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EXPANDING OPPORTUNITIES: MALAYSIA CASE STUDY

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SECTION ONE: INTRODUCTION

Malaysia's record with affirmative action divides opinion dramatically. For many critics, the New Economic Policy and its successor policies have driven a culture of corruption, patronage and elite privilege while doing little for their purported beneficiaries.² For other scholars, particularly those with an international comparativist perspective, Malaysia's experience with the NEP is held up as exemplary, having achieved exceptional economic growth and a dramatic reduction in poverty, while simultaneously redressing existing ethnic inequalities and avoiding significant inter-communal violence. As Donald Horowitz notes, at the time of independence, Malaysia (Malaya) was often viewed as a considerably more unstable country than Sri Lanka (Ceylon); the reverse has proved true.³

This paper provides a critical overview of the NEP from a historical, economic, and political perspective, articulated towards the broad theme of 'expanding opportunities'. In doing so, I have eschewed the typical approach taken to evaluating the NEP, which can involve either countless repetitions of summary statistics on inter-ethnic inequality and other target outcome. Instead, I have focused on how, and how far, the NEP created new opportunities for the ethnic Malays and other 'bumiputera' groups that have benefited from the NEP. The argument I elucidate can be summarised as follows. First, the historical context for the NEP built upon a longer tradition of 'special rights' for Malays, intensified by the ethnic riots of 1969, which skewed the development of affirmative action policies toward a somewhat securitised and executive form of implementation; transparency and openness in implementation were taken as a threat to the 'special' status of the Malays. Secondly, from the economic perspective, it is undeniable that the NEP created extensive new opportunities for bumiputera in the labour market, but this was again skewed towards a public/private segmentation of opportunity. These two factors, combined with a shift in policy focus over the years from broad-based measures towards more a targeted corporate and industrial focus, have resulted in a political economy of affirmative action that privileges an elite, politically-connected Malay business class embedded within the ruling party coalition that has proved resistant to reform precisely because of its political connections. I conclude the paper with some comparative reflections on international experiences and by identifying other dimensions of the Malaysian experience that space constraints have left unaddressed in this paper.

SECTION TWO: BACKGROUND: HISTORICAL ANTECEDENTS AND THE CONSTITUTIONALIZATION OF 'SPECIAL RIGHTS'

In Malaysia, affirmative action policies find their roots in 'special rights' for Malays instituted under British colonialism. These rights were constitutionally-enshrined and programmatically extended during the transition to independence in 1957. The most radical expansion of affirmative action policies, however, came with the introduction of the New Economic Policy (NEP) after ethnic rioting broke out in May 1969. The NEP has generated a substantial academic literature, but for the most part this has been 'outcome' oriented. On the one hand, economists and political economists have dedicated considerable efforts to trying to evaluate the success of the policies in reducing inequalities and their possible knock-on effects on economic competitiveness and growth.⁴ On the other hand,

² Gomez, E.T. 2005. The perils of pro-Malay policies. *Far Eastern Economic Review* 168; Gomez, E. T., J. Saravanamuttu, and Maznah Mohamad. 2013. Malaysia's New Economic Policy: Resolving horizontal inequalities, creating inequities? In *The New Economic Policy in Malaysia: Affirmative Action, Ethnic Inequalities, and Social Justice*, ed. E. T. Gomez and J. Saravanamuttu, 31-60. Singapore: NUS Press.

³ Horowitz, D. L. 1989. Incentive and behaviour in the ethnic politics of Sri Lanka and Malaysia. *Third World Quarterly* 10: 18-35.

⁴ Ishak Shari. 1996. Pembangunan desa dan kemiskinan di Malaysia dalam tempoh Dasar Ekonomi Baru, 1972-1990. In *Malaysia: Critical Perspectives*, ed. Muhammad Ikmal Said and Zahid Emby, 224-264. Petaling Jaya: Persatuan Sains Sosial Malaysia; Jomo, K. 1986. *A Question of Class: Capital, the State, and Uneven*

political scientists and sociologists have been more concerned with evaluating the impacts of the policy on ethnic relations and the political dominance of the Alliance/Barisan Nasional coalition that has ruled since independence.⁵ More broadly, the historiography of Malaysia's independence has been dominated by the antagonistic relationship between 'Malaysian' nation-building and exclusivist Malay nationalism—a contradiction evident not just in the long-term historical narrative of the country, but in the practicalities of every administration.⁶

Historians have demonstrated that the process of decolonisation was thus not just a negotiation between a nascent Malaysia and its erstwhile colonial masters, but also an internal negotiation between the major ethnic groups of the new state. Key issues here were the extent and nature of citizenship rights for non-Malays and the promulgation of 'special' rights for the Malays.⁷ The mainstream political science literature sees UMNO's unbroken political dominance as a result of its coercive arsenal and its ability to balance ethnonationalist appeals to the Malay community, legitimised through its self-declared role as defender of their 'special' rights, with the cooptation of sections of the non-Malays community through the wider BN coalition, legitimised partly on its ability to deliver economic growth for all, and partly—particularly after 1969—on the threat of conflict if such special rights are not implemented.⁸

Affirmative action policies in Malaysia are politically and legally tied to the constitutional provision to 'safeguard the special position of the Malays and natives of any of the States of Sabah and Sarawak'.⁹ Prior to independence, however, preferential policies for Malays in certain realms had emerged in British colonial policy. The evolution of these policies was fragmentary and gradual, reflecting the diverse nature of the colonial arrangements in Malaya, from direct British control in the Straits Settlements of Singapore, Malacca, and Penang, to the formal role for the British Resident in the Federated Malay States (FMS) in the south of the peninsular, and the informal but de facto colonial role of the Residents in the northern Unfederated Malay States. Gordon Means suggests that the 'germ' of Malay special rights can be read into the nature of the agreements between the British and the Malay sultans that established colonial control between 1874 and 1914.¹⁰

Concrete policies for 'special rights' first emerged in relation to land ownership. First in Selangor state in 1891, and then later throughout the Malay states, large tracts of rural land were put aside as 'Malay Reservations', with ownership allowed to pass only between first those of 'Mohammaden' faith, and then latterly Malays-defined, in the first formulation of a phrase that would eventually find its way

Development in Malaysia. Singapore: Oxford University Press; Lee, H.-A. 2012. Affirmative action in Malaysia: Education and employment outcomes since the 1990s. *Journal of Contemporary Asia* 42: 230-254; Ragayah Haji Mat Zin. 2013. The New Economic Policy and poverty eradication in Malaysia. In *The New Economic Policy in Malaysia: Affirmative Action, Ethnic Inequalities, and Social Justice*, ed. E. T. Gomez and J. Saravanamuttu, 31-60. Singapore: NUS Press.

⁵ Bowie, A., and D. Unger. 1997. *The Politics of Open Economies: Indonesia, Malaysia, the Philippines, and Thailand*. Cambridge: Cambridge University Press; Gomez, E. T., and K. Jomo. 1998. Authoritarianism, elections, and political change in Malaysia. *Public Policy* 2: 113-144; *ibid*, 2013

⁶ Cheah, B. K. 2002. *Malaysia: The Making of a Nation*. Singapore: Institute of Southeast Asian Studies.

⁷ Fernando, J. M. 2002. *The Making of the Malayan Constitution*. Kuala Lumpur: The Malaysian Branch of the Royal Asiatic Society; Stockwell, A. J. 1979. *British Policy and Malay Politics during the Malayan Union Experiment, 1942-1948*. Kuala Lumpur: The Malaysian Branch of the Royal Asiatic Society.

⁸ Bajpai, R., and G. K. Brown. 2013. From ideas to hegemony: Ideational change and affirmative action policy in Malaysia, 1955-2010. *Journal of Political Ideologies* 18: 257-280; Hilley, J. 2001. *Malaysia: Mahathirism, Hegemony, and the New Opposition*. London: Zed Books; Hirschman, C. 1972. Education patterns in colonial Malaya. *Comparative Education Review* 16: 486-502.

⁹ *Federal Constitution of Malaysia*, Article 153, Section 1

¹⁰ Means, G. P. 1972. Special rights as a strategy for development. *Comparative Politics* 5: 29-61.

slightly amended into the independence constitution, as 'a person belonging to any Malayan race who habitually speaks the Malay language, or any Malayan language, and who professes the Muslim religion'.¹¹ The historical consensus, however, is that the extension of these privileges by the British was not done out of any sense of social justice, but rather for political motivations-to maintain the fig leaf of British rule as a form of 'trusteeship' and, economically, to benefit from an 'ethnic division of labour' by trapping the Malays in subsistence agriculture and padi farming.¹²

However duplicitous British intentions towards the promulgation of 'special rights' may have been, the expression of these rights nonetheless took on a logic of its own, and were increasingly extended to other areas of colonial policy.¹³ Education policy in colonial Malaya had, like the Malay Reservations, initially worked to discourage Malays from entering the modern economic sectors. In purported deference to the firmly Islamic norms of Malay culture, Christian missionaries were barred from setting up schools in rural areas of Malaya in the way that they had in much of the colonial world. The colonial government itself provided free primary education in Malay villages, but with an explicit goal of 'making the farmer a better farmer and the fisherman a better fisherman than his father'; social mobility, let alone social justice, was not envisaged as a goal of Malay education.¹⁴ The exception here was the established of first the Malay Residential School (later then Sultan Idris College) in 1905, and then the Malay College in Kuala Kangsar in 1914, which were specifically aimed at providing training for administrative positions, but were geared exclusively towards the families and scions of the Malay aristocracy. Secondary schooling provided directly by the colonial government in urban areas, or through heavy subsidies to missionary groups, was only offered in English. While ostensibly open to Malay children who had completed four years of primary education and who were offered special English language classes, the system nonetheless 'resulted in a situation where geographic and language barriers kept most Malay students from higher educational achievement'.¹⁵

In employment, the recruitment of aristocratic Malays into the colonial bureaucracy was likewise expanded under pressure of Malay discontent and the increasing costs of staffing the bureaucracy with Europeans and Eurasians. In 1910, a Malay Administrative Services (MAS) was created in 1910 which, while junior to the Malayan Civil Service (MCS), was exclusively Malay. Moreover, non-Malay locals were prohibited from joining the MCS until 1953, shortly before independence.¹⁶ Provision was made for Malays to be promoted to senior positions in various branches of the colonial administration and, indeed, the General Orders of the Federal Council of the Federated Malay States committed the government 'to bring forward the natives of the country as much as possible and to provide them with employment by appointing them to such posts in the Public Service as they are qualified to fill'. But in reality, such promotions were rare the final caveat of suitable qualification being the sting in the tail. In 1930, for instance, only two extra posts were made available to Malays.¹⁷ In response to constant questioning by Malay members in the Federal Council over appointment of Malays to Public Service position, the response was virtually uniformly that there were insufficient qualified applicants.¹⁸

¹¹ Means, G. P. 1972. Special rights as a strategy for development. *Comparative Politics* 5: 29-61.

