

# **N**EW ECONOMIC POLICY AND THE BIRTH OF MALAYSIA'S OWN INDUSTRIAL RELATIONS SYSTEM

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## *Abstract*

*This article explores the era of New Economic Policy (1971-1990) and its impact on the development of Malaysia's industrial relations system. It examines factors that influenced the direction of the system and discusses how the controversial master plan shaped and later established the present industrial relations system.*

## INTRODUCTION

The world system theory as proposed by Wallerstein (1980) and Hoogvelt (1997) suggests there is a dynamic upward or downward mobility of the role of the state in the economy. Malaysia experienced this global phenomenon following independence, with the federal government attempting moves to bring Malaysia out of its 'periphery' nation state by adopting the 'seizing the chance' strategy through its five-year plans. For economic and socio-political reasons, from 1957-70 the Malaysian government changed its voluntary industrial relations (IR) system to a compulsory one that marked the empowerment of the state. That period firmly established, through legislation and administration, the framework in which IR were to be played in the future. This article examines factors that influenced the state's roles in IR in the era of the New Economic Policy (NEP) (1971-1990). It shows how a fixation on achieving the objectives of NEP turned other policies including IR into complementary policies.

### The New Economic Policy and IR

The NEP was a continual but more explicit major plan that outlined a long-term target to achieve socio-economic goals. The state, represented by the federal government and its machinery, took drastic and calculated steps to distance Malaysia from the 'dependency' phenomena, and changed its industrialisation policy from Import Substitutions Industries (ISI) to Export Oriented Industrialisation (EOI). The foreign direct investment (FDI) became the means to bring Malaysia to another economic level. Meanwhile, the NEP was a direct result of a racial riot. A mixture of the two saw Malaysia as a corporatist state, authoritarian, as well as flirting with economic

liberalisation. In the 1970s, the government encouraged active participation from workers in the economy, while at the same time adopting restrictive legislation, and turning to privatisation and a higher industrialisation. In IR, the state remained dominant, putting achievement of NEP objectives as the highest priority. This approach nonetheless caused an imbalance of power between the state, capital and labour. Through legislation, administration, and its direct participation in policies in both the private as well as the public sector, the state adopted strategies that enabled the country to achieve 'national objectives' which it hoped would solve domestic problems that were more economically, politically and ethnically intertwined.

### The 'Malay Agenda'

The NEP worked within the framework of the First Outline Perspective Plan (OPP1), the long-term goal of Malaysia, which in this case ran concurrently with the NEP, from 1971-1990. The NEP was introduced and incorporated concurrently with the implementation of the Second Malaysia Plan (MP2) (1971-1975). During Mahathir's era, the government adopted many other 'complementary policies' such as Look East Policy with preference to in-house unions, Industrialisation, Privatisation and Malaysia Incorporated. All these policies have impacted on IR. However, the essence of NEP is a period of a calculated 'Malay Agenda'.

After the riot, the Deputy PM, Tun Razak took several steps to re-establish stability in the country. The parliamentary government was restored in February 1971 and a new policy was already laid. A government White Paper entitled *Towards National Unity* explains the government's intention to address the problems that were believed to be the cause of the 13<sup>th</sup> May 1969. Once introduced, the NEP became more important than the national ideology, the *Rukunegara*. It offered a comprehensive programme to achieve specific and quantifiable goals. Two pronged objectives, one; to eradicate poverty irrespective of race, and second; to restructure society so as to eliminate the identification of race with economic function were laid out.<sup>35</sup>

However, the most significant issue in the context of this study is that the NEP also became a period of planned 'Malay Agenda'. The second prong of NEP clearly referred to the betterment of Malays, with the argument that they are indigenous people who deserved special right, and therefore special attention. The 13<sup>th</sup> May gave a valid reason for the government to change course and legitimised the Malays position within the new national policy. By stating that the NEP was to achieve 'national unity' it gave the nation a new direction to move in and implied that 'national unity' was not there before the 13<sup>th</sup> May, and would not be attainable if the Malays were not happy with their economic position as compared to other ethnic groups, especially the Chinese. It

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<sup>35</sup> *Malaysia: Second Malaysia Plan, 1971-1975* (1971) outlines both the MP2 and the NEP. MTUC, CUEPACS and the Labour Minister's annual reports also gave extensive coverage on the policy. However, in the annual reports the Malay issues were not pronounced.

was a history-based argument that the Malays as the *Bumiputeras* (sons of the soil) deserved help to achieve their rightful place in the economy. The 13<sup>th</sup> May was said to be proof that as a result of a place denied to the Malays, a fact overlooked by the Tunku, the event turned out to be racial. This is despite other claims that stressed politics and psychological factors as also contributing to the conflict (Means, 1991). Nonetheless, starting with Tun Razak's administration, the government enhanced their efforts towards the betterment of the Malays' economic position.

The NEP facilitated greater *Bumiputera* participation in commercial enterprises with various measures taken to create the *Bumiputera* Industrial and Commercial Community (BCIC). This includes revitalising existing trust agencies like the *Majlis Amanah Rakyat* (MARA), the *Perbadanan Nasional* (PERNAS) and all the state agencies including the State Economic Development Corporations (SEDCs). Moreover, there were programmes to mobilise *Bumiputera* savings through schemes such as the *Amanah Saham Nasional* (ASN) and the *Permodalan Nasional Berhad* (PNB). Rural incomes and living standards, among issues raised as the causes of the 13<sup>th</sup> May riot, were also given due attention with the plan to modernise the agricultural sector. These were agencies like Federal Land Development Authority (FELDA), Federal Land Consolidation and Rehabilitation Authority (FELCRA), and the Regional Authorities (Lin, 1994).

The 1970s saw the expanding role of the government in the Malaysian economy where its intervention arose from the realisation that while the 'invisible hand' of market forces had enabled Malaysia to enjoy rapid economic growth, it could not be relied upon to achieve social and equity objectives, both of which were considered extremely important in the context of a delicately balanced multi-racial Malaysian society. Moves were made to ensure the Malays' privileged access into education, better paid jobs, professional bodies, top management positions and investments in 'more profitable' commercial and industrial enterprises in order to create a viable BCIC (Lin, 1994). In theory, 'ethnic monopolies in functional economic compartments would be ended and replaced by ethnically balanced and proportionately allocated advantages' (Means, 1991). In other words, behind the government's move to intervene more in the economy was an agenda to correct an economic imbalance between Malays/*Bumiputeras* with the non-Malays/non-*Bumiputeras* and the hope of achieving 'national unity'. In that process the government persuaded and sometimes coerced the labour class, into accepting and adapting to changes that they brought in and enforced in the name of 'national interest'. In 1975, Parliament passed the Industrial Co-ordination Act (ICA), which extended the NEP racial employment quota system to the private sector. The Act ensured that industry and commerce would employ 30 percent Malays and promote them in an appropriate sequence to supervisory and management positions. In 1970, 65% of the Malays were poor compared to 26% of the Chinese and 39% of the Indians (Chamhuri and Surtahman, 1994). The Malays' average income from 1957 to 1958 was RM144 as compared to RM272 and RM217 for the Chinese and Indians, respectively. It was with this background that the government felt the need to act. The

strategy was based on the assumption that the overall economic growth would remain sufficiently high for all sectors to be able to benefit from it. At the same time, the government would redistribute the wealth of the country according to the national program. Fortunately for the government, the economy was buoyant from 1970 to 1974, making it possible to manage political demands and ethnic rivalries. The economy did change in 1975 due to a world-wide recession, but it quickly made a recovery in 1976, allowing the government to make a few adjustments (Means, 1991).

