Policy formulation processes in Malaysia and Australia: cultural differences do matter

by
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I declare that the material contained in this thesis is entirely my own work, except where due and accurate acknowledgement of another source has been made.

Siaan Ansori
ABSTRACT

This thesis examines the influence of culture in the national policy formulation processes of Malaysia and Australia. Superficially, these two countries have common stated strategic policy priorities (economic development and social stability), similar Westminster-based architectures of government, and comparable civil services. However, under the influence of culture and history, the two countries’ policy formulation processes have developed very differently.

In seeking explanations for the similarities and differences in government processes, the thesis demonstrates how cultural and historical experiences influence the policy formulation processes themselves, the associated policy outputs and outcomes, and ultimately the governments’ ability to achieve their stated strategic policy priorities. It uses a case study of bilateral trade policy formulation to illuminate its findings in a ‘real’ national policy formulation context.

Some specific examples of cultural and historical experiences shaping the policy formulation processes in Malaysia include: a legacy of pre-colonial (kerajaan) polities which existed in the Malayo-Indonesian archipelago up until the nineteenth century; colonisation by the British; and an omnipresent ‘ethnic ideology’ resulting from continuing fear of social unrest (experienced dramatically during the racial riots of 1969). In Australia, relevant cultural and historical experiences include: a colonial experience different from that of Malaysia, an ensuing scepticism about government leadership and the political elites; an emphasis on individualism; and values of egalitarianism and equal access to opportunity.

By drawing out the role of cultural influences and historical experiences in the policy formulation process, the thesis provides a new culturally-responsive model for the analysis of policy formulation processes. Building on traditional policy formulation models which are based on
‘logic’ and ‘rational choice’, the culturally-responsive model brings out, in addition, the more subjective and less straightforward influences bearing on a country’s policy formulation processes.

In the final chapter, the thesis considers some of the implications of culturally-influenced policy formulation processes. It examines how country-specific policy formulation processes can create obstacles to bilateral (government-to-government) policy formulation collaboration. In light of these obstacles, the thesis argues that policy makers in Australia and Malaysia need to be more cognisant of cultural and historical differences when seeking to collaborate in bilateral policy formulation. The thesis concludes that better awareness about cultural and historical influences on the respective countries’ policy formulation processes would likely lead to more comfortable relations between Malaysia and Australia.
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<td>9MP</td>
<td>9th Malaysian Plan</td>
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<tr>
<td>AANZFTA</td>
<td>ASEAN-Australia-New Zealand Free Trade Agreement</td>
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<td>ABIM</td>
<td>Angkatan Belia Islam Malaysia; Malaysian Islamic Youth Movement</td>
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<td>ALIRAN</td>
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<td>ANAO</td>
<td>Australian National Audit Office</td>
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<td>APS</td>
<td>Australian Public Service</td>
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<tr>
<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<td>AUD</td>
<td>Australian Dollars</td>
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<tr>
<td>AUSFTA</td>
<td>Australia-United States Free Trade Agreement</td>
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<tr>
<td>BCA</td>
<td>Business Council of Australia</td>
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<td>BN</td>
<td>Barisan Nasional; National Front</td>
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<td>CIU</td>
<td>Cabinet Implementation Unit</td>
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<tr>
<td>DFAT</td>
<td>Department of Foreign Affairs and Trade</td>
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<td>FOI</td>
<td>Freedom of Information</td>
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<td>FTA</td>
<td>Free Trade Agreement</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>ICU</td>
<td>Implementation Coordination Unit</td>
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<td>INTAN</td>
<td>National Institute of Public Administration Malaysia</td>
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<td>ISA</td>
<td>Internal Security Act</td>
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<td>JTC</td>
<td>Joint Trade Committee</td>
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<td>KPI</td>
<td>Key Performance Indicator</td>
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<td>Acronym</td>
<td>Full Form</td>
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<tr>
<td>MAFTA</td>
<td>Malaysia-Australia Free Trade Agreement</td>
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<td>MAMPU</td>
<td>Malaysian Administration Modernisation and Management Planning Unit</td>
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<td>MCA</td>
<td>Malaysian Chinese Association</td>
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<td>MGGI</td>
<td>Malaysian Gender Gap Index</td>
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<td>MIC</td>
<td>Malaysian Indian Congress</td>
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<td>Ministerial Key Result Area</td>
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<td>MKPI</td>
<td>Ministerial Key Performance Indicators</td>
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<td>MoU</td>
<td>Memorandum of Understanding</td>
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<td>MYR</td>
<td>Malaysian Ringgit</td>
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<td>NDP</td>
<td>National Development Policy</td>
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<td>NEP</td>
<td>New Economic Policy</td>
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<td>Non-Governmental Organisations</td>
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<td>NKRA</td>
<td>National Key Result Area</td>
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<td>NOM</td>
<td>Net Overseas Migration</td>
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<td>OSA</td>
<td>Official Secrets Act</td>
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<td>PAS</td>
<td><em>Parti Islam Semalaysia</em>; Islamic Party of Malaysia</td>
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<td>PEMANDU</td>
<td>Performance Management and Delivery Unit</td>
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<td>PERODUA</td>
<td><em>Perusahaan Otomobil Kedua Bhd.</em>; Second Automobile Company (Limited)</td>
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<tr>
<td>PM&amp;C</td>
<td>Department of the Prime Minister and Cabinet</td>
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<td>PROTON</td>
<td><em>Perusahaan Otomobil Nasional</em>; National Automobile Company</td>
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<td>ROS</td>
<td>Register of Societies</td>
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<td>SAFTA</td>
<td>Singapore-Australia Free Trade Agreement</td>
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<td>Acronym</td>
<td>Full Name</td>
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<tr>
<td>SUARAM</td>
<td><em>Suara Rakyat Malaysia; Malaysian People’s Voice</em></td>
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<tr>
<td>TAFTA</td>
<td>Thailand-Australia Free Trade Agreement</td>
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<tr>
<td>UMNO</td>
<td>United Malays National Organisation</td>
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<tr>
<td>UNDP</td>
<td>United National Development Program</td>
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<td>UNESCAP</td>
<td>United Nations Economic and Social Commission for Asia and the Pacific</td>
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<tr>
<td>WTO</td>
<td>World Trade Organisation</td>
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CHAPTER 1. INTRODUCTION
**Aim of the study**

“If one does not understand a person, one tends to regard him as a fool.”

