



Submission of comments on the BEE Codes for QSE's
Compiled by David W. Alcock
In consultation with
The Business Warriors Forum

APPENDIX C
The Indonesian Case.

This appendix sets out the Indonesian example of measures very similar to BEE and their results after approximately 35 years.

The Bumiputra laws stand out as an unusual public policy where preferential actions benefit the majority race of a country, and some argue that the advantages afforded to bumiputras border on outright [racism](#). Others argue that the Malaysian situation at the time the policy was introduced, where a minority, immigrant ethnic group controlled the financial sector of the country due in no small amount to colonial legacies which had assisted Chinese migrants to become dominant in the business sector to the point where Malays were largely excluded from economic life, was an unusual and deeply unstable situation. The government also argues that the legal and economic advantages are necessary for Malaysia to reduce ethnic conflict. The NEP, in particular, was spurred by large racial riots on [May 13, 1969](#).
Wikipedia

Former [Prime Minister](#) Tun Dr. [Mahathir Mohammad](#) has bemoaned the extreme reliance of Bumiputras on their privileges: "We have tried to tell them if you depend on subsidies, you are going to be very weak. But they don't seem to understand. We tell them if you use crutches, you will not be able to stand up. Throw away the crutches, stand up straight because you still have the capacity. I have talked about this thing and as a doctor I know very well the meaning of crutches but somehow or rather they want the easy way out. If I get an AP and I sell it and make some money, it's all right, they say."

BEE in Indonesia

Following from Wikipedia:

Policy

Certain pro-bumiputra policies known as the Bumiputra Laws exist as a means of [affirmative action](#) for bumiputras. Such policies include quotas for the following: admission to government educational institutions, qualification for public scholarships, positions in government and ownership in business. Most of them were established in the [Malaysian New Economic Policy](#) (NEP). Examples of such policies include:

- Companies listed on the Kuala Lumpur Stock Exchange (Bursa Saham Kuala Lumpur) must find Bumiputras to take up a minimum 30% of equity to satisfy [listing requirements](#). MSC status companies listed on MESDAQ (Malaysia's latest stock exchange, modelled on the [NASDAQ](#) and other 'tech' stock exchanges) are not subject to this requirement.
- A certain percentage of new housing in any development has to be sold to Bumiputra owners. Housing developers are required to provide a minimum 7% discount to Bumiputra buyers of these lots. There is no bumiputera discount on established housing.

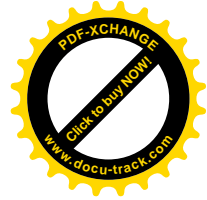
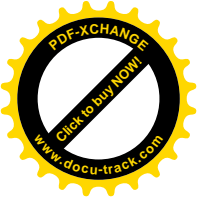


- A basket of government guaranteed and run [mutual funds](#) are available for purchase by Bumiputra buyers only.
- Many government tendered projects require that companies submitting tenders be bumiputra owned. This requirement has led to non-Bumiputras teaming up with Bumiputra companies to obtain projects in a practice known as "Ali Baba" where Ali (the Bumiputra) exists solely to satisfy this requirement and Baba (the non Bumiputra) gives Ali a certain sum in exchange.
- Projects were earmarked for Malay contractors to gain expertise in various fields. Often these projects would be sold as the bidders were not interested in the work, only in the gains that could be made from winning such a tender.
- Approved Permits (APs) for automobiles preferentially allow Bumiputra to import vehicles. Automotive companies wishing to bring in cars need to have an AP to do so. APs were originally created to allow Bumiputra participation in the automotive industry since they were issued to companies with at least 70% Bumiputra ownership. In 2004, the Edge (a business newspaper) estimated that APs were worth approximately RM 35,000 a piece. They also estimated that [Nasimuddin Amin](#), chairman of the [Naza](#) group received 6,387 for 2003, making him the largest recipient of APs. 12,234 APs were issued in 2003. In addition to APs, foreign car marquees are required to pay between 140% to 300% as an import duty.

Most of these advantages only exist in public policy. Private sector implementation is often to satisfy legal requirements and is considered by some to be mere [tokenism](#).

