

**Private Sector Participation in Affirmative Action in Malaysia:  
Lessons for India**

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**Abstract**

The world over, most governments have adopted a wide range of affirmative action programs to address problems of inequality and exclusion. While majority enforce affirmative programs in the public sector, quite a few like Malaysia have extended such programs to the private sector with impressive success.

Multi-racial Malaysia is implementing a number of affirmative programs under the broad banner of the New Economic Policy (NEP). Its main goals are to address the poor economic condition of Malays and to balance the growing income inequality between Chinese and Malays. This affirmative action, known as Bumiputera, goes beyond the public domain. For over three decades now, it is also in force in the private sector. The overall effect has been quite beneficial for the Bumiputera. In terms of employment restructuring, more Bumiputera can be seen in modern, high productivity industries and occupations. More importantly, the inequality in ownership and control of corporate share has declined.

What has contributed to the success of these policies? How has the Malaysian state reconciled fundamental contradictions between the goals of setting up a capitalist economy and the avid agenda of promoting Bumiputera preferences?

The research explores various facets of Malaysian trust with the private sector; the context, processes, and dynamics of eliciting private sector participation; the nature of trade-offs between government and private sector players; and the outcome of participation. The focus is on aspects of corporate equity, employment quota, and the private sector's creation of training opportunities for the Bumiputera.

The Malaysian experience provides useful insights to India on how to implement 'diversity' in the private sector, the link between diversity and incentives, and the possible reconciliation of private-sector goals (merit and efficiency) with government's priorities for inclusion and equity.

## **Introduction**

Most governments around the world have adopted a wide range of affirmative action policies to address the problems of inequality and exclusion. Broadly conceived, affirmative action is a term that refers to measures or practices that seek to eliminate discriminatory practices by permitting the consideration of race, ethnicity, sex, or national origin in the availability of opportunity for a class of qualified individuals that have been the victims of historical, actual, or recurring discrimination (Sabbagh, 2004). Although goals of these (affirmative) policies may appear similar, there are wide variations in their scope, nature and implementation strategy. Affirmative action could be compensatory or used to bridge the economic and socio-political gap between groups or empower disadvantaged groups (Ratuva, 2002). Sometimes, it is embodied and enforced through constitutional provisions as in India, Malaysia, Fiji and South Africa, while at times it can be articulated through legislations or executive orders as in the US.

In some cases, they could be just part of the economic and social policies of the government of the day, either as part of its welfare policies or for political expediency and utility such as winning political allegiance and votes. Often development blueprints are drawn up specifying the general principles and specific policies for preferential distribution of jobs, scholarship, capital investment and commercial enterprise, parliament seats and use of state infrastructure and utilities. Often quotas are used to determine the distribution of benefits. In short, affirmative action is quite popular with governments around the world and they do not restrict necessarily to democracy alone. Even totalitarian countries like China have promoted such programmes (Retuva, 2002).

While a great majority of the governments are experimenting with affirmative policies in the realm of public sector, quite a few like Malaysia have extended such programmes to the private sector as well. Malaysia is often cited as a test case for a successful implementation of most comprehensive affirmative action policies under the broad rubric of New Economic Policy (NEP) in the private sector in the world. Given the fact that any forms of affirmative action (voluntary action or quota based) attracts severe opposition from its adversaries/opponents and particularly so if it is in private sector, how has Malaysia succeeded in pursuing private sector players to adhere to such affirmative/quota regimen? What are its impact and implications for countries such as India which currently debate on possibility/feasibility of extending affirmative action in private sector?

### **Objectives and Study Methodology**

The study seeks to explore working of affirmative action in Malaysia with specific reference to the experiences and outcome of private sector participation in affirmative action experimentation. The key focus of the study is to unravel the strategies, intricacies of implementation processes particularly the trade-offs between state apparatus and private sector players. Further, the study intends to understand the impact of private sector participation in reference to racial inequality, growth and racial integration of Malaysia. Finally, by getting deeper into Malaysian experimentation, the study thereby would like to list out key implications for India which is currently debating to extend affirmative action in private sector<sup>1</sup>.

The study is an exploratory analysis of data on experiences of private sector participation in affirmative action in Malaysia. The study will rely on data both from primary and secondary sources. It will rely primarily on the information from published government documents and acts New Economic Policy, National Development Policy (NDP), National Vision Policy (NVP), Industrial Cooperation Act, five-year plans, industrial policies, Annual reports, Ministry documents, apart from books, studies, articles, press

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<sup>1</sup> To elaborate little further, for instance the Malaysian experience can provide useful insights on implementability of 'diversity' in private sector workforce, the linkages between diversity and incentives and aspects of reconciliation between the goals of private sector (merit and efficiency) and government's priorities of equity and inclusion. Some of these issues have been recently raised by the government appointed Sachar Committee on Minorities in India.

clippings, political parties manifesto, parliamentary debates and similar literature. However, to complement and validate the secondary literature, the study has undertaken fair amount of fieldworks mainly through personal interviews with key officials, people's representatives, representatives of private sector and other stakeholders related to affirmative programmes largely to supplement the inadequacy in existing empirical data. There were interviews with leading entrepreneurs (foreign owned, Bumiputera owned, Chinese, Indian), politicians, top civil servants, academics, civil society leaders, media representatives and key policy makers.

### **Scope of the Project**

The research project will seek to explore various facets of Malaysia's tryst with private sectors, context, processes and dynamics of seeking private sector participation, nature of tradeoffs between the government and the private sector players and the outcome of the participation. The key focus is on the aspects of corporate equity, employment quota and creation of training opportunity by private sector for Bumiputera. Further, the study will go into the details of political dynamics of ruling parties, leadership role and other state apparatus in shaping such controversial policies, industries responses, and evolution of broad framework of negotiation among different groups/players, outcome and current status of affirmative policies in private sector. In the end, there is an attempt to contextualize Malaysian experience in India's current preoccupation to have some sort of affirmative action in private sector. Major limitation of the current study is author's command over Bahasa Malaya. Given the majority of Malays speak *Bahasa Melayu*, interviews and personal interactions will face some challenges although in select and important cases, attempts have been made to overcome this limitations through a local translator.

### **Race, Inequality and Private Sector in Malaysia**

Malaysia is a multi-racial country comprised of three major ethnic groups the Malays and other indigenous groups together called Bumiputera (Bumiputera and Malay are used interchangeably in this paper) accounting for 67 per cent of total population, the Chinese who make up about 25 per cent and the Indians 8 per cent of the total population. A

‘plural’<sup>2</sup> Malaysia as it looks today is largely an outcome of British colonial policies. Given colonial ruler’s emphasis on extracting revenues from tin mining and rubber plantations which were labour intensive and not many Malays were keen for such strenuous jobs, the British colonial government organized and permitted a massive inflow of low cost immigrant labour from China and India to meet the high production schedules in the plantation and mining sectors. And this facilitated a major change in Malaysia’s demography. For instance, in 1911 Malays constituted 59 per cent of the population of what is now known as Peninsular Malaysia and non-Malay 40 per cent. By 1931 there was a 50:50 even balance between the indigenous Malay and the migrant populations, a situation that continued until 1957 (Searle, 1999). The fact is the formation of Malaysia in 1963 with Singapore joining the new federation had in fact made ethnic Malays a minority for a brief period until Singapore was expelled from Malaysia in 1965.