- Carl Gustav Jung

Australia and Malaysia have had a close yet sometimes troubled relationship. In recent years, the relationship has been characterised by a rollercoaster ride of ups and downs and, although now apparently entering a period of ‘up’, confusion remains about the real origins of the tensions. Given this confusion, one aim of this thesis is to shed some light on the Australia-Malaysia relationship in terms of differences in policy formulation processes.

The thesis is primarily concerned with demonstrating the way in which varying domestic historical experiences and cultural influences shape the respective policy formulation processes in Malaysia and Australia and the policy outputs and outcomes of those policy formulation processes. The thesis will demonstrate that policy formulation processes themselves differ between Malaysia and Australia, but also that the results of these processes differ. The thesis falls within an academic discourse which seeks to understand policy formulation and government within the context of the “historical trajectory of the political process” and with consideration of the “institutional dimension” through which it takes place.¹ In this context, the thesis examines policy formulation processes from a comparative cultural and historical perspective. The thesis focuses on comparative policy formulation processes, as this is a space in which cultural norms, values, and historical legacies interact with government policy.

The study of policy formulation processes falls within the discipline of public administration, and fits neatly with the emerging body of work on

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comparative public policy. Public administration is the term used to capture the “civilian functions entrusted to the executive branch of government.” Thus, the study of public administration is “concerned primarily with the carrying out of public policy decisions made by the authoritative decision-makers in the political system”. Public administration captures the organisation, personnel practices and procedures essential to the performance of the civilian functions assigned to the executive branch of government.

Within the discipline of public administration, there has emerged a body of work focusing on public policy. Public policy recognises that government decisions are not dependent only on elections, political parties and elite bureaucracies, and therefore seeks to understand the full range of interactions and influences on government, and how these interactions and influences create government outputs. John sums this up as:

The main tasks of the subject [public policy] are to explain how policy making works and to explore the variety and complexity of the decision making processes. Public policy seeks to explain the operation of the political system as a whole. This is its main contribution to political science. The policy-oriented approach looks at public decision making from the viewpoint of what comes out of the political process.

This thesis contributes to existing work on public policy by identifying the policy formulation process as a space where the many interactions and influences on government can be observed and analysed. In the simplest terms, the policy formulation process is the process of

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specifying government objectives and devising a means for attaining these objectives.

Policy formulation results in policy outputs and, ultimately, policy outcomes. Policy outputs are the specific *products* of programs or activities (for example a visa grant). Policy outcomes are the broader *results* of a combination of specific policy outputs (for example a successful national migration program).\(^5\)

In the study of public administration, ‘policy formulation’ is viewed inseparably from decision making.\(^6\) Lester and Steward have written, “the core activity of policy formulation is choosing between alternatives for dealing with a policy problem, the alternative explanations are, in fact, models of decision making” They argue continue that understanding how decisions were made between alternative options is “critical to understanding policy formulation and policy analysis.”\(^7\) Similarly, Simon argues that decision making constitutes the core of public administration.\(^8\)

Policy formulation and decision making takes place within specific social and institutional contexts. To best reflect the nuances of this argument, this thesis employs the term ‘policy formulation processes’ (plural) to better capture the range of influences affecting administrative decision making and policy formulation.


\(^8\) H. A. Simon, *Administrative behavior: a study of decision-making processes in administrative organization.*
This thesis argues there are four major areas where policy formulation processes can be studied in their social and institutional contexts. First, policy formulation processes take place within and, as this thesis will argue, are influenced by, the architecture of government. The architecture of government is the institutional and procedural framework within which government operates. It captures the highest-level shape and form of government. For example, democracy, constitutional monarchy, bicameralism, federalism, etc., are each terms used to describe major aspects of the overall architecture of government.9

Second, policy formulation processes are undertaken by public servants within the civil service. Therefore, policy formulation processes will be reflective of the size, structure, history, organisational direction, traditions, values, etc. of the civil service in which they occur. Simon has observed that policy formulation and decision making is not only concentrated at the highest organisation levels of government. Rather, decisions at a high level lead to decisions at other levels, all the way down through the administrate system. For example, the decision of a chief executive to undertake a new program will lead to multiple decisions by lower-level operational staff about how that high level direction is carried out.10 Simon’s argument supports the need for a study of policy formulation processes which encompasses organisations as a whole, rather than merely the highest-profile (high-level) decision making.

Third, any study of policy formulation processes obviously needs to have regard to the procedural steps involved in making policy. The action of formulating policy is described in this thesis in terms of the policy cycle (see section on thesis structure for more details on the policy cycle).

