Affirmative action

Hefty measures, mixed outcomes, muddled thinking

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Few Malaysian issues are as complicated and consequential – and at the same time, as inflamed and muddled – as affirmative action. To help us gain an informed, systematic and critical understanding of affirmative action, we need to dwell on the policy’s basis, the specific objectives and programmes under its banner, and the results of pursuing its broad range of interventions. Toward these ends, this chapter will:

- define affirmative action and clearly articulate its policy objectives and instruments;
- explain constitutional and socio-political factors underpinning its conception, in particular, Article 153 and the New Economic Policy;
- outline specific programmes and outcomes, with a focus on contemporary developments and challenges; and
- consider policy implications.

What is affirmative action?

While there is no canonical definition of affirmative action, policies falling under this banner can be distinguished by assessing the principal problem being resolved and the methods employed. To conceptualise affirmative action in a way that is broadly applicable, yet specific to the Malaysian context, we glean insights from international literature, the Malaysian Federal Constitution’s Article 153 and the New Economic Policy.

Affirmative action can be defined as preferential policies to redress the under-representation of a disadvantaged population group in socially esteemed and economically influential positions (Weisskopf 2004; ILO 2007; Fryer and Loury 2005). These policies address a specific problem: under-representation of a population group – categorised by race, ethnicity, gender, disability, region, and so on – in socio-economic positions that affect the collective esteem and stature of the group. A group that is conspicuously and persistently absent among university students, doctors, lawyers, managers or business owners may be perceived or stereotyped negatively, discouraged from gaining upward mobility and continually excluded over the long term. This situation is further characterised by various disadvantages that the group on average may face – inferior schooling, shortage of work experience, and lack of
capital ownership or access to credit – and compounded by barriers to entry into these positions – university entry grades, higher education qualifications for professional jobs, work experience and network connections for managerial positions.

Focusing on these specific problems and obstacles clarifies the key role of preferential treatment. Affirmative action rests on a premise that conventional criteria of need, formal qualifications or ‘merit’ will not sufficiently facilitate upward educational and occupational mobility or capital ownership. It is plain to see – but perhaps hard to admit – that persons of a disadvantaged group will severely struggle to qualify for positions targeted by affirmative action unless conferred some degree of preference based on their identity with that group. Because affirmative action inherently grants preference based on identity, it is imperative that such policies be productive, dynamic and impermanent.

Undeniably, the policy is contentious and involves both benefits and costs to economy and society, of which the salient ones are worth outlining briefly. As noted above, increased upward mobility of members of a disadvantaged group can raise the collective position and esteem of the group as a whole, and attenuate stereotype, stigma, discrimination or other adverse effects of persistent absence in esteemed and influential positions. Increased proportionality in group representation also can foster cross-cultural interaction and integration, which is especially important among those in decision-making ranks. Conversely, affirmative action, by granting preferential access to the beneficiary group, potentially generates inefficiencies from selection based on identity instead of pure ability, alienates qualified non-beneficiaries, creates dependency of beneficiaries on state support while devaluing the achievements of members of the beneficiary group who qualify on their merits, and reinforces group differences, thereby fragmenting society.

Affirmative action cross-cuts broader aspirations, chiefly national unity and multicultural integration. However, such aspirations are contingent on myriad other factors – cultural policy, basic schooling, education curricula, political discourse – and the role of affirmative action is indirect and supplementary. For greater clarity and coherence in understanding affirmative action, and in view of space limitations of this chapter, we focus on the principal policy objective and instruments, as well as immediately relevant empirical outcomes.

The approach here is also temporal and institutional, in recognising the constitutional basis, policy precedents and path dependencies, and political difficulties in reforming affirmative action. Regardless of one’s position towards its purpose and impact, affirmative action was established, has become entrenched in Malaysia and cannot be simply discarded.

Consequently, the more pressing questions for the present concern the efficacy of affirmative action and the preconditions and prospects for coherent, viable reforms. It is less pertinent whether the policy should have been conceived in the first place, and less helpful to press for instant abolition or to pronounce reform rhetoric that does not actually chart any passage away from the current affirmative action system.