Within the scope of the NEP, with the labour-intensive EOI and the related growth of services, an increased number of *Bumiputeras* did become engaged in wage labour themselves, opening up opportunities for them to be involved in trade. The fact that after the NEP there was an increased involvement of Malays in trade unionism, and other aspects of the modern economic sphere in Malaysia for that matter, in itself supported some views that the NEP was a success in helping them. They became more involved in the modern economy because there was a policy enabling and encouraging them to do so. Statistically, between 1969 and 1973, 98% of all persons recruited into the public service were Malays. Prior to the NEP, the quota for the elite Malayan Civil Service was 4:1, but that did not apply to the professional and technical services. After the NEP the quota system continued in the new and unified Malaysian Administrative and Diplomatic Service, in fact exceeding the formal quota of 4:1. The Malays were now given more chances to hold important policy-making superscale posts in the civil services and the military. From the educational aspect, the Malays were given higher quotas to enter universities or higher learning local and abroad, plus government stipends. The conversion of the Malay language as the sole medium of instruction helped more Malays to advance their higher education. As an example, between 1970 and 1979, the number of Malay students at the University of Malaya rose from 49.7% to 66.4%, respectively. After 1970 too, the quotas for admission were extended to specific fields and courses of study in which Malay representation had been low (Means, 1991). After five years, much helped by a real GDP growth rate of 7.1, which exceeded the target of 6.8% per annum, the NEP already showed some achievement on the overall incidence of poverty.

After 20 years, the unemployment rate, which was 7.5% in 1970, went down to 5.1%, and this is below expectations of 3.6%. The average monthly income per household in Peninsular Malaysia rose to RM1163 in 1990 from RM264 in 1970. The *Bumiputeras'* average income also rose to RM931 in 1990 from RM172. However, by comparison this was still below the average income of the other ethnic groups, the Chinese and the Indians. The incidence of poverty in the Peninsular dropped from 49.3% in 1970 to 15% in 1990 (Means, 1991), a rate that exceeded the expectations of 16.7%. The incidence of poverty in rural areas also decreased to 19.3% in 1990 compared to 58.7% in 1970. The expected rate was 23%. Among the less developed areas of the eastern and northern states where the majority population was Malays, there was an increase in the people's average monthly income. In Kelantan, for example,

there was a rise from RM269 in 1976 to RM726 in 1990. Another poor state, Trengganu, increased from RM339 to RM905. The poverty rate also decreased. The incidence in Kelantan dropped from 67.1% in 1976 to 29.9% in 1990. Kedah, a northern state in the Peninsular, dropped from 61% to 30% during the same period. The GDP per capita rate improved, rising from RM993 in 1970 to RM4392 in 1990 (Chamhuri and Surtahman, 1994).

### Industrial Relations Policy under NEP

With the introduction of NEP, the role of trade unions was re-phrased clearly:

The role of trade unions would have to be related as closely as possible to these national objectives (ARRTU, 1971).

Trade unions were urged to change, discard the 'bread and butter issues' or 'workers' versus management' role only. With that expectation from the government there were three sets of Regulations, namely the Essential (Trade Unions) Regulations 1969, the Essential (Trade Unions) Regulations 1970 and the Essential (Trade Unions) Regulations 1971, making certain amendments to the Trade Unions Ordinance 1959 (ARRTU, 1971). In 1971, there was the enactment of Trade Unions (Amendment) Act 1971 with several features concerning the removal of a temporary certificate of registration, power to the RTU to take action against branch of unions that indulged in illegal activities, rules against wild-cat strikes, disqualifying officers/employees of political parties and removal of provision to political funds (ARRTU, 1971). Amendments made to the IRA 1967 in 1969 also guaranteed that several new rules followed to 'ensure economic and social advancement, national unity and solidarity' (ARRTU, 1969). The essence of these provisions was to facilitate the smooth running of the NEP without unions creating problems, and also to keep unions apolitical. In 1971, the MTUC had 73 unions affiliated to it with a membership of 175,261, that is more than 65% of the total organised workers. CUEPACS, registered as the Federation of trade unions, had 60 affiliating unions but only 50,762 members, a little less than 19% (ARRTU, 1971). The Whitley Council was still suspended because of the 13<sup>th</sup> May 1969 and only *ad hoc* meetings to maintain liaisons between government employees' side (Staff Side) and the government (Officer Side) were held.

Indeed the government was still wary of communist-led trade unionism before the NEP era and adopted an attitude whereby it acknowledged trade unions as 'important institutions in modern society' but would not tolerate if they were abused. This view reflected the government's dislike of open conflict. In a way, this resembles a top-down management system and is in fact, in line with the 'elite accommodation system' that had started during Tunku's era and has been practised until today. This way

of resolving disputes among the multi-racial communities in Malaysia actually influenced other aspects of life in Malaysia too. Industrial disputes such as strikes and pickets were viewed as not the best ways, which should only be regarded as the last resort, after all else has failed and, in fact, were looked upon as unnecessary. Interviews revealed how the 13<sup>th</sup> May racial riot persuaded unions leaders to become more accommodative and co-operative towards government's policies, especially when it was stressed time and again that the ultimate goal is 'national unity'.

The relationship between Malaysian public service officers and the government is another important factor that ensured government's success in the implementation of their policies for the whole period of NEP. The public servants, on the other hand, considered the government as an employer that needed to be obeyed. Apart from IRA1967 and TUA1959, there was the General Order (GO) for the public sector that outlines the 'dos and don'ts'. The government officers regarded themselves as working for a democratic government elected by the people. Therefore, they did not differentiate between duties as civil servants or political demands made by the leaders in the government. In a way, obeying the government was a manner of showing they cared for the public interests. If they went against the government's wishes by going on strike, they were acting against the public, and therefore could be termed selfish and uncaring. The government on no uncertain terms called these acts irresponsible and a betrayal and since then has taken great pride in reporting years of declining strike activity as the proof of industrial harmony.

Admittedly, NEP needed support from Malaysians, without which the whole development programme would have come to naught. Without strikes or open conflicts, the government was more focused to providing facilities such as free trade zones (FTZs), suitable factory sites and an efficient immigration service. Therefore, it could not afford to accommodate independent and free trade unions.

Among the Malays, the reluctance towards strikes or open conflict is related to culture. The Malays' traditional and pre-colonial society reflected a class-based society; the *rakyat* (the ordinary people - the ruled) and the *pemerintah* (the rulers). Generally, to the ordinary *rakyat*, the rulers should be obeyed, not opposed (this does not mean there were no incidents to prove otherwise). The consequences were proven when the Malays got involved more in commercial economy, dominated the public service and the trade unions movement, and the open conflict subsequently declined and almost ceased in relevance.