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10 H. A. Simon, Administrative behavior: a study of decision-making processes in administrative organization.
And fourth, policy formulation processes are guided by governance. The term ‘governance’ is widespread in public administration, but a common definition is difficult to find. Governance has been equated with organisational structures, administrative processes, managerial judgment, systems of incentives and rules, administrative philosophies, or combinations of these elements.11 Originating as a way of capturing shifts in the character of political rule, at its most simple governance is the arrangements guiding the process of decision making and the process by which decisions are implemented (or not implemented).12 More specifically, governance is the “regimes of laws, rules, judicial decisions, and administrative practices that constrain, prescribe, and enable the provision of publicly supported goods and services [policy outputs]”.13 The term ‘governance’ in public administration:

...implies an arrangement of distinct but interrelated elements – statutes, including policy mandates organisational, financial, and programmatic structures; resource levels, administrative rules and guidelines; and institutionalised rules and norms – that constrains and enables the tasks, priorities and values that are incorporated into [government] regulatory, service projection and service delivery processes.14

Despite challenges in its definition, ‘governance’ is a useful area of study as it allows scholars to capture the endogenous nature of factors often assumed to be exogenous, such as local implementation structures. It also allows the investigator to consider the influences on operations and outcomes at various levels of administration, such as formal mandates in legislation, administrative guidelines, or the discretionary strategies chosen by decision makers. Thus, employing

the term ‘governance’ allows recognition of “the importance of both formal and informational authority”.

A sub-set of the study of ‘governance’ is the study of ‘good governance’. Promoted particularly by international development institutions such as the World Bank and the International Monetary Fund, good governance promotes regimes of laws, rules, judicial decisions, and administrative practices that better enable the provision of policy outputs. ‘Good governance’ at its most basic level is about ensuring processes for decision making and implementation bring about the best outcomes for citizens. For the purposes of this study, attention to the attributes of good governance provides some established international criteria for the comparative study of ‘governance’ (see chapter five for further discussion on this methodology).

In short, policy formulation processes is the term which best captures not only the strict machinery of policy formulation and decision making, but also the more nebulous associated influences on policy formulation. Due to the complexities of government, policy formulation processes are at the intersection of diverse influences and constraints on government. Therefore, specific analysis of policy formulation processes enables scholars and practitioners to better understand the range of collective and interactive processes of government. The relationships between policy formulation and the architecture, governance, public administration processes, and other characteristics of government are captured in figure one.

\[15\] Ibid. 9.
An important theme of this thesis is that the influence of ‘culture’ and history in policy formulation may not have been sufficiently recognised in the existing policy literature. Culture is a nebulous term which is always difficult to define. At the broadest level, culture explains how ideas, beliefs and values shape and define social interactions.\textsuperscript{18} Stocking\textsuperscript{19} argues that the term ‘culture’ springs from the use of cultures; the idea that the world of human differences can be conceptualised as a diversity of separate societies, each with its own ‘culture’. It was this key conceptual insight that made it possible, in the early years of the century, to begin speaking not only of culture but also of “a culture” - a separate, individual cultural entity, typically associated with ‘a people’, ‘a tribe’, ‘a nation’, and so forth. The academic acceptance of groups of people having ‘a culture’ thus


provided a theoretical basis for cross-cultural comparison, as has been attempted in this thesis.

Inglis and Hughson suggest that culture consists of six elements. First, culture comprises the patterns of ideas, values and beliefs common to a particular group of people. Culture is thus defined as a collective concept. Second, the culture of one group differentiates it from other groups, which have their own culture. This concept is significant for this thesis, where the policy formulation processes of Australia and Malaysia will be distinguished by their varying cultures. Third, culture contains meanings. It makes sense of how people in a group will respond to and shape the world around them. For example, in this thesis culture assists us to ‘make sense’ of the differences between Australian and Malaysian government policy formulation processes. Fourth, the ideas, values and beliefs of a group can be embodied in symbols and artefacts. Drawing on this element of culture, chapters three, four and five of this thesis examine, among other things, how the symbolic role played by rajas (kings) in Malaysia’s pre-colonial era continues to resonate with modern Malaysian culture. Fifth and sixth, culture is learned and culture is arbitrary. Culture is not natural or static but is transmitted and altered as it passes from generation to generation.20 The learned and evolving nature of culture is important for this thesis where, at times, it will be argued that contemporary Malaysian culture retains elements of - but is not the same as - the cultures in existence throughout the Malayo-Indonesian archipelago during the pre-colonial era.

Having argued for the importance of culture, the inherent challenges in adopting such an ‘essentialist’ approach must be acknowledged. For example, reflecting on Malaysia, Kahn has argued that there is “no such thing as Chinese, Malay, etc. culture”.21 Shamsul observes that many

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of the ‘Malay’ cultural concepts which are drawn on in this thesis have “been constructed and elaborated in an Orientalist mould... usually without problematising many of the key terms.” Andaya, also, has noted that searching for the origins of culture and ethnicity is not in any way a straightforward task.

It is undoubtedly difficult to analyse culture, however, this does not mean that it should not be done. Indeed, there are many undeniable differences between Australia and Malaysia. These differences are difficult to explain in terms other than ‘culture’. In seeking not to essentialise culture, Reid has written of his preference for the term “core culture”. This core culture is not necessarily explicitly ethnic, but includes ever-changing influences and adaptations from all areas of society. Moreover, core culture accepts that the characteristics of ‘the culture’ under study are not uniform across the cultural group and may be exercised by different parties to differing degrees. Thus core culture leaves flexibility to acknowledge the ‘created’ and ‘fluid’ nature of culture, while at the same time presenting a useful conceptual tool for analytical study (as in this thesis).