The colonial rule in the form of Malay Special Rights<sup>3</sup> and consequent change in demographic patterns brought major changes in political and socio-economic structure of the society<sup>4</sup> and subsequent differences in occupation and location among Malays and non-Malays. The truth is the Great Britain had established colonial rule for the purposes of trade and acquisition of raw materials. Since wage labour from Malay peasantry was hard to come, the colonial administration opened the door for labour immigration which in some sense caused for ethnic division of labour. The ethnic and socio-economic

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<sup>2</sup> J.S. Furnivall, a senior British administrator-scholar called Malayan society a plural society. He famously put it the 1930s, “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”. For mere details, see J.S. Furnivall, 1938. *Colonial Policy and Practice*. Cambridge, U.K.: Cambridge University Press.

<sup>3</sup> The concept of Malay Special Right originated with British colonial rule in the Federated Malay States in 1874. The key aim behind such idea is that even though colonialism was imposed on Malaya, the myth that Malays were still the rightful owners of the country should, and could, be maintained by granting them special status and ‘protection’. There would be two layers of ‘protection’: the Malay rulers who would continue to ‘protect’ their Malay subjects, and in turn, the British colonial government which would continue to ‘protect’ the interests of the Malay rulers and the population from being overrun by non-Malays. The ‘protection’ layer were imposed in key economic domains such as land, education and employment. For example, in 1913, the colonial government passed Malay Reservation Enactment which reserved certain areas for Malay ownership only and prohibited non-Malays from holding mortgages on Malay Reservation Land. Similarly, to mollify Malay aristocracy, Malays were given preference in Malaysian Administrative Service (MAS) and political positions (for details see: Lim, 1985).

<sup>4</sup> At the top were the colonial government and British merchant capital. The Malay aristocracy and royalty formed an adjunct to that apex of British political and commercial power. The Chinese were in the middle as compradors and mercantile class. Forming the base of the society were the Malay peasantry and migrant wage labour (see: Searle 1999).

differences as they existed in Malay society at that point of time were further strengthened by the 'protection' measures on the overall Malay Special Rights. In order to minimize the disruptions emanating from massive migration of labour and to maintain a form of colonial rule that would still be considered beneficial for the Malays, the British administration protected Malay peasants and fishermen in their traditional mode of existence. For instance, the Malays which were traditionally rural oriented, were encouraged rural education in a mould that aimed at "to make the son of a fisherman or a peasant a more intelligent fisherman or peasant than his father had been (Snodgrass, 1980). In other words, such a view constrained Malay access to key segments of employment in the modern sector. For Malays, English medium education was limited to the sons of the nobility who attended the elite Malay college at Kuala Kangsar where they were trained for the positions in the Malayan Administrative Service (MAS) as civil servants under the British rule (Searle, 1999). The same feat was repeated in the commercial field as well. The colonial authorities made efforts to keep the Malays in rice production and severe constraints were put on their participation in rubber production thereby limiting their economic opportunities<sup>5</sup>. Such ethnic division of labour largely through colonial policy continued to widen as large numbers of Chinese moved from employment as mining and agricultural labourers to commercial occupations. Given the fact that a large numbers of Chinese entered retail trades (with greater chances having interfacing with Malays on daily basis) thereby appearing to be more threatening and exploitative to the Malays than that of Europeans who dominated the colonial economy. What further fueled this occupational cleavages was the exclusion of Chinese from holding senior administrative posts in the Malay States. Overall, such policies including Special Rights proved beneficial for Chinese to enter in a big way into private sector business and reap the benefits of tolerant laissez-faire colonial policy, although they were left out of the politico-bureaucratic hold which Malays continued to retain.

When the Federation of Malaya gained independence in 1957, the main contours of the plural society including ethnic division of occupations remained in tact and became more

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<sup>5</sup> Snodgrass (1980), however, saw it differently. To him apart from colonial policy which discouraged Malays to take on modern sector, cultural attitudes of Malay too played a role in their entry into modern sector.

pronounced when Federation of Malaya became Malaysia with the inclusion of Sabah and Sarawak (and, briefly Singapore) in 1963. Also, the pre-colonial Malay Special Rights continued in its original form which significantly contributed to Malay economic backwardness (Lim Mah Hui, 1985). This is evident in distribution of occupation. While overwhelming majority of Malays remained in rural occupations (only one-fifth of the urban population was Malay), the modern economy was dominated by Chinese, who controlled medium and small-scale trade and industry. In 1957, only 3 per cent of the Malays were sales worker, whereas 16 per cent of Chinese and 9 percent of the Indians were in the occupation. The percentage of Malays, Chinese and Indian in the professional and administrative categories were about equal – 3 per cent, 5 per cent and 5 per cent respectively. Such an uneven distribution of occupational status resulted in ethnic income inequality (Lim Mah Hui, 1985). In 1957, the mean income per Malay household was Malaysian Ringgit (RM)) 139 per month, compared to RM 300 per month for Chinese and RM237 for Indians (Snodgrass, 1980). If we take the ownership figures in the same year, Malay ownership was concentrated in the subsistence agriculture sector, with 67 per cent of it owned by them (Puthucheary, 1960). The Malays participation in the modern private sector was dismal from all accounts. In 1957, Malay business constituted only 10 per cent of the 89,000 registered business establishments and accounted for only 1.5 per cent of the capital invested in registered companies (Lim 1985).

In the post-independent period, the government heavily dominated by United Malays National Organization (key political organ of ethnic Malays) took number of measures to arrest inter-ethnic disparities and boost Malay participation in modern sector of economy with little success. Although, Malay concerns regarding their backwardness were reflected in Article 153 of the new Constitution in 1957, which contained provisions for the ‘special position’ of the Malays in terms of official preference in education, the bureaucracy and business, very marginal positive outcome emerged. This was starkly reflected/visible in private sector growth which was growing exponentially thanks to a *laissez-faire* and ‘benign’<sup>6</sup> tolerance of new ruling alliance to foreign capital. This is

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<sup>6</sup> The consistently positive and tolerant attitude of the newly independent Malaysian government to a large foreign stake in economy was largely because of Malaysia’s heavy dependence on Britain for military

vindicated from the fact that although the government after Independence made efforts to 'Malayanise' the economy, its basic character remained the same as it was during the pre-Independence period. In 1970, foreigners continued to control nearly three-quarters of the corporate capital in the modern agriculture (the plantation sector) and mining (75.4 per cent and 72.5 per cent respectively). Besides, foreigners also continued to dominate the export trade nearly 70 per cent (Searle 1999). The same story was repeated in the financial and manufacturing sectors as well. Only in two sectors, transport and construction, local ownership exceeded foreign ownership. But even here these two sectors were dominated by the Chinese.