¹² Abraham, C. E. 1983. Racial and ethnic manipulation in colonial Malaya. *Ethnic and Racial Studies*, 6:18-32; Lim, H. H. 2007. Ethnic representation in the Malaysian bureaucracy: The development and effects of Malay domination. *International Journal of Public Administration* 30: 1503-1524.

¹³ Kratoska, P. H. 1982. Rice cultivation and the ethnic division of labor in British Malaya. *Comparative Studies in Society and History* 24: 280-314.

¹⁴ *Report of the Federated Malay States, 1920*, p.12

¹⁵ Hirschman, C. 1972. Education patterns in colonial Malaya. *Comparative Education Review* 16: 486-502.

¹⁶ Lim, H. H. 2007. Ethnic representation in the Malaysian bureaucracy: The development and effects of Malay domination. *International Journal of Public Administration* 30: 1503-1524.

¹⁷ *Proceedings of the Federated Malay States for the Year 1930, with Appendix*, p. B3

¹⁸ See, for instance, *Proceedings of the Federal Council of the Federated Malay States for the year 1939 with Appendix*, p. B26.

Just as in education, then, 'special' provisions for Malay employment were accompanied by bureaucratic practices that in practice discouraged Malay participation. In the police force, for instance, provisions were made for Malays to be appointed to the rank of Inspector, either through direct probationary appointment or through promotion from lower ranks. Between 1925 and 1933, 37 Malays were appointed directly as Inspectors, but 20 of them were not retained as they were considered 'unsuited for police work'. Between 1933 and 1939, only one Malay was appointed directly to the probationary rank of Inspector in the police force, and he was not confirmed in his appointment. Promotion through the ranks was more feasible, but entailed living in barracks along with rank-and-file members and was clearly considered demeaning to aristocratic Malays seeking senior positions: in 1939, a Malay representative to the Federal Council asked the government to explain 'the necessity for gentlemen, who wish to be officers, being made to live for a period of years in the company of rank and file', he was given the bare response that it was to 'test their qualifications for police work and responsibility'.¹⁹

By the end of the colonial era, then, 'Special Rights' for Malays were embedded both in constitutional law and in political culture, but in ways that did little to expand the opportunities available for ethnic Malays. The ethnic bargaining around independence resulted in a compromise based on a federal system with (from the Malay perspective) fairly generous citizenship rights for the non-Malays balanced against the maintenance of 'special rights' for the Malays and the notorious independence 'bargain' of 'Politics for the Malays, Economy for the Chinese'.²⁰ This system found its political form in the Alliance coalition, a triumvirate of three ethnic parties representing the major communities in the country: The United Malays National Organization (UMNO), the Malayan (later Malaysian) Chinese Association (MCA) and the Malayan (later Malaysian) Indian Congress (MIC). By the late 1960s, many Malays were increasingly dissatisfied with their side of the bargain, a dissatisfaction expressed by the new breed of Malay ultras rising through the ranks of UMNO, and voiced most publicly in two Bumiputera Economic Congresses held during the decade. After the May 1969 general election descended into ethnic rioting in which more than a hundred people were killed, a state of emergency was declared and parliament suspended. The prime minister and 'father of independence' Tunku Abdul Rahman was eased out of power and replaced by Tun Abdul Razak, who was more sympathetic to the *ultras's* concerns. The Alliance was expanded through the cooptation of most of the major opposition parties, and in 1974 renamed the *Barisan Nasional* (BN, National Front). With minor adjustments to its line-up, the BN has remained in power ever since.

Razak's administration argued that the root causes of the riots had been the economic discrepancies left over from the colonial period and allowed to fester under Abdul Rahman's consociationalist laissez-faire government. In 1970, the government moved to resolve these issues through the promulgation of a new policy strategy, the New Economic Policy. The NEP had two stated objectives: the complete eradication of poverty, and the eradication of the association between ethnic group and economic role. Ostensibly, the beneficiaries of redistribution were to be all bumiputera (lit. 'sons of the soil'), a term which encompasses the Malays, but also the indigenous tribes of East Malaysia and some other smaller groups, including the peninsular Orang Asli tribes. For critics, however, it heralded a new era of state interventionism and Malay chauvinism; in the words of Alasdair Bowie, it represented 'a form of Third World economic nationalism [in which] the principal antagonist was not foreign but rather domestic [i.e. the Chinese]'.²¹

¹⁹ *Proceedings of the Federal Council of the Federated Malay States for the year 1939 with Appendix*, p. B16.

²⁰ Case, W. 1996. *Elites and Regimes in Malaysia: Revisiting a Consociational Democracy*. Clayton: Monash Asia Institute.

²¹ Bowie, A. 1994. The dynamics of business-government relations in industrialising Malaysia. In *Business-Government Relations in Industrialising Asia*, ed. A. MacIntyre. Allen and Unwin: London.

SECTION THREE: THE NEW ECONOMIC POLICY: SCOPE AND IMPLEMENTATION

In 1969, a radical expansion of affirmative action policies was undertaken in Malaysia under the New Economic Policy (NEP) framework. Official scheduled to run until 1990, these policies have been continued, with various changes detailed below, under successor policy frameworks: the National Development Policy 1990-2000 (NDP) and the National Vision Policy (2001-2010) and the New Economic Model. In Malaysia, however, the terminology of the New Economic Policy (NEP) is still typically applied to refer to all affirmative action policies, and I will maintain this custom for convenience. Below, I detail the range and scope of the policies and their varied implementation over time. Before this, however, it is worth making a few general observations about the policies.

Firstly, we can consider in general terms how the NEP rhetoric (if not, necessarily, implementation), relates to the theme of 'expanding opportunities'. In its initial formulation as stated in the Second Malaysia Plan, the NEP had two specific objectives:

- 'The eradication of poverty irrespective of race'; and,
- The restructuring of Malaysian society to 'reduce and eventually eliminate the identification of race with economic function'.²²

This resonates strongly with the theme of expanding opportunities. The NEP has often been understood as a programme of ethnic income equalization and, indeed, household income disparity ratios are often used both by the government and by academics as metrics of progress.²³ But the explicit language of inequality was not the main focus of the policy in its initial formulation. Indeed, the elucidation of these two 'prongs' spoke repeatedly of 'increasing opportunities' for all races and the diversification of Malay employment specifically 'in all categories [i.e. economic sectors] and at all levels of operation'.

Indeed, throughout the range of laws and policies through which the NEP was implemented, the explicit language of 'equality' is scarcely to be found. At least in its early years, the political legitimation for the NEP rested strongly on a rather negative conception of 'national interest' that articulated Malay economic exclusion as a potential source of social discontent and civil breakdown, evidenced by the 1969 riots.²⁴ In the latter years of his long premiership, Mahathir Mohamad (1980-2002) explicitly disavowed the idea that the NEP had ever sought to equalize income; it was, rather, a vehicle for the creation of a Bumiputera Commercial and Industrial Class (BCIC).

Secondly, there is no single piece of legislation or policy document that embodies the NEP. Broad policy frameworks have been laid out in concept documents such as the National Vision Policy. Medium-term implementation targets and strategies are set in the governments five-year Development Plans, but these encompass the whole ambit of development strategy, not just affirmative action. And the mechanisms for implementation have been legislated in a range of different laws and constitutional provisions many of which, again, deal also with other aspects beyond affirmative action. Hence, the NEP is best understood as a diffuse policy orientation, rather than a specific programme of affirmative action.

²² Malaysia, 1971, p. 1

²³ Given this discussion, I have deliberately avoided making use of such disparity ratios in my discussion throughout this paper.

²⁴ For an extended discussion of the legitimation of the NEP, see Bajpai, R., and G. K. Brown. 2013. From ideas to hegemony: Ideational change and affirmative action policy in Malaysia, 1955-2010. *Journal of Political Ideologies* 18: 257-280.

Thirdly, while the NEP is constituted through a range of legislative mechanisms, one consistent feature of these laws is that rather than mandate particular targets or processes, the NEP legislation typically authorizes and empowers the government and its ministers to achieve its end, often through discretionary or un-transparent mechanisms. The NEP is hence largely implemented through executive powers. This has allowed for a degree of flexibility in implementation-observable in particular during the Mahathir era-but has also, arguably, created the conditions for corruption and nepotism to flourish under the cover of the NEP. We return to this issue in Section 5.

Over the period of its implementation, the NEP has covered a wide range of policy arenas and it is not always clear where (and when) such policies begin and end. Here, I discuss the main policies and laws through which the NEP has been implemented.

Primary and secondary education

Primary and secondary schooling was one of the first targets of the NEP, tackling both the poverty eradication prong of the NEP and the ethnic restructuring prong. Primary and secondary education had been one of the key areas of contention in the independence settlement, with language of instruction a particularly thorny issue.²⁵ A compromise had been struck whereby 'vernacular' education in Chinese and Tamil received state funding at primary levels, albeit as a different 'type' of school with different funding arrangements,²⁶ but state secondary school instruction was restricted to Malay or English. Many of the existing Chinese-language secondary schools had opted to remain private, maintaining Chinese-language tuition, with their own system of examinations.

With the advent of the NEP, a much stronger pro-Malay policy way pushed through the national schooling system. English language tuition was phased out of the national education system, making Malay the only language of tuition in state-assisted secondary schools, and state examinations were likewise restricted to Malay. Private Chinese secondary schools were allowed to continue but their examinations were not recognised by the government, thus denying pupils in these school places in public higher education or jobs in the public sector.²⁷ State-funded vernacular education was allowed to continue at the primary level, but received significantly lower funding than the Malay language school; in 1984, Chinese primary schools constituted 27.3 percent of all primary schools, but received only 3.4 per cent of the government allocation for primary schools.²⁸

In addition to changing the structure of pre-university education in ways that assisted Malays, the government created a new body, the Council of Peoples' Trust (*Majlis Amanah Rakyat*, MARA) to promote education (and other developmental initiatives) for bumiputera, with a particular focus in the rural areas.²⁹ MARA established a network of boarding schools for promising bumiputera students from rural backgrounds, with financial assistance. It was oriented primarily towards articulating bumiputera students into scientific programmes at university, both locally and (with a competitive stipend) abroad. Since 2005, 10 percent of places at MARA schools have been open to non-bumiputera, with a preference for students from low-income and rural backgrounds.

²⁵ Brown, G.K. 2007. Making ethnic citizens: The politics and practice of education in Malaysia. *International Journal of Educational Development* 27: 318-330.

²⁶ At the primary level, Malay-language schools are termed 'National Schools' (*Sekolah Kebangsaan*), while Chinese- and Tamil-language schools are 'National-Type Schools' (*Sekolah Jenis Kebangsaan*)

²⁷ Their examinations were recognised by many countries internationally, facilitating access to tertiary education overseas, for those that could afford it.