Returning to policy formulation, figure two (the culturally-responsive model of policy formulation in government) illustrates the ways in which cultural and historical experiences can influence both the policy formulation process itself, and also the results of this process (policy outputs and policy outcomes). The figure shows how cultural and historical influences can cause a mis-match between policy objectives and policy outcomes. Compared with figure one (the theoretical model of policy formulation in government), figure two is more comprehensive and nuanced and brings outs the more subjective and less

straightforward influences of cultural and historical experiences bearing on public administration. These influences have been too long ignored in policy formulation literature. Figure two also shows how these cultural and historical influences act on policy outputs and policy outcomes creating ‘policy results’ which may not fully meet the original stated policy objective. Figure two therefore provides a revised ‘culturally-responsive’ framework for assessment which captures more completely the full set of influences bearing on public administration processes. The figure is discussed in more detail in chapter four.

**Figure 2. Culturally-responsive model of policy formulation**

By using a historically and culturally-responsive model for comparative analysis of policy formulation processes, the thesis also offers a framework for other cross cultural studies of public administration. It argues that scholars interested in the study of policy formulation in situations where different governments are seeking to cooperate need to be mindful of the influences and barriers to such bilateral policy formulation. These barriers are created by historical cultural differences. Policy makers’ decisions are based on their own cultural
frameworks and as a result, many policy decisions appear unexpected when analysed by scholars who are unfamiliar with the cultural norms and undercurrents affecting the relevant policy formulation process. Given the connection between culture and public administration, this thesis further argues that integrating area studies-based knowledge with the discipline of public administration creates a more comprehensive, more practical, and ultimately more accurate analysis.

The thesis’ main research objectives are:

- identification of the highest level strategic policy priorities which are shared between Australia and Malaysia;
- analysis of how policy formulation processes are shaped by the respective country’s domestic cultural influences and historical experiences;
- development of a framework for assessing the impact of culture on public administration processes; and
- consideration of the future implications for the Australia-Malaysia relationship given the ongoing influence of varying historical and cultural experiences on each country’s respective policy formulation process.

A comparative study of the policy formulation processes of Malaysia and Australia is particularly interesting due to the apparent similarities between Australia’s and Malaysia’s overall systems of government. Setting itself apart from much Malaysia-Australia research, for example Milner’s or Crouch’s analysis of the differences between Malaysia and Australia in the ‘Australia in Asia’ series,25 this thesis begins by noting the similarities between the Australian and Malaysian systems of government, particularly the similarities in the governments’ strategic policy priorities and in their shared Westminster architecture of government. The fact that there are many apparent similarities

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between the Australian and Malaysian systems assists with the study, as it creates points of intersection and reference for comparative study.

**Thesis structure**

To analyse the different approaches to policy formulation, a mix of scholarly analysis complemented by a practical case study is used. This first chapter introduces and provides an overview of the issues. Chapter two demonstrates that Australia and Malaysia share common strategic policy priorities in the broad areas of economic development and social stability. Strategic policy priorities are the highest level enduring objectives of a nation. Strategic priorities are distinct from specific policy goals, which are often changed to reflect new social or political priorities.\(^\text{26}\) To demonstrate Australia’s and Malaysia’s shared strategic policy priorities, the thesis draws strongly from Malaysian and Australian core policy documents, including speeches from leaders of the governments in both countries. It also sifts through the extensive range of academic work on this issue, looking particularly at how other Malaysian and Australian scholars perceive development-focused economic policy and cohesive social policy as central to both countries’ policy objectives.

Chapter three examines the architecture of government in both countries, with architecture being considered the institutions or structures within which government functions, such as the structure of parliament, separation of powers, federalism, monarchy, cabinet and the legislative process. The chapter establishes that the Westminster-based architectures of government in Australia and Malaysia are broadly similar, yet identifies certain areas where the modern

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architectural framework of government reflects domestic historical and cultural influences. The thesis argues that the architecture within which governments operate is not a ‘neutral’ framework. Policy outputs and associated policy outcomes are shaped by the architecture within which they are developed.

The fourth chapter looks specifically at public administration, including the steps in the policy formulation processes of each country and the way in which the policy formulation process can be shaped by different cultural influences and historical experiences. It highlights that the different domestic cultural influences and historical experiences in each country compel policies to be formulated in a characteristic manner, resulting in unique policy outputs and policy outcomes which do not always align with the government’s high-level strategic policy priorities (discussed in chapter two).

Using Bridgman’s and Davis’s academically accepted “policy cycle” methodology, chapter four considers the individual sequential steps which form one part of a much larger set of policy formulation processes. The steps in Bridgman’s and Davis's policy cycle are: issue identification, policy analysis (of both the issue and the policy instrument), consultation, coordination, decision, implementation, evaluation. The thesis argues that using such step-by-step methodology provides clarity and analytical rigour, but more importantly, also enables the identification of specific areas where otherwise-ignored cultural influences and historical experiences shape policy formulation. Some relevant cultural influences and historical experiences include:

- historical legacies such as the kerajaan system in Malaysia and different colonial experiences of each country;

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28 Ibid.
• different social ‘values’, such as the relative importance placed on individualism, egalitarianism, and ‘faith’ in government leadership and political elites; and
• ad hoc events in each country’s history and contemporary politics.

The chapter concludes that ‘rational’ models of policy formulation provide only a partial view of the real dynamics of practical policy formulation.

Chapter five examines the attributes of governance. As discussed in chapter one, governance is a broad term which has been used in many different ways in the public administration literature. For the purposes of this study governance is taken to mean the processes of governing. To assess ‘governance’ the thesis uses a framework of academically accepted ‘attributes of governance’ which are: participation and consensus orientation; transparency; accountability; equity and inclusiveness; rule of law; effectiveness and efficiency; and responsiveness. When grouped together, these attributes are usually referred to in governance literature as the components of good governance. The thesis’ analysis of these attributes shows that ‘standard’ governance attributes introduced into Australia and Malaysia by the British in the Westminster framework have over time been localised by domestic influences. The resulting differences in governance attributes are another factor contributing to Australia’s and

Malaysia’s differentiated policy outputs, despite the shared strategic policy priorities discussed in chapter two.

