

The Impact of Equal Employment Opportunity-Affirmative Action in U.S. and New Economic Policy in Malaysia on Employment and Reverse Discrimination

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ABSTRACT

Penggubalan polisi Equal Employment Opportunity-Affirmative Action (EEO-AA) bertujuan memastikan wujud keseimbangan peluang pekerjaan di antara kaum majoriti dan minoriti di Amerika Syarikat. Di Malaysia pula, Dasar Ekonomi Baru (DEB) diwujudkan bagi menyeimbangkan status ekonomi di antara pelbagai etnik. Kajian ini pertamanya bertujuan untuk menganalisis sejauhmana EEO-AA dan DEB dapat mencapai matlamat untuk menyeimbangkan peluang pekerjaan di Amerika Syarikat dan juga status ekonomi antara etnik di Malaysia. Keduanya, untuk menganalisis sama ada EEO-AA dan DEB ini menyebabkan berlakunya "reverse discrimination". Hasil kajian mendapati EEO-AA hanya memberi impak yang kecil kepada golongan minoriti di Amerika Syarikat. Di Malaysia pula, DEB telah berjaya meningkatkan jumlah partisipasi Bumiputera di dalam pelbagai sektor. Manakala kedua-dua polisi tidak menyebabkan berlakunya "reverse discrimination".

Keywords: *discrimination, affirmative action, equal employment opportunity, reverse discrimination*

I. INTRODUCTION

In the United States (US), the discriminations towards minorities, especially on employment before 1960s, have made American government develop law on employment discrimination. This law is basically based on Title VII of

the Civil Right Act 1964 (as Amended in 1972) is to make sure Equal Employment Opportunity (EEO) and affirmative action (AA) has been followed in employment. But, one widespread criticism of AA is that it has resulted "reverse

discrimination", that is hiring and promoting women and minorities over presumably better qualified white males¹. While in Malaysia, the New Economic Policy (NEP) was drawn up in 1970 to combat what the Malaysian government perceived as the underlying causes of communal tension poverty and imbalance between the economic status of different ethnic groups². This policy also has been criticized to cause a reverse discrimination in employment, education and business, because in practice implementation of NEP has centered on establishment of quotas. Although these two policies are different in concept and practice, both have similarity impact on employment and raised a question of reverse discrimination.

II. PURPOSE OF THE STUDY

The purpose of this study is to see the impact of EEO-AA in US and NEP in Malaysia in aspect of employment and reverse discrimination. This study were divided in two discussion. First, it will focus on the impact of EEO-AA on White, African American and Hispanic in terms of employment in

the civilian labor force, income level and reverse discrimination in civilian labor force. Second, in Malaysia, this study will concentrate the impact of the NEP on Bumiputera (literally son of the soil), Chinese and Indians in terms of employment by sector, work category and reverse discrimination in aspect of professional high paying works.

III. EEO-AA IN U. S.

Background

EEO policy has been acted Under Title VII of the Civil Right Act on 1964 to end discrimination based on race, color, religion, sex or national origin in condition of employment³. In addition of EEO policy, AA is the effort to seek out and prepare members of minorities for opportunities in business, industry and education⁴. In practice, AA concept was established the quotas for minorities and led to what was described as reverse discrimination to White men, but the establishment a fixed quota is not allowed as US Supreme Court held in the case of University of California Regents v.

¹ Benokraitis, N.V, and Feagin, J.R. 1978. *Affirmative Action and Equal Employment Opportunity Action. Inaction, Reaction,* Colorado: West view Press.

² Bunge, F.M. 1984. *Malaysia A Country Study*, (4th. ed.). Foreign Area Study.

³ Battles, M. S. & et. al. 1977. *The Manager's Guide To Equal Employment Opportunity*. New York: Executive Enterprise Publication.

⁴ Lee, R.A. 1983. *Encyclopedia USA*- Florida: Academic international Press.