In 1980, spurred on by the MAS-AEU dispute, the government's stand was put into action. Despite opposition from the MTUC and the ILO, the government again amended both the TUA1959 and the IRA1967. The impact was instantaneous. Now the public officers and any person employed by a statutory authority holding any post in the managerial or professional group or who was engaged in confidential or security capacity could not join or be a member of any trade union (MTUCAR, 1981/82). The definition of 'strike' was widened, to include the word 'reduction'. The Registrar, if

satisfied that a strike or a lock-out would contravene the TUA or any other law, could direct the trade union or employer not to commence the proposed strike or lock-out.

In the amendments to the IRA 1967 in 1980, there was a prohibition of strikes in essential services, to include private sector industries, such as banking. The Minister of Labour now has the power to suspend any trade union for a period of not exceeding six months if, in his opinion, the union is being used for:

‘purposes prejudicial to or incompatible with interests of Malaysia security or public order. During suspension, the certificates of registration of the union shall cease to have effect, it shall be prohibited from carrying out its normal activities and its fund shall be frozen’ (MTUCAR 1981/82).

There will be no appeal and non-compliance will be punished. The Registrar now at its discretion can disqualify a member of a trade union or federation executive from holding office, and he can also enter trade union premises if he has ground to believe that an offence under TUO has been committed. Section 2A of IRA 1967 states that the *Agong* (the King) shall appoint a Director General of Industrial Relations (DGIR), ‘who shall have the general direction, control, and supervision of all matters relating to IR’ (MTUCAR, 1981/82; IRA 1967). The MTUC already condemned this as ‘a political appointment rather than a career civil service one’ (MTUCAR, 1981/82). The amendment also stated that an employer may convey directly to his workmen in such manner as he may deem appropriate any information pertaining to any collective bargaining or trade disputes concerning them. Also, there was a restriction on workers not directly involved in the trade dispute and elected union officers from participating directly in picketing. Section 52 of IRA 1967 denied workmen in the statutory authority the provisions of the Act relating to the protection of the rights of workmen and employers and their trade unions (Part II); recognition and scope of representation (Part III); collective bargaining (IV); conciliation (V) and representation on dismissal (VI). On top of that, the government sent a draft of these amendments to the MTUC on 29<sup>th</sup> January 1980, for discussion at the tripartite body NJLAC on 4<sup>th</sup> February. The government then rejected all 183 counterproposals from the MTUC. What this implied was a top-down management and unilateral decisions with the government having the final decisions. It totally defeated the purpose of the tripartite body, the NJLAC.

The government insisted the system was tripartite and in 1972, the government encouraged a tripartite relationship, warning employers not to exploit labour and declared May 1<sup>st</sup> as Workers’ Day (ARRTU, 1972). The government amended the TUO to allow unions to venture into business, an opportunity that came with the NEP. In his speech to ILO’s 59<sup>th</sup> Conference in Geneva, the MTUC Secretary General spoke of a ‘very satisfactory’ relationship with the government and he was optimistic of economic ventures of NUPW, NUTP, among others, under the MTUC. In fact, the government helped labour established *Bank Buruh* (The Workers’ Bank), which was to cater for

workers' needs in business (MTUCAR, 1973/74). In the 1984/85 report the government said the trade unions were sought in preparing the Mid-Term Review of the MP4, and invited to contribute views and ideas to the formulation of the MP5 (MLAR, 1984/85). Even though it showed the government's effort to incorporate the unions into mainstream economic activities, from the MTUC point of view, however, it was a total failure (MTUCAR, 1983/84). Despite the calls for good work ethics, higher industrial productivity and the recognition of the common interests of the three important parties; the employees, employers and the government, the MTUC claimed there was apathy on the government's side and belligerency from the employers towards the workers' organisations. In 1990, the MTUC reported the failure and losses of labour movement in its venture into the economic sphere, including the *Bank Buruh* (MTUCAR, 1989/1990). MTUC now strongly advocated that the labour movement must refrain from economic ventures, except co-operative societies, and pay more attention to the workers' cause (MTUCAR, 1989/1990).

### Foreign Direct Investment at All Costs

Between 1975 and 1985, FDI in Malaysia was large compared to other countries (Table 1). So, while relatively dominant foreign investors were in Malaysia during the colonial period, they were even more welcomed after independence. This was especially true as Malaysia embarked on ISI when FDI was very much needed, thus causing the ISI sector to be dominated by foreign investment. Jesudason (1989) argued that capital-intensive ISI did not do much to overcome the income disparities of the Malays against the Chinese. The NEP became a hope for a change in direction after the racial riot of 1969, especially the ownership pattern was hoped to be restructured and to meet the 30% target for Malay ownership.

Table 1: The Stock of FDI as a percentage of GDP in 1975 and 1985 and External Debt as a Percentage of GDP in 1985

	FDI		
	1975	1985	1985
Malaysia	25	29	60
All less Developed Countries of Which;	6	9	45
-Africa	15	13	63
-Asia(including Malaysia)	5	6	30
-Latin America(and Caribbean)	9	14	62

Source: Edwards. 1994. 'The Role of Foreign Direct Investment'.

By 1976, the state had a share of at least 40% in each of the three largest domestic banks in Malaysia. By 1981, the Malays, through state enterprises, controlled 60% of the corporate shares in the mining and the plantations sector (Jesudason, 1989). By the 1980s, the public sector's trust agencies had completed the domination of primary (plantations and mining) sectors. This was about the same time when the government thought of changing its industrial strategy as well as adopting the Look East Policy (LEP) (both discussed below). However, during the recession in the mid 1980s, the net inflow of foreign investment dropped from RM3.0 billion 1981-83, to an average of RM 1.5 billion over the four years between 1984-87 (Edwards, 1994). It picked up again in 1988 to a total of RM1.9 billion, and from 1989 to 1990 the annual average FDI rose to over RM6.0 billion.

### Social and Political Factors

This article contends that Malaysia's social and political factors were also important issues that have influenced the direction of IR, but have not been fully probed by previous researchers. Socio-political factors refer to both political leadership and the political scene which were intertwined with social issues in influencing the development of Malaysian IR. No matter how different the personalities of the Malaysian leaders, they were united over national policies, especially during the implementation of the NEP. The Malaysian PM has always been the UMNO President (even though not stated in the Malaysian constitution) and the UMNO represents Malays. Therefore, even though these political leaders were representing Malaysians as a whole, individually they were the Malays' representatives, and the NEP, with pro-Malay policy, was also a political issue. Over time, the PM's authority has grown, especially during Mahathir's era, thus the PM has long replaced the position of Malay rulers, who have now become only symbols of unity. The UMNO President is chosen through a UMNO general election and he thereby became the President of the coalition *Barisan Nasional*. When the *Barisan Nasional* wins in the Malaysian general election, the President becomes the PM. Malaysians vote in general elections, at least every five years, and this democratic system has been in practice since 1955.

### Mahathir's leadership and his view on Labour

Mahathir has been described as authoritarian, but cannot actually be categorised in simple words as he has been full of paradoxes.<sup>36</sup> In 'The Malay Dilemma', written after the 13<sup>th</sup> May and banned, Mahathir showed his controversial tendencies and accepted that some of his ideas and thoughts might create 'despondency' or 'severe resentment'

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<sup>36</sup> Refer to Khoo (1995), who claimed that Mahathir is full of paradoxes. For example, as anxious as he was to secure the survival of the Malays, Mahathir seemed prepared to see the end of 'Malayness'. As a rebel in 1969, he asked for loyalty in 1988. He believes in history but is terrified by it.