In addition to the above economic advantages, Bumiputras also receive other privileges in public tertiary education:

- Racial quotas exist for entry into public education. In 2004, Dr. Amir Shafie, the newly appointed Higher Education Minister, stated that he "will ensure the quota of Malay students' entry into universities is always higher". This was demonstrated in 2004 when Non-Bumiputra students who scored 5As in the STPM (the highest possible grade) were denied admission to their first choice of study in public universities while Bumiputra students with lesser grades were nonetheless admitted.
- Since 2000, the Government has discussed phasing out certain advantages, and reinstating a "[meritocracy](#)". The eventual result was the system of "Malaysian model meritocracy" begun in 2003. In the implementation, admission to public universities was not based upon a common examination like the [SAT](#) or [A-Levels](#) but rather upon two parallel systems of a one-year matriculation course and a two-year STPM (literally translated as "[Malaysian Higher School Certificate \(disambiguation\)](#)") programme. Bumiputras compose an overwhelming majority of entrants to the matriculation programme, leading to some complaints from the public, as the public university entry requirements are suggested to be easier for matriculation students.
- Quotas also exist for Public Services Department (JPA) scholarships, which are full scholarships offered to students to study in leading universities worldwide. These scholarships are given on the basis of SPM (translated as "Malaysian Education Certificate", the equivalent of [O-Levels](#)) results, race and certain quotas. The JPA scholars then are sent to selected pre-university programmes offered by the government — from there, they apply to universities.



Legitimacy of special rights

Bumiputra privileges and quotas are based on [article 153 of the constitution](#) which states that : 'It shall be the responsibility of the Yang di Pertuan Agong to safeguard the special position of the Malays and the legitimate interests of other communities in accordance with the provisions of this Article'. Malaysia is a constitutional monarchy hence the responsibilities of the YDP are regarded as the responsibilities of the state.

Clause 5 of article 153 specifically reaffirms article 136 of the constitution which states: 'All persons of whatever race in the same grade in the service of the Federation shall, subject to the terms and conditions of their employment, be treated impartially.'

Clause 9 of article 153 states 'Nothing in this Article shall empower Parliament to restrict business or trade solely for the purpose of reservations for Malays.'

Article 89 of the constitution (clause 2) states: 'Except as expressly authorised by this Constitution, there shall be no discrimination against citizens on the ground only of religion, race, descent or place of birth in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment.'

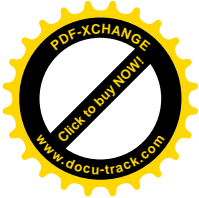
Controversy

The Bumiputra laws stand out as an unusual public policy where preferential actions benefit the majority race of a country, and some argue that the advantages afforded to bumiputras border on outright [racism](#). Others argue that the Malaysian situation at the time the policy was introduced, where a minority, immigrant ethnic group controlled the financial sector of the country due in no small amount to colonial legacies which had assisted Chinese migrants to become dominant in the business sector to the point where Malays were largely excluded from economic life, was an unusual and deeply unstable situation. The government also argues that the legal and economic advantages are necessary for Malaysia to reduce ethnic conflict. The NEP, in particular, was spurred by large racial riots on [May 13, 1969](#).

Another controversial aspect is that the [Orang Asli](#) of peninsular Malaysia are not considered Bumiputra under the Federal constitution. As their settlement predates that of the Malays, this is considered unfair by many, especially as they are also much worse off than the Malays. As such, various groups including SUHAKAM, the Malaysian Commission of Human Rights have called for the government to recognise Orang Asli as Bumiputra [\[1\]](#) Others argue that the [Orang Asli](#) are in fact considered bumiputera [\[2\]](#)

Early debate

In the [1965](#) session of [Parliament of Malaysia](#), [Singapore's](#) [Chief Minister Lee Kuan Yew](#), who subsequently became the Prime Minister of an independent [Singapore](#) on [9 August 1965](#), questioned the implementation of Malay rights as proposed. Lee asked, "How does the Malay in the [kampong](#) find his way out into this modernised civil society? By becoming servants of the 0.3 per cent who would have the money to hire them to clean their shoe, open their motorcar doors?" and "How does telling a Malay bus driver that he should support the party of his Malay director (UMNO) and the Chinese bus conductor to join another party of his Chinese director (MCA) — how does that improve the standards of the Malay bus driver and the Chinese bus conductor who are both workers in the same company?"



Lee closed with "Meanwhile, whenever there is a failure of economic, social and educational policies, you come back and say, oh, these wicked Chinese, Indian and others opposing Malay rights. They don't oppose Malay rights. They, the Malay, have the right as Malaysian citizens to go up to the level of training and education that the more competitive societies, the non-Malay society, has produced. That is what must be done, isn't it? Not to feed them with this obscurantist doctrine that all they have got to do is to get Malay rights for the few special Malays and their problem has been resolved."