Bakke⁵:

"The fixed quotas may not be set for places for minority applicants for medical school if white applicants are denied a chance to compete for these places. The court however said that professionals may not consider race as a factor in making decision on admission."

Implementation

The implementations of EEO-AA are based on several laws and regulations. We can see more information about these laws and regulations in Table I that summarize information on anti-discrimination in U. S. This strategies are including covered group, source of pressure for change and the goals.

⁵ Gwinn, R.P. 1985. *The New Encyclopedia Britannica (Val. 1)*. Chicago: Encyclopedia Britaininca Inc.

Table 1. Characteristic of Anti discrimination Strategies (Employment)

Laws & Regulation	Areas Affected	Covered Group	Source of Pressure for Change	Anti-Discrimination Goals
<p><u>Early Civil Right Act Era</u> US Constitution, 14th and 15th amendment; early Civil Right Act (1866 - 1875)</p>	<p>primarily individual citizen</p>	<p>racial and religious</p>	<p>individual Whites and African American</p>	<p>isolate discrimination, small group discrimination (South)</p>
<p><u>EEO</u> a. E.O's (1961) b. Legislative : Equal Pay Act (1963)</p>	<p>labor organization, unions, federal agencies, (some) employers federal government, contractors, (most) employers</p>	<p>race, color, creed & national origin race and sex</p>	<p>individual African American, Civil Right Groups (black & white liberal) white liberal</p>	<p>isolate discrimination, small group discrimination (South) direct institutional discrimination (a broader spectrum)</p>
<p><u>AA</u> a. E.O's (1965 - 1969) OFCC Revised Order No. 4 b. Legislation : Title 7, Civil Right Act 1964; EEO Act 1972; Title IX (EEOC Guidelines)</p>	<p>employers and federal contractors all employers, educational, institutional, executive, administrative & professional employees</p>	<p>race, national origin and sex race, national origin and sex</p>	<p>white liberals, civil right groups (NAACP, SNCC, CORE, SCLC) women's groups, civil right groups, white liberal</p>	<p>direct institutional discrimination (overt & covert) indirect institutional discrimination (neutral-on-the-face)</p>

Source: Feagin and Benokritis, *Affirmative Action and Equal Opportunity: Action Inaction, Reaction*; p(196), Table 7.1.

IV. NEP IN MALAYSIA

Background

The riots 1969 (race's conflict) in Malaysia shows the major causes for the crisis in economic inequality among Malays, Chinese and Indians.

The failure of earlier economic policies to address the relative deprivation of the Malays in comparison to non Malays as being

the underlying root cause of the crisis. Generally, Chinese tend to have higher level of schooling, a more diverse occupational structure and above average incomes. Indians tend

to hold an intermediate status between Chinese and Malays. Table 2 show that the income gap between Malays and non-Malays had widened in the relative.

Table 2.
Malaysia – Mean and Median Household Income by Ethnicity
(in RM\$ per month)

Ethnicity	1957/58		1970	
	mean	median	mean	median
Bumiputera	139	112	177	122
Chinese	300	223	399	269
Indians	237	188	310	195
TOTAL	215	156	267	167

Source: Osman Rani, 1990. "Malaysia's New Economic Policy After 1990"; *Southeast Asia Affair 1990*, p(212) Table 3.

To correct the economics inequality between races in Malaysia, Malaysian government had launched NEP in 1970. This policy set a goal of 30 percent Bumiputera ownership in the commercial and industrial sectors by 1990 and non-Malay would control 40 percent⁶.

Objective And Implementation

There are two objectives to be achieve in NEP. The first objective is "eradicating poverty by raising income levels and increasing

employment opportunities for all Malaysian, irrespective of race", and the second objective is "accelerating the process of restructuring the Malaysian society to correct economic imbalance, so as to reduce and eventually eliminate the identification of race with economic function⁷.

