



# CRISE:

Centre for Research on Inequality,  
Human Security and Ethnicity

# IN BRIEF

## Combating horizontal inequalities through affirmative action

CRISE has examined the role of horizontal inequalities (HIs) among ethnic, religious or cultural groups in fostering violent conflict. It has become clear from our research that not only do HIs play a major role in fostering violent conflict, particularly when economic and political inequalities are aligned, but also they can have many other negative developmental impacts, including retarding economic growth through under-utilisation of human resources and trapping a significant proportion of a population in poverty, often for generations. It is clear, then, that severe HIs constitute a serious development problem, even in conditions of relative political stability where violent conflict is unlikely. What is to be done?

We have categorised three broad forms of policy response:

- 'direct' policies, which aim to achieve improvements in selected socioeconomic outcomes for the target group—what we term here as 'affirmative action' in a loose sense;
- 'indirect' policies, which seek to make similar improvements, but through indirect means, such as regional development in areas where ethnic groups are geographically concentrated; and
- 'integrationist' policies, which do not target HIs at all, but rather are aimed at reducing the political and

social *salience* of ethnicity, thus allowing for greater social mobility of members of the disadvantaged group.

This *In Brief* deals with 'direct' policies, or affirmative action. It does not focus extensively on anti-discrimination legislation, which is a separate issue. The evidence reviewed here suggests that 'direct' approaches, or AA, have great potential for achieving a relatively rapid significant decrease in HIs. In addition, they have proved to be the most controversial politically in virtually every location where they have been implemented, from developed countries such as the United States (US) to middle-income countries such as Brazil to developing countries such as Malaysia in the 1970s and South Africa today.

Effective implementation of AA policies requires the cultivation of a political consensus that such policies are acceptable, the setting of achievable time-delimited targets, and transparent implementation. Moreover, AA should be treated as part of a broader agenda towards promoting inclusiveness and non-discrimination in all areas of social life.

### Types of policy measures

Direct policies to reduce HIs encompass myriad measures aimed at increasing the performance or representation of targeted groups in particular fields, such as education, employment or equity ownership. A wide range of specific policy measures have been applied in different contexts, but they can be categorised into three broad types:

- Quotas, or 'reservations' as they are termed in India, for marginalised groups. Quotas have been used extensively in tertiary education, including in the well-known cases of India and Malaysia, as well as in Malawi. In Brazil and New Zealand, specific universities have implemented AA quotas. Public sector employment quotas are also used in India and Malaysia and form the basis of the Federal Character Commission in Nigeria. In the United Kingdom (UK), the new Police Service of Northern Ireland has a 50:50 recruitment quota for Catholics and non-Catholics.
- 'Points-based' preferential treatment. Rather than explicit quotas, alternative AA policies provide preferential treatment for particular groups based on some kind of points system. In the US, some universities have awarded extra 'points' for admissions on the basis of racial background, but this was deemed unconstitutional by the Supreme Court. Other forms of selection preference for marginalised groups are utilised in many contexts, however. In South Africa, the Preferential Procurement Policy Framework provides for preferential points for companies complying well with AA in

government procurement; similar policies, although less transparent, are used in government procurement in Malaysia.

- **Programmatic affirmative action.** Specific development programmes aimed at including or increasing minorities and marginalised groups in particular fields are also common, although not usually included within the rubric of AA. Microcredit and other microfinance schemes, including the well-known example of the Grameen Bank, have often been employed to promote gender equality, but have been less widely used to address ethnic exclusion, except in Bosnia–Herzegovina, where a number of microcredit schemes attempt to address ethnic imbalances. The Asian Development Bank has also identified ethnic minorities as important target groups in its Microfinance Development Strategy. Another programmatic area where AA policies have been implemented is housing. In Malaysia, Bumiputera purchasers are entitled to discount mortgages on new properties, as are Ethiopian-origin Jews in Israel.