(Mahathir, 1970) On trade unionism, he acknowledged trade unionism but despised industrial actions (Mahathir, 1970).

Mahathir was dedicated to pursue the NEP but with a difference in approach. The administration 'would be improved to achieve the policy goals with greater haste and less waste' (Means, 1991). Since Mahathir himself was a critic of the government, the general view was that he would pursue more liberal policies towards its critics and towards a more open political process on sensitive issues. However, in March 1981, the Parliament passed the Societies Act (Amendment) Bill 1981, giving the Registrar of Societies the power to de-register any group challenging 1) the government, 2) Islam or other religions, 3) the National Language, 4) the special position of the *Bumiputeras*, or 5) the legitimate interests of the country's other interests.

Mahathir wanted to break away from the image of the previous three Prime Ministers. Eventhough he was keen to continue the NEP, it was clear that after a year, he was set on policy adjustments. While fully supporting the NEP, Mahathir criticised its implementation and strategies. He brought in changes in style in the forms of the many policies that mirrored his insights on a number of national issues. As a start, as tensions mounted over certain issues that relate to both the Malaysian and British governments, Malaysia pursued a 'Buy British Last' policy (Means, 1991). Such issues between Mahathir and Britain actually started when Mahathir rejected an invitation to attend the Commonwealth Heads of Governments Meeting in Australia, accusing the Commonwealth of being ineffective, and complaining about Australian public comments over Malaysian racial issues (Means, 1991). This happened at the same time as a dispute over landing rights in London of the Malaysian Airlines System (MAS). The British government was seen as retaliating when it ended preferential trade benefits for Malaysia and increased students' fees for all Malaysians studying in that country. The Malaysian Government reacted by announcing the 'Buy British Last' policy. By the end of 1981, British goods were boycotted, requiring British firms to find ways to solve the issues. They pledged RM15 million to help Malaysian students studying in the country, but the boycott was only officially lifted in 1983. This was after talks between Mahathir and British Foreign Secretary where some concessions were given in the form of RM161 million by the British Government to help Malaysian students, and the transfer of Carcosa, the residence of British High Commissioner during colonial times, back to the Malaysian government (Means, 1991). In short Mahathir endeared himself towards Malaysians at this stage by being a firm leader; somebody who 'delivered'.

Regarding amendments to labour laws, in 1980, Mahathir, the then Deputy PM (Mahathir, 1980) said the government did not take away workers' rights but instead:

*...only enshrined them in a manner in which they cannot be even inadvertently exploited by their own leaders or international trade unionists masquerading*

*as their protectors.... We have thus strengthened 'worker democracy' in all possible places.*

As Deputy PM, Mahathir has shown his firm stand over labour matters, especially his resentment over interference from international labour bodies, such as the ITWF at the MAS-AEU dispute. After he became a PM in 1981, his policies became more dominant, and many policies become national policies.

Mahathir's era was known to be a period of assertion of executive power (Milne and Mauzy, 1999). The period 1981-1990 saw Mahathir tackle and win three 'contests for power'; crises with the *Agong* and Malay rulers in 1983; his opponents in UMNO in 1987; and the judiciary in 1987-88. Even though it did not have a direct implication for IR, it shows Mahathir's dominant and aggressive role in Malaysian politics and his firm stand in countering dissent. These crises demonstrate Mahathir's shrewdness in Malaysian politics, a trait that again emerged when dealing with other policies. It meant the end of separation of power and the growing executive authority, a point that at the same time explained the growing weakness of trade unionism in Malaysia and the direction of IR under his administration.

### Look East Policy: Encouraging In-house Unions

Mahathir wanted Malaysians to look to the East instead of the West; towards Japanese and South Korean work ethics, diligence and discipline in work, as well as loyalty to the nation and to the place of employment (Mahathir, 1983). In *The Malay Dilemma*, he criticised Malay backwardness and argued that it was the Malays' code of ethics and value systems that brought them down, making them unable to compete with the non-Malays. (Mahathir, 1970). It was then Mahathir's hope that the Japanese and Koreans would be role models for the Malays, while at the same time be the source of business skills and technological transfers.

Mahathir proposed two features which Malaysia needed to adopt in the LEP. First, was the concept of Malaysia Incorporated; encouraging business owners and employees in the public and private sector to work together. The second was to create companies based on the Japanese *sogo soshas* (the large trading companies)<sup>37</sup>. However, there was in fact a third feature which the government of Malaysia did not press hard for acceptance. This was the idea of 'in-house unions' or 'enterprise unions' or 'company unions' as described by some scholars, which was a prevalent phenomenon in Japan. Officially, it was not forcibly to be implemented and that was understandable.

From the government's point of view, it is entirely up to the workers themselves to get themselves organised. Therefore, the preference of in-house unions did not mean the government was encouraging the formation of unions. If it were made compulsory it would be giving out a confusing signal to workers, and employers and the government

never encouraged trade unionism to that extent. In the light of achieving economic objectives, such as the NEP, in-house unions or the existence of unions at all, could be detrimental to investors, especially the FDI. In fact, 'in-house unions' was not a new concept in Malaysia but had been there long before LEP. Moreover, employees of statutory authorities<sup>38</sup>, have long practised in-house unions, as seen in a clause in the TUA, section 27(3)(a) which says:

*no person employed by a statutory authority shall join or be a member of, or be accepted as a member by any trade union unless the membership of that trade union is confined exclusively to persons employed by that particular statutory authority.*

The difference of the restriction on statutory authority with what was implemented under the LEP was that, under the provision in the TUA, the restriction to 'in-house unions' was compulsory (Wu, 1995), and under the LEP it was not. This again differentiates the government attitude as employer, since statutory authority is considered part of the public service.

With the implementation of the LEP, the heavy investment of Japanese companies and their business practices would impede the self-sustaining development of countries like Malaysia. On the whole, Japanese firms were unlikely to provide the impetus for creating the kind of IR to sustain the work ethics attitudes that the policy sought to promote (Kua, 1983). Others perceived cultural problems, such as long office hours, in transferring some Japanese practices to Malaysia (Milne and Mauzy, 1999). Mahathir asked that efforts be made to increase work productivity through propaganda campaigns, company welfarism, in-house unions, harder work and greater loyalty to the company and management. Jomo argued that the Japanese achieved success in those areas because they had evolved along complex, culturally and historically rooted systems of material incentives (including guaranteed lifelong employment and seniority wage systems, which are not implemented in Malaysia). He warned that since Malaysia's LEP seemed cost free, with no extra expense to the company, it was only normal for it to bring no extra benefits to workers, in terms of work ethics, quality control circles and in-house unions.

The government argued that in-house unions would protect the interests of labour whereby it would develop more harmonious employer-employee relations. However, Chandra (1983) for example, stressed the flaws in the Japanese industrial practices that had negative implications for the workers. First, the practice of life-time employment in Japanese firms was confined to only 25% of the labour force, and they were in the larger firms. Second, even in large firms there was a lot of dismissal of workers who did not please management, for example female employees who got married and had children. Third, women workers were discriminated against and paid

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<sup>37</sup> To understand more about sogo soshas, read Chee and Gomez (1994) in Jomo, K.S. (eds). 1994. *Japan and Malaysian Development: In the Shadow of the Rising Sun*. London and New York. Routledge.

less. Fourth, in the small firms that employed the majority of Japanese workers, there were unsatisfactory elements in terms of wages and working conditions. The difference in the wages of large firms to those of the small ones was at least 100%. Other benefits such as company housing, and pensions were minimal. The last flaw was in health and safety measures, which were not given much attention.