²⁸ Heng, P. K. 1997. The New Economic Policy and the Chinese community in Peninsular Malaysia. *The Developing Economies* 35: 262-292.

²⁹ On the originals of MARA, see Tham, S. C. 1979. Issues in Malaysian education: Past, present, and future. *Journal of Southeast Asian Studies* 10: 321-350.

Tertiary education

One of the first pieces of NEP legislation was the Universities and University Colleges Act (1971), which allowed for ethnic quotas for entry into public sector universities and legally prohibited the creation of private universities. The quota was set at 55 percent, roughly proportionate to the bumiputera proportion of the younger age cohorts. In addition, the language of instruction for state universities was switched to Malay. These restrictions were vociferously opposed by some non-Malay groups, who mounted a long but ultimately unsuccessful constitutional challenge to allow them to set up a private university that would offer Chinese-language tuition.³⁰ And the operation of the quota was consistently challenged when, on an almost annual basis, the normally compliant Chinese press would draw attention to cases of Chinese school leavers who had attained the highest possible grades across the board but had nonetheless been unable to secure a place at a public university.³¹ But the quotas were equally unpopular among some more radical Malay activists who wanted higher quotas.

In addition, as Malaysia's economy grew rapidly and the domestic tertiary education sector failed to keep up with demand, the Malaysian government began offering a large number of scholarship for students to attend university overseas. These were almost exclusively restricted to bumiputera students. With limited opportunities within the relatively small Malaysian tertiary system, significant numbers of non-bumiputera families also sent their children overseas for university education but, of course, this was restricted to those who could afford it. The clear losers of this policy were hence the poorer classes among the non-bumiputera groups, who had access neither to domestic state institutions or the financial resources to access international institutions. Even for bumiputera with theoretical access to the scholarship programme, however, there is empirical evidence that the scholarship programme was heavily regressive, 'bene ting students from the wealthier and higher-income families'.³²

With educational attainment rates between bumiputera and non-bumiputera largely on a par by 1990, the tertiary system has been liberalized over the past two decades-albeit, on a theme we will continually return to, in a highly political way. In 1996, a new Private Higher Educational Institutions Act allowed for the creation of private universities in Malaysia (including satellite campuses for international universities) but, consistent with the general approach outlined above, this power is discretionary and executive: 'prior approval' from the Minister is required (Sec IV.21) and, indeed, even (formal) application for such approval may only be made 'on his invitation to do so' (Sec IV.22).³³ Perhaps unsurprisingly, the first such invitation was issued directly to the senior Chinese party in the government coalition, the Malaysia Chinese Association, which resulted in the creation of Universiti Tunku Abdul Rahman. After much prevarication, the government also loosened, and eventually dropped, the formal quota system in the public universities. Critics assert, however, that the 'matriculation' system that allows for direct entry into university from MARA schools provides a substantially easier route into university for Malay students, so that while formal quotas have been dropped, informal quotas remain.³⁴ Nonetheless, to all intents and purposes, tertiary education is no longer a significant part of the NEP system.

³⁰ Ang, M. C. 2014. *Institutions and Social Mobilization: The Chinese Education Movement in Malaysia, 1951-2011*. Singapore: Institute of Southeast Asian Studies.

³¹ Brown, G. K. 2005. The rough and rosy road: Sites of contestation in Malaysia's shackled media industry. *Pacific Affairs* 78: 39-56.

³² Mehmet, O., and Y. Y. Hoong. 1985. An empirical evaluation of government scholarship policy in Malaysia. *Higher Education* 14: 197-210.

³³ The official English text of the law as it currently stands is available at <http://www.agc.gov.my/>.

³⁴ Brown, G.K. 2007. Making ethnic citizens: The politics and practice of education in Malaysia. *International Journal of Educational Development* 27: 318-330.

Industrial policy and corporate wealth

Arguably the most controversial and divisive element of the NEP has been its attempt to change the structure of economic ownership in the Malaysian economy, particularly corporate wealth. As noted above, the legacy of colonialism had been a domestic economy almost entirely in the hands of non-Malays, principally Chinese- although, as leftwing activist such as James Puthuachery were to consistently point out, even Chinese ownership paled in comparison with overseas-controlled, principally British, corporate power in the territory.³⁵

At the time of independence, bumiputera investors accounted for barely 1.5 percent of share capital ownership in the country, with Chinese Malaysians investors dominating domestic share ownership.³⁶ As part of its package of targeted affirmative action measures, the NEP sought to achieve 30 percent control of the economy in Malay and bumiputera hands. Again, there is no single policy statement that corresponds to this ambition, but a key piece of legislation was the Industrial Coordination Act (ICA) of 1975. The fact that it took the government four years from the launch of the NEP to get ICA on the statute books is indicative of the resistance it met from non-Malay businesses and their political representatives, even within the governing coalition. Indeed, it was only after the resignation of Tan Siew San, the popular and powerful leader of the main Chinese component party, in 1974 that the government was able to secure sufficient cooperation from within its own ranks to ensure the passage of the bill.³⁷ The ICA required licensing for all corporations with paid up capital of over RM100,000 or more than 25 employees, and empowered the relevant minister with wide ranging powers to deny or rescind such licenses in the 'national interest'.

Through the ICA and other policies, the main mechanisms used to achieve industrial restructuring were:

- companies with more than RM100,000 in capital were expected to divest 30 percent of their capital to bumiputera partners, and employment within these companies was expected to be restructured to reflect the bumiputera share of the workforce. In contrast to other countries with similar policies, there was no formal reporting mechanism for this policy-the ICA-mandated licenses were the 'stick' to ensure compliance. This policy quickly gave rise to a phenomenon dubbed Ali Baba businesses, where a Chinese capitalist (Baba being a Malay colloquialism for Straits-born Chinese) would take a silent, but politically-connect Malay partner (Ali being a common Malay name).
- companies wishing to list on the stock exchange or issue additional share offerings were obliged to set aside a 30 percent quota for bumiputera investors;
- both formally and informally, public sector procurement favoured bumiputera suppliers, particularly those that were members of the Malay Chamber of Commerce of Malaysia (MCCM). The Treasury issued formal circulars to government departments with rules for procurement of goods and services that heavily favoured Malay suppliers, particularly in Small and Medium Enterprises.³⁸ Major infrastructural investment project were also routinely

³⁵ Puthuachery, J. 1960. *Ownership and Control in the Malayan Economy: A Study of the Structure of Ownership and Control and its Effects on the Development of Secondary Industries and Economic Growth in Malaya and Singapore*. Singapore: D.E. Moore for Eastern Universities Press.

³⁶ Jomo, K., and E. T. Gomez. 1997. *Malaysia's Political Economy: Politics, Patronage, and Profit*. Cambridge: Cambridge University Press.

³⁷ Heng, P. K. 1997. The New Economic Policy and the Chinese community in Peninsular Malaysia. *The Developing Economies* 35: 262-292.

³⁸ For an extended discussion of this under-analysed dimension of the NEP, see McCrudden, C. 2007. *Buying Social Justice: Equality, Government Procurement, and Legal Change*. Oxford: Oxford University Press.

granted to Malay businesses, often (as discussed further in Section 5) those with political connections; and,

- the government set up a number of 'bumiputera trust agencies', notable *Pemodalanan Nasional Berhad* (PNB, National Capital Ltd.), which bought and held stock 'in trust' for the bumiputera as a whole, with dividends to be used for development projects that benefitted the bumiputera.

Estimates of the distribution of private corporate capital in Malaysia are not routinely collected or distributed, but the distribution of capital in publicly-listed companies is tracked and constitutes the 'headline' target for wealth restructuring. By 1990, official figures suggested that progress had fallen far short of this target, with just around 20 percent of share capital in bumiputera hands, around a quarter of which was held by the bumiputera trust agencies. Since then, the official figure has largely stagnated and indeed slipped somewhat following the Asian Financial Crisis in 1997. While the Ninth Malaysia Plan, which ran from 2006 to 2010, revised the target down to a goal of 20-25 percent share ownership by 2010, the latest available figures available from the Mid-Term Review of the Ninth Malaysia Plan indicate that bumiputera ownership is still falling just short of this target.³⁹ While both the Tenth and Eleventh Malaysia Plans have kept increased bumiputera share ownership on the agenda, they have moved away from setting firm targets, possibly in part due to the increasingly contentious nature of the calculations it involves.⁴⁰ In 2006, the Centre for Public Policy Studies (CPPS), a research bureau of the Asian Strategy and Leadership Institute (ASLI) think tank, published a report on the state of equity ownership in Malaysia. The report's authors argued that the methods used by the government to calculate share ownership were awed because they were based on the par value of shares at the time of public offering, not at their current market value. This, they argued, distorted the calculations considerably because much Malay wealth was invested in large old companies like Malayan Banking Berhad, which had market values tens or even hundreds of times greater than their par value. The CPPS reported hence re-estimated bumiputera corporate wealth based on the market value of publicly-listed companies, and concluded that the correct figure was around 45 percent, rather than the 20 percent of official government estimates. The report provoked huge public debate and ASLI, which was headed by Mahathir's son Mirzan Mahathir, disowned the report, prompting its chief author Lim Teck Ghee to resign.

Other policies

In addition to the main areas of activity outlined above, a range of other initiatives and policies have been pursued as part of the broad NEP strategy. These include:

- Quotas in public sector recruitment limit non-bumiputera to 20 percent of the annual vacancies in the Malaysian Civil Service. In 2009, Malays constituted 76.2 percent of the public service, with other bumiputera constituting a further 7.3 percent;⁴¹
- Micro-credit and micro-finance schemes are available to bumiputera, initially through a dedicated *Bank Bumiputera*, and now through a range of government-backed schemes;
- PNB also operates a unit trust scheme for bumiputera, which typically produces higher-than-average returns;
- Bumiputera discounts were applied to the sale of new housing stock.

³⁹ Malaysia. 2008. *Mid-Term Review of the Ninth Malaysia Plan*. Kuala Lumpur: Pencetak Nasional.

⁴⁰ -2010. Tenth Malaysia Plan. Kuala Lumpur: Pencetak Nasional; -2015. *Eleventh Malaysia Plan*. Kuala Lumpur: Pencetak Nasional.

⁴¹ Lim, 2013. The public service and ethnic restructuring under the New Economic Policy: The new challenge of correcting selectivity and excess. In *The New Economic Policy in Malaysia: Affirmative Action, Ethnic Inequalities, and Social Justice*, ed. E. T. Gomez and J. Saravanamuttu, 175-204. Singapore: NUS Press.