There were at least three five-year economic development plans between 1956 to 1970 to 'Malayanise' the economy, but these plans did little to alter the pattern of ownership and control in the private sector as existed in the colonial period. With more and more urban Malays number swelling as a result of affirmative programmes in education and scholarship, there was increasing pressure on state leadership to provide them assistance/opportunities to benefit from private sector growth. In fact, many aspiring Malay businessmen began lobbying for special assistance from the government. The new government responded positively in terms of announcing several special packages for Malay businessmen and professionals to get involved in private sector growth pie. Between 1965-68, two major meetings (Bumiputera Economic Congress) were held to debate and strategize about Bumiputera ascendancy in corporate sector. As a result of the first congress in 1965, a bank (Bank Bumiputera) was set up and a previous organization which had aided Malay businessmen, RIDA (Rural & Industrial Development Authority), was reconstituted and renamed MARA (Majlis Amanah Rakyat). Efforts were made to persuade pioneer industries particularly foreign-owned ones, to employ a quota of Malays as a condition for receiving tax and other incentives, and a campaign to induce Malays to save via a Malay investment trust (Milne, 1976). Yet, the total impact out of these policy measures was marginal. To many Malays, it was the Chinese who had mainly benefitted from those measures.

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defence in the 1960s in the face of growing threats from communist insurgency and likely threats posed from Indonesia (see: Jesudason 1990).



Fact was since Chinese contractors and businessmen were well equipped and better resourced, they could reap benefits from an increased federal expenditure on infrastructure including rural development programmes aimed mainly at improving the lot of Malays. Chinese too benefitted disproportionately from the government sponsored Pioneer Industry Programme (Lindenberg, 1973). Lindenberg (1973) observed that a number of large Chinese groups exerted great deal of control in pioneer firms. Further, the spread of Chinese business rarely involved Malays. The Malays were employed as only 'Functional Directors' often leading to Ali-Baba stereotyping. In short, Malays were generally marginalized from the development of Chinese business in the 1960s and viewed its advance as inimical to their own aspirations for economic advancement.

Such marginalization felt by aspiring Malay businessmen was also shared by much of the Malay population. This was partly caused by deterioration of their economic conditions in the 1960s (Snodgrass, 1980). A vast majority of Malays remained in poorly paid occupations such as rice cultivation, rubber smallholding and fishing. Malay movement into high income occupations was generally associated with public sector employment. This was vindicated from the official data on employment of various ethnic groups in different sectors of economy (Searle, 1999). There was hardly any major change between 1957 to 1970. The extent of underrepresentation of Malays in modern sector is quite apparent in the Table 1. Malays generally over-crowd lower end jobs in the professional and technical categories.

Equity ownership is another important parameter to judge the place in corporate sector. The Malays in 1970 had a dismal record in that. Despite number policy measures, generous resource allocations for encouraging Bumiputeras to enter modern business sector and become capitalists, the ownership of share capital in peninsular Malaysia in 1970, Malay individuals or trust funds owned only 1.6 per cent of shares, while non-Malays (overwhelmingly Chinese) held 34.3 per cent of shares and foreigners owning the remaining 63.3 per cent.

Such glaring disparities in wealth among ethnic groups and particularly severe Malay underrepresentation in ever expanding corporate sector had become the main source of ethnic tensions and full blown conflicts. As number of Malays in urban space with tertiary education swelled, they were increasingly becoming restive as opportunities in private sector were hard to be found for them. Therefore, frustration of this group were directed against the Chinese. Despite the fact that foreigners still dominated the private sector in Malaysia, Chinese became soft target as they were often visible in many of the key sectors and were often in direct dealing with Malays on day today works. Some of these tensions and other political power struggles between these ethnic groups led to a worst ever ethnic riots in 1969. And 1969 riots became turning point in terms of affirmative action.

Table 1 Employment by Occupation and ethnic group, 1970 (% of ethnic representation in occupation)

Sector	Malay	Chinese	Indian
Professional & Technical	47.2	37.7	12.7
Administrative & Managerial	22.4	65.7	7.5
Clerical workers	33.4	51.0	14.3
Sales	33.4	64.7	11.0
Production workers	31.3	59.9	8.6
Service Workers	42.9	42.5	13.4
Agricultural workers	68.7	20.8	9.6

Source: Third Malaysian Plan, 1976.

### **New Economic Policy and the Private Sector**

In the backdrop of growing ethnic disparities and severe Malay underrepresentation in the modern sectors of economy which many believed triggered the worst racial riots in 1969, the ruling coalition which was overwhelmingly dominated by the ethnic Malays introduced most radical affirmative policies under the banner of New Economic Policy (NEP) in 1971. The NEP had two pronged strategies: eradicate poverty irrespective of

race and restructuring of Malaysian society 'to reduce and eventually eliminate the identification of race with economic function' (MTR2MP, 1973). Overall, the NEP intended to pursue (a) correction of income imbalances existing between Bumiputera and other ethnic groups; (b) restructuring of the employment pattern; (c) restructuring of the inter-ethnic ownership of share capital in limited companies; and (d) the creation of Bumiputera commercial and industrial community. The NEP set a specific target of 30 ownership and control of the corporate sector by Malays and Malay interests by 1990. In addition, it also proposed that the Malays, who represent half of the population, proportionately participate in the commercial and industrial sectors which should lead to realization of Bumiputera commercial and industrial community. With regard to employment, it expected private sector companies to accommodate at least 30 per cent of managers/senior management from among Bumiputeras (Onozawa, 1991)

### **Affirmative Action in Private Sector: The State Leading the Way**

How did the leadership in Malaysia venture into implementing such a radical dose of affirmative action with far reaching implications for the private sector? To realize the twin goals of wealth restructuring and change in employment pattern in the corporate sector, the government of Malaysia adopted a multi pronged strategies, partly guided by coercive measures mainly through disincentives, threat of penalty, etc and partly by making number of incentives available for private sector players.

### **Restructuring of Corporate Ownership**

First and the most critical step towards the realization of the NEP objectives was of corporate wealth restructuring whereby 30 per cent of shares of private sector would be owned by the Bumiputeras. Since, it was the most challenging task of all, the Malay leadership adopted a multi pronged approach, partly incentive driven and partly driven by coercion. While the leadership parked a number of incentives such as easy work permits for foreign expatriates, lease for companies that confirmed to the 30 per cent quota (employment and shares), for those who did not show seriousness in adhering to new rules, they were subjected to new policy instrument called Industrial Coordination Act (ICA). The ICA which was brought out in 1975 was intended to control the growth of

manufacturing sector so as to ensure advancement of Malay capitalist interests in that sector (Jomo, 1986). The Act provided extensive powers to the Minister of Trade and Industry to control the whole manufacturing sector. In addition, the Act required all manufactures (except those with less than \$250, 000 in shareholders' funds) to apply for a license. Approval of the license was made conditional, depending on whether the NEP guidelines of a minimum 30 per cent Bumiputera participation in equity and in the Board of Directors, a 30 per cent Bumiputera employment quota, appointment of Malay distributors, and such NEP-related objectives are met. If the conditions were not complied with, the license could be revoked at the discretion of the Minister. Then there were other state apparatus like Foreign Investment Committee (FIC)<sup>7</sup>, Capital Issues Committee (CIC),<sup>8</sup> Ministry of Trade and Industry (MTI) and the central bank, Bank Negara to exert pressures on private firms to adhere to ownership restructuring goals. Under NEP, both MTI and Bank Negara were empowered to regulate the activities of corporate sector including equity restructuring. In short, the government readied a comprehensive list of instruments to ensure the goals of corporate restructuring.