It soon became clear that the PAP's campaign for a [Malaysian Malaysia](#) under the [Malaysian Solidarity Convention](#) as an indirect challenge against the racial policies was not well received by the ruling Alliance, led by the [United Malays National Organisation](#) (UMNO). Amidst the escalating communal issues in the state of [Singapore](#), and the problems regarding the persistent neglect of the Federal Government concerning the economy of Singapore, Lee announced [Singapore's](#) separation from [Malaysia](#) on [9 August 1965](#), hours after the [Malaysian Prime Minister](#), made a similar announcement in the Malaysian Parliament.

Education

In [2004](#), Mohd. Johari Baharum, parliamentary secretary of the Prime Minister's Department, stated that the PSD scholarships would remain quota based. He added that there were no plans to convert this to a merit based system, and that the total value of the PSD scholarship since 1996 was 2.4 billion Ringgit. [\[3\]](#) There have been reported cases of students who failed to get PSD scholarships, but were later admitted to leading universities.

Public questioning of rights

At the 55th annual general assembly of the largest political party in Malaysia, the [United Malays National Organisation](#), the deputy chairperson Badruddin Amiruldin cautioned against questioning the Bumiputra's special rights, and was met with approval from the delegates: "Let no one from the other races ever question the rights of Malays on this land. Don't question the religion because this is my right on this land."

Present condition of the Bumiputra

Former [Prime Minister](#) Tun Dr. [Mahathir Mohammad](#) has bemoaned the extreme reliance of Bumiputras on their privileges: "We have tried to tell them if you depend on subsidies, you are going to be very weak. But they don't seem to understand. We tell them if you use crutches, you will not be able to stand up. Throw away the crutches, stand up straight because you still have the capacity. I have talked about this thing and as a doctor I know very well the meaning of crutches but somehow or rather they want the easy way out. If I get an AP and I sell it and make some money, it's all right, they say."

Mahathir (who was also education minister previously) also said in [2004](#) that [Malay](#) graduates tend to have low employment rates because "the [Chinese](#) graduates choose the right subjects so they are employable. We find that the Malay graduates, especially those from the Malay stream, can't speak [English](#) at all. No matter how much value you put on a certificate, the fact remains that an employer wants somebody with whom he can communicate. The employer is not Malay, he is a foreigner. And if he's not going to be able to communicate with you, he will not take you."



link: <http://www.malaysiakini.com/letters/27830>

I do not think any right-thinking Malaysian citizen would object to the idea of special rights protecting those who are vulnerable to socio-economic hardships in their midst.

The problem with affirmative action programmes is that they throw up an entirely new set of dilemmas that tend to sabotage the original purpose of affirmative action - that is, equal opportunity for all.

This means that hard working or talented poor would have the same opportunities for making a great success of themselves as the hard working and talented rich. Regardless of ethnic background.

I believe the implementation of massively aggressive affirmative action programmes like the NEP in Malaysia will cause problems for ethnic Malays in the future.

Many Malaysians of all races support the aims of the NEP but many would be uncomfortable with the way it has been implemented. The beneficiaries of affirmative action are often not the most disadvantaged, nor the most needy individuals in our midst.

Generally it is the bumiputera middle and upper-classes that benefit from affirmative action. The bumi poor do not benefit proportionately. Of course, the non-bumi taxpayers whether in upper, middle or the lower-classes are excluded from the programme altogether.

The mere existence of a massive social programme of ethnically determined benefits might reinforce negative perceptions about my own abilities - that is, the NEP if **implemented in a faulty manner might end up entrenching an inferiority complex in its recipients.**

No affirmative action programme in the present can make up for the incalculable pain and suffering of a people in the historical past. This would be so even if there were actual historical injustices in Malaysia equivalent to the anti-Chinese legislation in Canada, the White Australia policies, black slavery in the US or apartheid in South Africa,

The only way out for any of us is to look forward to the future. If ever I came to believe that ethnic others were to 'owe' me anything and that I need not exert myself to my utmost simply because of my 'special position', then disaster would have already have struck and blighted my future irreparably.

I cannot think of a more crippling notion than that anyone anywhere owes me a living. We are thus stuck in a dilemma. The implementation of the NEP has in many ways sabotaged its original objectives.