At the conclusion of chapter five, the thesis will have established four arguments;

- policy formulation processes are shaped by historical experiences and cultural influences;
- the architectural frameworks of government in Malaysia and Australia have diverged, reflecting differences in cultural influences and historical experiences;
- governance in Malaysia and Australia has been localised by cultural influences and historical experiences; and
- the influence of cultural and historical experiences on the architecture of government, the attributes of governance, and the policy formulation process can create policy outputs and outcomes that may not necessarily meet the respective governments’ highest-level strategic policy priorities.

The thesis concludes with a case study demonstrating how the four arguments listed above are applicable in a ‘real’ policy formulation context. There has been widespread use of case studies in comparative public administration since the Second World War. Heady argues that “case studies are narratives of the events constituting or leading to decisions by public administrators”. Case studies give the reader “a feeling of actual participation in action”. The chosen case study analyses the bilateral (government-to-government) policy formulation processes underpinning the Malaysia-Australia Free Trade Agreement (MAFTA) negotiations. It demonstrates how Australia’s and Malaysia’s trade policies are influenced by historical experiences and cultural influences unique to each country. Such influences create outputs which may not align with the governments’ common stated

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strategic policy priorities. The chapter demonstrates that failing to recognise the importance of domestic historical experiences and cultural influences in policy formulation effectively creates barriers to successful Malaysia-Australia bilateral cooperation, in this case the conclusion of the free trade agreement (FTA).

In summary, the thesis shows that while Australia and Malaysia may, at the broadest level, have common stated strategic policy priorities (economic development and social stability), different historical and cultural experiences influence each country’s policy formulation process and this ultimately results in policy outputs and outcomes that are significantly different in each country and which in some cases may not even align with the stated strategic policy priorities. It suggests that despite apparently similar Westminster architectures of government, the Australia-Malaysia relationship will remain bumpy until both sides acknowledge, and begin to accommodate, these domestic historical experiences and cultural influences.

Scope of the study

The potential scope of this topic is immense, suggesting that much more analysis needs to be completed in the area of intersection between cultural studies and public administration. To narrow the scope of the thesis, the study focuses on examining policy formulation and public administration within the academic discourse. However, the last chapter applies the academic findings of the thesis in a practical bilateral policy formulation case study.

The second technique used to contain the scope of the thesis was to narrow down the timeframe. The thesis was originally planned to cover only the Prime Minister Howard period of government (1996-2007) however the elections of ‘new governments’ in both countries and the rhetoric around the associated ‘new policies’ of the respective governments led the investigation to continue into the current period. The thesis now uses material from the period from 1996 to 2011.
Extending the timeframe of the thesis had the additional advantage of enabling inclusion of the discourse around former Prime Minister Rudd’s reforms of the Australian Public Service, and his ‘new approaches’ to Asian engagement. This thesis argues that despite both these ‘innovative’ approaches, there have been very few actual ‘Asian-oriented’ changes to Australian policy formulation processes - particularly changes which encourage a better accommodation of Malaysian or others’ culturally-specific policy formulation processes. The lack of culture-oriented changes to Australian policy formulation processes is evidenced by recent challenges in concluding the Malaysia-Australia FTA and the Malaysia-Australia asylum seeker arrangement.

Extending the timeframe of the thesis also enabled the thesis to pick up some significant changes in Malaysia. For example, the recent rise of genuine Malaysian ‘opposition parties’, the results of the 2008 Malaysian general elections, and the handover of power to Prime Minister Najib Tun Razak have given new prominence to some of the enduring Malaysian historical and cultural influences on policy making which are highlighted in this thesis.

The increasing focus on the very recent period necessarily led to a reduced focus on the latter half of the 1990s. This arguably creates a work that is disproportionate with the overall history of the Malaysia-Australia relationship. Should this study ever be expanded on, a good place to start would be to test the policy formulation model against the full period of the bilateral relationship. For example, does this model apply to Australia-Malaysia relations in the immediate post-war period? What about the early colonial period? Can economic development and social stability be said to have been the strategic policy priorities of these periods - or were there other overarching priorities? To what extent do a different set of historical and cultural influences affect government policy formulation processes in different periods of history? Alas, these questions cannot be addressed in this thesis.
The interconnections between politics, public administration and governance also presented a challenge to the research scope. The study originally set out to examine only those elements of public administration that affected the bilateral Australia-Malaysia relationship. Unfortunately it soon became apparent that it is very difficult, if not impossible, to consider such issues in isolation, as many issues straddle politics, governance and public administration. An example of this is ‘government values’. Although it is possible to conceive theoretically of an ‘apolitical’ public service, the policy orientation of that government administration will inevitably over time reflect the values of the political party in power, which in turn in a democracy usually reflects the values of the citizens electing it. Therefore, if government values begin to impact policy formulation, and government values are a reflection of the values of the ruling political party and also the people, the belief in an apolitical public service in a Westminster-based system of government becomes increasingly “mythic”. This situation becomes more complex in countries like Malaysia, where the tenet of separation of powers is not as strong as in other Westminster-based governments. To incorporate such complexities, the scope of the thesis was widened to include public administration, governance, and at times, politics.