While they adopted half a dozen administrative instruments such as ICA and CIC that would go on reducing Bumiputera exclusion from the private sector, the Malay leadership were also conscious of the fact that corporate restructuring and creation of a successful Bumiputera capitalist class would not be possible by merely getting private sector capitalists on board. It would require massive state led efforts in terms providing training, exposures, credit, market linkages and much needed initial platforms to launch business enterprises or start ups. The state in Malaysia went about filling these gaps by setting up new state enterprises and commercial entities as vehicles for holding assets in trusteeship for Malay community. State enterprises were established with specific purpose of helping Malays go into business. In addition to existing MARA and Bank Bumiputra, the

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<sup>7</sup> The FIC was enacted in 1974 with the goals of monitoring and controlling 'foreign' takeovers of Malaysian companies or assets to ensure that they conformed with NEP objectives. With high ranking officials on board, FIC was one of the lethal instruments for enforcing the NEP requirements, particularly getting large public and non-public companies to restructure their equity. Firms that ignored the FIC were subjected to bureaucratic obstructions.

<sup>8</sup> The CIC is another lethal instrument to aid in regulation and restructuring of the corporate sector. All public companies have to comply with CIC's requirement of 30 per cent equity for Bumiputeras if they seek approval for changes in their equity structure or wish to apply for a public listing (see Searle, 1999).

government set up numerous state enterprises that would enable Malays to take a plunge into business and engage in business activities themselves “on behalf of” Bumiputeras (Crouch, 1996). One of the new agencies created in 1971 was the Urban Development Authority (UDA) to provide business premises and necessary assistance to Malays in predominantly Chinese commercial areas. Besides, all the state governments were directed by Federal Government to set up their own State Economic Development Corporations (SEDCs), which became involved in hundreds of joint ventures with both the Chinese and foreign companies.

The most noteworthy among these new agencies was the Perbadanan Nasional (Pernas or National Corporation) which was formed in 1969 got further boost to facilitate the processes of creating Bumiputera business class. Pernas which had merged as largest conglomerate by 1970s set up numerous subsidiaries that operated in various sectors such as insurance, construction, general trading, real estate, engineering, mining and finance. Besides, Pernas was used as a vehicle to buy into established British and other foreign firms in the mining and plantations sector via stock market rather than nationalization route. Strongly supported by the government, Pernas went on get foreign partners to enter joint ventures with it. In 1978, the government created a new entity called Permodalan Nasional Berhad (PNB) which took over the role of Pernas. The key focus of PNB was to guarantee greater direct participation for individual Malays in the agencies ostensibly acting on their behalf. Soon after its existence, the PNB established a unit trust fund, Amanah Saham Nasional (ASN), through which Malays would acquire stakes in PNB’s holdings. Pernas and other agencies such as SEDCs, MARA was asked to transfer their most profitable shares to the PNB. Together with this, through MTI heavy pressures were exerted on foreign companies to restructure by making shares for Malaysian interests via PNB. The PNB had interests in 159 companies as early as 1985, thereby emerging as largest business conglomerate (Crouch, 1996). These apart, two other public sector corporations were brought in to play critical role in the expansion of state’s influence into private sector. The Petronas (national petroleum corporation) and the Heavy Industries Corporation of Malaysia (HICOM) were established to oversee Malaysia’s proposed industrialization programme. Besides, state expanded massively into banking and

financial sector to remain in control of key financial assets (Crouch, 1996).

In addition, the state in Malaysia provided critical enabling provisions to help the Malays to establish their own enterprises and become successful businessmen. For instance, special training courses were started, easy loans with little or no collateral damage was provided, quotas of various kinds were imposed and subsidized business premises were made available. Through ownership and regulation of the financial sector, the government insured the expansion of credit to the Malays businessmen<sup>9</sup>. Further, the Malay enterprises were extended special preference in the allocation of construction and other contracts, business and other licenses, and distribution agencies. Foreign investors were, in effect, forced to accept the Bumiputera firms as local partners (Crouch, 1994).

As a result of such concerted efforts, by 1990 almost half of the Malay population had acquired shares through ASN, although most investments were very small. In 1990, the Malay shareholding had grown impressively to 20.3 per cent. Besides, in contrast to the situation in 1980, most (14 per cent) of the shares were held by individual Malays than by government agencies (MTR-4).

### **Employment Restructuring**

To rectify severe Malay underrepresentation in the corporate sector, the government preferred to intervene in labour markets. The prime targets of intervention were the rapidly growing manufacturing and service sectors. The government made issuance of manufacturing licenses conditional on the applicant firm's compliance with the Bumiputera employment quota. Apart from making trade licenses conditional to fulfillment of Bumiputera quota, the government made Bumiputera employment a condition in providing any approval for projects that sought capacity expansion. The

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<sup>9</sup> Under NEP, the banks were directed to increase their lending to Bumiputras. While in August of 1974, banks were required to provide at least 12 per cent of their loans to Malays, this was enhanced to 20 per cent in October, 1976. Consequence of this decision, bank credit to Bumiputera rose from RM 149 million in 1971 to RM4, 780 million (20.6 per cent) in 1980. Commercial banks which were lending to the tune of 3 per cent of their total loans to small enterprises, were asked to raise it to 10 per cent by 1975. In fact, the government set up the Credit Guarantee Corporation (CGC) which took the job of underwriting guarantees for 60 per cent of loans given by commercial banks to small businessmen (see Lim Mah Hui 1985). In 1977, the CGC had guaranteed 54, 591 loans worth RM480.4 million, with 67 per cent of the total loans, accounting for 42 per cent of the total value, going to Bumiputera (see Chee, *et al*, 1979).

same criteria was used in granting or rejecting work permits for expatriate staff of foreign companies subject to their accommodation Bumiputera to managerial and professional positions. Such conditionalities on private sector players were not placed like a 'zero-sum' game. They were based on assumptions that a growing and expanding economy will increase opportunities for everyone including the Bumiputras (Onozawa, 1991).

Coercive administrative tools apart, the government went to address the supply side of the problems relating to critical human resources from among the Bumiputeras so as to enable them find opportunities among private sector. As early as 1971, the government increased Malay enrolment quota at public universities to 70 per cent. In addition, the government went for extensive programmes on education and training for Bumiputera under a new programme "Look East Policy" in 1981. Additionally, to bring a transformation in the Bumiputera employment pattern, the government went on to modernize the rural areas by hammering out number of industries, industrial estates, free trade zones in rural areas. In short, together with administrative instruments such as Industrial Coordination Act, CIC, etc, the government pushed for the expansion of commercial and business enterprises so as to provide more and more Bumiputeras direct experience of running and managing business/enterprises apart from enhancing the numerical strengths of Bumiputera in the corporate sector.