SECTION FOUR: THE ECONOMICS OF EXPANDING OPPORTUNITY: MICRODATA ANALYSIS

In this section, I use a random sample of census data from the four censuses-1970, 1980, 1991 and 2000-to examine how, and how far, affirmative action in Malaysia has been successful in expanding opportunities for ethnic Malays and, to a lesser extent, other bumiputera.⁴² The data is coded and standardized across years, but has a number a limitations worth noting here. Firstly, it contains no explicit income variables. Insofar as we are explicitly interested in expanding opportunities rather than income inequality per se, however, there are sufficient variables to work with relating to sector and industry of employment. Secondly, the data for 1970 and 1980 excludes the East Malaysian states of Sabah and Sarawak. In order to maintain comparability across years, these two states have also been excluded from later years. Insofar as the prime beneficiaries of the affirmative action policies have been the ethnic Malays, who predominantly live in West Malaysia, this is sufficient for our purposes. But it should be noted that this excludes analysis of the dynamics of the East Malaysian non-Malay bumiputera who, as noted above, are formally beneficiaries of the affirmative action programmes but often express discontent that they are not equally treated with Malay bumiputera.

Precise coding for ethnicity varied between years with, in particular, different levels of detail in sub-ethnic categories for Chinese and Indian groups. This is not of direct relevance to this study, however. I collapse ethnicity into a single binary variable that codes for bumiputera; this is consistent across all years. The analysis sample is restricted to those born in West Malaysia. Foreign-born respondents are excluded for obvious reasons; East Malaysian born citizens are excluded because of potential selection bias in the characteristic of migrants from Borneo to the Peninsula that may distort results. The sample is also restricted to the age range 18 to 55; the upper bound of 55 corresponds to the public sector retirement age throughout the period of analysis.

The main analytical variables of interest are related to employment status, occupation and industry; both are coded according to standard ISCO classifications. Summary statistics are provided in Appendix Table A and Appendix Table B. Analysis is complicated by the large informal sector, which can be particularly distorting for occupational analysis. Within formal sector waged employment, the 'top' category of 'Legislators, Senior Officials, and Managers' is typically very small and restricted to high-level employees, whereas in the non-waged sector, own account workers such as hawker stall food vendors or private taxi drivers are often classified as such. Hence, across the four samples, 15.4 percent of unwaged employees are classified in this category, compared with 3.9 percent of waged employees. In order to obviate this problem, and to focus analysis on the formal sector where the NEP was most directed, occupational analysis is limited to waged employment only, with appropriate selection bias accounted for appropriately. A final variable that is available for 2000 but not previously is a variable for that codes for public against private sector employment; I use this for supplementary analysis of the 2000 data.

Trends over time: Descriptive statistics

We begin with some descriptive analysis of ethnic trends over time. Table 1 provides formal sector participation rates for bumiputera and non-bumiputera males and females in the four census years. Because overall labour market participation will have fluctuated with national economic conditions, it is more useful to focus on relative participation ratios. In 1970, formal sector participation among bumiputera was less than two-thirds that of non-bumiputera, with a particularly marked disparity between women and men. By 2000, participation rates between bumiputera and non-bumiputera had essentially equalized, both in aggregate terms and when disaggregated by gender: there are slight

⁴² Minnesota Population Center, 2015. The IPUMS dataset does not yet have any data from the 2010 census. It would obviously be both interesting and desirable to update this analysis with data from the 2010 census, and I am current in communication with the EPU about obtaining access.

higher participation rates among bumiputera men than their non-bumiputera counterparts, and the situation is reversed for women, but these are relatively small differentials. The key insight that we can take from this table, however, is on the one hand the relatively rapid transition in bumiputera men's participation-which had more-or-less equalized by 1970-and, on the other hand, the scale of the transition in bumiputera women's participation. In 1970, around one in ten bumiputera women were in the waged formal sector; by 2000, this figure was closer to one in three. As we shall see, this prefigures a consistent finding in this study that affirmative action in Malaysia has expanded opportunities for bumiputera women in particular.

Figure 1 and Figure 2 show summary statistics of the employment spread by occupational code and industry. Figure 1 shows de-concentration indices by ethnic category. These indices measure the spread of employment over different occupations and industries and can be intuitively interpreted that two randomly selected individuals from within the same ethnic group belong to different occupational or industry categories.⁴³

Table 1: Formal sector employment rates by ethnicity and gender, West Malaysia 1970-2000

	Bumiputera			Non-Bumiputera			Ethnic Ratio		
	Male	Female	Ratio	Male	Female	Ratio	Male	Female	Both
	(%)	(%)	F:M	(%)	(%)	F:M			
1970	42.3	11.0	0.260	56.5	26.0	0.460	0.748	0.421	0.637
1980	56.1	21.4	0.381	61.9	32.4	0.523	0.905	0.659	0.810
1991	58.3	30.3	0.520	54.6	35.7	0.654	1.069	0.849	0.972
2000	57.2	33.8	0.591	53.0	35.1	0.662	1.078	0.962	1.028

The indices are remarkably consistent across industry and occupation, telling the same broad story: between 1970 and 1991, the occupational and industry spread of bumiputera diversified rapidly to on a par with the non-bumiputera by 2000. To a large extent, this is accounted for by the broader sectoral shift in the Malaysian economy over this period, with agriculture declining from constituting 50 percent of total employment (and 64 percent of bumiputera employment) in 1970 to only 10 percent of total employment (12 percent of bumiputera employment) in 2000.

These de-concentration indices track the *within-group* diversification of employment, while Figure 2 tracks the *between-group* occupational and industry-level segregation of employment. There are a range of different indices of segregation available in the literature.⁴⁴ I am using here the Dissimilarity Index developed by Duncan.⁴⁵ While this index is not as sophisticated as some other segregation indices, in a two group context (bumiputera and non-bumiputera), it has a very intuitive interpretation as the proportion of one (either) group that would have to change occupation or industry in order for the two distributions to match.⁴⁶ We see broadly positive trends over the period of NEP implementation, with occupations segregation in particular declining steeply, although bottoming out in 1990. Again, this largely due to the shift away from agricultural occupations among the Malay population.

⁴³See appendix for formulae

⁴⁴ see Reardon and Firebaugh 2000 for a review

⁴⁵ Duncan, 1950

⁴⁶ In preparing this report, I calculated alternative segregation indices and they all show the same broad trends in any case.

While the trends over time identified here are broadly positive, the centrality of the shift away from agricultural occupations to these trends raises an interesting counterfactual question: how far the achievements of the NEP period were due to broad economic restructuring and the modernization of the Malaysian economy, rather than the affirmative action policies themselves. There is no way to answer this question definitively, but an intuitive argument would be that without the expanding educational opportunities available to bumiputera groups, they would have been unable to participate in, and contribute to, this economic modernization, although whether this would have been achieved as effectively with non-ethnic policies is contestable.

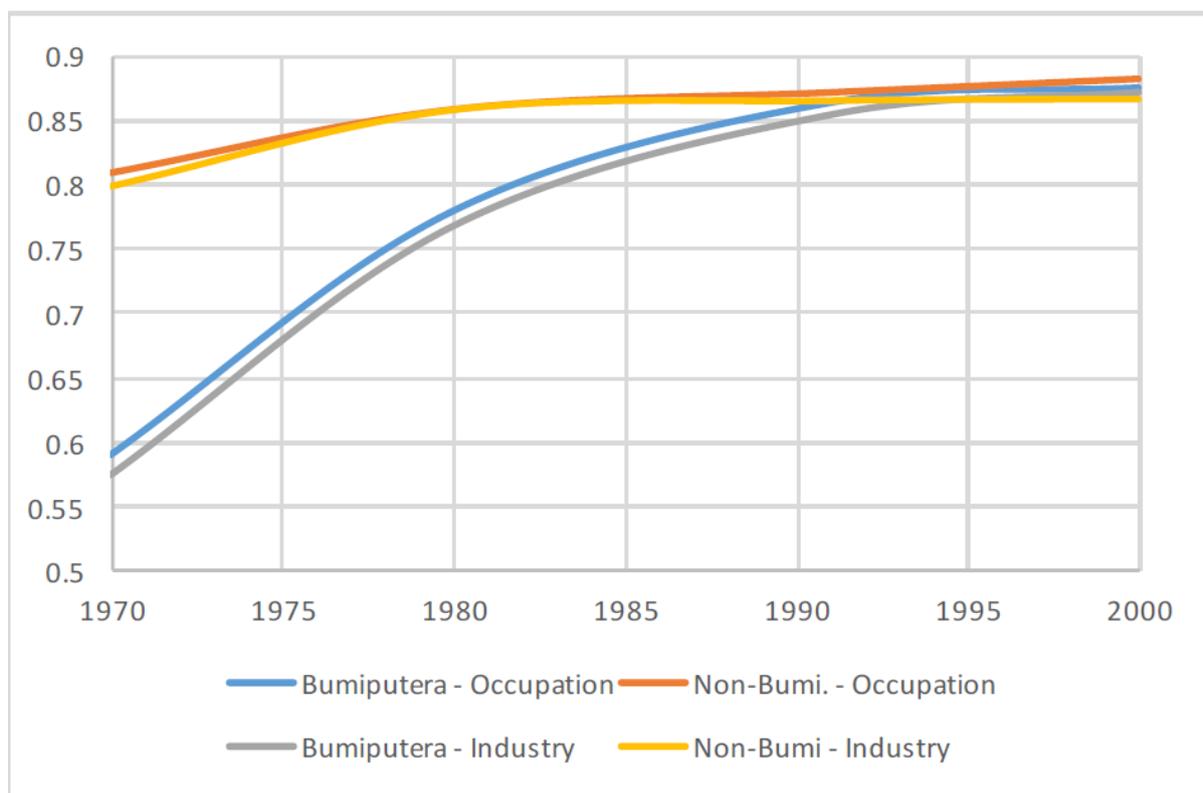


Figure 1: Within-group de-concentration indices by occupation and industry, 1970-2000

Determinants of occupational level

In this section, I use regression analysis to examine how far the NEP era saw a reduction or increase in ethnic bias in occupational achievement. We follow the standard procedure in labour market economic by estimating a standard Mincerian employment function, where occupational level is taken as a function of education and experience (usually, as in this case, proxied by age), and include additional dummy variables for individual social characteristics: ethnic group and gender. Significant coefficients on these variables indicate a significant difference in outcome along these lines that is unexplained by the Mincerian function. Typically, this has interpreted as labour market discrimination, whether positive (e.g. affirmative action) or negative (e.g. employer racism). This interpretation has been contested by studies in the US that show that much of the 'discrimination' premium for Whites disappears when school quality and other contextual variables are included.