Policy basis and alternatives

Article 153

Malaysia’s Constitution clearly provides for affirmative action – not as a perpetual obligation but as possible action contingent on necessity. Article 8, setting out basic rights, includes the proviso that equality of persons is safeguarded and discrimination is prohibited, ‘except as expressly authorized by this Constitution’. Article 153 provides express authorisation to discriminate in favour of the bumiputera, and it is helpful to reproduce the pertinent section:
the Yang Di-Pertuan Agong [king] shall exercise his functions under this Constitution and federal law in such manner as may be necessary to safeguard the special position of the Malays and natives of any of the States of Sabah and Sarawak and to ensure the reservation for Malays and natives of any of the States of Sabah and Sarawak of such proportion as he may deem reasonable of positions in the public service, . . . scholarships, . . . [and permits and licences].

(my emphasis)

Article 153 does not confer an absolute mandate or indefinite term for ethnic reservations and quotas, but establishes those possibilities ‘in such manner as may be necessary’. In other words, the Constitution does not stipulate that quotas must be enforced regardless of circumstances, but quotas may be instituted if necessary. Ethnic quotas and reservations are contingent on evaluating whether such extraordinary measures are needed, implying that they may be unnecessary as the bumiputera increasingly gain upward mobility. The specification of higher education, public sector employment and permits and licences also signals that interventions should be grounded in productive activity and learning instead of wealth acquisition.

New Economic Policy

The New Economic Policy (NEP) is most tightly associated with affirmative action, largely due to the fact that bumiputera preferential policies massively expanded and transformed Malaysia’s economy and society since the NEP’s inception in 1971. The close connections, however, should not lead us to conflate the poverty alleviation and affirmative action mainstays of the NEP.

The NEP sagaciously articulated two prongs. The first sought to eradicate poverty irrespective of race. The second purposed to accelerate social restructuring to reduce and eventually eliminate the identification of race with economic function. The second prong concisely identified the problems targeted by affirmative action policies. The severe disproportionate under-representation of bumiputera in universities and among professionals and managers, and their concurrent over-representation among farmers and agricultural workers, was deemed an unacceptable and unsustainable ethnic division of labour. Furthermore, this structure would persist, although some change could be expected over time, as increased provision of basic education and economic growth widened the scope for bumiputera upward mobility.

Nonetheless, while social restructuring may happen as an indirect result of general development policies, for it to occur at a more accelerated pace – arguably, in line with socio-political pressures and expectations – direct and proactive interventions were deemed necessary. Accordingly, ensuing interventions required conferring preference on bumiputera, who were on the whole disadvantaged in their capacity to gain upward mobility and capital ownership.

The NEP also emerged from a convergence of economic, social and political developments that compelled state action. The key factors, of course, had strong ethnic dimensions. From Malayan independence through the 1960s, the Malay community remained largely in poverty, residing in rural areas and engaged in agriculture. An ethnic division of labour, disparities in opportunity and income, and lack of social interaction generated fissures and tensions in Malaysian society and polity (Andaya and Andaya 2001). Most pertinent to affirmative action, Malay upward mobility in the educational and occupational ladder,
and in access to credit and ownership of capital, were severely constrained. The 1960s, a period of relatively limited state intervention, had also in the latter part of the decade seen increasing calls for more policies favouring a *bumiputera* capitalist class. The 13 May 1969 inter-ethnic violence and social upheavals swept Malaysia onto a different political and policy path, characterised by consolidation of Malay power, assertion of Malay primacy, centralisation of state power and dominance of the executive (Ooi 2013). These factors have shaped affirmative action since the start of the NEP, in the form of discretionary exercise of executive power, ethnic quotas or *bumiputera*-exclusive programmes, and highly centralised administration.