In practice, the implementation of the NEP has centered on the establishment of quotas, incentive, loan programs and state enterprise

⁶ Bunge, F.M. 1984. *Op cit.*

⁷Osman Rani. 1990. "Malaysia's New Economic Policy After 1990" in *Southeast Asean Affair 1990*, Colorado: West view Press.

such as MARA (Trust Council for Indigenous People), PNB (National Corporation), MIDA (Malaysia Industrial Development Authority), and PERNAS (National Corporation) to benefit indigenous ethnic group - primarily the Malays.

V. ANALYSIS

There are two main purposes of this analysis. First, to find out the impact of EEO-AA on employment opportunities and income level to minorities (African American and Hispanic) and reverse discrimination to White workers in U.S. Second, to determine the impact of

NEP on employment opportunities to Bumiputera and reverse discrimination to Chinese and Indian workers in Malaysia. The percentage was used to find out the impact of EEO-AA and NEP on employment, and simple regression analysis was used to analyzed reverse discrimination.

1 Impact Of EEO-AA

Employment

The analysis was primarily based on Civilian Labor Force data, recorded from 1970, until 1991.

Table 3.

Civilian Labor Force by Race in United State

YEARS	TOTAL (million)	WHITE		BLACK		HISPANIC	
		million	%	million	%	million	%
1970	82.8	73.6	88.9	9.2	11.1	NA	NA
1980	110.6	93.6	84.6	10.9	9.9	6.1	5.5
1985	120.0	99.9	83.3	12.4	10.3	7.7	6.4
1990	130.3	107.2	82.3	13.5	10.4	9.6	7.3
1991	130.8	107.5	82.2	13.5	10.3	9.8	7.5

Source: Statistical Abstract of United States 1992 (112th. ed.), page 381

Table 3 shown that percentage of White workers in civilian labor force has been declined. In 1970, the

percentage of White workers was 88.9%. In 1980, this percentage was declined 4.3% to 84.6%. In year

after, the percentage of White workers was declined on average 1% every year. African American had higher percentage on employment in Civilian Labor Force but actually these higher percentages were included with other races. In year after, the percentages of African American in civilian labor force were slightly increase, except in 1991 the percentage of African American workers was dropped 0.1 % to 10.3%. However, the increasing percentage of Hispanics workers

showed higher than African American in civilian labor force. For instance, among 1980 to 1991 the increasing averages were 0.7% each year. From this discussion we can conclude that EEO-AA have small positive impact on employment to minorities.

Income

Income level between White and minorities shown that White income level was higher than minorities. Between the two minorities, Hispanic were doing better.

**Table 4.
Percent Distribution of Income Level by Race in United State**

INCOME US\$	1970			1990		
	WHITE	BLACK	HISPANIC	WHITE	BLACK	HISPANIC
Under \$10,000	14.3	28.0	20.3	12.8	30.8	21.1
\$10,000 - \$14,999	8.2	13.5	13.8	9.2	11.6	12.9
\$15,000 - \$24,999	17.1	22.3	24.2	17.7	19.1	21.1
\$25,000 - \$34,999	18.9	15.6	17.4	16.1	13.5	16.5
\$35,000 - \$49,999	20.8	12.1	15.5	18.0	13.1	14.8
\$50,000 - \$74,999	14.6	7.0	6.9	15.8	8.1	9.1
Over \$75,000	6.1	1.5	2.0	10.4	3.8	4.3

Source: Feagin and Benokraitis; Affirmative Action and Equal Opportunity: Action Inaction, Reaction; p(196), Table 7.1.

As Table 4 shown, in 1970 percentage of White income below US\$10,000 is 14.3%, compare to African American 28% and Hispanic 20.3%. For

income over US\$75,000, White has the higher percentage that is 6.1%, African American 1.5% and Hispanic 2.0%. Majorities of White

have income level between US\$ 35,000 and US\$49,999. Majority's income for African American is below US\$ 10,000 and Hispanic between US\$ 15,000 and US\$ 24,999. In 1990, percentage of White income below US\$ 10,000 is reduce 1.5% to 12.8%. For, African American and Hispanic, the percentages of income under US\$ 10,000 were increased, African American 2.8% to 30.8% and Hispanic 0.8% to 21.1 %.