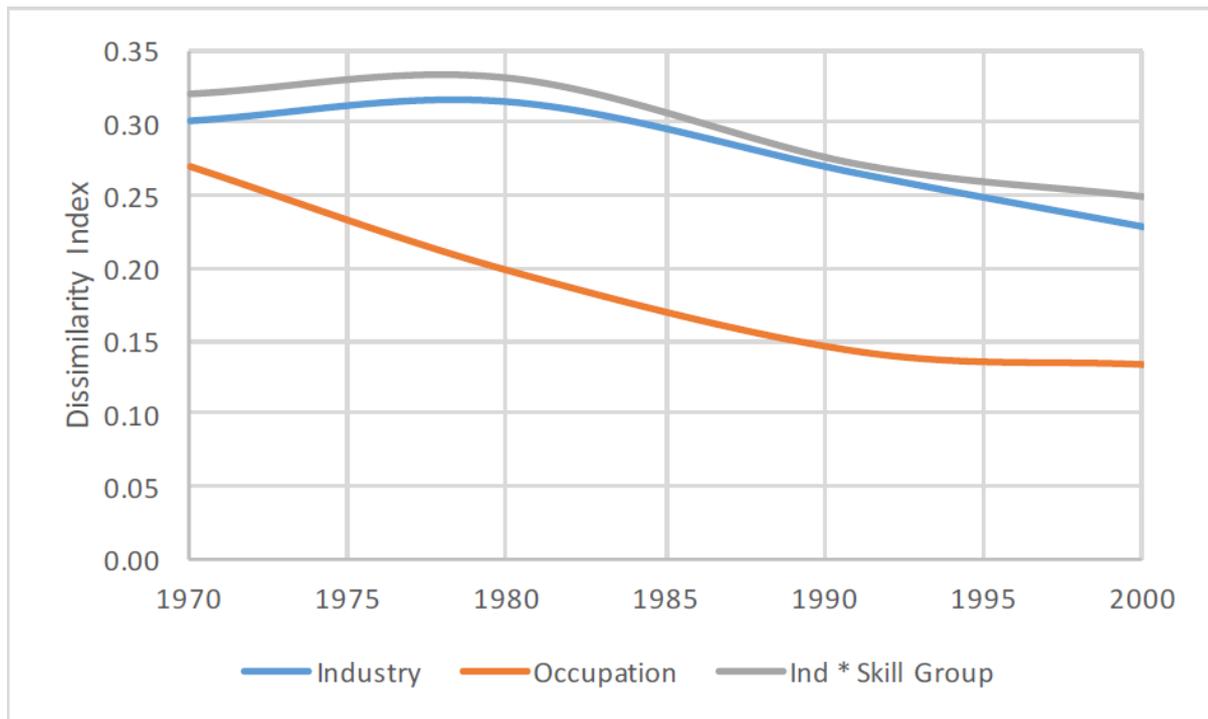


Figure 2: Between-group dissimilarity indices by occupation and industry, 1970-2000

It is hence better to interpret such results more conservatively as *unexplained differences* in outcome, that may include labour market discrimination, but also other unmeasured factors that influence outcome and that vary significantly by group.

I estimate a two-stage model with selection into waged employment as the first stage, and occupational rank as the second stage. For simplicity (and computational traction), I collapse occupational rank into a binary variable for 'Skilled employment': the top three categories in the ISCO classifications. I estimate this model in each census year first for all individuals and then separately for males and females. The precise specifications are as follows. The selection equation (waged employment) is modeled as:

- Education. Three separate dummy variable for highest level of education completed: primary, secondary, or university. The base category is hence no education or incomplete primary education;
- Experience. Experience is proxied by age and a squared transformation of age, explained below;
- Ethnicity. As above, ethnicity is collapsed into a binary variable for bumiputera and non-bumiputera; and,
- Gender. A binary variable for gender is included.

The outcome equation for skilled employment conditional on selection into waged labour is modelled with the same equation, but with only the linear function on age without the squared transformation. This follows standard practice in such analyses. Computationally, it is necessary for a least one variable to be included in the selection equation that is not in the outcome equation for the estimation to converge. Including a squared transformation of age in the selection equation fulfils this technical requirement and is intuitively defensible: while employment rates typically follow a non-linear pattern over the lifecycle due to 'early' departures from the labour market (due to, for instance, early

retirement, childcare, job loss), for those in employment, occupation typically follows a linear upwards progression.

Table 2: Selection into waged employment and skilled occupation, West Malaysia 1970-2000

	1970		1980		1991		2000	
OUTCOME: Skilled occupation								
Age	0.018	***	0.022	***	0.028	***	0.023	***
Female	0.859	***	0.727	***	0.411	***	0.126	***
Bumi.	0.357	***	0.264	***	0.041	***	-0.020	
Primary	0.464	***	0.227	***	0.656	***	0.742	***
Secondary	1.274	***	1.142	***	1.473	***	1.625	***
University	1.610	***	1.593	***	2.465	***	2.484	***
Constant	-1.168	***	-1.266	***	-2.209	***	-1.931	***
SELECTION: Waged employment								
Age	0.084	***	0.042	***	0.075	***	0.106	***
Age, sq.	-0.001	***	-0.001	***	-0.001	***	-0.002	***
Female	-0.874	***	-0.816	***	-0.603	***	-0.538	***
Bumi.	-0.427	***	-0.222	***	-0.045	***	0.020	**
Primary	0.300	***	0.370	***	0.434	***	0.472	***
Secondary	-0.244	***	0.127	***	0.564	***	0.428	***
University	0.287	***	1.008	***	0.526	***	0.633	***
Constant	-1.197	***	-0.425	***	-1.195	***	-1.886	***
athrho	-1.675	***	-1.694	***	-0.705	***	-0.505	***
N. obs	65,122		80,287		130,975		160,137	

*** p < 0:001, ** p < 0:01, * p < 0:05

Table 2 provides the first set of estimations, with men and women both included. Here, and throughout, the control variables perform as expected: age has a non-linear relationship with employment and a linear relationship with occupation (conditional on employment); different levels of education are incrementally positively correlated with higher rates of employment and conditional skilled occupation.

When we turn to examine the main variables of interest, we find an interesting trend across the year. In terms of selection into wage employment, there-as we might have expected-a declining negative coefficient on the bumiputera variable. In 1970, this equated to a probability of waged labour 15 percentage points lower than an equally educated and experienced non-bumiputera. This

employment disadvantage decreased consistently between censuses, however, and by 2000 bumiputera enjoyed a small employment advantage over similar non-bumiputera. Women experienced a similar decline in employment disadvantage, although it remained sizeable in 2000, equating to a 21 percentage point difference in employment rates. Once we have conditioned for selection into waged labour, however, both bumiputera and women have experienced a consistent positive advantage in obtaining skilled occupations, although this has again declined over time. By 2000, there was no significant difference between bumiputera and non-bumiputera waged employees accessing skilled occupation, although it should be remembered that this conditioned on a small premium on selection into employment for bumiputera. Explaining the surprising positive effect of female gender and bumiputera status on skilled occupation requires some intuitive reasoning. If, as seems reasonable to assert, women and bumiputera alike faced in 1970 a highly discriminatory labour market, those that were able to gain employment are likely to be those that were characterised by some additional unobserved characteristics that assisted them in gaining skilled jobs, for instance a particularly high level of motivation or (plausible given the setup of elite Malay schooling discussed above) family networks. This kind of explanation is commensurate with a negative selection into employment but a positive selection into skilled occupations conditional on employment. Whatever the explanation for the earlier periods, however, it is clear that over the broad scope of NEP implementation, the impact of ethnicity and gender on employment opportunities declined significantly; the absolute size of the coefficients on these variables in both equations is markedly lower in 2000 than in 1970. Put simply, the labour market is less discriminatory in 2000 than it was in 1970; employment and occupational opportunities for bumiputera groups have, undoubtedly, expanded.

Tables 3 and 4 replicate this analysis on, respectively, the male population and the female population only. For the male population, we see a much stronger and more clear reversal of labour market dynamics between 1970 and 2000. As in the combined results, in 1970 bumiputera men experienced a significant disadvantage in selection into employment compared with non-bumiputera men (equivalent to around 13 percentage points) but, conditional on employment, a significant advantage in skilled occupations. By 2000,

Table 3: Selection into waged employment and skilled occupation, males only, West Malaysia 1970-2000

	1970	1980	1991	2000
OUTCOME: Skilled occupation				
Age	0.019 ***	0.020 ***	0.023 ***	0.017 ***
Bumi.	0.219 ***	0.175 ***	-0.057 ***	-0.129 ***
Primary	0.552 ***	0.463 ***	0.628 ***	0.762 ***
Secondary	1.455 ***	1.761 ***	1.594 ***	1.78 ***
University	1.968 ***	2.26 ***	2.689 ***	2.683 ***
Constant	-1.389 ***	-1.693 ***	-2.163 ***	-1.783 ***
SELECTION: Waged employment				
Age	0.120 ***	0.089 ***	0.123 ***	0.153 ***
Age, sq.	-0.002 ***	-0.001 ***	-0.002 ***	-0.002 ***

Bumi.	-0.334 ***	-0.121 ***	0.091 ***	0.104 ***
Primary	0.322 ***	0.404 ***	0.419 ***	0.413 ***
Secondary	-0.234 ***	0.002	0.341 ***	0.236 ***
University	0.286 ***	0.803 ***	0.345 ***	0.367 ***
Constant	-1.870 ***	-1.345 ***	-2.160 ***	-2.747 ***
<hr/>				
athrho	-1.193 ***	-0.971 ***	-0.459 ***	-0.409 ***
N. obs	31,835	39,188	64,433	80,069

*** p < 0:001, ** p < 0:01, * p < 0:05

Table 4: Selection into waged employment and skilled occupation, females only, West Malaysia 1970-2000

	1970	1980	1991	2000
OUTCOME: Skilled occupation				
Age	0.028 ***	0.034 ***	0.039 ***	0.033 ***
Bumi.	0.575 ***	0.402 ***	0.211 ***	0.149 ***
Primary	0.690 ***	0.313 **	0.782 ***	0.739 ***
Secondary	1.275 ***	0.854 ***	1.388 ***	1.443 ***
University	1.382 ***	1.063 ***	2.192 ***	2.223 ***
Constant	-0.744 ***	-0.904 ***	-2.086 ***	-2.053 ***
<hr/>				
SELECTION: Waged employment				
Age	0.051 ***	0.008	0.033 ***	0.062 ***
Age, sq.	-0.001 ***	-0.001 ***	-0.001 ***	-0.001 ***
Bumi.	-0.553 ***	-0.342 ***	-0.205 ***	-0.072 ***
Primary	0.253 ***	0.286 ***	0.382 ***	0.508 ***
Secondary	-0.156	0.321 ***	0.679 ***	0.577 ***
University	0.311 **	1.458 ***	0.698 ***	0.891 ***
Constant	-1.401 ***	-0.446 ***	-0.848 ***	-1.565 ***
<hr/>				
athrho	-1.958 ***	-1.974 ***	-0.969 ***	-0.646 ***
N. obs	33,287	41,099	66,542	80,068

*** p < 0:001, ** p < 0:01, * p < 0:05

this significant employment disadvantage transitioned into a small but significant advantage (around 4 percentage points), but the conditional advantage that bumiputera had enjoyed in accessing skilled occupations has transitioned into a significant conditional *disadvantage* by 2000. The intuitive interpretation of this is that bumiputera men are benefitting from positive discrimination but only in relatively less-skilled occupations. An alternative, more sociological explanation, may lie in the shift towards an entrepreneurial (and hence unwaged) status culture in ethnic Malay society, particularly for men (see below).