*‘Need-based affirmative action’: a flawed alternative*

The ethnicity-basis of affirmative action and various problems associated with its implementation in Malaysia have raised questions on alternatives – specifically, the utilisation of policies that target assistance on the basis of need. It is worth reiterating that the need-based policies of the NEP’s poverty alleviation prong and the ethnicity-based policies of the affirmative action prong are fundamentally separate – with slight overlap. The nature of the relationship must be clarified in discourses on the subject. Affirmative action, as a preferential system targeting beneficiaries based on population grouping and not socio-economic status, can be complemented by need-based considerations, but cannot be systematically substituted for by ‘need-based affirmative action’. Malaysia’s existing, specific and entrenched pro-*bumiputera* programmes cannot be simply replaced with pro-poor preferential selection.

This point warrants exposition, in view of popular and muddled contemporary views on the subject. Since 2008, both federal government and opposition alliances have articulated reform platforms that ostensibly replace ethnicity-based affirmative action with need-based affirmative action. The argument is appealing but flawed. It holds that focusing on socio-economic need is all that matters. *Bumiputera* will be helped the most if help is targeted based on need, since the community constitutes an overwhelming majority of the poor. Hence, targeting based on ethnicity can be abolished and replaced with targeting based on need, hence avoiding troublesome and unpopular ethnic categorisations. While removing ethnicity from the picture can make pro-poor programmes more fair and equitable, upon closer examination, the argument poses little relevance to affirmative action.

Need-based and ethnicity-based policies – respectively, preferential programmes favouring the poor versus programmes favouring an ethnic group – correspond with the NEP’s two prongs, which pursue different objectives through different instruments. Poverty alleviation programmes principally deliver basic needs such as schooling, healthcare and social assistance. *Bumiputera* will undoubtedly heavily benefit in proportion to their representation among the poor, but they will benefit predominantly and directly in the form of poverty alleviation, not upward mobility. There are steep limits to the extent that need-based policies can have an impact on the goals associated with affirmative action. The possible effects of improved rural schooling on *bumiputera* participation among lawyers and managers, for instance, are too remote for promotion of basic rural schooling to be a coherent and effective policy for cultivating lawyers and managers.

Need-based considerations can complement affirmative action in some spheres, and reinforce the progressiveness of outcomes. It is desirable and legitimate that those with greater socio-economic need within the *bumiputera* community receive more help. This principle is not applicable in all areas, however. In higher education, the case for conferring preference in university admissions and scholarships based on socio-economic background
is clearest, since the disadvantages borne by such young beneficiaries are primarily due to circumstances outside of their control. It is also viable; family background can reasonably and practically be taken into account in selection into university. The limits and downsides of such a programme must also be recognised, however, most consequentially the fact that students from lower socio-economic backgrounds are on average less equipped for university-level study.

In other spheres of affirmative action, need-based preferential selection presents exceedingly limited policy alternatives. In public sector employment, the implication of need-based preference in employment is that persons from lower-income backgrounds should be given priority. This is plainly unworkable; we cannot expect parental income to be considered in recruitment or promotion. Conferring preference on those from lower socio-economic rungs in public procurement, licensing or any right to produce goods and services also potentially imperils quality of delivery, for this entails privileging poorer-earning or lower-performing companies. Policy discourses, therefore, will do well to avoid the notion of need-based preferential treatment as a systemic alternative for ethnicity-based affirmative action.

**Affirmative action programmes**

A systematic conceptualisation of affirmative action, such as the one offered here, helps identify Malaysia’s salient affirmative action programmes. Based on the key criteria – preferential selection in strategic areas of *bumiputera* under-representation – major interventions in four main spheres are outlined next and summarised in Table 13.1.

**Education**

At the secondary level, MARA (Majlis Amanah Rakyat, or Council of Trust for the People) junior science colleges (MRSM) provide quality instruction and superior facilities to *bumiputera* students, especially from rural communities. At the post-secondary level, matriculation colleges offer a one-year preparatory course prior to university entry, a shorter and evidently easier path compared with the two-year Malaysian Higher School Certificate (Sijil Tinggi Pelajaran Malaysia, STPM). These institutions were exclusively for *bumiputera* students until the recent introduction of 10 percent non-*bumiputera* quotas.