The government insisted that the encouragement of in-house unions would produce leaders who would be much more aware of their companies' needs, thus facilitating improved productivity programmes. In actual fact, in-house unions would also be less able to compare the company's wages and other benefits with other employers (Jomo and Todd, 1994). In simple words, in-house unions would put the management in a better and higher position than workers. Mahathir believed that in-house unions were the underlying key factor behind the 'Japanese miracle'. However, research has revealed that its practicality even in Japan was 'a myth rather than reality' (Levine and Ohtsu, 1991). In fact, in Japan, the Japanese model consisted of the combination of three features; 'lifetime employment'; 'length-of-service wage and promotion'; and the 'enterprise union' (in-house). The Malaysian private sector has never practiced 'seniority system' or 'lifetime employment', which allow employees to be permanent employees, never in fear of layoff or dismissal.

In a way, it was a significant move when Mahathir encouraged at least in-house unions as compared to his earlier stand on trade unionism, when he perceived them as 'superfluous' (Mahathir, 1971). However, interviews revealed this policy was never made compulsory, in line with the government's stand that it is up to the workers to organise themselves. This shift of opinion was announced, the government was under pressure by the AFL-CIO. The organisation urged the US government to withdraw the GSP if Malaysia kept on resisting the unions in the electronics sector. Nonetheless, it shows that unions in Malaysia could benefit from affiliation to larger international bodies. The other factor was that Malaysia prided itself on being a democratic nation since its independence, which explained the comprehensive IR system available, even if restrictive. As the economy varied and grew, Malaysia ventured out of agriculture, and thus a good relationship with other countries, even Western countries that had become targets of Mahathir's grudges, was in fact important, prominent and needed. Furthermore, the permission for in-house unions did not mean independent unions, and therefore they were never a threat to the government.

The management benefited from the implementation of in-house unions over national or larger unions. The MEF foresaw as early as 1982, that in-house union leaders would be amenable during collective bargaining sessions (Aminuddin, 1996). The argument was that the bargaining process would be quicker, smoother and less contentious. The people involved would be those who had a *true* feeling for the well-being and expectations of both the company and its employees. Of course it also meant

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<sup>28</sup> "Statutory authority" means any authority or body established, appointed or constituted by any written law, and includes any local authority. See Trade Unions Act, Part 1 (2).

the union was working on its own as a smaller body against its own employer, instead of being represented by stronger national unions. However, one cannot generalise this as there were cases when some companies found that the process of collective bargaining was in fact more difficult when dealing with inexperienced and poor negotiating skills of in-house union leaders (Aminuddin, 1996).

Even without in-house unions, trade unionism in Malaysia was already weakened by several factors. Although the MTUC attacked the idea in the later period of its implementation, at the beginning it still held some hope that Japanisation would bring life-long employment and a seniority wage system, which were both absent in the private sector employment in Malaysia.

In October 1983, a claim for recognition of the National Union for Petroleum And Chemical Workers (NUPCW) was rejected by the RTU on the grounds that there was already an in-house union in place (Wad and Jomo, 1994). There were, however, hesitations on the part of the government to totally suppress national unions that had already existed. This suggests a less confrontational strategy by the government. It could be due to external forces, like condemnation from ILO or other international bodies, that might led to embarrassment and put Malaysia under economic constraints. Thus, there were cases when national unions succeeded in resisting attempts to displace them. A determined struggle by the Electrical Industry Workers' Unions (EIWU) to organise the largely female workforce saw the RTU rejecting an application by workers of ITT Transelectronics, a factory in the Penang FTZ, to register an in-house union (Wad and Jomo, 1994).

So, as seen in Table 2, there was the undeniable increase of in-house unions since their implementation. However, the figures also show that it is the public sector which now included the statutory authority that contributed the bigger number of in-house unions.

**Table 2: In-house unions in Malaysia, 1984-88**

	1984	1985	1986	1987	1988
Total	177	189	199	210	224
Percentage of total unions	49.3	51.2	52.5	51.3	54.5
Percentage of private sector unions	28.2	32.5	36.1	36.7	38.2
Percentage of statutory authority unions	94.8	95.1	95.1	95.1	96.6
Percentage of government service unions	45.8	47.2	47.6	47.2	46.7

Source: Arudsothy and Littler, 1993

In weighing up the government insistence on in-house unions, it should be recalled that this policy was part of the programme of the NEP, which saw the move from an ISI to an EOI strategy. That move, made the government more dependent on foreign investments

and thus emphasised the need for 'industrial peace' or fewer industrial disputes. In-house unions which are only attached to their companies were hoped to be answer to a more direct management-employee relationship.

### Industrialisation and IR

The linkages between industrialisation strategies and IR policy have been a subject of interest of several scholars, either earlier, in general (such as Kerr *et al.*, 1960) or more current on Southeast Asia (Kuruville & Venkaratnam 1996; Kuruville 1995; Kuruville & Arudsothy; Gall, 1998; and Sharma, 1996). Kuruville in particular rejected the logic put forward by Kerr *et al.* (1964), that industrialism would lead to a convergence of the IR system. However, industrialisation is still regarded as a central variable, besides political regimes and market forces, in explaining IR policies and the transformation in IR systems. In general, the industrialisation strategy is central importance in the development agenda of economies that pursued economic growth such as Malaysia. The changes and adjustments of industrialisation process in Malaysia could be divided into three major phases.

Phase I refers to the years immediately after Independence (when the Pioneer Ordinance of 1958 was introduced) up to 1968, during which the emphasis was on ISI that were mainly established to cater for the domestic market (Anuwar, 1991). Phase II refers to the period after 1968, when the Investment Incentives Act was introduced, up to 1980, when the EOI process was emphasised. There was the introduction of export-related incentives and the establishment of FTZs in a number of locations. The introduction of the ICA in 1975, became another instrument to achieve the NEP objectives with regard to *Bumiputera* equity participation and employment in the manufacturing sector. This phase saw the production of consumer durable, intermediate input, and capital goods (Anuwar, 1991). These products were produced in large quantities, thereby using more capital-intensive methods of production and needing an adequate supply of highly skilled manpower. There was a shift from labour-intensive manufacturing to more-capital and technology-intensive products, which included machinery, motor-vehicles, petrochemicals, and other resource-based industries.

Meanwhile, Phase III, which was the period after 1980 coincided with the implementation of the MP4 (1981-5), the formulation of the Industrial Master Plan (IMP) in 1986, and the introduction of the Promotion of Investments Act of 1986. This Act was seen as an important policy instrument to attract more FDI into the manufacturing sector. It was during Phase III that there was a change of leadership whereby Mahathir took over as the PM in 1981. Moreover, it was a period where more action-oriented and varied policies were embraced highlighting Mahathir's aggressive leadership style. In the context of the labour laws, 1980 had already shown amendments to TUA 1959 and IRA 1967 that empowered the state.