Racial hegemony and dominance is not the same as racial development. The former can be legislated and manufactured. The latter is always hard-earned.

I do not suggest an end to the NEP which I believe has served a useful purpose thus far. I certainly believe there is a place for affirmative action in Malaysia in spite of all its prickly difficulties and inherent contradictions.

Nevertheless, **the continued redistribution of state resources and wealth along purely ethnic lines may risk doing more harm than good to both givers and takers** - that is, to all of us. It risks demeaning both bumis and non-bumis particularly if conducted in utter disregard to the social and economic status of its contributors and recipients.

I contend that the NEP in its present form may have done considerable harm already and may benefit from some thoughtful modifications in the near future.



<http://www.islandsbusiness.com/isla...rticle-full.tpl>

Most other Pacific Islands countries have affirmative action agendas, all aimed at pushing indigenous people up the scale, but not as vigorously as Fiji is doing. How is Malaysia's policy turning out? Much food for thought appears in an article in the Far Eastern Economic Review, The Perils of Pro-Malay Policies, by Edmund Terence Gomez, of the United Nations Research Institute for Social Development.

Some points made by him are:

Malaysia had paid a heavy price in economic inefficiency and lost growth.

By 2000, only 19.1% of business was Malay owned.

Lucky Malays favoured by the government had concessions like licences, contracts and privatised projects, plus loans from government banks, dropped into their laps.

Pals of the United Malays National Organisation (UMNO) party became especially favoured and became some of the country's richest people.

In-house UMNO quarrels over influence and the spoils split the party. Even the UMNO leader, Dr Mahathir Mohamad, the high priest of positive discrimination, began talking about a "culture of greed."

Some recipients of business favours had no talent for building on the concessions

Business connections became more clouded. Who was really running them? Prominent businessmen who fell out with the government were liable to see thriving businesses sink.

By 2000, the government had majority ownership of seven of the 10 largest local stock exchange listed firms-a signal of the failure of privatisation. None of the ten were Malay-owned.

A failure to develop real Malay entrepreneurs was due to the business favours given to unworthy recipients.

The government's failure to check and discipline this style of growth caused the rapid collapse of firms when a currency crisis happened.

Racial targeting by UMNO could cause the usurping by politicians of concessions meant for all Malays.

Targeting has draped UMNO with allegations of corruption, loss of public confidence and serious intra-Malay class differences.

Vast resources have been wasted.

Another round of affirmative action could seriously damage the economy, social justice and national unity.

This litany from Malaysia should ring a few alarm bells, particularly in Fiji, and in other countries in the Pacific where the wealth gap between a lucky few and the larger number of not so fortunate inhabitants widens by the day.



<http://www.ihf.com/articles/2001/01/05/kuala.2.t.php>

This article goes on to use examples of financial disasters caused by the placement of AA candidates into positions they were not ready for.

Criticism of 30-Year-Old Affirmative-Action Policy Grows in Malaysia

By Thomas Fuller International Herald Tribune

Friday, January 5, 2001

For the past three decades the Malaysian government has presided over a massive experiment in social engineering, an affirmative-action program designed to lift out of poverty the children of millions of rice farmers and rubber tappers, molding them into a white-collar elite.

Malaysia spent hundreds of millions of dollars sending the country's native population — or "sons of the soil" — to leading universities in the United States, Britain and Australia.

In the span of a generation, the program created a native urban middle class and helped avoid the outbreaks of ethnic violence that marred Malaysia's early years of independence in the 1960s.

But as the country prepares to mark three decades under what is called the New Economic Policy, the program's failures are becoming increasingly apparent. Affirmative action, critics say, has morphed into cronyism. The government transferred wealth to a small pool of politically well-connected businessmen.

"It was the deliberate creation of an oligarchy," said Shahrir Samad, a member of the governing party's top decision-making body who has become an outspoken critic of the native leadership. "There was this idea that the economic success of the country depended on entrepreneurial giants." Malays, who make up about half of the population, are the country's largest native ethnic group.

Nurtured by the government for years, these hand-picked captains of industry are today deep in debt and running unprofitable businesses that rely on government largesse. The country's native leaders are faced with the decision of whether to bail them out or let them sink — and thus liquidate the very symbols of native enterprise.

"The entrepreneurs were supposed to handle the creation of Malay wealth," Mr. Shahrir said. "In fact, it's been a subversion of Malay wealth."