1. Affirmative action and trans-global study

Exploring affirmative action

Affirmative action refers to programs designed and implemented to address the socio-economic and political situations of those considered historically 'disadvantaged'. However, the questions, 'Who constitutes the disadvantaged?' and, 'What type of preferential programs are appropriate?' can be contentious because the term 'disadvantaged' can be defined in different ways in different situations by different people; and often, certain definitions may favour certain groups ahead of others.

Affirmative action policies range from 'strong' approaches based on highly institutionalized quota-based and sanction-driven policies imposed by the state to 'soft' approaches based on very informal and voluntary systems. The most common preferential policies relate to special political representation, improved educational opportunities, provision for employment and access to means of economic advancement for social groups which may be identified as disadvantaged on the basis of gender, class, caste, ethnicity or physical disability (Kellough 2006; Lipson 2006; Sterba 2009). The role of the government is important in the identification, categorization and prioritization of designated groups as well as in the conceptualization, planning and implementation of affirmative action programs (Sowell 2005). However, it should be noted that in some cases affirmative action can also be a result of voluntary decisions by corporations, civil society organizations, educational institutions and other relevant groups to provide assistance to those considered to be in need of preferential treatment given their marginalized position.

The discourse on affirmative action spans a number of disciplinary boundaries, with scholars emphasizing different aspects of preferential programs. Those taking the legalistic approach often focus on preferential legislation and disputes over the legality of quotas in education and the labour market, as well as the deeper issues of equity and justice (Girardeau 2000). Economic arguments are concerned with the issue of the re-distribution of public resources and often raise questions about the relationship between affirmative action and economic growth and the potential of affirmative action to undermine growth or to feed on it (Chand 2007). In recent years the psychological aspect has been considered a significant area of study because of the way in which preferential treatment defines in-group and intergroup perceptions and behavioural dispositions and

how this shapes relationships within or between communities (Bobo 1998; Skitka and Crosby 2003). Political scientists tend to focus on the power dynamics of preferential policies relating to political governance and the policy-making process and how affirmative action is used to serve political interests (Neblo 2008; 2009). The sociological perspective tends to provide a broad approach and tends to focus on the relationship between affirmative action and the labour market, ethnic relations, conflict, culture, power and equality (Choo and Feree 2010; Jain, Sloane, and Horwitz 2003). Increasingly the study of affirmative action transcends disciplinary boundaries because of its multidimensional nature. Similarly, this book takes an interdisciplinary approach.

The justifications used to support affirmative action are specific to local contexts and might include correcting historical wrongs and providing compensation, as in the US (Pincus 2003), South Africa (Horwitz 2009), Canada (Agocs 2009) and Namibia (Usiku 2009); addressing inequality, as in Malaysia (Gomez 2009; Gomez and Jomo 1999), Brazil (Bernardino-Costa 2010), Northern Ireland (Harvey 2010) and India (Parikh 2010); or resolving ethnic conflict, as in Fiji (Ratuva 2010). Some countries use either one or a combination of two or three justifications, depending on context. Often, affirmative action is associated with the moral virtues of equity and justice as well as a pragmatic need to contain tension and maintain stability. The assumption is that addressing historical wrongs and injustices helps to redress grievances and resolve long-standing ethnic conflict and this may lead to social transformation and progress (Kende 2009).

The affirmative action debate

The preferential treatment of one group over another has raised a number of moral and philosophical questions, which continue to be contentious. While there is a consensus that affirmative action should, fundamentally, be based on the principles of justice and equality, controversy begins when the rights of a group are seen to be undermined while the disadvantaged situation of another group is being addressed.

From another perspective, affirmative action is considered by some as a form of "reverse discrimination" on the grounds that "if arbitrary discrimination has occurred because morally irrelevant characteristics of persons – such as sex, religion or race – have been taken into account to treat them differently, it would not be permissible to take into account the same characteristics in order to compensate them for the initial act of discrimination" (Faundez 1994: 4). In other words, reverse discrimination occurs when ethnicity (for instance) is used as the basis for affirmative action just because previous acts of discrimination that are being compensated for were based on ethnicity. Under this logic, one may argue that even if affirmative action is compensatory it is still unjustified

because it embodies hallmarks of reverse discrimination. The counter-argument is that since affirmative action involves redressing past wrongs and compensation for them as a way of contributing to good relations and future stability, it should not be seen as a form of discrimination at all (Pincus 2003).