To sum up, the state leadership went all out to alter Malay underrepresentation in the private sector. But while doing so, the leadership was aware of how far it can intrude into private sector activities. Therefore, flexibility in policy instruments formed as the backbone. The fact is a powerful section of Malay leadership were of the view that success of NEP was dependent on a sustained economic growth. They wanted the state to adhere to original version of expanding pie theory. Therefore, they recommended that the primary task of the state was to stimulate the growth necessary for redistribution to take place. This line of thinking had the backing of Mahathir Mohammad; one of the key architects of the NEP and 'Bumiputerism'. Such a tone of pragmatism and flexibility were evident in several decisions that went on to amend NEP restrictions that hindered sustained higher economic growth. For instance, in response to the 1985 global oil crisis

that adversely affected export driven economies such as Malaysia, the government liberalized foreign equity ownership in manufacturing and amended the Industrial Coordination Act to make it easier for manufacturers to start new projects, expand their capacity and diversify their products. It introduced Investment Incentives Act in May 1986 to provide further tax incentives to the manufacturing, agriculture and tourism sectors. By the end of September 1986, the government, in fact, walked two steps further and granted full ownership to foreign companies that exported 80 per cent or more of their products. This was a significant deviation from the NEP (Kim, 1997).

Further, the government under Mahathir announced that foreign investments undertaken between October 1985 and December 1990 under these conditions, would not be required to restructure their equity at any time. Similarly, in 1997, the Mahathir government in response worst financial crisis kept ICA restrictions in abeyance particularly in the case of foreign investment. However, to keep the Bumiputera constituency happy, the leadership continued to subject private sector players to restructuring rules and restrictions in employment. So in a sense, the leadership tried to balance between two competing interest groups: foreign investors who would create growth and new employment and Malay population. Even in the case of non-Malays particularly the Chinese, despite number of restrictions on their business, it did not follow the principle of paying robbing Peter to pay Paul and Chinese continued to benefit from state intervention as well<sup>10</sup>. The Chinese continued to benefit from growing economy and in many cases officials overlooked rules so as to keep them happy<sup>11</sup>.

### **Private Sector's Participation in Affirmative Action**

What were the responses from the private sector to NEP led affirmative action which talked about employment and corporate ownership restructuring that heavily favoured

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<sup>10</sup> Despite many of the disincentives, overwhelming majority of Chinese businessmen made profits. For instance, non-Malays (brute majority of them were Chinese) shareholding actually rose from 34.3 percent in 1970 to 40.1 percent in 1980 and 46.2 percent (44.9 owned by Chinese) in 1990 (Fourth Malaysia Plan). In every sense, Chinese made major economic gains under the NEP regime. Fact is Malay ownership growth happened largely at the cost of foreign companies mainly British (63.3 per cent of share capital in 1970 to 25.1 in 1990).

<sup>11</sup> Interview with a senior representative of Chinese business chamber.



Bumiputeras? How did they participate in fulfilling government's affirmative goals? What were the implications of such a radical shift in public policy on private sector business? Unlike the experiences of number of countries particularly the US that saw private sector responding proactively to affirmative programmes set out by the government especially on issues of higher education and employment diversity, the private sector in Malaysia was not forthcoming to support the affirmative goals. The private sector was a reluctant participant in affirmative action programmes proposed by the Malaysian state. Besides, the private sector, particularly the Chinese and the foreign multinationals had altogether different approaches and methodologies to the NEP objectives.

### **Chinese Business Community**

It would help here to remember that the sole objective of the NEP was not merely to correct employment disparities that existed in the private sector, the NEP targets were also meant to checkmate the unfettered economic environment enjoyed by the Chinese (Jesudason 1990). The fact is much of the Malay leadership was really apprehensive of Chinese dominance in rapidly expanding modern sector. Further, in the post-1969 period, the Malay leaders saw Chinese economic power as a threat to their political status and cultural aspirations. No wonder, the Chinese instantly opposed to the NEP and its instrumentalities as they presumed they were specifically devised to curtail their progress in business and commerce, the lone sector where they had a free ride. Despite, the government's repeated assurances that in a growing economy there would be no need to rob Peter to pay Paul, the Chinese were wary/insecure about their future. The Chinese business community strongly opposed Industrial Coordination Act which obliged manufactures to seek Malay distributors so that at least 30 per cent of distribution would be in Malay hands and to recruit and train workers so that their work force at all levels reflected the communal composition of the population.

The Chinese business groups did every including lobbying with their own very powerful political office MCA which incidentally was part of the Barisan government to pressurize the government to tone down NEP restrictions. But in the post-1969 riot phase, MCA had

become relatively weaker political ally. The MCA party had by 1974 lost control of the Ministry of Finance as well as Ministry of Trade and Industry. Therefore, Chinese leaders were not in a weaker position to dictate the policy term with Malay leadership that was very determined to go ahead with NEP (Jesudason, 1990). While ACCCIM; the key Chinese business chamber did attempt to fill the vacuum created by MCA's lackluster performance in defending and protecting Chinese, its influence was limited and could not expose too much by openly opposing the policies of the government. Additionally, the Chinese business community failed to get the support of key foreign business association Malaysian International Chamber of Commerce and Industry (MICCI) to oppose the potentially damaging clauses under the ICA. The MICCI's opposition to ICA was very low key and differed from Chinese in many respects. In short, Malay economic and political ascendancy inflicted a blow to the status and identity of the Chinese business community.

Given the situation in which Malay officials and state enterprise managers were in firm control of the policies and programmes on attaining NEP targets, the Chinese business community had little choice but to adopt new set of strategy to protect their business interests while accommodating NEP requirements.

First, since the Chinese business groups found their political clout being inadequate to bring any substantial amendments of the NEP restrictions and Malay leadership showing no concern to their plights, they opted for other means mainly by utilizing policy and administrative loopholes and weak implementation mechanisms. Fact is the Chinese as a community possessed many of the critical skills needed to run business successfully and additionally had the benefits of extensive commercial networks that can aid business transactions. To circumvent NEP restrictions, they often took to "Ali-Baba"<sup>12</sup> route. Many of these companies chose silent Malay partners, who often brought no financing to the business, in order to gain licenses, contracts, credit and all other kind of concessions.

Second, many of the Chinese investors resorted to concealing their investments by setting

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<sup>12</sup> It is an old fable in which 'Ali' would win government licenses, contracts and concessions, while the Chinese 'Baba' would actually run the business (Crouch 1994).

up diverse and widespread cross-holding networks in order to escape the stringent regulations under ICA and CIC. Those who owned listed vehicles had little choice but to restructure in order to escape NEP restrictions. Some of them like Robert Kuok, Lim Goh Tong, Khoo Kay Penng bypassed the state by diversifying their operations overseas (Tan, 1993). They went for sector that guaranteed quick return and avoided manufacturing which was labour intensive and required large investment.

Third, while smaller and medium Chinese companies often resorted to 'Ali-Baba' route to escape the stringent ICA regime, many of the large Chinese firms were far more accommodating to 30 per cent requirements as they were less concerned about being displaced and more concerned about expanding their business. By agreeing to restructuring ownership, many of them were believed that they would get rid of their exclusive identity and adopt more multi-racial complexion (Jesudason, 1990). Besides, being large they had large financial base and incentives to absorb the costs of incorporating Malay partners. In many cases companies that wanted expansion, went proactively to finance Malay shareholders to address the problems of 30 per cent share ownership<sup>13</sup>.

Fourth, another way of preserving and continuing the hold over business in the face of NEP onslaught was courting influential Malay politicians and key bureaucrats to gain state access through them became dominant strategy of the Chinese business leadership. Many of the large and medium Chinese companies resorted to taking influential Bumiputeras with close links to UMNO as the directors of their companies. As the strategy worked, even medium scale companies began incorporating influential Bumiputeras as directors. In some cases, Chinese businesses known to have financed ambitious politicians as a means of gaining access to government patronage network. Not only this, in several cases, Chinese went for joint ventures with influential Malays so as to escape the restrictions imposed by NEP.