For income level over US\$ 75,000, White has the highest increasing percentage from 6.1% to 10.4%, African American 2.3% to 3.8% and Hispanic 2.3% to 4.3%. Majorities of White still have income between US\$ 35,000 and US\$ 49,999, African American below US\$ 10,000 and majorities of Hispanic have income level below US\$ 10,000 and between US\$ 15,000 and US\$ 24,999.

Reverse Discrimination

This analysis was based on Table 3 recorded from 1970, 1980, 1985, 1990 and 1991. A simple linear regression was used for estimating the relationship between the percentage of White male workers in civilian labor force and number of minorities (African American and Hispanic) workers. To find out the reverse discrimination, the alternative hypotheses (H_a) were established as shown below:

H_a -The increase of minorities' workers will decrease the percentage of White male workers in civilian labor force.

For the purpose of analysis the model was established as shown below:

$$PWW = (\beta_0 + \beta_1 TMW)$$

PWW = Percentage of White male workers in civilian labor force.

TMW =Total number of minorities

Parameter β_0 = estimate the level or intercept of the model.

Parameter β_1 = estimate the changes number of minorities in civilian labor force.

By running a simple linear regression on percentage of White workers (PWW) against number of minorities' workers (TMW), we obtained the following equation (see Appendix 1 for detail result):

$$PWW = 93.077 + (-0.477) TMW$$

$$R^2 = 0.991$$

The very high values of R^2 (0.991) suggest the strength of the linear. This coverage the facts that 99.1 % of the percentage of White male workers can be explain by number of minorities. Therefore, only 0.9% of the variable have not accounted for.

The slope β_1 for this model is estimated at -0.477, meaning percentages of White male workers

reduce at an average more than 0.4. As a result, the increase number of minorities in civilian labor force will decline slightly the percentage of White male workers. It seems that the increasing numbers of minorities in civilian labor force have little impact on reverse discrimination to White male workers.

This finding also has been support by Burstein and Monaghan that found the number of reverse discrimination cases decided by the appellate courts has small, just 91 or 4.4% of all EEO cases had been decided by the end of 1983 and the proportion has no tendency to increase as Table 5 shows.

Table 5.
Reverse Discrimination Cases in the Appellate Court

YEAR	NO. OF CASES	% OF ALL EEO CASES
1965	0	NA
1966	1	12.5
1967	0	0.0
1968	0	NA
1969	1	5.6
1970	1	4.0
1971	1	1.6
1972	3	3.3
1973	4	4.5
1974	2	2.2
1975	8	6.0
1976	6	4.8
1977	2	1.1
1978	8	5.2
1979	9	6.0
1980	11	5.1
1981	14	5.5
1982	10	4.3
1983	10	4.3
TOTAL	91	4.4

Source: *Burstein and Monaghan, "EEO and Mobilization of Law"; Law and Society Review; p(380)*

2 Impact Of NEP

Employment

Table 6 shown that, in early NEP implementation, Bumiputera were majority in agriculture sector. They were involved in agriculture such

as padi farmers, fishermen, estate workers, rubber small holders, oil palm and coconut. But Chinese shares of employment were spread in all major sectors of economic.

Table 6.
Malaysia – Percentage Employment Distribution by Sector and Ethnicity, 1970 and 1990

SECTOR	1970 ^a			1990 ^b		
	Bumiputera	Chinese	Indians	Bumiputera	Chinese	Indians
Agriculture	81.0	16.4	1.0	77.0	14.6	7.9
Mining & Quarrying	24.0	67.1	8.3	55.7	32.7	9.2
Manufacturing	29.0	65.3	5.3	50.3	38.1	11.1
Construction	21.7	71.9	6.0	41.8	51.5	5.8
Electricity, Gas & Water	48.0	18.2	3.2	72.3	10.0	17.0
Financial / Commerce	23.4	65.5	10.6	53.7	30.8	15.1
Transportation	42.3	40.0	17.3	37.9	53.8	7.5
Service	47.4	36.7	14.0	42.2	46.8	9.9

Note : The percentages do not up to 100 because of rounding errors and the exclusion of the other races.