In higher or tertiary level education, university admissions abided by ethnic quotas – reportedly 55 percent *bumiputera* – centrally administered by the federal government (Aihara 2009; Faridah 2003). MARA’s technical institute, recently upgraded to University Technology MARA (UiTM), has maintained 100 percent *bumiputera* enrolment, and MARA scholarships are also solely for *bumiputera*. Government-sponsored scholarships have also operated as an instrument of affirmative action, with the vast bulk of awards to *bumiputera*. Since 2002, a portion of Public Service Department scholarships has been reserved for *bumiputera*, and another portion is open for competitive, merit-based selection.

**High-level occupations**

The NEP pronounced that ‘employment patterns at all levels and in all sectors . . . must reflect the racial composition of the population’ (Malaysia 1971: 42). In practice, affirmative action has operated consistently and substantively in the public sector and state-owned enterprises. For the most part these institutions have facilitated *bumiputera* entry to professional and managerial positions without a particular code of practice, over time acquiring an inertia that
Table 13.1 Malaysia’s affirmative action system: spheres, programmes and notable features

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<tr>
<th>Sphere</th>
<th>Programmes/agencies</th>
<th>Notable features</th>
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<tr>
<td>Education</td>
<td>• MARA junior science colleges (MRSM)</td>
<td>Exclusively <em>bumiputera</em> until 10 percent non-<em>bumiputera</em> quota from 2000</td>
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<td>• Post-secondary matriculation colleges</td>
<td>Exclusively <em>bumiputera</em>, until 10 percent non-<em>bumiputera</em> quota from 2002. From late 1990s, predominant route for <em>bumiputera</em> university entry</td>
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<td>• MARA University of Technology (UiTM); MARA scholarships</td>
<td>Exclusively <em>bumiputera</em></td>
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<td></td>
<td>• Public university admissions quotas</td>
<td>Centralised administered by federal government. Since 2002, ‘meritocracy’ declared, but questionable in view of differences in duration and difficulty of matriculation and Higher Education School Certificate (STPM) examinations</td>
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<td>• Government scholarship quotas</td>
<td>Ethnically allocations publicised from mid-2000s</td>
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<td>High-level</td>
<td>• <em>Bumiputera</em> representation among professionals and management</td>
<td>De facto quota in public sector, though largely ad hoc in implementation</td>
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<td>occupations</td>
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<td>Managerial and enterprise</td>
<td>• Bumiputera Commercial and Industrial Community (BCIC)</td>
<td>Agencies engaged in direct employment of <em>bumiputera</em> and enterprise support through upstream/downstream linkages, predominantly large and medium scale: state economic development corporations (SEDCs) (since 1970s); Petronas, national petroleum agency (since mid-1970s); takeover of previously foreign companies through government investment agencies (since late 1970s); heavy industries (1980s); privatisation (1980s until 1997–98 Asian financial crisis); government-linked companies (GLCs) – renationalised privatisation entities, corporations held through government investment agencies</td>
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<td>development</td>
<td>• Government investment agencies</td>
<td>Financial and advisory support for government-linked companies</td>
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<td></td>
<td>• Public procurement/contracting and licensing</td>
<td>Small contracts reserved for <em>bumiputera</em> contractors; price handicaps favouring <em>bumiputera</em> contractors, for medium to large contracts</td>
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<td>• Small enterprises</td>
<td>Loans and business support by MARA, PUNB and other agencies</td>
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<td>Equity and wealth</td>
<td>• Industrial Coordination Act (ICA) 1975</td>
<td>30 percent <em>bumiputera</em> allotment in new and existing medium to large manufacturing firms; waiver to export-oriented firms. Conditions relaxed over time; ended by 2004</td>
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<td>ownership</td>
<td>• Foreign Investment Committee regulations</td>
<td>30 percent <em>bumiputera</em> requirement in public listing and foreign investment. FIC closure, investment liberalisation, reduced public listing requirements in 2009</td>
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<td></td>
<td>• Government investment funds</td>
<td><em>Bumiputera</em> quotas</td>
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<td></td>
<td>• Privatisation</td>
<td>Massive transfer of previously state-owned assets, creation of new rights</td>
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obviated the need for bumiputera preferential measures, as the number of non-bumiputera entrants and employees has severely dwindled. Conspicuous absence of non-bumiputera in top administrative posts, saliently in public universities, suggests a significant exercise of group reservation. Senior officials in the public sector have also transitioned to high-level positions in state-owned enterprises.