For women, the story is more straightforward. Table 4 confirms a similar picture for bumiputera women as for their male counterpart in 1970: negative selection into employment; positive conditional selection into skilled occupations. The story over the ensuing three estimations is a decline in the size of these effects, although they remain significant through to 2000. It is important to remember that these coefficients do not directly correlate to 'discrimination', and for women in particular it is plausible to assert that they have more to do with changing gender norms around working and childcare in the Malay community.⁴⁷

Overall, then, these results present a generally rosy picture of the changing opportunity structure in the labour market under the NEP. In this respect, it is worth remembering that these ethnic and gender effects *are over and above* the increase in educational attainment brought about by the NEP policies, as that dimension is captured in the coefficients on education. Bumiputera men and women gained broad educational parity with non-bumiputera groups over the course of the NEP, and their subsequent engagement in the labour market was less distorted by gender and ethnicity in 2000 than it had been in 1970, although by no means was this completely eradicated.

When we turn to examine the dynamics between the public and private sectors, available only for the year 2000, a very different picture emerges. For this stage of the analysis, I have estimated separate selection equations into public sector and private sector employment and then, as above, conditional equations on skilled occupations within each sector.⁴⁸ The results are presented in Table 5. The picture that emerges from this analysis is of an extremely segmented labour market along ethnic lines between the public and private sectors. In the public sector, bumiputera experience a large and significant employment advantage over similar non-bumiputera. For men, this equates to an advantage of over 11 percentage points compared to non-bumiputera men; for women the equivalent figure is around 5 percentage points. Moreover, conditional on selection into public sector employment, the public sector exhibits a clear *within-group* disparity along gender and ethnic lines in attaining skilled occupations.

While the overall results show no significant effect of bumiputera status on skilled occupations in the public sector, the gender disaggregated results belie this. Bumiputera men experience a sizeable and significant advantage in obtaining skilled positions in the public sector, over and above the selection advantage they enjoy in employment in the public sector. While bumiputera women experience a similarly positive selection into public sector employment, however, they experience a subsequent large and significant disadvantage in obtaining skilled positions. In the private sector, bumiputera men and women experience a broadly similar disadvantage in obtaining waged employment; although smaller in size than their corresponding advantage in the public sector, the effect is still significant.

⁴⁷ See Ong 1994 for example

⁴⁸ A more robust method would be either to estimate one multinomial selection equation (public, private, or unwaged) with two conditional equations, or a three-stage equation (selection into waged labour; selection into public versus private sector; conditional occupation). This requires additional analytical tools that are not available in the version of Stata that I currently run. I am waiting for a new license, and will update this part of the analysis when it is installed, but I expect it will make only marginal difference to the results.

Once employed in the private sector, bumiputera men experience no significant advantage or disadvantage in obtaining a skilled position, and bumiputera women in fact experience a small but significant advantage over non-bumiputera women. It may be helpful to illustrate these dynamics with some more concrete examples. Table 6 provides the predicted probability for a 40-year old university graduate to gain different types of employment in the public and private sectors, broken down by gender and ethnicity. Bumiputera men and women alike with such a profile have a substantially higher chance of a *skilled* job in the public sector than they have of any job in the private sector, and vice versa for non-bumiputera. At the extremes, a 40-year old male non-bumiputera graduate has around twice the chance of a skilled job in the private sector than they have of *any* job in the public sector; and, a 40-year old female bumiputera graduate has well over twice the chance of a skilled job in the public sector than they have of any job in the private sector.

We should remind ourselves again that these are purely observational differences and we cannot firmly attribute any causal logic to them, whether in terms of different career preferences across cultures and genders, or in terms of active labour market discrimination, positive or negative. Moreover, to some extent these two dynamics may be mutually reinforcing. It seems plausible to assert, for instance, that both the formal ethnic quotas in public service and the informal reservation of high-level positions in the public service almost exclusively to Malays would not only explain part of these results in themselves but would also affect the career choices of ambitious younger people. Likewise, just there is some experimental evidence of active anti-Malay discrimination in the private sector, but even the perception of such discrimination will affect career choices.⁴⁹ The logical conclusion of this is a cyclical mutually reinforcing process whereby bumiputera are self-selecting into the public sector because of their quota advantage there and their possible discriminatory disadvantage in the private sector, while non-bumiputera are *self-selecting* into the private sector because quotas restrict their career opportunities in the public sector. To some extent, this reasoning is speculative, or at least based on intuitive rather than statistical explanations. But for our purposes here,

Table 5: Selection into waged employment and skilled occupation by sector, West Malaysia 2000

	Male and Female				Male Only				Female Only			
	Public		Private		Public		Private		Public		Private	
OUTCOME: Skilled occupation												
Age	0.023	***	0.024	***	0.029	***	0.021	***	0.008		0.031	***
Female	0.56	***	-0.013									
Bumi.	0.011		0.041	*	0.322	***	0.019		-0.538	***	0.139	***
Primary	1.169	***	0.666	***	1.101	***	0.685	***	1.109	***	0.43	***
Secondary	2.212	***	1.504	***	2.256	***	1.641	***	1.818	***	1.039	***
University	3.381	***	2.284	***	3.306	***	2.419	***	3.01	***	1.69	***
Constant	-3.32	***	-1.647	***	-3.908	***	-1.54	***	-1.002		-1.31	***

⁴⁹ Lee, 2015

SELECTION: Waged employment

Age	0.177	***	0.055	***	0.196	***	0.093	***	0.174	***	0.013	***
Age, sq.	-0.002	***	-0.001	***	-0.002	***	-0.002	***	-0.002	***	-0.001	***
Female	-0.211	***	-0.475	***								
Bumi.	0.909	***	-0.279	***	1.053	***	-0.268	***	0.746	***	-0.295	***
Primary	0.815	***	0.228	***	0.655	***	0.165	***	1.143	***	0.266	***
Secondary	1.31	***	-0.024		0.94	***	-0.132	***	1.855	***	0.046	
University	1.574	***	0.013		1.104	***	-0.1	***	2.256	***	0.105	***
Constant	-6.444	***	-0.708	***	-6.772	***	-1.386	***	-6.797	***	-0.407	***
athrho	0.393	***	-0.74	***	0.519	***	-0.761	***	0.036		-1.119	***
N. obs			160,137				80,069				80068	

*** p < 0:001, ** p < 0:01, * p < 0:05

it is sufficient to draw some descriptive conclusions.

The analysis of this section has suggested that the broad period of the NEP from 1970 to 2000 did indeed coincide with a reconfiguration of the overall labour market such that the disparity in opportunities for employment and occupational advance between bumiputera and non-bumiputera narrowed significantly, although with some remaining differences along gender lines. Our subsequent more detailed analysis of the 2000 census, however, suggests that this may have been achieved through a highly skewed pattern of employment and occupation in the public and private sector. We saw above that the independence era was often characterised by the slogan 'Politics for the Malays; Economy for the Chinese'. We might conclude this statistical analysis with the observation that while Malays and other bumiputera have undoubtedly moved into the modern economy with some success, the old slogan needs updating, rather than discarding, as 'Public sector for the Malays; Private sector for the Chinese'. Opportunities have most certainly expanded, but in a highly-segmented and, as we shall see below, highly-politicized way.

Table 6: Predicted employment probabilities for a 40-year old graduate by sector, ethnicity and gender, West Malaysia 2000

	Bumiputera		Non-bumiputera	
	Male	Female	Male	Female
Public sector: Any occupation	52.2	43.4	19.6	14.3
Public sector: Skilled occupation	47.5	42.8	18.5	14.1
Private sector: Any occupation	32.2	17.4	42.7	25.5
Private sector: Skilled occupation	28.0	14.1	37.8	21.3

Predicted probabilities generated from Columns 1 and 2 in Table 5

SECTION FIVE: THE POLITICAL ECONOMY OF THE NEP: PATRONAGE, CORRUPTION, AND THE 'NEW' POLITICS

One of the challenges in critically evaluating the political economy of the NEP in Malaysia from a comparativist rather than historical perspective is disentangling the consequences of the NEP itself from other structural, or even contingent, changes in Malaysia. For instance, it is commonplace among both critical commentators and some academics to attribute the level of corruption in Malaysia to the NEP.⁵⁰ Yet given the all-encompassing nature of the NEP as a policy framework, it is difficult to ascribe a firm causal relationship here; the coexistence of the NEP and undoubted levels of systemic corruption is not sufficient to ascribe such a relationship. Both for causal certainty, and for pragmatic lesson-learning, we would need to ask two further counterfactual questions. Firstly, can we envisage a corruption-free NEP if different people had been in the key roles during its implementation? Second, can we envisage a modified application of the NEP that would have prevented, or at least minimized, such corruption? Being counterfactual in nature, such questions are of course impossible to answer with certainty, but the approach taken here is at least to consider them in order to qualify judgment and assist in comparative lesson-learning.

We have seen in the previous section that, at the micro-level, the NEP era resulted in an undoubted expanding of opportunities for bumiputera groups in the modern economy, but that this appears to have been highly skewed towards the public sector. This broadly correlates with the mainstream account of the transformation of Malaysia's *political* economy over this period. Nowhere is this more evident than in the transformation in the make-up and structure of the dominant political force in the country over this period, UMNO itself. In the 1970s, UMNO was predominantly a party of teachers, religious scholars, and British-trained ex-colonial bureaucrats. Through the 1980s, the party hierarchy became dominated by the kind of bumiputera capitalists who were benefitting directly from the NEP and its application. Many of those who have benefited from government largesse have been closely linked to senior government figures. During the Asian Financial Crisis, for instance, Prime Minister Mahathir's son Mirzan, had his ailing shipping empire bailed out by the state oil company Petronas. Although widely perceived as a cleaner politician, Mahathir's successor Abdullah Ahmad Badawi also presided over large contracts being awarded to Scomi Group, whose largest shareholder was his son Kamaluddin. The record of Abdullah's successor and the current prime minister, Najib Razak, is currently unravelling in the pages of the *Wall Street Journal* and global corruption investigations. Beyond these individualized beneficiaries, UMNO itself gained many corporate interests, often through trustee figures such as Halim Saad.⁵¹ A paradigmatic event here was the government's decision in 1987 to award a multibillion ringgit contract for the construction of a new North-South highway to company controlled by UMNO.⁵² At the peak of its corporate empire on the eve of the Asian Financial Crisis, UMNO controlled directly or indirectly a vast swathe of corporate and strategic economic assets, including all the major English- and Malay-language newspapers in the country.