During the 1977-80 period the government encouraged investment incentives, infra-structural facilities and other benefits. This was the period when electronics and textile industries were specifically targeted, and the period when labour laws that might have discouraged foreign investment were relaxed or unenforced by the state to create a conducive environment for investors (Kuruville, 1995). Key industries and the export sector were protected against union activities, again for economic reasons. This time of transition from ISI to EOI marked the beginnings of massive foreign investment in the electronics sector by both the US and the Japanese. It also coincided with the implementation of LEP, as discussed above. In sum, this confirmed the contention in this chapter that NEP was ensured success by the implementation all the other complementary policies.

In 1980, the government launched a major heavy industries policy with the objective of accelerating industrial growth as well as increasing the Malay ownership under the NEP. The state's role now was directly involved in establishing large-scale, capital intensive ISI to provide industrial goods and consumer durables for the domestic market. It was also to support a range of private sector and consumer goods industries. In 1982 and 1985 there were two recessions that saw the draining of revenues caused by the heavy industries programmes. Malaysian external debt rose to unprecedented levels with foreign borrowing and poor performance from heavy industries investments. Losses in the venture exceeded US\$2.24 billion, and 37% of the public debt was the result of government-backed foreign loans. Because of this the government took some firm measures to counter the problems. Thus, promoting privatisation or many state-owned public sector industries cut public spending. At the same time, the government prioritised over economic objectives by replacing Malay managers in the declining state-owned heavy industries either with Japanese or private sector managers who were thought to be more professional. In a way it was an admission by the government that there was a limit in the pursuit of a 'Malay Agenda' in this period. If the economy was at stake, even the ethnic-based pro-Malay policy had to be stopped.

Where IR are concerned, some scholars classified the period from the 1950s until 1977 as 'restricted' or 'controlled pluralism'. Workers required some degree of fair and humane treatment but economic development goals ruled supreme over unfettered trade union rights. The three major labour laws; the EA1955, the TUO 1959 and the IRA1967 made sure that there was proper system in which IR should be run. The EA1955 legislated in detail fair conditions of work; there were restrictions on union registration process; and collective bargaining was restricted even though it became the primary form of resolving industrial problems. The MTUC, the central union body, was registered as a society not a trade union, to ensure the state had control of the growth and character of unions. This period saw the state continually protecting the FDI by making sure terms and conditions negotiated by unions were not more favourable than the provisions in the EA1955. Even though strikes were allowed, there were many restrictions on the process, making it difficult in order to discourage unions from doing

so. Under the IRA 1967, once the minister of labour had referred any disputes to an arbitration process, strikes were no longer permitted.

It was from the above background that Malaysia made its way from an agricultural- based economic to an industry based one, and especially in the manufacturing sector. It was a move from labour-intensive to capital-intensive production that was full of barriers, and which saw the responsibility for change being taken over by the state. It also took charge of labour legislation, and restricted the freedom of unions to organise and to bargain. This was to ensure that their move towards an industrialised country became a reality. A compliant labour force is a necessity for this drastic change, thus the state resort to a number of measures to ensure its economic objectives (under NEP) were met. Despite this, Kuruvilla claimed IR policy at this stage to be 'controlled pluralism', referring to the minimal state intervention in the administrative matters (Kuruvilla, 1995). However, even though it looked like the government intervened minimally by letting the IR system run on its own, the already repressive labour laws had been enforced. Thus, this study disputes Kuruvilla's view. Despite the government's insistence that the restrictions were in the 'national interest', the imbalance of power based on the laws and too many prerogatives for employers put workers at a loss. Therefore, the contention of this study is that during ISI, and more so during EOI, the Malaysian state did not practise pluralism, but more a repressive policy. This was especially true since as Malaysia adopted EOI, FDI became more prominent. Encouraging FDI meant keeping costs low so as to keep Malaysia's competitive edge and to sustain a cheap, and 'disciplined' labour force. If anything, the researcher prefers to categorise Malaysia under 'authoritarian corporatism', especially during the NEP era. To quote Park (1994), the term refers to the state's corporatist function, supported by a political monism that does not tolerate interest group democracy. It is a situation whereby the government assumes full authority to represent the collective interests of the parties, and usually suppresses independent representation of organised interests, particularly those of labour. 'The state seeks to create a system that will integrate the defeated working class, discipline it, and provide it with a sense of participation, despite its mostly symbolic value' (Park, 1994). It is best to explain the Malaysian case during NEP, since almost all the necessary tools and machinery of democratic practices were present, but curbed.

The preference towards the economy over labour was very apparent, even to the extent of amending the laws. There were exemptions made specifically to fit the demands of foreign electronics companies. For example, the EA 1955 forbade the employment of women between the hours of 10 P.M. and 5 A.M. but this restriction was lifted in 1969 (Rasiah, 1995) to suit women who formed 78.6 percent of the workforce in the electronics industry. An example of foreign company exemption from labour laws was in 1981, when INTEL Corporation was allowed to work its employees continuously for sixteen hours, against the EA 1955. In 1988, an amendment was made to the EA 1955 giving the DGIR power to allow employers to work their employees more than the

hours permitted by the Act. We can see that here it is clearly a case of giving a priority to a certain category of work, and giving the workers' rights least consideration.

In the case stated above, it was clear that in special circumstances, the government was ready to be flexible, therefore preferring employers over employees. It also shows that the government took a pragmatic approach towards the implementation of its IR policies to suit the situation at any one time, a clear emphasis on economic development. Again, it shows the wide discretionary power given to the DGIR in deciding matters that are actually better left clear of any grey areas. This disputed the claim made by the DGIR that he had 'no power' over IR matters in Malaysia.

Apart from the EOI as the prime reason for increased government intervention, the fact that the government was so deeply involved in heavy industries itself contributed to the move. As it was so immersed in the NEP in general, the government had a bigger role as a direct employer. On the administration side, the government ensured the smooth running of industrialisation process. The Minister of Labour, for example, was involved in trade union recognition claims (Table 3). From 1980 to 1986, his rate of rejection of claims for recognition increased as was the proportion of rejections to total rejections in manufacturing that had increased dramatically. Moreover, from 1980 to 1986, the minister rejected the greatest number of recognition claims in the labour-intensive, low-cost manufacturing areas of textiles and light electrical (Kuruvilla, 1995).

When a minister referred cases of trade disputes to the Industrial Court, that was the end of collective bargaining in the private sector. According to Kuruvilla (1995), the government was 'far more willing to refer disputes on his own initiatives for binding arbitration to the Industrial Court'.

Table 3: Union Recognition Claims in Malaysia, 1980-86

	1980	1981	1982	1983	1984	1985	1986
<b>all industries</b>							
Total claims	125	149	119	112	169	224	224
voluntary recognition	54	74	59	38	51	3	7
recognition accorded by minister	5	16	8	6	8	2	6
recognition rejected by minister (percent)	-	29 (19.4)	23 (19.3)	15 (13.3)	39 (23.0)	80 (35.7)	131 (58.4)
<b>manufacturing</b>							
Total claims		78	55	66	105	136	172
Voluntary recognition		44	26	25	30	26	20
recognition accorded by minister		4	5	5	5	1	2
recognition rejected by minister (percent)		12 (15.3)	13 (23.6)	7 (10.6)	26 (16.7)	62 (45.5)	98 (56.7)
rejections in manufacturing as percentage of total rejections		41.3	56.5	46.6	66.6	77.5	74.8

Source: Kuruvilla, 1995.