**Managerial and enterprise development**

Malaysia has devoted enormous attention and resources to this sphere of affirmative action. Unlike in public administration, bumiputera participation here involves the commercial production of market goods and services, and overlaps widely with promotion of bumiputera ownership. As outlined in Table 13.1, Malaysia has employed various instruments, some of which are sector-specific (petroleum) or periodic (heavy industries and privatisation), while the roles of state economic development corporations (SEDCs) and government-linked companies (GLCs) have featured more continuously since the 1970s. We should note that a number of major GLCs were reconfigurations of privatised entities that collapsed during the Asian financial crisis (AFC), thus ownership structure changed more than productive capacity.

Government investment agencies, such as Khazanah Nasional, Permodalan Nasional (National Corporation) and Ministry of Finance, Inc., hold sizeable stakes in GLCs, which are tasked to support the Bumiputera Commercial and Industrial Community (BCIC), while the recently created Ekuinas and Teraju schemes aim to cultivate new bumiputera ventures. Public procurement or contracting and licensing constitute other major channels for promoting bumiputera industrial participation. Policies are more clearly stipulated in public procurement, with the smallest class of contracts reserved for bumiputera contractors, while medium to large contracts (except for the largest category) offer price handicaps. Toward promoting bumiputera small businesses, financial and advisory assistance is made available through MARA, PUNB (Perbadanan Usahawan Nasional, the National Entrepreneurial Corporation) and other agencies.

**Equity and wealth ownership**

The Industrial Coordination Act (ICA) 1975 marked the start of major efforts to promote bumiputera equity ownership. The ICA required medium- to large-scale manufacturing establishments to allocate at least 30 percent of existing and new equity to bumiputera hands. In response to fervent protests, the requirement was waived for export-oriented firms and enforcement rules were revised over time to exempt more domestic, predominantly Chinese-owned, companies. Terms were further liberalised in response to the mid-1980s recession and the 1997–98 AFC; by 2004, equity requirements in manufacturing were effectively nullified. Foreign investments in general, as well as mergers and acquisitions, property purchases and public listings, have also been subjected to bumiputera preferential conditions administered by the Foreign Investment Committee, following the conventional benchmark of 30 percent bumiputera holdings. These regulations were mostly rescinded in 2009.

Privatisation has played a dual role of transferring managerial control and ownership to individual bumiputera capitalists. Government investment funds, notably unit trusts managed by Permodalan Nasional, have continually contributed to bolstering bumiputera ownership, both for equity participation and wealth accumulation, with offerings in part or whole reserved for bumiputera investors. From the late 2000s, more emphasis has been placed on active equity participation as well as commercial property ownership.
Outcomes and implications

The importance of maintaining focus on the objectives and instruments of affirmative action extends to evaluations of policy outcomes. In the literature, commentary on affirmative action, for the most part, has been woven into overviews of the NEP and Malaysia’s development achievements in general, including economic growth and structural change, poverty reduction and narrowing of inter-ethnic disparities (Faaland et al. 1990; Snodgrass et al. 2003; Chakravarty and Roslan 2005; Faridah 2003; Gomez and Jomo 1999; Kamal and Zainal 1989; Jomo 2004). A few works have specifically probed affirmative action outcomes (Lee 2005; Lee 2012; Zainal 2013; Gomez and Saravanamuttu 2013).

As emphasised in this chapter, affirmative action constitutes one distinct element of the NEP, and warrants specific empirical analyses consistent with its chief objectives and mechanisms: increasing bumiputera representation in specified areas, through preferential selection. Poverty and household income are undoubtedly interconnected, since bumiputera upward mobility presumably raises incomes and reduces poverty – but are more germane to broader appraisals of Malaysia’s development than to affirmative action in particular. This chapter analyses direct policy outcomes and immediate implications, engaging with contemporary issues and synthesising current, available data.