Finally, with a realization that small and medium scale Chinese businesses were the

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<sup>13</sup> Inputs received from Dato Wong Siew Hai through personal interview.

biggest casualty or adversely affected by NEP regime, MCA, the Chinese political party mobilized capital to act as buffer. Also the same pool of capital can be used for the purposes of modernization and consolidation. The MCA's main instrument to pool Chinese resources was Multi-Purpose Holdings Bhd (MPHB). Fact is that during the peak of NEP implementation and when Chinese business faced the heat, the MPHB used its large financial base and access to bank loans to acquire a number of publicly listed companies. By 1982, within just seven years, the company emerged as the second largest company on the local stock exchange with interests in many sectors of the economy. However, the experiment was short-lived as MPHB after a phenomenal success came very close to bankruptcy because of oil crisis and economic slow down in 1986 (Gomez, *et al* 1999). Following Chinese footsteps, the Malaysian Indian Congress, the dominant political arm of Malaysian Indians formed Maika Holdings Bhd as a vehicle for expanding Indian corporate wealth.

To sum up, the Chinese response to NEP while began with strong opposition and political mobilization by every means to circumvent its restrictions but ended in accommodating Malays interests for their own survival. While the Malay leadership succeeded to a great extent by forcing Chinese companies to fall in line, the Chinese business resorted to pragmatic accommodation of Bumiputeras to manipulations of the NEP through "Ali-Baba" route. And the Chinese did not do that bad under NEP regime<sup>14</sup>.

### **The Foreign Private Sector**

How did foreign firms respond to the NEP led affirmative action which in a way intended to reverse their ownership? Were they treated any different compared to the Chinese? At the outset, it must be remembered that while Malay leadership wanted to reverse the dominance of foreign ownership by means of transferring a sizeable portion to the

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<sup>14</sup> Despite many of the disincentives, overwhelming majority of Chinese businessmen made profits. For instance, non-Malays (brute majority of them were Chinese) shareholding actually rose from 34.3 percent in 1970 to 40.1 percent in 1980 and 46.2 percent (44.9 owned by Chinese) in 1990 (Fourth Malaysia Plan). In every sense, Chinese made major economic gains under the NEP regime. Fact is Malay ownership growth happened largely at the cost of foreign companies mainly British (63.3 per cent of share capital in 1970 to 25.1 in 1990) (See: Searle 1999).

Malays, it never saw them as a direct threat to their dominance as it was in the case of Chinese. In fact, multinationals had a number of attributes which the Malay leaders and policy makers favoured. These companies were removed from internal struggles over power. There was less fear that the economic power of multinationals would translate directly into strong influence over the political process (Jesudason, 1990). Therefore the government bracketed MNCs differently from the Chinese whom it considered as a major threat to their political and economic dominance and foreign companies as chief vehicle for creating a Malay bourgeoisie and managerial class.

Therefore, although the government imposed many of the restrictions on foreign MNCs linking them to restructuring their ownership and employment in favour of Malays apart from replacing the role of foreigners in technologically simple sectors such as banking, plantations and tin-mining, it went all the way to woo them by all means including number of attractive incentives. The fact was as the state continued its restructuring goals, multinationals helped to keep the economy afloat by absorbing labour and providing employment opportunities for Malays in manufacturing sector. Many of the foreign owned companies found it easier to provide Bumiputeras with ownership opportunities and executive positions than the family oriented business organizations of the Chinese. It was but natural that the Malay leadership targeted most its concessions to the foreigners to attract more investments into manufacturing sector. The leaders and bureaucrats of Malaysia did provide an attractive climate to multinationals including speedier clearance of projects, providing quality infrastructure, tax concessions<sup>15</sup>, reining over labour union and wage rate among others.

Yet, there were many areas of concerns for the foreign companies, particularly the ICA and Petroleum Development Act (PDA) of 1974<sup>16</sup> and its subsequent amendments<sup>17</sup>. In

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<sup>15</sup> The government provided various tax incentives for foreign firms to invest in Malaysia such as providing 'pioneer status' which allowed companies to enjoy tax immunity for five years. Then there was this investment tax credit under which profits were exempted from taxes up to 100 per cent over a period of five years mainly in capital expenditure category. Other incentives included Accelerated deprecated Allowance, Reinvestment Allowance, Incentives for Research and development, Capital allowance for Plant and machinery, etc (see: Ministry of Finance, 1986).

<sup>16</sup> The Petroleum Development Act, 1974 was intended to ensure Petronas full control of the entire petroleum industry. The problem, however, was related to a controversial part of the Act which was Section 6-A of the amendment Act. The said clause required all businesses related to the petroleum industry to

fact, the PDA proved such an intrusive law that Esso Malaysia, an oil company decided to pull out of its oil exploration efforts pending a more favorable policy. Several other companies threatened to follow Esso's path. After a long negotiations, the government decided to drop the idea of management share was dropped and its strongest advocate Tengku Razaleigh Hamzah was transferred from his job as Chairman of Petronas in 1976. Similarly, on ICA the government conceded too many demands of the multinationals.

In other words, when it came to foreign companies, most of the leaders were sufficiently flexible and ready to walk miles to accommodate their concerns. This was in complete contrast to their response to Chinese demands to repeal ICA and related instruments that adversely impacted their business. Such incentives and policy flexibility shown by Malay leadership convinced the MICCI, the foreign business chamber to accept the NEP as a *fait accompli* and merely press for the removal of the excesses and inconsistencies in the ICA. The chamber was not willing to unnecessarily alienate the government by asking to repeal it (Jesudason, 1990). In short, there was clear trade-off between the state and foreign companies in the context of the NEP.

To sum up the trends and dynamics of private sector participation in affirmative action as laid out by the NEP, one saw a sort of mixed trends of responses and trade-offs. In terms of responses, they ranged from outright antagonism to reluctant participation although it differed from one group to the other. While Chinese vehemently opposed NEP restrictions in the beginning, yet as time progressed and pressures to fall in the line persisted, majority of big and medium firms agreed to restructure ownership and

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issue management shares to Petronas. Each management share had 500 votes. Further, management shares shall constitute 1 per cent or more of the issued and paid up capital and such a proportion must be maintained at all times. In other words, the new clause allowed Petronas to have strategic control of the oil industry. In addition, the amendment provided extensive powers to the Prime Minister to regulate the oil industry. There were penalties proposed to be introduced in case of breach of such regulations. This was strongly opposed by oil MNCs and most of them suspended further investment in the sector. As a result of vociferous opposition, the government finally relented and deleted the idea of management shares and also the licensing of downstream activities. This was a clear case of government trying to follow an accommodating path with foreign investors who had advantages of capital and technology.