Another contentious issue relates to the question of whether affirmative action should be associated with group or individual rights. An argument against group rights is that affirmative action is justified only as a remedy for individuals who have suffered discrimination. On the other hand, it can also be argued that the need of individuals for redress is because they are part of a group that suffered discrimination and, hence, the best solution is for the entire group to be compensated. This idea is linked to the notion of distributive justice, premised on the utilitarian notion of the provision of the greatest good for the greatest number of people. Thus, providing opportunity for the disadvantaged, in particular the poorer sections of a community, is considered a morally justified way of serving the entire community. In this context, affirmative action is seen as essential in fostering greater equality, reducing tension and enhancing social and national integration.

Affirmative action based on ethnicity is often subject to emotional reaction because of the complex, and often nebulous, way ethnicity is linked to political and ideological interests. Because of its links with culture and identity, ethnicity is deeply embedded within a group's collective consciousness. People tend to mobilize and politicize ethnic group consciousness readily, even to the extent of invoking extreme violence if they feel protective of their identity or feel insecure as a group. Ethnicity as a mode of stratification is more pronounced in some countries than others and, because of ethnicity's sensitive and potentially flammable nature, some states are sensitive to reaction when designing affirmative action policies around ethnicity (Stanley 2009). To avoid such reactions, it has been suggested policy should move away from affirmative action towards alternative approaches such as labour market "diversity", which involves the deliberate creation of a multi-cultural and multi-skilled workforce without the use of targeted quotas (Thomas 1990).

Quotas in education and employment are intended to ensure access to higher education and employment opportunities for groups which, historically, have been disadvantaged and which have thus lacked social mobility. Critics of quotas often argue that quotas victimise deserving people in the non-designated groups on the basis of their ethnic category and not on the basis of merit and there have been legal challenges to educational quotas in the US and in India. Nevertheless, as international studies have shown, there is still a recognition in some parts of the world that preferential policies in education and employment play a vital role as mechanisms of social levelling in order to create equal opportunities. (Zhou and Maxwell 2009).

Affirmative action can also be used as a political and ideological tool by the state to appease ethnic minority groups or assimilate them into a dominant culture (Katznelson 2005). The mere practice of affirmative action can be a powerful ideologically symbolic exercise to project the image of proactive policy for social justice and national integration. However, this can be misleading because, as Wise (2005) points out, in the case of the US, behind the veneer of justice and equality at the rhetorical level, there are still layers of denial that hide institutionalized racism in everyday life. There is a perception that, despite affirmative action in the US, black and white middle classes, although inextricably linked, still exist entirely on different economic planes and that the achievement of equality is an immense challenge.

Sometimes, minorities which feel oppressed take the initiative to engage in direct ethnic bargaining and political negotiations for special programs, and even autonomy and secession, rather than wait for the state to take the initiative. Some prominent past cases included Sudeten Germans in interwar Czechoslovakia; Slovaks and Moravians in post-communist Czechoslovakia; Hungarians in Romania, Slovakia, and Vojvodina; and Albanians in Kosovo (Jenne 2006).

Affirmative action based on ethnicity is fraught with multiple challenges especially in relation to social issues of inequality, human rights, inclusiveness, citizenship and group recognition. Such challenges are even more pronounced in developing countries, where the policy development capacity of state institutions may not be as well developed as it is in developed countries, and where structural inequality is stark and firmly embedded. The governance process and the role of political elites are determining factors in the policy making and implementation process because even if affirmative action programs are ethically and philosophically sound they can still be subject to political manipulation to serve the interests of a selected few.

Because of its multidimensional nature, debates on affirmative action can contribute to national discussions on broader issues of ethics, merit, redistribution of resources and power in society. Attempts to undermine the legitimacy of affirmative action through court challenges and political action take place at the same time as attempts to justify and promote it. For instance, Kende (2009) observes that resistance to affirmative action in the US has shaped ethnic relations and perceptions of the state as well as inter-group perception in significant ways. This is indeed the case in Fiji, Malaysia and South Africa, as this book demonstrates. The continuing debate on affirmative action in many countries is indicative of their complex history, which has given rise to a range of antagonistic groups and discourses clamouring for political advantage and policy influence (Bowser 2007).