Education

Malaysia’s extensive affirmative action programmes have rapidly raised the academic profile of the bumiputera population. Bumiputera proportions of public university student bodies increased from 40 percent in 1970 to 63 percent by 1985, and stabilised at that level until 2003 (Khoo 2005; Sato 2005). Current data on ethnic composition of university enrolment have not been reported, but affirmative action in public universities undeniably sustains bumiputera representation. In 2009, UiTM, solely reserved for bumiputera students, enrolled 140,000 out of a total 590,000 in the public university system.

Entry into university has been facilitated by continual expansion of secondary and post-secondary programmes. MRSMs have maintained their role, and recently enjoyed curricular and instructional upgrades. The contribution of MRSMs and MARA overseas scholarships towards intergenerational mobility, however, has been reduced by these opportunities increasingly becoming the domain of Malay middle and upper classes (Lee 2013). For the vast majority of bumiputera students, matriculation colleges have become the pathway to university. Enrolment in these institutions grew from about 15,000 in 1995 to over 55,000 in 2005.

On the whole, bumiputera have continually gained upward educational mobility. Labour force data shed light on changes over time in academic attainment, as shown in Figure 13.1. Indeed, by 2010, the Malay labour force registered the highest share with tertiary (degree, diploma or certificate) qualifications. Importantly, Malays exceed all other groups in this respect, while non-Malay bumiputera lag considerably. However, other evidence points to quality shortfalls and policy flaws. The official ‘meritocracy’ policy, in practice since 2002, commits false equivalence by considering matriculation grades on par with the STPM, further compounding the disparity in standards. Matriculation’s lighter programme is evidenced by the lesser preparedness of its graduates for university study (Tan and Raman 2009). This seemingly ethnicity-blind policy is thus illusory and, by paving easier paths instead of adequately equipping students for university, ultimately does a disservice to the bumiputera community. It also compromises the potential for post-secondary programmes
to narrow primary and secondary schooling gaps, since the matriculation colleges, being residential institutes, relocate vast numbers of students from socio-economically disadvantaged settings.

Shortcomings at pre-university extend to the post-university stage, where bumiputera graduates experience steeper challenges in labour market entry. Bumiputera graduates of public universities are much more dependent on public sector employment. This tendency partly captures voluntary choice, but also suggests shortfalls in achieving the affirmative action objective of equipping beneficiaries for mobility across public and private sector labour markets (Lee 2012). The Malaysian government’s considerable efforts to provide basic technical and interpersonal skills and enhance bumiputera graduates’ employability also reflect the deficiencies of affirmative action in public higher education.

4 High-level occupations

Bumiputera representation in high-level occupations rose over the 1970s toward the 1990s. Since about the mid-1990s, however, the momentum of progress has waned, indicated by flatter increases in bumiputera proportions in professional and managerial positions (Figure 13.2). It should be noted that bumiputera representation among registered professionals varies across fields, with higher shares among lawyers and lower shares among engineers. The public sector has been instrumental in fostering upward mobility and building a Malay middle class, particularly over the 1970s and 1980s (Torii 2003; Abdul Rahman 1996). Bumiputera, especially Malays, are heavily over-represented in the bureaucracy; dependency on public sector employment persists (Lim 2013). In 2005, the share of teachers and lecturers (predominantly in the public sector) among total professionals was 52.5 percent for bumiputera, 22.4 percent for Chinese and 30.8 percent for Indians.

5 Bumiputera representation in high-level occupations across all sectors, especially in private organisations, depends on the mobility of tertiary qualified participants. Shortcomings in bumiputera empowerment through education, discussed above, have thus extended to the employment sphere, although perceptions of bumiputera, especially Malay, graduates and possible biases against them also perpetuate schisms between the private and public sectors.
Managerial and enterprise development

Bumiputera representation is consistently lower in managerial positions, more so in private companies, given the dominance of bumiputera in administrative positions in the public sector (Figure 13.2). This is to be expected; the barriers to entry are substantially higher. At the same time, policies in this regard have garnered a chequered record. State-owned enterprises performed poorly over the 1970s and 1980s (Jesudason 1989). Nonetheless, in particular sectors, notably finance and banking, plantations and mining, a significant Malay presence has prevailed since the 1980s (Kamal and Zainal 1989). Privatisation in the 1990s massively propelled the BCIC and catapulted Malays into management of corporations across many sectors, but widespread collapse of these entities in the aftermath of the AFC thoroughly restructured the government–business nexus, shifting the locus of the BCIC back to renationalised state-owned, renamed government-linked companies.