<sup>17</sup> The Petroleum Act that covered petroleum and natural gas sector unilaterally cancelled the previous oil production arrangements with oil MNCs. But what was worse was 1975 amendment which sought to gain control cheaply of companies in the distribution, marketing, and refining products. The amendment empowered the government to make these companies issue special class of management share to the national oil company, Petronas. These share were to be sold at the cost of an ordinary share, but would carry voting power of 500 ordinary shares (For details discussion see: Jesudason, 1990).

employment. Many others among them fulfilled NEP targets by other means mainly through “Ali-Baba” route, manipulating and circumventing rules through procedural loopholes and so on. In the case of foreign companies, they probably got better deal from the state compared to Chinese and therefore, they never openly opposed the NEP goals and tried to accommodate Malay interests within their permissible limits. Overall, most of the new jobs were created by multinationals as they had a massive presence in the manufacturing sector, thereby contributing maximum to NEP objectives.

### **Affirmative Action and the Private Sector: An Assessment**

As seen from the above discussion, the chief motivation behind the NEP was to restructure the corporate ownership and correct the severe Malay underrepresentation in the modern sectors of economy. In realization such ambitious goals, the government chose private sector as one of the key vehicles. The government pressed private sector to restructure 30 per cent of their ownership shares to benefit the Malays, accommodate Bumiputeras into top management positions and provide employment apart from training, exposure, and other support measures to help Bumiputeras. The next logical question, therefore, is how did it work and with what consequences? Are there any takeaways from such experiment for countries such as India?

Let us first consider some of the positive impacts of NEP in the private sector. A lazy glance at various statistics and key economic indicators can tell that a tremendous progress has been made so far as corporate share ownership and employment restructuring are concerned. For instance, in the case of corporate ownership which was a negligible 2.4% in 1970, the Malay share ownership shoot up to impressive 19.1% in 1985 to 20.7 per cent in 1990. The government statistics till the recent times hover around 20 per cent, although this figure has been challenged in the recent times as under-reporting by the government agencies.<sup>18</sup> This meant that compared to the growth rate of

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<sup>18</sup> The NEP achievement figures are subject to dispute in Malaysia. This has been largely because of lack of transparency on socio-economic data deemed very sensitive in Malaysia. For instance on corporate shares owned by the trust agencies and individuals have been hotly debated. While the official date claims it around 20 per cent, a report released by Asian Strategy and Leadership Institute (ASLI) on 29<sup>th</sup> November 2006 claimed that corporate shares of Bumiputeras and trust agencies are anywhere between 40-44 per cent. Such finding took into account market capitalization of shares and shares owned by Government Linked Companies (GLCs). This report has been strongly refuted by the government officials

Chinese share ownership, the Malay ownership expanded at a much faster rate during 1970-1985 (Jesudason, 1991). Of course, it was another thing that a greater portion of this increase in the Malay share of corporate wealth was due to acquisitions made by state-led banks, trust agencies, and public enterprises than private sector restructuring.

In terms of employment restructuring, the figures more or less come closer to the NEP targets. By 1990, the share of the Malays taking up agricultural jobs plummeted from 66.2 per cent to 19 per cent, while newly hired Malays in the secondary and tertiary sectors grew from a low 12.1 per cent to 30.5 per cent and 21.7 per cent to 40.5 per cent, respectively. These figures are a proof that employment restructuring policy was largely successful in moving Bumiputeras from the traditional agriculture sector to the more modern sectors (Onozawa, 1991). The Malays made rapid inroad into commercial and manufacturing sector largely because of the NEP led affirmative action. For instance, between 1980-90, 340,000 out of 5,35,000 manufacturing generated jobs (64 per cent) were occupied by the Malay labour force. Therefore, because of NEP employment restructuring requirements, the entire employment structure in manufacturing changed in just two decades.

Besides, the Bumiputera proportion of the eight prized professions rose from 4.9 per cent in 1970 to 29.0 per cent in 1990 and 33.1 per cent in 1995 to 38.8 per cent in 2005 (Government Malaysia, 1976, 2005). In terms of combined public and private sector employment in professional services such as accounting, architecture, dental, engineering, law, and so on, between 1990 and 1999, the ethnic percentage changed from 20.7% to 28.9% for Malays, from 59.3% to 53.9% for the Chinese, and from 17.5% to 15.5% for Indians (EPU, 2001).

However, there are still many black spots in terms of Bumiputera's ascendancy in the professional occupations. For instance, despite all efforts and concessions, the Bumiputeras were significantly underrepresented (less than 45 per cent) only at the "administrative and managerial' levels (at 37.0 per cent) and sales related occupations (at

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and pro-Bumiputera groups.



37.3 per cent). It should be noted the NEP employment restructuring succeeded in increasing the Malay workforce in relatively low wage job categories such as production, services and clerical personnel. They are yet to massively walk into medium and high income white collar jobs (professional, technical, administrative and managerial occupations as well as high income clerical and sales jobs). Both in administrative and managerial jobs, the Chinese still accounted for 58.7 per cent compared to 33.3 per cent for the Bumiputeras in the 1990. In the sales, the corresponding shares came to 56.5 per cent and 36.0 per cent respectively. The same story is repeated in professional and technical jobs. The Malay shares ranged between 20 and 30 per cent among accountants, physicians and lawyers (Ozowana, 1991). Nevertheless, this is significant achievement compare to their situation immediately after the independence which has brought in a growing Malay middle class which was non-existent in the pre-NEP era.

Table 2. Registered professionals by ethnicity (Percentage of total)

Year	Bumiputera	Chinese	Indian	Other	Total
1970	4.9	61.0	23.3	10.8	100.0
1985	22.2	61.2	13.9	2.7	100.0
1999	28.9	53.9	15.5	1.7	100.0
2005	38.8	48.7	10.6	1.9	100.0

Source: 8<sup>th</sup> & 9<sup>th</sup> Malaysia Plan.

**Table-3, Nine major professional occupations**

Occupational Categories	1990			2000			2005		
	Bumi	Chinese	Indians	Bumi	Chinese	Indians	Bumi	Chinese	Indians
Professional & technical	10.0%	7.8%	7.9%	19.7%	18.2%	18.6%	20.7%	18.5%	20.1%
Mminus teachers and nurses	5.7%	5.3%	5.4%	14.9%	15.7%	15.9%	15.8%	15.9%	17.2%
Teachers and nurses	4.3%	2.5%	2.5%	4.8%	2.5%	2.7%	4.9%	2.6%	2.9%
Administrative &	1.3%	4.7%	1.1%	4.8%	12.7%	5.4%	5.4%	14.0%	6.3%

managerial									
Clerical	9.7%	11.6%	9.8%	10.3%	11.2%	8.4%	10.6%	11.2%	9.6%
Sales & service	19.2%	30.2%	22.1%	12.7%	17.5%	11.2%	14.0%	18.8%	13.3%
Agri workers	37.0%	12.0%	24.2%	18.9%	5.9%	8.3%	15.2%	3.7%	4.9%
Production workers	22.8%	33.6%	34.9%	33.6%	34.5%	48.1%	34.1%	33.8%	45.8%
	100%	100%	100%	100%	100%	100%	100%	100%	100%

Source: 8<sup>th</sup> & 9<sup>th</sup> Malaysian Plan.

