

BOOK REVIEW

Kong, Wee Cheng (2014). *Affirmative Action or Discrimination? A Comparative Study of Higher Education in the US and Malaysia*. Petaling Jaya and Kuala Lumpur: Strategic Information and Research Development Centre and LLG Cultural Development Centre Berhad

by Hwok-Aun Lee*, *University of Malaya*

This book, as its subtitle denotes, stems from a useful set of building blocks to examine the complex and contentious issue of affirmative action, particularly with regard to Malaysia. First, it focuses on preferential treatment as a defining feature of affirmative action, and on higher education, which comprises a particular set of policy implications. Scholarship and discourse on Malaysia's ethnic preferential policies often proceed without clarity on the policy's definition and mechanisms, and thus handle the issues of inequality in education, employment and equity ownership without adequate distinction of differences between these spheres of intervention.

Second, the book places affirmative action in comparative perspective, delving into the institutions and experiences of Malaysia and the United States. Although Malaysia is frequently referenced in international discourses on inequality and redistribution, it is rarely subjected to in-depth cross-country study precisely on affirmative action. Moreover, the selection of the United States for comparison *vis-à-vis* Malaysia holds out the potential to generate interesting findings and insights.

Author Kong Wee Cheng provides some useful background to affirmative action in both countries. He draws on the wealth of literature on affirmative action in US universities, where the debate has flourished in a more systematic and critical manner, encompassing conceptual, philosophical, legal, and empirical studies, as exemplified in the scholarship of Thomas Weisskopf, William Bowen and Derek Bok. Rather polemical works also make their way into this book, including writings of Thomas Sowell and Dinesh D'Souza.

The lack of focused, quality scholarship on Malaysia's affirmative action is partly due to proscription of open, critical discourse on race matters. Indeed, one noteworthy aspect of the United States-Malaysia comparison is the vast difference in constitutional basis of affirmative action. Preferential treatment is not explicitly safeguarded in the US constitution; it mostly grew through executive order and legislation, and has been contested in both the courts of the legal system and public opinion. Freedom of speech also prevails. The Malaysia constitution's Article 153 explicitly provides for Malay reservation of opportunities in education, civil service employment, and other sectors. Moreover, the Sedition Act prohibits questioning these provisions, among other issues of purported national security. This book points out these contrasts, which underscore the lamentable paternalism and authoritarianism of Malaysia's government that have perpetrated a policy stalemate.

* Faculty of Economics & Administration, University of Malaya, 50603 Kuala Lumpur, Malaysia. Email: halee@um.edu.my

However, the participants in the discourse also contribute to its static condition by staking out polarized, communally centric stances that preclude rigorous policy reform dialogue. Unfortunately, this book does not depart much from the familiar and entrenched positions. The author takes to task the Malay 'special rights' agenda, or the misuse of Article 153 for political mileage and unwarranted extension of privileges. He articulates a minority group contention: affirmative action detracts from equal opportunity. There are legitimate grounds to maintain these arguments, which have been voiced for many decades. However, this study barely moves the debate in any new direction – not even to draw policy lessons from the United States' experience.

The study could do more than point out the pitfalls of permanently exercising the provisions for Malay special position by a politically dominant beneficiary group of affirmative action. In order for ethnic preferential policies to be dismantled, surely the beneficiaries would need to be equipped to be more competitive and less dependent. And in the context of Malaysia, where affirmative action is deeply institutionalised, isn't it emphatically necessary for substantial portions of the majority group to be sufficiently empowered and confident in order that relinquishing privileges and constitutionally safeguarded preferential selection can be truly contemplated?

Malaysia's constitutional provision for Malay preferential treatment can indeed be interpreted from alternate angles, beyond the two most common invocations captured in the book - indefinite Malay rights versus legitimate interests of minorities – which indefinitely pit communities in an adversarial relationship. Article 153 stipulates that measures to safeguard Malay special position may be taken if necessary. In other words, the constitution implicitly allows for current forms of affirmative action to be phased out – on the grounds that preferential treatment is no longer necessary. The book omits such exposition, which would enhance its contribution to the literature.