In the contemporary context, GLCs are instrumental in carrying out the BCIC agenda, but progress in building a corps of dynamic and independent bumiputera companies, especially SMEs in manufacturing, remains sluggish (Gomez and Saravanamuttu 2013). Affirmative action through public procurement, contracting and licensing has continually fallen short, beset by poor selection, ineffective monitoring for efficiency and technical progress, and deficient checks against corruption, political patronage and cronyism.

Equity and wealth ownership

Bumiputera equity ownership has been the most vigorously targeted and tracked affirmative action outcome, ever since the 30 percent target was set under the NEP. The official estimates show demonstrable gains in the bumiputera share over the 1970–90 era, but slow
progress since 1990 (Figure 13.3). The data are disputable, on grounds of the opacity of shares held through nominees, the application of par value instead of market value, and the omission of government ownership (Jomo 2004; CPPS 2006). Alternative estimates have obtained significantly higher figures, but have been ignored or dismissed, spurred by vested interests for estimation methods that show low bumiputera ownership to legitimise continuity of privileged access.7

While these debates remain unresolved, evidence highlights pervasive profiteering and rent-seeking, compounded by Malaysia’s poor track record in disciplining recipients of state largesse (Gomez and Jomo 1999). Mandated equity allocations have overwhelmingly been sold off for profit. Additionally, related patterns of ownership indicate that the vast majority of bumiputera have scarcely been impacted by pro-bumiputera wealth redistribution measures. Ownership of the Amanah Saham Bumiputera unit trust is exceedingly skewed, and recent issues have been undersubscribed. In sum, these developments warrant a return to basics of developing capabilities and earnings capacity.

Looking ahead

We have considered the objectives and instruments of affirmative action, the policy’s constitutional and historical context, and its specific programmes and outcomes. Malaysia is at a crossroads, having achieved various numerical outcomes but floundered in the ultimate goal of cultivating capability, confidence and self-reliance, towards genuinely and effectively redressing bumiputera socio-economic disadvantage. The implications are too numerous and complex to be fully expounded here. In the contemporary context, three basic and vital questions help us to look ahead:

- How should we think about affirmative action?
- How do Malaysia’s accomplishments and shortfalls inform future policy?
- How might the nation transition away from the current system?
Affirmative action

It is crucial to maintain clarity and specificity in thinking about the key objectives and instruments of affirmative action. The policy is in principle transitory, unravelling as it progresses. Adverse consequences and abuses of the policy, a source of discontent in Malaysia, underscore its unsustainability and the need for reforms. At the same time, as discussed above, the objectives and instruments of affirmative action have been and remain structured around ethnic group representation and preferential treatment, and cannot be replaced systemically with poverty alleviation programmes and need-based selection. Conferring preference on those from low-income backgrounds can facilitate intergenerational upward mobility and thus reinforce the ultimate goal of redressing socio-economic disadvantage. However, this is applicable almost exclusively in education – and not without adverse consequences – but not in the other spheres of affirmative action.

Empirical evidence of policy outcomes demonstrates that affirmative action programmes have steadily bolstered *bumiputera* tertiary education qualifications and *bumiputera* representation at professional and managerial levels, but preferential treatment has not been adequately reinforced with robust development of capabilities, mobility across sectors and the intended transition to self-reliance. Dependency on public institutions and preferential access remains high. Efforts to promote enterprises and transfer wealth have fluctuated in outcome, and are more prone to corruption and abuse. Disparities in upward mobility between Malays and non-Malay *bumiputera* constitute another major area of concern.