It would clearly be implausible to assert that the NEP had no connection to this level of nepotism and corruption. I would argue, however, that the particular aspect of the NEP that bred such corruption was neither an inevitable nor a desirable aspect of such policies—the un-transparent and discretionary way in which it was implemented. As I noted in Section 2, most of the NEP legislation took the form

⁵⁰ For a trenchant statement of this perspective, see Gomez, E.T. 2005. The perils of pro-Malay policies. *Far Eastern Economic Review* 168

⁵¹ Although dated, the most systematic exposition of UMNO's corporate network remains Gomez, E. T. 1990. *Politics in Business: UMNO's Corporate Investments*. Kuala Lumpur: Forum.

⁵² For an account of these events, see Searle, P. 1999. *The Riddle of Malaysian Capitalism: Rent-Seekers or Real Capitalists?* Honolulu: University of Hawai'i Press.

of investing various discretionary powers in the government and particular ministers. It was this aspect that facilitated the expansion of corruption. One of the many NEP scandals epitomises this. As part of Mahathir's modernisation drive, a national car industry, Proton, was set up in the 1980s, with heavy import duties on foreign-made cars.⁵³ Typically for the NEP, such imports were allowed only through Approved Permits (APs), issued by the Ministry of International Trade and Industry and, of course, these APs were primarily designed to benefit bumiputera entrepreneurs. This was par for the course under the NEP. But in 2004, it emerged that of the 67,000 APs issued that year, the vast majority had gone to a small number of businesses, with three politically-linked individuals being awarded almost half of them, including one retired long-serving bureaucrat within the ministry.⁵⁴ Although one may dispute their normative acceptability or economic efficacy, what is at issue here in terms of corruption is not the APs themselves but the closed and discretionary way in which they are awarded. A similar case can be made in relation to the bumiputera lay aside for new IPOs. With multiple bumiputera registrations for such allocations, decisions over which investors should receive them is made in private by the ministry, in one case resulting in a large allocation to the son-in-law of the relevant minister. The problem here is the implementation, not the principle; the decision could, for instance, have been made through a public lottery. Extrapolating further, the same logic applies more generally to the government's tendency of agreeing major infrastructural investments under closed tender or even without tender.⁵⁵ Of course, from the particular perspective of 'expanding opportunities', the tragedy in such stories is not just the raw corruption, but the lost opportunities for many smaller bumiputera entrepreneurs. Had APs been distributed more widely, they could have provided a useful 'leg-up' to many small businessmen among the bumiputera instead of comfortable corporate empires for a small coterie. Indeed, it was perhaps with such contradictions in mind that Mahathir towards the end of his premiership baldly, but manifestly wrongly, asserted that the NEP had never been intended to benefit the Malays as a whole but to create inspirational bumiputera corporate figures for others to emulate.

While we may be able to devise counterfactual methods of implementation that would not have facilitated corruption in the way the NEP did, it is certainly clear that once UMNO had become a vehicle for political patronage and corruption, it develops a path dependent logic that has resisted all attempts at reform. Mahathir, Abdullah, and even Najib have all at various stages attempted to reform and 'clean-up' UMNO but with little success. Rather, politics and business became intertwined to such an extent that economic contradictions became, almost inevitably, political crises as pressures on the patronage structure created internal factionalism within UMNO.⁵⁶ Moreover, such party-business links have expanded beyond UMNO to other parties within the BN coalition, especially the second party, the Malaysian Chinese Association. Likewise, however, it is important to note that by no means all the bumiputera entrepreneurialism of the NEP era was politically-linked or corrupt. Searle identifies a 'dynamic core' of genuine Malay entrepreneurs that were facilitated by the NEP and, indeed, statistical analysis of corporate performance suggests that in the hey-day of Malaysia's growth,

⁵³ Khoo Khay Jin. 1992. The grand vision: Mahathir and modernisation. In *Fragmented Vision: Culture and Politics in Contemporary Malaysia*, ed. F. Loh and J. S. Kahn, 58-82. Sydney: Allen and Unwin.

⁵⁴ For a fuller account of the AP scandal, see Nathan, K. 2006. Malaysia: The challenge of money politics and religious activism. *Southeast Asian Affairs* 2006: 151-171.

⁵⁵ After the 2003 contract for a major ring-road in Penang was awarded without tender to a new company without any track record or significant paid up capital, the then transport minister definitively rejected three hundred years of economic theory by stating that with the increased competition from an open tender, 'those fellows will only ask for more money'.

⁵⁶ Case, W. 1996. *Elites and Regimes in Malaysia: Revisiting a Consociational Democracy*. Clayton: Monash Asia Institute; Shamsul, A. 1988. The battle royal: The UMNO elections of 1987. *Southeast Asian Affairs* 1988: 170-187; Singh, H. 1998. Tradition, UMNO, and political succession in Malaysia. *Third World Quarterly* 19: 241-254.

government-linked companies performed no better or worse than independent bumiputera companies in financial terms.⁵⁷

In many ways, the broader political economy transformation that occurred under the NEP reflected this pattern. The rapid economic growth of the 1980s and 1990s, combined with the pro-bumiputera policies of the NEP, created a burgeoning and urbanised Malay middle class. By the mid-1990s, a wave of journalistic and academic interest began asking how far this new middle class would be a force for change and democratisation in Malaysia. Gomez and Jomo, for instance, argue that even beyond the corporate elite, the emergent Malay middle class was dependent upon government patronage in the broader sense, through the kinds of scholarships and entitlements discussed above.⁵⁸ It is important not to overstate the political dependency of the Malay middle class. In particular, this view rests on the assumption that this new Malay middle class felt a sense of *obligation* towards the regime that had facilitated its rise through affirmative action. Typically, such analysis relies on the centrality of a trope of *kesetiaan* (loyalty) in Malay culture but, as we shall see shortly, this is a problematic assumption.

Moreover, even by the mid-1990s, some scholars were arguing that the new Malay middle class was beset by an internal tension between 'traditionalists'-who saw the role of UMNO in the modern economy as the natural extension of the Malay 'protector' it had fashioned for itself during the independence period-and 'modernists', who saw tended to see affirmative action more as an important but dispensable step in the drive towards economic development.⁵⁹ Despite his early strong advocacy of affirmative action in his notorious 'Malay Dilemma', Mahathir fell firmly into the modernist camp and, indeed, in the face of economic contraction in the mid-1980s declared the NEP 'in abeyance' until economic dynamism was restored.⁶⁰ From this perspective, the periodic factionalism that has engulfed UMNO is not just representative of contesting NEP-oriented patron-client networks within the party, but of different visions for the future political economy and the role of affirmative action therein. This tension has been most clearly demonstrated in recent years with the New Economic Model (NEM) that Najib Razak promoted when he ascended to the premiership. The NEM would have involved a radical retrenchment of virtually all the remaining targets and policies of the NEP in the name of global competitiveness, with such affirmative action that remained being targeted more towards the old, forgotten prong of 'poverty eradication irrespective of race' than ethnic restructuring. The proposals, however, met with a massive backlash within UMNO and Malay nationalists beyond, with new factional organisations such a *Perkasa* set-up to advocate not merely

⁵⁷ M. Fazilah. 1999. The performance of politically-affiliated businesses in Malaysia. In *Rethinking Malaysia*, ed. K. Jomo, 1-24. Kuala Lumpur: Persatuan Sains Sosial Malaysia; Searle, P. 1999. *The Riddle of Malaysian Capitalism: Rent-Seekers or Real Capitalists?* Honolulu: University of Hawai'i Press.

⁵⁸ Gomez, E. T., and K. Jomo. 1998. Authoritarianism, elections, and political change in Malaysia. *Public Policy* 2: 113-144

⁵⁹ Kahn, J. S. 1996. Growth, economic transformation, culture, and the middle classes in Malaysia. In *The New Rich in Asia: Mobile Phones, McDonald's and Middle-Class Revolution*, ed. R. Robison and D. S. Goodman, 49-78. Abingdon: Routledge.

⁶⁰ The Malay Dilemma was seen as so radical on its publication it was banned from sale until Mahathir ascended to the premiership, and Mahathir was briefly expelled from UMNO; Mahathir, M. 1970. *The Malay Dilemma*. Singapore: D. Moore for Asia Pacific Press.

the maintenance of existing targets, but their extension.⁶¹ Najib quickly backed down, and while the NEM remains nominally in place, little of its agenda has been implemented.⁶²

Moreover, the geographic and social mobility that came with the NEP inevitably drove cultural change. Mahathir himself had championed the need for such cultural change in the Malay Dilemma, excoriating the Malays for their rural, traditionalist beliefs and promoting the idea of a modern, corporate *Melayu baru* (New Malays).⁶³ Ethnographic studies of the new urban Malay classes found precisely such processes happening organically, as these classes experienced a disjunct from the erstwhile presumptions 'that social bonds could be effectively forged through descent, ethnic origin, loyalty to the state, the village, the local patron and religion'.⁶⁴ For some, this combined with the state-led Islamisation drive to encourage a turn toward Islam as more central to their identity.⁶⁵ But for other, this resulted in the emergence of what has been termed a 'new politics' in Malaysia characterised by a self-confident urban Malay culture that is less ethnic in its orientation and more critical of government policy and practice.⁶⁶ It was this 'new politics' that spilt out onto the streets in spectacular fashion during the *reformasi* protests on 1998/9 and that has mobilised periodically since. Indeed, there is some irony in the fact that in one of his last major speeches as prime minister, Mahathir—who three decades previously had lambasted the Malays for their traditionalist outlook—focused his attention on this resurgent urban political culture, complaining bitterly that *Melayu mudah lupa* (Malays forget easily).

Again, we need to be careful not to overstate the transformative potential of this new, transethnic Malay middle class. The enthusiasm with which some scholars predicted a relatively smooth democratisation on the back of the *reformasi* movement has wilted somewhat in the face of two subsequent decades of only political marginal reform. While there is certainly sociological evidence for the existence of such a counterpoint to the 'crutch mentality' otherwise thought to pervade the Malay middle classes, there is little systematic evidence on the *extent* of this 'new politics' among the Malays. We can, to some extent, take voting trends as a proxy here, on the assumption that Malays who vote against the government, particularly in urban areas, are likely to be supportive of this new politics; in the rural area, Malay discontent more often gravitates towards the Islamic party PAS. This is a difficult statistical exercise, however, beset by modelling and interpretation problems.⁶⁷ Certainly,

⁶¹ On the formation of Perkasa, see O'Shannassy, M. 2011. Malaysia in 2010: Between a rock and a hard place. *Asian Survey* 51: 173-185; Pepinsky, T. 2015. Interpreting ethnicity and urbanisation in Malaysia's 2013 general election. Department of Government, Cornell

University: https://tompepinsky._les.wordpress.com/2015/02/malaysia2013.pdf.