The study's synthesis of policy outcomes is fairly instructive. Preferential selection has undoubtedly boosted university enrolment of blacks in the US and Malays in Malaysia and their subsequent upward mobility into high level jobs, with broader empowering effects on the community. But it also comes with various drawbacks: dependency, lack of competitiveness, mismatch of students and study subjects, alienation of non-beneficiaries and stigmatisation of beneficiaries whose merits are devalued. It is also argued that stereotypes and stigmas could prevail in the absence of affirmative action – importantly, stemming from lack of interaction between groups. These aspects of the debate are omitted, although on the whole the book gives reasonable coverage to arguments of both proponents and opponents of affirmative action.

This complex of issues underscore the case for the policy to be impermanent. However, the book falters again in connecting the findings to policy implications. First, the author is unclear in his stance toward the inception of affirmative action – that is, whether it should not have been implemented in the first place, or whether it should have been implemented but in a more tempered manner.

Having acknowledged the constitutional roots of the policy, it appears that the existence of the policy is not impugned. The book highlights how Bumiputera enrolment in public universities touched 70% by the mid-1970s, in excess of the 55% quota stipulated in 1971. Nonetheless, the author stops short of analysing the possibility that the problem

lies in inordinate, overzealous and highly centralised implementation by unchecked executive powers. Of course, some also argue that once started, it is impossible to unwind or to control, but still, the more pertinent and useful questions surround the application of the policy, not its conception.

Second, the book concurs with a widely held contention – that the benefits of affirmative action have not flowed downward to the under-privileged, but upward to middle class and elite members of the designated group. To begin with, the author does not establish that this goes against the original objective, which is to increase the participation of the beneficiary group in higher education. Preferential access to university can be granted to persons from socio-economically disadvantaged backgrounds, and affirmative action's beneficiary group would be disproportionately represented here. Nevertheless, for affirmative action to fulfil its objective of facilitating upward mobility of the beneficiary group, a reasonable and effective strategy would also be to ensure that university entrants with adequate schooling preparation are selected, to enhance the prospects of academic excellence. While children of poor households should be rendered assistance, those of middle and upper class households would on the whole be better equipped for university, and to compete for scholarships. Means-based assessments and preferential treatment, with the specific purpose of serving the under-privileged, can complement university admissions and funding mechanisms.

The critique that affirmative action has benefited the elites at the expense of the under-privileged also warrants more rigour and evidence. Such claims often emanate from disenchantment with other spheres of intervention, especially those corrupted by rent-seeking and wealth acquisition. This widely held argument could certainly be levelled against asset distribution and public procurement programs, but affirmative action has to a significant extent provided access to higher education for the socio-economically disadvantaged, especially in Malaysia where the program has had vast reach.

The author concludes that affirmative action has increased access to university, but suffers from various shortcomings. As with much of the book, the presentation of the debate makes room for both sides, while urging for the policy to reach closure and termination.

However, the overarching analysis overlooks a fundamental requirement for the policy's demise, particularly in majority-favouring Malaysia. It must be executed effectively toward sufficiently empowering the beneficiaries, so that removal of the group's preferential treatment can be socially and politically viable. Indeed, the title itself reflects a measure of confusion. The author acknowledges that affirmative action, also known as positive discrimination, was pursued in the United States when non-discrimination legislation was found to be inadequate in levelling the playing field and achieving meaningful equal opportunity. Affirmative action is by definition discriminatory, but the author posits non-discrimination as an alternative to affirmative action, contradicting its own conceptualisation of the policy and precluding consideration of ways that positive discrimination could be pursued differently, more effectively, and hence transitorily.

The book does not take advantage of the comparative study material to contrast Malaysia and the United States, such as the centralisation and quota-based system in

Malaysia versus the decentralised system in the US, where quotas are prohibited but diversity is a valid constitutional consideration.

On the whole, this book offers an informative account of affirmative action in higher education in Malaysia and the United States, but lacks sufficient critical insight and fresh thinking to break new ground on this grippingly contested and still gridlocked issue.