Another key objective of the NEP was to create Bumiputera Commercial and Industrial Community (BCIC). How much was achieved in 20 years? By all accounts, this scheme to create Bumiputera entrepreneurs is a grand failure. A vast majority of those Bumiputera entrepreneurs that operate and claim to be successful are largely because of their close political connection and liberal access to patronage system (Samad, 2003). Yet, despite grand failures in several areas, the NEP did create some real entrepreneurs even if their numbers may be very small. The preferential treatments (loans, contracts, concessions, and scholarships) have accelerated social mobility among Malays, created a pool of Malay entrepreneurs, and expanded the Malay middle class (Crouch, 1996; Jesudason, 2001; Jomo, 1986). All of them were not rentiers living off their political connections. A review of Malaysia's contemporary business elite would reveal that presence of a significant number of Malay business people who actively participate in running their businesses (Searle 1999). Fact is majority of them obtained their first opportunities through UMNO patronage network and still closely linked to the party, but they by no means all merely reincarnations of 'Ali-type' Malay businesspeople of 40 years ago. Among the younger generation are those who have benefited from the educational opportunities provided by another aspect of the NEP. It is now common to find Malay businesspeople with degrees in business management, economics, engineering, computing and so on<sup>19</sup>. In the NDP phase, many of the 'cushioning' given by the government for Malay entrepreneurs so as to help them survive through the initial

<sup>19</sup> Inputs received from authors interview with one of the successful Bumiputera entrepreneurs Tan Sri Wan Azmi.

period is disappearing (Samad 2003). But looking at the trends of more and more Malays are entering into business sectors and in several cases forming business partnerships with the Chinese entrepreneurs are a sure sign of positive effect of NEP and NDP.

While these are some of the positive developments of affirmative action in private sector, but there are great costs which the state, society and private sector in Malaysia had to bear. First, while the affirmative action in corporate restructuring helped to raise Malay share of wealth to an impressive measure, it was with a huge price for the entire economic growth and private sector expansion. But this overarching power of the state has its negative effects in terms of crowding out the private sector. Besides, there is high social cost in using cross-subsidies to achieve the New Economic Policy objectives. One element of this is the opportunity cost in resource utilization and the other is the imputed value of the negative impact of NEP on private investment. And the long term impact is capital consumption. To date, a significant portion of restructuring is nothing more than an internal transfer in the national redistribution exercise (see Hoong 281).

Second, the NEP and Industrial Coordination Act had a negative impact on foreign investment and overall economic growth. The Chinese community were the worst affected as they could not match the deep financial base of multinationals. The restrictions placed on obtaining licenses, credit, contracts and concessions made business extremely expensive for the Chinese group given their limited capital base. This resulted in significant capital flight from Malaysia. For example, between 1976 and 1985, more than \$3 billion per year appears to have been sent out of Malaysia while the finance minister announced that some \$10 billion had been transferred overseas between 1983 and 1985 (Khor 1987). The ICA and host of other regulatory instruments drove away many investors particularly the US based ones from investing in Malaysia. Many of them went to Singapore as easy destination for their investment. In fact, NEP over the years has become such a concern particularly the restrictions on equity participation that Malaysia government in recent time found them as single most important reasons for decline of foreign investment. Therefore, the current government's first major decision was to liberalize equity restrictions and exempt export sector from ICA restrictions.

Third, the NEP which insisted on compulsory restructuring of shares/ownership saw most blatant way of simple transfer of wealth to Bumiputeras. Many companies had to allocate shares to Bumiputeras on very generous terms to see the Malay beneficiary sell the shares next day on the stock market at a huge profit. Many of the Chinese firms that financed Malay participation would then end up without Malay shareholders. While some of those who sold their shares did this to set up their own business concerns, but such a patronage system through compulsory quota often created “paper entrepreneurs” relentlessly in search of rent-seeking opportunities and cheap money. Besides, many of them invested only for short term returns usually in the protected domestic sector and rarely in the unprotected international export sector (Gomez and Jomo 1997). This also encouraged most inefficient use of prized recourses as it led to high consumption life style and growth of ‘money politics’ in Malaysia afflicting every segment of political and economic systems (Chandra, 1986; Jesudason, 1991). In short, combination of state protection from or domestic and the privileged access to business licenses and funds through political proximity made life rather easy for some Malay businessmen, thereby depriving Malay entrepreneurs the real grinding of managerial experience through ‘learning by doing’ (Gomez and Jomo, 1997). This lack of real business skills and experience was severely tested during the financial crisis of 1997 which saw almost all the major Bumiputera entrepreneurs collapsed or went near bankruptcy as stocks slided due to volatile economic environment and government taking away much needed cushions.

Finally, the implementation of NEP with its strict quantitative quotas became a mechanical process in which companies tried every possible means either to evade or delay the restructuring by some excuse or others. In large majority of cases, companies never took up this as their mandate and whenever agreed to do so, they were under pressures. Therefore, companies apart from resorting to Ali-Baba type, also tried to manipulate rules to their advantage. For instance, many cases board of directors were chosen as pliant ones. Even in the case of recruiting Bumiputeras to white collar profession, most them were posted as HR managers<sup>20</sup>. In actual sense these exercise has

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<sup>20</sup> Inputs received from number of key people from the private sector of Malaysia.

become a ritual of filling up positions to reflect NEP objectives.

### **Some Lessons**

Despite many of the success stories of Malaysian affirmative action in private sector, the same cannot be replicated elsewhere, including India in wart and all. Contexts and diversity of issues would make it highly impossible to implant Malaysian examples. However, one can walk away with few important takeaways from Malaysian experiment in private sector.

First, the significance of the ‘interventionist’ role of the state cannot be ignored in any affirmative action in private sector. Without it, the Bumiputeras would not have achieved the present status of capital accumulation in the corporate sector. The state’s use of wide range of instruments, including coercion, cooption and compromises did help promote the NEP goals in private sector although not without great costs to economy and society. Success of such initiative depends to a large degree on the balance of power in bargaining between the corporate entity and the state.

While Malaysia’s affirmative action in private sector progressed through the pressure tactics of an interventionist state, the same path would be implausible at this point of time. 2010 is no 1970. The world economy has integrated so much in the last two decades and countries are rapidly moving into knowledge economy seeking foreign investments and critical human resources from every their place. They can ill afford imposing equity and employment quotas. This would simply backfire and in India’s context may lead to serious backlashes and inter-ethnic strife affecting economic growth. This is evident from Malaysian experience in recent which forced the government to remove NEP restrictions in export sector and come out with a new policy formulation called New Economic Model (NEM). The NEM intends to nullify Malay Special rights based on race and rather take class (income) as the basis for preferential treatment.

There are number useful lessons to learn from Malaysia’s most ambitious affirmative programmes to raise Bumiputera Commercial and Industrial Community (BCIC). The

state in Malaysia spent resources to a gigantic proportion to achieve such ambitious goals at least in one generation. Success here has been far below potentials and costs paid for embarking in such venture have been massive.

What is probably useful from Malaysian private sector affirmative action experience is the critical and proactive role of state in creating enabling environment and providing initial breaks to disadvantaged population. Despite many limitations, the preferential treatments particularly the soft and acceptable instruments such as loans, contracts, concessions, and scholarships can help accelerate social mobility among disadvantaged sections as seen from Malaysian experiences. A massive allocations of such critical resources to create a pool of Malay professionals and entrepreneurs did achieve tremendous amount of successes. In fact, they critically contributed to expansion of the Malay middle class. It is here probably India can draw much lessons while designing affirmative action programmes for its disadvantaged groups that has a negligible presence in growing private sector.

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