Source: (a) Department of Statistic 1970, *Population Census of Malaysia.* Adapted from Sundaram J.K.; *A Question of Class*; p(294) Table 11.3

(b) *Malaysia, Mid Term Review of the 6th. Malaysia Plan 1991-1995*• p(64) Table 3-2

After the twenty years of NEP implementation, the policy restructuring employment showed the progress. Bumiputera shares of employment increase in all majors sector of the economy, with double digit growth rates registered in the construction (21 % in 1970 to 41.8 % in 1990), manufacturing (29 % in 1970 to 50.3% in 1990) and

financial sector (23.4% to 53.7%), as shown in Table 6. Although Bumiputera share of employment in agriculture increased, there was a reduction in terms of their number from 1.3 million to 1.2 million, as a result of Bumiputera migrating into the modern sectors of the economy in response to better employment opportunities.

Table 7.
Malaysia - Percentage Of Labor Force By Ethnic And Work Category, 1970 and 1990.

SECTOR	1970 ^a			1990 ^b		
	Bumiputera	Chinese	Indians	Bumiputera	Chinese	Indians
Professional & Technical	47.1	39.5	10.8	61.6	29.2	7.8
Administrative & Managerial	24.1	62.9	7.8	30.5	62.9	4.3
Clerical	35.4	45.9	17.2	52.3	38.8	8.7
Sales	26.7	61.7	11.1	33.7	58.6	7.1
Services	44.3	17.3	14.6	62.3	26.9	9.5
Agriculture	72.0	43.7	7.6	77.3	14.0	7.9
Production	34.2	55.9	9.6	49.3	39.7	10.9

Source:(a)Department of Statistic 1970, *Population Census of Malaysia*. Adapted from Sundaram J.K.; *A Question of Class*; p(294) Table 11.3

(b) *Malaysia, Mid Term Review of the 6th. Malaysia Plan 1991-1995*• p(64) Table 3-2

Table 7 showed that participation of Bumiputera in professional and technical category in 1970 is 47.2%, but 33% of them were in the teaching and nursing profession. In administrative and managerial occupation, the participation of Bumiputera was

24.1 % compare with Chinese 62.9 % and 7.8 % for the Indians.

Table 7 also shown work category by ethnic in 1970 and 1990 and how it changing. In 1990 Bumiputera representation in all work category was increased. Their

share in the professional and technical category was increased 14.5% to 61.6%. However, about 45% of them were in teaching and nursing professions. With regard to administrative and managerial

occupations, the share of Bumiputera was 30.5% in 1993 compared with 62.9% for the Chinese. This imbalance was mainly due to the inadequate supply of qualified Bumiputera manpower.

Table 8.
Malaysia -- Registered Professional By Ethnicity;
1985, 1988, 1990, 1992

YEAR	BUMIPUTERA		CHINESE		INDIAN	
	TOTAL	%	TOTAL	%	TOTAL	%
1985 ^a	6315	22.2	17408	61.2	3954	13.9
1988 ^a	8583	25.1	19970	58.4	4890	14.3
1990 ^b	11753	29.0	22641	55.9	5363	13.2
1992 ^b	15505	31.9	26154	53.8	6091	12.5

Source: (a) Malaysia, *Mid Term Review of the 5th. Malaysia Plan 1986-1990*, Adapted from as Table 2, p(220)Table 6.

(b) As Table 6, p(66) Table 3

The number of Bumiputera professionals in the high paying registered profession such as architects, accountant and doctors, increased significantly in 1990, as shown in Table 8. However, their share remained relatively low, accounting for 29% of total employment in this occupation in 1990, compared with about 55.9% for the Chinese.