## Effectiveness of AA policies

Evidence suggests that direct policies can be very effective in reducing inequalities, particularly where quotas are used. Within 10 years of its implementation, for instance, the New Economic Policy (NEP) in Malaysia was producing proportionately equal numbers of Bumiputera and non-Bumiputera graduates in a context of rapidly expanding tertiary provision (more broadly) that saw an increasing proportion of all groups attending university.

In Northern Ireland, the police recruitment quotas have seen the proportion of officers from a Catholic background increase from 8.3 per cent under the old Royal Ulster Constabulary to 27 per cent by 2010 under the new service.

A caveat must be added here, however: raw aggregate figures do not always tell the whole story. In Malaysia, Bumiputera are widely thought to be concentrated in the relatively 'easy' (and economically less productive) arts stream rather than in the sphere of professional degrees, such as law and medicine. Similarly, in New Zealand, the drop-out rate of Maori students admitted through the AA programme in Auckland Medical School is much higher than for non-AA students.

In evaluating the success of such programmes, however, it is important to present a reasonable counterfactual: the success of AA should be measured against the reality of often highly discriminatory social and economic systems, as well as against idealised notions of social equity.

There are four broad issues that impact on the success of AA. There is clear evidence that each of these is a genuine concern—although they are often exaggerated by opponents of AA—but careful policy design and implementation can overcome or at least mitigate them:

- **The 'creamy layer' problem.** Critics of AA policies in many countries, including India, Malaysia and South Africa, contend that such policies simply create a 'creamy layer' at the top of disadvantaged groups and that their benefits do not percolate down to the poorest individuals and families within these groups, thus



Demonstrating in support of affirmative action for university admissions outside the US Supreme Court in 2003.

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**Table 1** Examples of experience of AA policies

	United States	Malaysia	South Africa	India	Others
<b>Education</b>	Varies by state; race allowed as a 'plus' factor in admissions decisions, through specific quotas ruled unconstitutional.	Explicit quota with 55 per cent of places in public universities reserved for Bumiputera; loosened in 2002.	No quotas, although the end of Apartheid has broadened educational opportunities for Blacks.	University 'reservations' for Scheduled Tribes (STs) and Other Backward Classes (OBCs) (defined at the state rather than the federal level); since 2008, the 'creamy layer' has been excluded from this form of access.	Malawi had regional quotas between 1988 and 1993; the current president wishes to reintroduce them. In Brazil, some universities implement racial quotas, although there is no legislative framework and legal challenges are under way. New Zealand has preferential university access for Maoris.
<b>Employment</b>	Between the 1950s and the 1970s, Presidents John F. Kennedy, Lyndon B. Johnson and Richard M. Nixon passed orders to ensure that employment in federal agencies was free of racial bias.	Industrial Coordination Act (1975) makes issuances of manufacturing licenses conditional on Bumiputera employment quotas; government procurement contracts have similar regulations.	Employment Equity Act of 1998 required employers to conduct an equity audit and to implement a timed scheme to remove racial and gender barriers; companies can be fined for non-compliance. The Broad-Based Black Economic Empowerment Act of 2003 introduced a score-card system, which affects government procurement, licensing, and public-private partnership.	Employment reservations for STs and OBCs in public sector employment; since 2008, the 'creamy layer' has been excluded from reservations.	Namibia has BEE regulations similar to South Africa. In Canada, four 'designated groups', including aboriginal groups and 'visible minorities' enjoy preferential treatment with regard to employment in federally regulated industries. Public services in Northern Ireland recruit equal numbers of Catholics and non-Catholics.
<b>Equity ownership</b>	None.	Reserved equity for Bumiputera in all new public share offers; government agencies buy stock 'in trust' for Bumiputera.	Target of 25 per cent of shares plus one in companies; compliance brings access to preferential treatment in relation to license applications, for example.	None.	–

generating a problem of internal inequality within groups. In India, a 2008 Supreme Court ruling sought to combat the creamy layer problem by excluding the children of wealthy families (those with income above a certain level or with professional backgrounds) from access to employment and education reservations. There is some evidence that this issue of the distribution of the benefits of AA policy is particularly problematic for equity ownership policies; in both South Africa and Malaysia, a coterie of politically-linked Black and Malay entrepreneurs have emerged with strong connections to the dominant political parties