⁶² Hill, H. 2012. Malaysian economic development: Looking backward and forward. In *Malaysia's Development Challenges: Graduating from the Middle*, ed. H. Hill, Tham Siew Yeam, and Ragayah Haji Mat Zin, 1-42. Abingdon: Routledge.

⁶³ Chong, T. 2005. The construction of the Malaysian Malay middle class: The histories, intricacies and futures of the Melayu Baru. *Social Identities* 11: 573-587.

⁶⁴ Sharifah Zaleha. 2001. Islamisation and urban religious identity: The middle class of Bandar Baru Bangi. In *Southeast Asian Middle Classes: Prospects for Social Change and Democratization*, ed. Abdul Rahman Embong, 120-148. Bangi: Penerbit Universiti Kebangsaan Malaysia.

⁶⁵ Brown, G.K. 2010. Legible pluralism: The politics of ethnic and religious identification in Malaysia. *Ethnopolitics* 9: 31-52.

⁶⁶ Loh Kok Wah, F. 2003. Towards a new politics of fragmentation and contestation. In *New Politics in Malaysia*, ed. F. Loh Kok Wah and J. Saravanamuttu, 253-280. Singapore: Institute of Southeast Asian Studies; Saravanamuttu, J. 2013. The New Economic Policy, new Malay middle class, and the politics of reform. In *The New Economic Policy in Malaysia: Affirmative Action, Ethnic Inequalities, and Social Justice*, ed. E. T. Gomez and J. Saravanamuttu, 335-357. Singapore: NUS Press.

⁶⁷ For a discussion of these issues, see Pepinsky, T. 2015. Interpreting ethnicity and urbanisation in Malaysia's 2013 general election. Department of Government, Cornell University: https://tompepinsky._les.wordpress.com/2015/02/malaysia2013.pdf.

overall support for the BN has dropped considerably over the past fifteen years and it is no longer able to command the two-thirds majority it held more-or-less uninterrupted from independence until 2008. Indeed, in the 2013 election, the BN marginally lost the popular vote, although maintaining a healthy majority on the back of seat mal-distribution. But what ethnically disaggregated estimates are possible suggest that this decline has been predominantly due to the virtual abandonment of the BN by non-Malays, particularly in urban areas, with strong Malay support holding out, albeit at lower levels in urban areas.⁶⁸

SECTION SIX: CONCLUSIONS: THE GOOD, THE BAD, AND THEN THE UGLY

This paper has attempted to provide a balanced historical and analytical account of the NEP, focusing on

the aspect of 'expanding opportunities'. The core argument that emerges from such an account is that while the NEP achieved a considerable transformation of Malay opportunities, it did so in a politically-oriented way, as a consequence both of historical path dependency in the conceptualisation of 'special rights' and the subversion of affirmative action measures to narrow political-corporate interests.

Moreover, the focus of policy shifted over the period of implementation from broad-based measures that benefited a wide range of bumiputera (the Good), to a narrower focus on building a Malay corporate elite (the Bad) and, ultimately, the restriction of even these benefits primarily to a politically-linked coterie of entrepreneurs (the Ugly). By way of conclusion, I will consider how this resonates with international experiences on affirmative action. Before doing so, however, it is worth highlighting some important aspects have been left out of this account due to space limitations. These include:

- The East Malaysian dimension. The East Malaysian states of Sabah and Sarawak are home to the vast majority of the non-Malay bumiputera, who are nominal beneficiaries of the NEP but often
- complain of their exclusion from its practical benefits. Data limitations and the intricacies of the political relationship between the East Malaysian states and Kuala Lumpur have prevented me from including discussion of this here. It is an important dimension, however, both because it demonstrates the ethnic limits of affirmative action in Malaysia and because, discontent notwithstanding, the East Malaysian states are electorally compliant and over-apportioned in seat distribution, resulting in them constituting what is often referred to in Malaysia as a parliamentary 'fixed deposit' for the BN;
- The religious dimension. We have mention in passing the increasing role of Islam within some sections of the Malay community. This is reflective of a broader discursive shift towards a Muslim/non-Muslim dichotomy within Malaysian society instead of the ethnic Malay/non-Malay dichotomy. To a large extent these classifications overlap demographically: Malays are all legally required to profess Islam, while the majority of non-Malays are non-Muslim. But there are important political and social consequences of this shift;
- The new urban poor. The major 'losers' of the NEP era are, arguably, the poorer Indian groups, many of whom migrated to the cities in the 1980s with the collapse of the rubber industry and have become entrapped in virtual ghettos of crime and violence. This is one of the major social challenges facing Malaysia and is, in many ways, a direct consequence of the NEP;
- The regional and global political economy. The discussion here has, for pragmatic reasons, been necessarily focused on internal dynamics, but the changing regional and global political economy has important consequences for the sustainability of affirmative action measures in

⁶⁸ Brown, G.K. 2008. Federal and state elections in Malaysia, March 2008. *Electoral Studies* 27: 740-744;
Pepinsky, T. 2015. Interpreting ethnicity and urbanisation in Malaysia's 2013 general election. Department of Government, Cornell University: https://tompepinsky._les.wordpress.com/2015/02/malaysia2013.pdf.

Malaysia (and else-where). Key here is the Trans-Pacific Partnership and other multilateral trade agreements that are likely to limit state capacity for implementing affirmative action if it can be presumed to act in a way that is detrimental to foreign investment. This is a vital topic for future policy development.

How does the NEP stand in global comparison? Some of the issues that emerge from the NEP experience have relatively limited traction internationally because of the unusually large proportion of the population that benefited from the NEP. This particularly applies to the political dynamics, where relatively smaller beneficiary groups are, by their very nature, unlikely to gain political dominance in the way that the Malay elite have in Malaysia. India and South Africa, however, are cases where this may have relevance.

I have suggested that the NEP in Malaysia has, over the period of its implementation, transitioned away from broad-based measures towards more narrow corporate interests, and this has enabled and encouraged the emergence of patronage and money politics. In South Africa, arguably, the post-Apartheid regime has moved in the opposite direction. The first wave of affirmative action policies under the rubric of Black Economic Empowerment (BEE), which was in part directly modelled on the NEP, were widely criticised for benefiting only a small proportion of the Black community. The corporate ownership dimension in particular proved problematic, with the emergence of major politically-linked beneficiaries such as Cyril Ramaphosa and Patrice Motsepe.⁶⁹ In addition, econometric analysis of this wave of affirmative action in South Africa has found little if any positive effect on poverty and wages.⁷⁰ It was in direct response to these shortcomings that the South African regime moved to institute more widespread benefits from affirmative action through the Broad-Based Black Economic Empowerment (B-BBEE). While the shift from BEE to B-BBEE may be normatively progressive and intuitively beneficial, however, it is important to recognise that South Africa is operating in a very different context from Malaysia in pursuing these policies. Firstly, the legal context in South Africa is very different, allowing challenges to affirmative action both from groups seeking inclusion as beneficiaries (notably the ethnic Chinese who won a supreme court ruling on this), and from corporations seeking to overturn the measures on constitutional bases. The constitutional and political enshrinement of Malay 'special rights' make any such challenge in either direct unimaginable in Malaysia and, indeed, this legislation was strengthened in the NEP era with the explicit outlawing of any questioning of these 'special rights' as an imprisonable offence through a beefed up Sedition Act. Secondly, South Africa is operating in a very different global economy with much larger and more powerful global corporations and stronger international norms and agreements over free trade. The kind of economic nationalism that undergirded the broad-base of the NEP (e.g. the creation of Proton) may simply not be replicable in such a global economic context.

In India, affirmative action actually predates Malaysia by several decades, and has been primarily pursued through quotas and reservations for Scheduled Castes, Scheduled Tribes and 'Other Backward Classes'. As in South Africa, the legal set up has allowed legislative and constitutional challenges to the extent and scope of these policies, most notably resulting in the inclusion of Indian Muslims as beneficiaries in the 1990s. Assessments of the effectiveness of affirmative action measures in India have generally been rather muted, with such evaluations typically finding relatively little progress for beneficiary groups and that such progress that has been made has been limited to the 'creamy layer'-those within the beneficiary group who were already relatively privileged. This has not resulted in the kind of politically-linked entrepreneurialism we have seen in both Malaysia and South

⁶⁹ Ponte, S., S. Roberts, and L. Van Sittert. 2007. 'Black Economic Empowerment', business, and the state in South Africa. *Development and Change* 38: 933-955.

⁷⁰ Burger, R., and R. Jafta. 2012. Affirmative action in South Africa: An empirical assessment of the impact on labour market outcomes. In *Affirmative Action in Plural Societies: International Experiences*, ed. G. K. Brown, F. Stewart, and A. Langer. London: Palgrave.

Africa, but resonates with the concerns over the more broadly regressive impacts of education reforms in Malaysia (discussed above). From a more political perspective, however, Bajpai argues that affirmative action policies in India have contributed towards the creation of an enduring political compact that has undergirded post-Independence stability—a non-ethnic orientation that, in Indian terminology, is referred to as political 'secularism'.⁷¹ In the context of a strong legal system and a vibrant democratic culture, affirmative action has in this interpretation not encouraged a 'crutch mentality' but, rather, has facilitated the emergence of a national political culture which, although undoubtedly conflictual and sometime violent, has withstood such pressures. With the rise of the BJP, however, we can arguably see a conscious effort to undermine this consensus by on the one hand ostracising and demonising the Muslim population; and, on the other hand, encouraging the kind of 'loyalty' and perceived political indebtedness among other beneficiary groups that has imbued Malaysian political culture. Illuminating here is the shift in attitude of the BJP towards Dalit groups.⁷² While its early ideology was oriented towards the 'Twice-Born' upper castes of Hindu society against the Dalit groups, the demands of electoral logic drove the party to embrace lower caste groups at the expense of 'Othering' Indian Muslims. This was accompanied by a diametric shift in BJP attitude towards affirmative action, from being critics of a policy that undermined upper caste dominance, to being supporters of a policy that could help build a political base among lower caste groups. With the personalisation of Indian politics under Narendra Modi, the Indian experience is looking more like a deliberate attempt to replicate the 'crutch mentality' of Malaysia with obvious negative consequences.

⁷¹ Bajpai, R. 2011. *Debating Difference: Group Rights and Liberal Democracy in India*. New Delhi: Oxford University Press.

⁷² Sud, N. 2008. Secularism and the Gujarat state: 1960-2005. *Modern Asian Studies* 42: 1249-1270.