Contextualising the trans-global approach

This book is a trans-global study of affirmative action in post-colonial multi-ethnic states and focuses on the interplay between ethnic politics and preferential programs in Fiji, Malaysia and South Africa. These countries have been chosen because they provide the most prominent examples of affirmative action based on ethnicity in post-colonial Africa, South East Asia and Oceania.

The term 'trans-global' is used in the book instead of 'comparative' because the latter is often associated with the use of 'ideal' variables to determine the similarities and differences between two or more countries. As such, it tends to be quite mechanical, through an over emphasis on the primacy of comparative methodology over in-depth analysis of unique experiences of the case studies (Lijphart 1971). This book is not aimed at comparing and contrasting the three case studies but is an attempt to highlight their unique characteristics and experiences, including the lessons they have learnt from each other. These unique experiences, often lost in comparative studies, need to be understood and appreciated in their own specific historical and cultural contexts. In providing an alternative approach to comparative study, this trans-global approach highlights the specific realities of individual case studies across the globe and examines their links rather than simply focusing on appearances of generalized similarities and differences. In short, the unique experiences of countries and the global links between these individual experiences are central to the trans-global approach. This approach is important in the light of the cross-border transfer of ideas, experiences and models associated with affirmative action and development generally. Affirmative action has become trans-global in nature, with countries 'borrowing' policies and models they deem to be appropriate to their own situation from other countries. Fascinated with Malaysia's affirmative action programs, both Fiji and South Africa borrowed, modified and implemented aspects of Malaysian affirmative action they believed to be appropriate to their local requirements, with sometimes similar and sometimes different consequences.

It is not often that a trans-global study between small Pacific island states (SPIS) and bigger states in Asia and Africa is carried out. This is probably because of the assumption that SPIS are too insignificant in size and influence to be appropriate for trans-global study with bigger and more prominent countries. Reinforcing this line of thinking is the tendency to depict SPIS as marginal and vulnerable entities whose future as sustainable and viable states is questionable (Santos-Paulino, McGillivray and Naude 2010).

This study negates that view and emphasises that no matter how small or how big countries are, they all have unique histories and experiences, which deserve attention. Many post-colonial societies have unique features, as well as

shared experiences that were shaped by their own colonial and post-colonial histories and which must be given serious consideration in their own right. The SPIS's borrowing and localization of global ideas and institutions, as well as their contribution to shaping global cultures, make trans-global study of SPIS important (Lamour 2005).

The book critically examines the three case studies in terms of their unique historical, cultural, political and economic dynamics and draws together a number of common threads to enable us to understand affirmative action in other countries in a more informed manner. The countries in the case studies have all experienced ethnic inequality and tension although there are significant differences in how that inequality and tension has been manifested.

Fiji's colonial history was characterized by ethnic demarcation, which continued to some degree after independence. Ethnic tension led to political instability, which contributed to coups on six occasions. Similarly, Malaysia's colonial history created the conditions for ethnic demarcation and tension, which culminated in ethnic violence in 1969. In both Fiji and Malaysia, post-colonial politics revolved around negotiating political balance and concessions through affirmative action. In contrast, South Africa had a highly repressive apartheid state and an extremely unequal economic structure controlled by a white minority. Political power shifted to the black majority following the 1994 election and ever since there has been a concerted effort to provide greater economic and educational opportunities for blacks through affirmative action. While there was ethnic segregation in Fiji and Malaysia, it was not as rigid and coercive as South Africa's apartheid system. Besides, there was still space for inter-ethnic political cooperation in the two countries, unlike in South Africa, where the majority blacks were denied basic rights for a long time. The three countries have had their share of ethno-political violence in the form of coups in Fiji, ethnic riots in Malaysia and various forms of community-based and state-sponsored violence in South Africa.

Another shared characteristic of the three countries is that affirmative action is considered a major social engineering undertaking, rather than just a policy prescription, to restructure society as a way of addressing what Stewart, Brown and Langer (2007) refer to as ''horizontal inequality'', or the differences between ethno-cultural groups. This entails engineering a new middle class and new patterns of ownership and power relations, with the hope of creating a more equitable, just and stable society. One of the latent effects of the economic advancement and empowerment of the indigenous middle class, as we will see in the three case studies, is an increase in inequality within the designated community.