Malaysia’s passage away from the current ethnicity-based and quota-structured affirmative action system involves making programmes more effective again, consolidating *bumiputera* capability and confidence, before any scaling down of quotas and systemic policy reforms can realistically be contemplated. The adverse political ramifications of drastic reforms must also be factored into policy discourses. Assertions of pure ‘meritocracy’, usually without acknowledgement of the likely ensuing decline in *bumiputera* representation, have continually and unsurprisingly failed to move reform agendas forward.

Consideration of policy reforms also needs to account for variations across the spheres of intervention. In education, arguably the most positively impacting sphere, due to its productive – and non-acquisitive – orientation and the scale of beneficiaries, reforms to raise standards in pre-university programmes will be needed to narrow gaps in standards and achievements, before moving ultimately to some common university entry requirements. Whether this shift eventually takes the form of a standardised national examination in place of matriculation and STPM or of universities setting their own yardsticks, uniformly applied across all applicants, and how the balance settles between group representation and academic qualification, are broader issues that demand national deliberation.

Disproportionate ethnic representation in the public sector generally draws less discontent than university entry and education-related issues, but over the long term, preferential selection and severe under-representation of non-Malays in governmental decision-making positions is unwholesome for all groups. Efforts to increase diversity will have to overcome big hurdles; two constructive components of a reform package are worth noting here. First, fair employment legislation and concomitant parameters for what constitute unfair employment practices provide a needed legal framework on issues of discrimination – and must be applied across both private and public sectors. Second, in view of the inadequacy of prohibiting discrimination towards fostering diversity, initiatives to promote diversity can help moderate anxieties that arise from the dilution of quotas in the public sector. Increasing employment of non-*bumiputera* in the public sector will likely need to be accompanied by efforts to increase *bumiputera* presence in the private sector.
Enterprise development and equity ownership, the spheres where affirmative action has pronouncedly fallen short, pose massive challenges for reform. Selection and monitoring processes in public procurement, GLC operations and the gamut of enterprise development programmes must be increasingly stringent and prudent – and executed with a clear long-term plan for scaling down outright bumiputera quotas and privileged access. Existing highly skewed ownership arising from bumiputera wealth distribution calls for restraint in further implementation of such programmes.

The breadth, complexity and seeming intractability of affirmative action pervade the obvious difficulties in rendering it, as originally intended and as provided in the Constitution, successful and thus unnecessary. Contemporary Malaysia faces urgent and deep challenges to a shift away from affirmative action, particularly in the form of ethnic quotas and reservations, towards policies and institutions that more effectively attain productive and equitable outcomes. Proceeding with coherence and efficacy requires conceptual clarity, critical policy analysis, and judicious consideration of possible change and reform.

Notes

1 In 1957, the poverty rate among Malays was 70.5 percent, compared with 27.4 percent for Chinese and 35.7 percent for Indians. The disparity persisted through 1970, as poverty remained considerably higher for Malays (64.8 percent) than for Chinese (26.0 percent) and Indians (39.2 percent) (Leete 2007). In Peninsular Malaysia in 1967, the Chinese to Malay household income ratio was recorded at 2.47, and 1.95 for Indian to Malay households (Anand 1981).

2 Under the headline, ‘Need- based Affirmative Action’, Pakatan Rakyat Policies, released in December 2009, resolved to provide economic assistance and fair distribution to all races based on need, to avail scholarships based on need and merit, and to utilise savings from curbing corruption towards poverty alleviation. Soon after, Barisan Nasional’s (BN) New Economic Model (Part 1) declared in April 2010 the continuation and revamp of affirmative action, to remove rent-seeking and market-distorting features, and to ‘consider all ethnic groups fairly and equally as long as they are in the low income forty percent of households’ (NEAC 2009).

3 Puthucheary (1978) notes that, in post-independence Malaya, four-fifths of positions in the Malayan civil service were reserved for Malays (cited in Khoo 2005).

4 The government spent RM415 million over 2001–05 to retrain 40,000, preponderantly bumiputera, graduates (Cheong et al. 2011).

5 In 2009, Malays comprised 79 percent of top management and 75 percent of professional and management positions (Lim 2013).

6 Author’s calculations from Malaysia 2006.


Bibliography