However, MEF claimed that it did not like to be referred to the Industrial Court, since the result would be 'leaning towards employees' (Interview: Shamsuddin Bardan, 1998). There were some 'arms twisting' methods used by the IRD that put fear into parties involved, thus '85% of cases were settled for this reason'. MEF felt that the government department was not objective enough to settle disputes and that included the Industrial Court, again citing that 85% of cases settled in the court were in favour of employees.

### Privatisation in 'Malaysia Incorporated'

The greater role of the private sector in the economy was emphasised in the MP5 (1986-1990) and there were guidelines on privatisation in 1985.<sup>39</sup> The dominant role of the state in the economy brought ideas like 'privatisation', which was an important step to be taken by the state in their choice to develop, and develop fast. In the 1980s, Malaysia's record in privatisation was reported as 'very impressive', by one international consultant and as 'among the world leaders in the realm of privatisation' (NST, 13/10/1989). It was indeed a calculated plan by the government as privatisation was encouraged more when the Malaysian economy was suffering from the effects of world depression,

<sup>39</sup> See Malaysia, 1985. 'Guidelines on privatisation'. Economic Planning Unit, Prime Minister's Department.

and especially when the prices of Malaysia's export commodities such as rubber, tin, palm oil and timber fell (Means, 1991). However, it was at the same time as when the government saw that its investments in *Bumiputera* corporations and trust agencies had risen (Rajendran, 1993; Means, 1991). By 1983, government investments which were mostly designed to promote *Bumiputera* participation in the economy had been channelled through 57 institutions, 115 statutory boards, and corporations that controlled or had joint-venture shares in 500 subsidiary companies (Means, 1991). Nevertheless, in 1982, the government's budget deficit had risen to RM10 billion, with a trade balance deficit of RM2.5 billion, as compared to RM5 billion surplus just two years before. That was one of the reasons that called for the government's drastic move into privatisation.

A study by Gouri (1991) revealed that one of the major challenges for privatisation in the Asian-Pacific economies was a politically acceptable balance between efficiency and equity (Gouri, 1991). Labour tends to stress equity, while emerging beneficiaries (consumers and would-be owners) tend to stress the efficiency aspect of privatisation. For labour, privatisation brought fears that related to loss of jobs (since privatisation also meant cost-effectiveness). It could also have meant loss of benefits already won, scope for re-hiring, loss of a hard-won union power and scope for unionisation. It was in this context that Malaysian unions representing workers in state enterprises earmarked for privatisation voiced their objections. The Malaysian government handled these issues using two key elements. The first was by giving public assurances that there would be job security and protection of current benefits. There was also the promise of opportunities to own shares in the newly privatised companies.

CUEPACS naturally made privatisation its top agenda in its 1983 convention (BT, 6/7/1983). As substantial numbers of its members would be affected, CUEPACS at this stage opposed privatisation (BT, 26/8/1983). It was worried about 'job insecurity, unfavourable wages and conditions of service'. It also opposed any form of privatisation 'of public services which have been traditionally the responsibility of government' (BT, 26/8/1983). CUEPACS wanted the government to study its effect first, especially when workers were denied of the benefits of pensions as now enjoyed by government servants (The Malay Mail, 5/8/1983). MTUC, on the other hand, took a more conciliatory stance. When Ahmad Nor, the CUEPACS President voiced the union's concern, MTUC President PP Narayanan said it welcomed privatisation, as long as 'Malaysians were made to understand the relevance of it and the ways in which it could improve the overall welfare of the people (BT, 12/4/1983). CUEPACS urged the government to be responsible for the 'privatised' governments' workers, then with the privatisation of the Telecommunications Department (Telekom). The PM, Mahathir Mohamad, ensured that employees would be taken care, with each given one or two years to choose either the government or the private scheme (NST, 20/12/1983). He insisted it was for mutual benefit of the employees, the private sector and the government, as 'the interests of the three parties are the interest of the nation' (NST, 20/12/1983). The argument was that

privatisation brought efficiency, and companies were motivated by profits, widening market that led to mass production, making prices cheaper. The National Union of the Telecoms Employees (NUTE) raised concerns over EPF, housing loans (only 4 % interest under government scheme), and the pension scheme (NST, 11/5/1984). Telekom, together with MAS and *Petronas* (the national oil-company), were among the first few that went into privatisation. By 1989, the move was into full gear with 22 government-owned concerns already privatised (ASWJ, 9/8/1989). The intention was that two years later there would be 246 government-owned enterprises privatised under the Privatisation Master Plan. There were already 81 companies established by the government to assist the *Bumiputeras*, divested to *Permodalan Nasional Berhad*, the national equity corporation charged with amassing corporate holdings on behalf of the designated citizens, or sold directly to *Bumiputera* individuals and concerns (ASWJ, 9/8/1989). In 1989, several earlier privatisation deals had already sparked widespread criticism, triggered by 'secret negotiations', the paucity of government disclosure and the granting of lucrative contracts to individuals and companies 'with close links to officials in the Mahathir's administration' and to UMNO (AWSJ, 9/8/1989). In other words, privatisation turned out to be another extension of the 'Malay Agenda' as contended earlier.

### Electronic Industry and the Case of HATWU

Since promoting EOI in the late 1960s and 1970s, and especially in the period 1987-92, Malaysia showed economic growth with an annual GDP exceeding 8 percent (IMF, 1994/95). However, the electronics industry, a significant contributor, was made a 'pioneer industry' and therefore, from the first arrival of foreign MNCs, the government denied trade unions' efforts to organise workers (IMF, 1994/95). The Pioneer Industry Ordinance (PIO) 1958, and later amendments to labour laws in 1967 and 1969 legalized the shift for female workers and further reduced workers' rights. This was part of the lucrative deal for MNCs in the opening of FTZs in 1972. American MNCs were the first to set up electronics factories in Malaysia. There was anti-union stand in US electronics, computers and component firms in companies such as Motorola, Seagate, Texas Instrument, Harris and Hewlett Packard in the US itself. The same stand was made by Malaysian companies, and the government, so much dependent on FDI, supported this move. The setback was that other Japanese and German electronics companies too, even though their parent nations recognised and permitted unions, rallied and sheltered behind the US-imposed non-union policy. Therefore, while electrical, textile and garment industries, for example, allowed unionisation in 1971 and 1978 respectively, the electronics workers in Malaysia were denied this right (IMF, 1994/95). This is one classic example of the abuse of power by private sector employers, which was encouraged by the government's own lenient policy towards them out of its dependence to FDI or MNCs. The discussion below emphasizes this argument further.

The EIWU and other IMF-affiliated unions tried to unionise the electronics workers from the early 1970s. In 1973, the RTU warned the EIWU not to unionise them, claiming that they were categorically different from 'electrical' firms. This decision was made despite the government bunching both industries together in most of its data classifications (e.g. exports, employment and output). From 1976 onwards, the International Metalworkers' Federation (IMF) championed the issue, together with the ILO, who began putting pressure on the Malaysian government. They failed to make any effective impact.

So it was surprising when the government announced in September 1988 that it would allow 85,000 electronics workers to form/or join unions, an unexpected but a much-awaited decision. It was, in fact, believed that efforts by AFL-CIO to get the US government to withdraw its GSP status from Malaysia that did the trick (IMF, 1994/95). The threat looked real to the government since the GSP was removed from the Asian NICs in February 1988. This shows that an outside/external factor has forced the government to backtrack in its decision. The reason this time was purely economic.