**Cultural influences and historical experiences affecting policy formulation processes in Australia**

A fundamental theme in this thesis is how varying cultural influences and historical experiences shape Australian and Malaysian policy formulation processes. Given the importance of this ‘culture matters’ theme to the thesis’ overall argument, the following two sections expand of the role of culture and history in Australia and Malaysia. The two sections do not seek to definitively analyse cultural or historical influences, as this deeper analysis is provided in the thesis body. Rather the sections review and summarise relevant elements of the

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wider academic ‘cultural discourse’, and show the connections between this discourse and the specific cultural arguments which will be presented in this thesis.

This thesis’ ‘cultural-historical’ argument builds on the work of Harold and Margaret Sprout who have argued “what matters in policymaking (and, of course, in analysis thereof) is how the human policymaker (or group) perceives, interprets and responds to the environing conditions and events.” Examining foreign policy decisions only, the Sprouts’ identified the “psycho-milieu” of individuals and groups as the most important factor in decision making. They described the psycho-milieu as the microcosm of international and operational environments or contexts as they are perceived and interpreted by decision makers. The Sprout’s psycho-milieu tried to capture culture, history, geography, economics, political institutions, ideology, demographics, and innumerable other factors which shape the societal context in which decision makers operate. Responding to the Sprouts’ work, I argue the term psycho-milieu is too broad. It would be almost impossible for a policy maker from a different society to analyse, understand and apply the extensive ‘microcosm’ of factors identified by the Sprouts to any policy making decision. Rather, I argue most policy decisions can be comprehended by understanding the historical experiences and cultural influences of the relevant society. Thus, an understanding of society’s history and culture is fundamental to all policy makers, particularly those working with counterpart governments.

A key scholar who has shaped cultural discourses for almost half a century is Geert Hofstede. Hofstede has argued that culture is rooted in the values of the major groups of a society. He further suggests that values require a long time to form and become stable and accepted (but

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not static) over long periods of history.\textsuperscript{37} Williams suggests that values are the core conceptions of the desirable within every individual and society. As Williams sees it, values serve as standards or criteria to guide not only action but also judgement, choice, attitudes, argument, rationalisation, etc.\textsuperscript{38} Drawing on these concepts, Hofstede sees culture as a system of collectively held values.\textsuperscript{39}

If we accept the link between values and culture, it can be argued that national culture is underpinned by national values. But what are these values and how do they relate to this thesis? Many scholars have attempted to define Australian values.\textsuperscript{40} Drawing from these scholars, this thesis argues that Australian values include egalitarianism, individualism, social liberalism and, specific to this study, scepticism about government leadership and the political elites. A similar list of Australian values - in the context of ‘Asian values’ - including individualism, egalitarianism, an emphasis on the nation-state, and so forth, was presented by Milner and Quilty as part of their studies of \textit{Australia in Asia}.\textsuperscript{41}

Egalitarianism has been proposed by Thompson as fundamental to the Australian identity. Australian egalitarianism, as Thompson sees it, does not necessarily emphasise equality in all areas of life, but rather

\textsuperscript{39} G. H. Hofstede, "Culture and Organizations."
emphasises equality of access and opportunity.\textsuperscript{42} This distinction will become significant in this thesis’ later analysis. Lipset and Bendix have reached similar conclusions to Thompson. They argue that egalitarianism is a key value in Australian society and the dominance of egalitarian beliefs shape the style and type of institutions which Australia sustains.\textsuperscript{43}

Partnered with egalitarianism is the Australian value of individualism.\textsuperscript{44} According to Felicetti et al. “social scientists almost universally agree upon the fact that Australia is a typical case of very individualistic society.”\textsuperscript{45} Australia is said to be characterised by a progressive movement towards a society that privileges individualism over solidarity.\textsuperscript{46} It is a nation in which “the politics of ordinary people is grounded in pragmatic and common sense individualism”.\textsuperscript{47} Australia has the second highest value on the individualism index employed by Hofstede’s cultural dimensions analysis. In fact, Australia’s index is 90 out of 100 (second only to the US’s score of 91).\textsuperscript{48} However, Australian notions of individualism are somewhat distinct from those of other Western nations. For example, while American individualism arguably emphasises competitiveness and self-assertion, social status, power and wealth, Australian individualism appears to Carroll to be less demanding and more equivocal.\textsuperscript{49} Brett and Moran have concluded that Australian individualism is pragmatic and common-sense individualism and Hirst has described Australian individualism as being tempered with aspirations of “doing the right thing” and ensuring “equality of

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opportunity”\textsuperscript{50}. This style of individualism does not necessarily drive aggressively for wealth, status and power, but is more focused on individual responsibility and notions of empowerment.\textsuperscript{51} Highly cognisant of the distinct features of individualism in Australia, including its close links with Australia’s egalitarian values, some scholars have even gone as far as to argue that Australian individualism is better termed “egalitarian individualism”.\textsuperscript{52}

Australian individualism does not equate with pure liberalism and is concomitant of strictly limited government. Indeed, when comparing Australian government against other Asian governments, Milner and his colleagues have observed that Australian government can appear more active and, particularly in regards to the provision of welfare, operates on a very large scale.\textsuperscript{53} As Hartz describes it:

The founders of Australia... believed that individual rights could only be defended by political action; the state had to act in support of private rights because those rights could not be sustained by individuals alone. Thus, there was no contradiction between Australian individualism and Australian reliance on government.\textsuperscript{54}

To draw on Sir Keith Hancock’s much-cited remark, an Australian “sees no opposition between his individualism and his reliance upon Government.”\textsuperscript{55}

\textsuperscript{50} J. Hirst, \textit{The Australians: Insiders and Outsiders on the National Character Since 1770}. 164.