that appear to have gained disproportionately from AA policies. These problems, however, may have more to do with the political context of the policies than the policies themselves—both countries are de facto one-party states with the African National Congress (ANC) and United Malays National Organisation (UMNO) respectively dominating government. Transparent policy implementation may address this. In Malaysia, for instance, the demands of the NEP are often invoked to defend closed tender of major public investment projects, but there is no ex ante reason why such tendering processes could not be open. As the Indian



case suggests, as well as the US doctrine of 'strict scrutiny', court oversight of AA policies can also help to mitigate this problem.

■ **Inflationary expectations.** There is strong evidence that, once implemented, direct AA policies are politically very difficult to roll back and, indeed, there is frequently pressure to widen their scope to include other groups or increase quotas. In India, the groups entitled to access to quotas under the rubric of 'Other Backward Classes' (OBCs) has expanded considerably over time; in South Africa, ethnic Chinese were recently reclassified as 'Black' in order to gain access to affirmative action. In Malaysia, there are demands for the extension of NEP-style policies to ethnic Indians and special treatment of non-Malay indigenous groups that, while nominally already classified as Bumiputera, often complain that they do not enjoy the full benefits in practice. Contemporary efforts to roll back AA in Malaysia have generated a Malay backlash, with some groups demanding increased quotas. In Northern Ireland, there are already political demands to extend the employment quota in the Police Service beyond its original completion date of 2011. Careful management of expectations and realistic targeting may help to ameliorate such pressures; in Malaysia, the NEP was originally scheduled to run for only 20 years, from 1970–90, but its targets were highly ambitious and many have still not been met.

■ **Failure to combat discrimination.** While direct AA policies can be effective in targeting inequalities in education and public sector employment, they appear to be less successful in combating labour market discrimination in the private sector. In South Africa and Malaysia, wage gaps for Blacks and Malays remain significant in the private sector, even after holding for educational attainment. Economic returns to education are also lower among Muslims as compared to Hindus in India, despite their inclusion in AA policies. This suggests that AA policies are best thought of as part of a broader strategy to improve the position of poorer groups.

■ **Ethnic entrenchment.** This criticism suggests that, even if it is effective from an economic perspective,

direct AA is still counter-productive because it results in negative social externalities through the 'entrenchment' of ethnicity. In fact, it is important to note two subtle variations of this argument. The first, which emerged in the US, claims that AA perpetuates racial stereotypes and stigmatises members of the target group (that is, Black-Americans) as less deserving of their success—a view even supported by some prominent Black-Americans, such as former Supreme Court Judge Clarence Thomas, who said that AA programmes 'stamp minorities with a badge of inferiority'. It seems plausible, therefore, that this is likely to be the response of some members of the non-disadvantaged group in other contexts. But a more positive counter-effect is also likely. The 'contact hypothesis' asserts that good inter-group relations are affected by the frequency of inter-group interaction *as equals*; by bringing more members of the disadvantaged group into the middle classes, it could thus be asserted that AA increases such positive interactions and will thereby contribute to better inter-group relations in the long run. What is remarkable about this debate is that, despite the vehemence of the arguments marshalled on both sides, little solid empirical research has been undertaken in the US or elsewhere to ascertain the *extent* of these reactions and whether or not any positive impacts of increased interaction-as-equals outweigh any negative impacts of stigmatisation. The second variant of the sociological objections to AA assert that such policies entrench *ethnicity itself* as the predominant frame for political action. In the extreme case, for instance, it is sometimes claimed that the implementation of policies to improve the position of ethnic Sinhalese in Sri Lanka played a part in the emergence of Tamil separatism. In Malaysia, critics suggest that the NEP has contributed to the perpetuation of 'racialised' politics in the country. Such arguments appear to have some empirical validity, although, debatably, they also often omit to consider the fact that these countries were *already* highly 'ethnicised' or 'racialised'. Again, though, there is also an amazing dearth of systematic case study or comparative research.

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