When the Labour Minister asked the MTUC to help set up the unions, the labour centre was more than happy to oblige, but a happiness that was short-lived. The American transnationals, especially the Malaysian American Electronics Industry (MAEI) members, opposed the government's move (IMF, 1994/95). The US government rejected AFL-CIO efforts, which was thought to be due to the American transnational companies' lobbying power in the then Bush government (IMF, 1994/95). Suddenly the government backtracked, and announced that it would permit the organisation only to in-house unions. Even this proved difficult, as seen by one particular case of Radio-Company of America (RCA) *Sdn Bhd* in 1988.

This was the first US electronics firm to experience a worker-led attempt to start in-house unions. As the union was being formed, the company changed its name to Harris Solid-State (HSS) *Sdn Bhd* without telling the employees, prompting the TUAD to tell unionists to change the name accordingly. To the trade union activists this was just an effort to kill the union. The first President of RCA Union, Bruno Pereira, did not receive any notice from the employer at all and was only alerted by the DGTUA (before RTU, now DGTUA) to change name. After going through the tedious procedure, the company refused to recognise this, forcing the TUAD to conduct a 'membership check', and even after it was confirmed that the membership represented 57% (it must be 50% + 1 according to TUA 1959), the company still refused. The Minister used his power under the IRA 1967 to give notice of recognition to the company. However, on the last day (the 14<sup>th</sup> day) on 23<sup>rd</sup> January 1990 the company 'offered workers' of both employees from HSS and another of its branches, Harris Semiconductor to transfer to Harris Advanced Technology (M) *Sdn Bhd* (HAT). The workers were threatened to be dismissed if they refused to sign transfer forms, which were given to all except half of exco-members of the (forming) union and six union activists. While the rest of workers were transferred to HAT, 24 were put in a bogus operating production line without any work

but getting their normal wages. This 'cold-storage' treatment went on for 6 months. Meanwhile, on the 16<sup>th</sup> January 1990, the ministry approved the HSS Workers Union (HSSWU), and stated that the company had approved the union, effective from the 23<sup>rd</sup> June 1989 (the workers had actually already been transferred to HAT in 23<sup>rd</sup> January 1990). The HSSWU still sent a collective agreement proposal to the company (HAT) on 14<sup>th</sup> May 1990. Thus, starting 22<sup>nd</sup> June 1990, there were four collective bargainings between the two sides. In August, the HAT advertised for posts that belonged to the union activists, prompting the union to report to the IRD. A week before the conciliation process started at the IRD, the company sacked all the 21 union activists (1 worker had already resigned, 2 had been absorbed to HAT). The company did not turn up to the IRD and the collective agreement has not been agreed upon until today. The MoHR referred the case to the Industrial Court in October 1990 after the HAT workers picketed in front of the factory for 21 days (Interview: Bruno 26<sup>th</sup> January 2001; 10<sup>th</sup> General Meeting Report, HATWU).

The case was only settled in 1997 after several court battles at the Industrial Court, High Court and Appeal Court. On the 12<sup>th</sup> August the Appeal Court rejected the company's appeal and ordered all 21 workers to be reinstated at HAT and all costs paid to them (10<sup>th</sup> General Meeting Report; Interview: Bruno, 26/1/2001). Their plight is not yet over, as in 1997, even after the TUAD approved the application for change of name from HSSWU to HATWU, the company applied to the High Court to revoke the DGTUA's decision, which it did with costs in 1998, and the union filed an appeal to the High Court's decision. The case is still pending.

However, this case showed the 'helplessness' of the government against an MNC, out of a weakness in the system and the tedious legislation process. While a company could find it easy to change its name through the Registrar of Companies (another department), the union still have to go through the process of satisfying the TUAD and IRD, which takes time, and is always under the pressure of the government general policy on the economy. In this particular case, it showed that the government policy of discouraging unions, even in-house unions in the electronics company, cost the workers unnecessary misery. When asked, the DGTUA admitted that the battle is now between the union and the High Court (Interview: Izhar Harun, 16/1/2001). The DGTUA remarked that if the union did not go to the court, the TUAD could de-register the present union and they might apply for a new union based on the present company. The company has since changed its name twice to Intersil, and then Chip-Pac. The union is still registered under HATWU and so far not even one collective agreement has materialised (Interviews: Bruno Pereira, 26/1/2001; Izhar Harun, 16/1/2001; Mohd Zubir, 16/1/2001).

Table 4 shows from 1970 to 1974, 1976, and 1977 the number of workdays lost due to strikes exceeded 50,000. From 1976 onwards, however, strike activity decreased. In fact strike activity was now considered insignificant in Malaysian IR, in sharp contrast to earlier decades. Although technically some unions were legally allowed

to organise strikes, the state would go all out to fight against them. The restrictive process of strikes in Malaysia is stated in the IRA 1967, Part IX, under the sub-heading of 'Trade Disputes, strikes and lock-outs and matters arising therefrom'.

Table 4: Number of Strikes, Workers Involved, Workdays Lost, Total Union Membership, and Percentage Involved, 1970-1990

<i>Year</i>	<i>Number of Strikes</i>	<i>Number of Workers involved</i>	<i>Number of Workdays Lost</i>	<i>Total Union Membership</i>	<i>Percentage of membership involved</i>
1970	17	1,216	1,867	275,238	1
1971	45	5,311	20,265	283,594	2
1972	66	9,701	33,455	296,782	3
1973	66	14,003	40,866	318,459	4
1974	85	21,830	03,884	373,572	6
1975	64	12,124	45,749	477,565	3
1976	70	20,040	108,562	481,736	4
1977	40	7,783	73,729	503,267	2
1978	36	6,792	35,032	523,620	1
1979	28	5,629	24,868	520,024	1
1980	28	3,402	19,554	531,740	1
1981	24	4,832	11,850	548,434	1
1982	26	3,330	9,621	564,674	1
1983	24	2,458	7,880	569,229	1
1984	17	2,437	9,269	547,266	1
1985	22	8,710	34,773	560,339	2
1986	23	3,957	14,333	560,531	1
1987	13	3,178	11,035	560,725	1
1988	9	2,912	5,784	568,408	1
1989	17	4,761	22,877	638,004	1
1990	17	98,510	301,978	667,338	15

Source: Adopted from ARML, various years; Ministry of Human Resources (1990)

The end of 1990 saw the government's increased uneasiness over the MTUC and slowly promoting CUEPACS as the national labour centre. It further weakened the labour movement, and distracted union leaders away from their more important causes. At the end of 1990, CUEPACS' resolutions had not been achieved. If anything, the union centres, both MTUC and CUEPACS, managed to survive in name, and to secure the old ways of settling disputes with lots of political manoeuvre.

## CONCLUSION

The years 1971-1990 confirmed 'executive dominance' in Malaysia, in both the private and the public sector IR. The enormous power conferred to the executive, supported by the civil and public service, has given the state decisive and prominent provision to implement what was thought best for the country. Even if the NEP was criticised, it has shown some success statistically delivering its objectives, including the Malays' economic interests. All factors considered, the NEP period confirmed the birth of Malaysia's very own IR system.

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