\textsuperscript{53} A. Milner and M. Quilty, eds., \textit{Australia in Asia: Comparing Cultures}, Australia in Asia (South Melbourne, VIC: Oxford University Press, 1996). 8-9, 262-263.


\textsuperscript{55} W. K. Hancock, \textit{Australia} (Brisbane: Jacaranda Press, 1961). 59.
Yet Hancock was not the first to make this observation. As early as 1891 Hughes wrote that far from encroaching upon individual rights, the Australian state would be the most likely protector of rights and “true individualism” required state intervention to ensure equitable access to economic resources.56

Australian individualism is closely tied with Australian liberalism. ‘Pure liberalism’ assumes that individuals are for the most part motivated by self-interest and are the best judges of what this interest requires.57 However, in contrast to this ‘pure liberal’ view, Australian liberalism - often described as social or welfare liberalism - is characterised by interventionist economic policies and a welfare orientation.58 According to Eisenstein:

Social liberalism recognised state responsibility - for example, in regulating factory hours and conditions - as a necessary means of civilizing capitalism... social liberalism meant a shared belief that governments needed to intervene in the processes of industrial capitalism so as to mitigate the painful effect of the system on those least able to withstand them.59

To be clear, protection of the disadvantaged as promoted in social liberalism requires state intervention. As such social liberalism actually fosters certain forms of reliance on government, as observed by Hancock above.

While Australians are in these ways reliant on government regulatory and redistributional interventions, they also maintain a stronger - or at least stronger than in Malaysians - scepticism about government leadership and the political elites (both politicians and senior civil

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servants). Perhaps driven by this scepticism, Hartz has observed that where government intervention is sanctioned, particularly Federal government intervention, it “tended to have a political impartial, administrative, or even judicial character.” She notes that governments have not been able to exercise political control of quasi-judicial bodies and independent commissions and solemnised government intervention has therefore been deprived of its “political character.”

Such scepticism about government leadership and the political elites has its roots in early settlement but even today, Young has described Australian current attitudes towards political leaders as “bleak cynicism”. Kelly has contributed “where people previously believed in at least some political leaders, today there is cynicism, mistrust or disgust with leaders and the political system itself.” Grattan supported Young and Kelly, writing of “a growing distrust of and disillusionment with governments and governance” and a “crisis of cynicisms”. Later research by Goot provides confirmation of the longstanding scepticism of Australians about politicians.

Scepticism about government leadership and the political elites, social liberalism, individualism and egalitarianism each have their roots in Australia’s historical experiences. Ray emphasises that values and culture are not unchanging, but usually emerge from something perceived from the past. Similarly, Fischer and Vogt found that while values guide community actions, they are adapted over time to relevant research.
social changes.\textsuperscript{66} Looking specifically at Australia, Kelly has argued that Australian values are linked to a set of “ideas which Australia had embraced nearly a century before and which had shaped the condition of the people”. He describes these ideas and influences as “Australian settlement”.\textsuperscript{67}

Similarly, Thompson has argued that Australian egalitarianism can be traced to its historical settler period. Thompson has suggested that the appointment of ex-convicts to positions of authority in the mid-nineteenth century had a profound effect in establishing an Australian society whereby an individual’s past and familial heritage was effectively forgotten.\textsuperscript{68}

Melleuish has argued that Australia’s individual and social liberal values were birthed in Australian settlers’ dissatisfaction with the colonial regime and associated hierarchical social structures.\textsuperscript{69} These anti-colonial attitudes paved the way for the establishment of an Australian architecture of government which emphasised liberal democracy and clear boundaries between the political domain and other domains.\textsuperscript{70}

\textbf{Cultural influences and historical experiences affecting policy formulation processes in Malaysia}

Compared with Australia, Malaysia has a very different set of cultural influences and historical experiences which have shaped its policy formulation processes.

Hierarchy is perceived to be significantly more important in Malaysia than in Australia. Analysing different societies’ perceptions of

\begin{itemize}
\item \textsuperscript{67} P. Kelly, \textit{The end of certainty: the story of the 1980s}. 1.
\item \textsuperscript{68} E. Thompson, \textit{Fair Enough: Egalitarianism in Australia}.
\item \textsuperscript{69} G. Melleuish, "Australian Liberalism". 28.
\end{itemize}
hierarchy, Hofstede found that Malaysia was the most hierarchical society among his fifty sample countries.\textsuperscript{71} Detailed discussion of Hofstede’s findings will be provided in chapters three and five.

More recently, research in the 1990s by Abdullah supports the continuing importance of hierarchy in modern Malaysia. While studying Malaysian management practices in the 1990s, Abdullah found that modern Malaysian workplace relations have a strong hierarchy of superiors and subordinates. Seniors (superiors or elders) are respected and obeyed. They are the decision makers and subordinates are generally obliged to implement any decisions. Abdullah also observed that societal norms dictate that junior staff do not only disagree with more senior staff. The superior, in return, is obliged to provide patronage.\textsuperscript{72} The superior must protect and guide the subordinates. In other words, hierarchical relationships are maintained through “affective reciprocity”.\textsuperscript{73}

Patronage is another prominent Malaysian cultural characteristic which will be discussed throughout this study. Gomez has studied in detail the modern day patronage networks of Malaysian politics and business. His studies have found ongoing and embedded linkages between government and Malay elites/business people.\textsuperscript{74} Case, also, has discussed Malaysia’s “clientelism” and the normalcy of patronage in modern Malaysia.\textsuperscript{75} Reaching similar conclusions, Muzaffar has suggested that the Malaysian Government continues to display a

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Using a ‘bottom-up’ approach, Kessler has observed the importance of “followership” in modern Malay culture. Followership, describes Kessler, is “a culture of deference” and “something that is so pervasive and fundamental” to Malay society that it creates “immediate political significance”.\footnote{C. S. Kessler, “Archaism and Modernity: Contemporary Malay Political Culture,” in \textit{Fragmented vision: culture and politics in contemporary Malaysia}, ed. J. S. Kahn and F. K.-W. Loh (Honolulu: University of Hawaii Press, 1992). 148.} Followership, also, has links to hierarchy and the dominance of modern Malaysian leaders. Kessler’s writings on “followership” make use of Milner’s examinations of the pre-colonial \textit{kerajaan} period of Malay history. Milner’s works are also discussed in detail in this thesis.