Another feature common to all three societies studied here is the role of elites who use their strategic position both as ethnic leaders, as well as state elites, in accessing state resources in the name of affirmative action for their communities. Associated with this is the formation of networks of patronage, consisting of political elites, state bureaucrats and businessmen who stand to gain from affirmative action. It is common practice in the three case studies to use affirmative action as a payoff for political loyalty. The distribution of affirmative action resources through the patronage system and the focus on creating an indigenous middle class contributes directly to intra-communal inequality.

Affirmative action in the three countries is justified by ideological notions such as "paramountcy of Fijian interest" in Fiji, Malay "special privilege" in Malaysia and "black empowerment" in South Africa. These ideological constructs not only identify the designated ethnic categories, they also give affirmative action a sense of possessing a political imperative and primordial destiny, often associated with the notion of divine right. Public articulation and wide acceptance of these ideological notions and implementation of affirmative action programs are relatively easily achieved in the three countries because the designated groups are demographically and politically dominant.

The case studies also show the constant tension and accommodation between neoliberal development policies and preferential programs. While affirmative action is seen by neoliberal policy thinkers as a distortion of economic development, there is also a belief that it should be targeted at poverty eradication across ethnic groups. The compromise between neoliberal policies and preferential programs is best represented in the effort to create an indigenous middle class. Privatized state assets often end up in the hands of state-aligned elites and the middle class.

While affirmative action has helped lessen inequality, it has not removed ethnic tension as initially envisaged. The ultimate question is whether affirmative action has led to a fairer, more just and peaceful society or whether it has simply worsened the existing situation. The book takes the view that the answer is a mixed one and reflects the complexity of the situation, rather than one which is simply positive or negative.

The book centres on Fiji, while Malaysia and South Africa provide the trans-global cases. The Fiji section consists of six chapters (Chapters 2 to 7). Chapter 2 examines the pro-indigenous affirmative action programs during the British colonial period. Most were rural focused and were meant to introduce indigenous Fijians into the cash economy but within the ambit of communal life under the native regulations. Indigenous Fijians were locked into a communal social order under rigid colonial laws that prevented them from full participation

in the mainstream economy and education. This later bred ethno-nationalist grievances when indigenous Fijians realised that they were lagging behind other ethnic groups in commerce, education and professional employment.

Chapter 3 contains a discussion of the pro-indigenous policies of Ratu Sir Kamisese Mara's Alliance Party after independence in 1970. These were no different from the colonial rural development strategy, except for the differences in scale and diversity. Some of the development projects worked and some did not. Many major agricultural projects failed, but the most successful project was the special educational scholarships for indigenous Fijians.

Chapter 4 looks at the political dynamics associated with the 1987 coup, including political and constitutional transformations. It argues that the 1987 coup was in fact a form of "political" affirmative action. It looks at how affirmative action was constitutionalized (both by the 1990 and 1997 Constitutions) and at the use of decrees to drive affirmative action policies which led to the Fijianization of the civil service and other areas of Fiji society. It also discusses some of the policies meant to enhance indigenous Fijian participation in the corporate sector as a way of consolidating an indigenous middle class.

Chapter 5 examines in detail the mandates and activities of institutions tasked with carrying out the state's affirmative action programs. This includes the Fiji Development Board, National Bank of Fiji, Fijian Holdings Ltd, Native Land Trust Board and others. It discusses the failure of these institutions to deliver as a result of lack of capacity, corruption and political incompetence and patronage.

Chapter 6 deals with the affirmative action programs from 1999 after Mahendra Chaudhry became the first Indo-Fijian prime minister to 2006, when a further coup took place. It examines the differences between Chaudhry's appeasement strategy and Laisenia Qarase's social engineering approach after the 2000 coup, and how both approaches turned out to be disastrous for the two men's political career and for the country's political future.

Chapter 7 discusses the capture of state power by Commodore Bainimarama in 2006 and some of the contradictory tendencies of his indigenous development strategies. On the one hand he demonized affirmative action but on the other hand he reinvented it under the rubric of rural development in order to mobilize support and gain legitimacy amongst indigenous Fijians for the purpose of electoral gain.

Chapter 8 is a discussion of affirmative action in Malaysia, its origin, justification, implementation and results. Where possible, parallels with Fiji are made. Chapter 9 examines affirmative action in South Africa in the context of creating a new

social order after the collapse of apartheid. Chapter 10 draws together some of the commonalities between the three case studies and provides a discussion of some of the trans-global lessons learnt.