Reverse Discrimination

This analysis was designed to see whether the increasing numbers of Bumiputera workers in professional

high paying work cause reverse discrimination to Chinese and Indians. This study was based on Table 8. The data was recorded from 1985,1988,1990 and 1992. A simple linear regression has been used for estimating the relationship between the percentage of Chinese and Indians and the number of Bumiputera in professional high paying works. To find out the reverse discrimination the alternatives (H_a) were established as shown below:

Ha - The increase number of Bumiputera workers in professional high paying work will reduce the percentage of Chinese and Indians workers.

For the purpose of analysis, the model was established as shown below:

$$PCI = \beta_0 + \beta_1 TB$$

PCI- Percentage of Chinese and Indian in professional high paying work.

TB- Number of Bumiputera in professional high paying work.

β_0 - estimate the level or intercept of the model.

β_1 estimate the changes of number of Bumiputera.

By running a simple linear regression on percentage of Chinese and Indian (PCI) in professional high paying work against the number of Bumiputera workers (TB) we obtained the following equation:

$$PCI = 81.006 + (-0.001) TB$$
$$0.730 \quad 0$$
$$R^2 = 0.991$$

The very high values of R^2 (0.991) suggest the strength of the linear. This conveys the facts that 99.1% of the percentage of Chinese and Indians workers in professional work can be explained by the number of Bumiputera. Therefore, only 0.9% the variables have not been accounted for.

The slope β_1 for this model is estimate at -0.001, meaning percentage of Chinese and Indians

workers have small negative influence to the number of Bumiputera in professional high paying work. As a result, the increasing numbers of Bumiputera in professional high paying work cause only small reverse discrimination to Chinese and Indians.

VI. CONCLUSION

1. Findings

Overall, EEO-AA policy caused little impact on minorities. For instance, in Civilian Labor Force the minority percentage was increasing slightly especially for African American group. Majorities of minorities also have income level below US\$ 10,000 and just a small number of minorities have income over US\$ 75,000. However, the NEP policy seems to increase Bumiputera participation in variety of sector and work category. In professional area such as doctor, accountant and lawyer, there are increasing number of Bumiputera participation.

Finally, reverse discrimination doesn't seem to be very widespread during the implementation of EEO-AA and NEP. For instance, increasing of one million minorities in Civilian Labor Force will decrease 0.477 percent of White male workers. However in NEP, increasing of one million Bumiputera in professional high paying works will reduce only 0.001 percent of Chinese and Indians workers.

2. Suggestions

Representative Bureaucracy

In dealing with discrimination, the best way is to have the "watch dog" organization (for example, Equal Employment Opportunity Commission (EEOC) in U.S.) that establish greater social representation. This will help to reduce the bias in action towards discrimination in employment and create responsiveness to the needs of peoples. Rosenbloom⁸ in his book "Public Administration: Understanding Management, Politics and Law in the Public Sector" says that representative is related to responsiveness because it is assumed that a representative bureaucracy will have similar perspective on question of public policy as the majority in the legislature and in the electorate.

Decentralization

The "watch-dog" organization also should have greater decentralization power. Chandler and Piano⁹ (1988,179) stated that decentralization of decision making can contribute to the effectiveness of administrative operations because it's permits some measures of adaptation to local conditions and needs. It also spreads decision making responsibilities among a number of officials and gains greater understanding of problems. Hopefully with decentralization of "watch dog" organization can provide quick resolutions of problems related to prohibited discrimination.

⁸Rosenbloom, D.H. 1989. *Public Administration: Understanding Management, Politics, and Law in the Public Sector (2nd. ed.)*. New York: Random House.

⁹ Chandler, R.C. and Plano, J.C. 1988. *The Public Administration Dictionary (2nd. Ed)*. California: ABC-CLIO.

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