal before the law and entitled to the equal protection of the law**”.

From the above it is clear that **Article 153** only allows (amongst others) a reservation of reasonable proportion of Scholarship for Malays and Natives of Sabah and Sarawak. What is reasonable has not been defined. But the use of word “reasonable” connotes a fair percentage and the word “**proportion**” rules out absolute or total percentage.

It may be pertinent to state here that the Lord Reid Commission had proposed a 15-year limit on this special position provision under **Article 153** as there was objection from the various communities to its extension for a longer period. But in the final draft this limitation is not found. It is said that the Alliance partners had agreed to allow the Malays to decide when this special position provision should be revoked.

This is what the **LORD REID COMMISSION** had stated in respect to **ARTICLE 153**:

**“We recommend that after 15 years there should be a review of the whole matter and that the procedure should be that the appropriate Government should cause a report to be made and laid before the appropriate**

**legislature; and that the legislature should then determine either to retain or to reduce any quota or to discontinue it entirely.”**

Article 153 only allows reservation of reasonable proportion of quotas in 3 areas i.e. (i) positions in public service (ii) Scholarship, exhibitions etc. and (iii) obtaining permits or licences for operation of any trade or business. Thus, there cannot be quotas in other areas. Therefore any racial discrimination, for example, barring non-Malays from tenders, Impositions of compulsory price discounts in favour of Malays in housing projects, blanket barring of Non-Malays to public funded academic institutions, having courses which only cater for bumiputra students, etc. are in violation of **Article 153 and Article 8** (Art. 8: All persons are equal before the law).

Therefore GAPS statement as reported is clearly **Not Tenable** and does not find any support in the Supreme law of the Federation – **The Federal Constitution**.

Reverend Dr. Thomas Philips  
President  
MCCBCHST