A final cultural element which recurs throughout this thesis is ceremony and symbolism. In the late 1970s Muzaffar wrote of the continued importance of royal titles and ceremony in modern Malaysia.\footnote{C. Muzaffar, \textit{Protector?} 109.} In the same period, Nagata observed that “etiquette and attention to the niceties of social interaction are considered so important among Malays.”\footnote{J. A. Nagata, \textit{Pluralism in Malaysia: Myth and Reality: a Symposium on Singapore and Malaysia} (Leiden: Brill, 1975). 9.} More recently, in 2002, Kennedy has stressed that modern Malaysia continues to place emphasis on the correct use of titles and protocol. To provide evidence, Kennedy cites examples of the ways in which honorifics are used to indicate fine gradations in social status and levels of authority based on connections with royalty, religious standing, and awards for service to the state.\footnote{J. C. Kennedy, "Leadership in Malaysia: Traditional Values, International Outlook," \textit{The Academy of Management Executive} 16, no. 3 (2002). 17.}

Malaysian cultural practices of hierarchy, patronage and symbolism resonate with the much earlier Malay historical experience of the \textit{kerajaan}. The \textit{kerajaan} was the traditional polity which existed in
varying forms across the Malayo-Indonesian archipelago from about 500 BC until the arrival of Europeans. Milner and other historians have spent much time attempting to understand what the kerajaan may have looked like, and despite local variances between the sub-cultures of each polity across the archipelago, a pattern of common kerajaan characteristics appears to emerge. First, the kerajaan was a “big man” polity which was strictly hierarchical. As the leader, the raja was “set apart from the rest of the community” and subordinate subjects were ordered and treated according to rank. In this way, “the raja-rakyat (ruler-subject) relationship is the critical one”. Hooker, also, has suggested that a “hierarchy of rulers” appeared as a dominant value in early Malay legal texts such as the Undang2 Kerajaan (The laws of the King).

The second distinguishing common characteristic of the kerajaan was its feudal nature. According to Soenarno:

Malay society was a feudal society par excellence. The ruler, known as the sultan, was eminently feudal and autocratic. He was responsible to none. He was assisted, in his capacity as Ruler, by senior and minor chiefs whose number varied from State to State. For example, in Pahang, there were four Major Chiefs, known as Orang Besar Ber-Empat. Under them there were the Orang Besar Lapan, the Eight Chiefs, and this group was followed by that of sixteen and thirty two.

Third, ceremony was important in all of the pre-colonial kerajaans, with one’s relationship to the ruler shaping all social interactions. Milner has suggested that each individual in the kerajaan polity knew his or her place, and was treated (and behaved) in a manner appropriate to

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that place. Promoting well ordered, ceremonial practices was a necessary accomplishment of kingship and ceremony was described in traditional court texts as “work” for the ruler. Dress, for example, was critical with historical texts of the time according severe punishments - including death - for individuals who chose to dress in a manner inappropriate to their social status.  

More recently, in 2003, Milner has repeated “in the kerajaan ideology of the past, ceremony was central”. He explains:

The ‘ceremonial polity’ needs to be understood in the context of the Malay concern for nama (reputation) in this world and the next. Titles, ceremonies and sumptuary laws were the ways in which nama was exhibited. The title one held, the position one was allocated in the royal court, the type of house one lived in – all expressed a person’s status. In the kerajaan ideology, there were no other independent criteria for establishing personal worth.  

It appears that these three key common characteristics of the many pre-colonial kerajaans - hierarchy, feudalism and ceremony - continue to resonate with modern Malaysian culture and values. Alatas has argued (controversially) that there exists an “historical continuity of attitudes and values from the feudal period to the present time”. As a result of Malaya’s feudal past, Alatas contends that modern Malaysian values continue to display a “feudal mentality”. Similarly, Kessler has proposed that the socio-cultural condition of “having a raja” continues to influence modern Malaysia. More generally, Loh Kok Wah and Kahn have discussed the reinvention of traditional Malay culture and

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85 A. Milner, The Malays. 64.
the celebration of feudal Malay customs. Similarly Shamsul has written of the fiercely debated discourse around “Malaysian cultural politics” including its ‘symbolic elements’ such as feudal-based kinship.

In addition to kerajaan experiences, Malaysia has been deeply affected by notions of ‘race’, with divisive ‘ethnic ideologies’ continuing to prevail in the thinking and actions of everyday Malaysians. Modern Malaysia’s ‘ethnic ideologies’ classify Malaysians into three race-based ethnic groups – Malays (Bumiputera), Chinese and Indians. Malaysia has been described as a “plural society”, where each community possesses a distinct set of values and lives side by side without mingling into one political unit. Ethnicity has certainly been a key focus for scholars of Malaysia. The steady stream of academic work written over many years about Malaysian ethnicity confirms the potency of such race-based attitudes among Malaysian citizens as observed by scholars of Malaysia.

Gullick has described Malaysia’s ‘ethnic’ paradigm as one where the “inherent conflicts of economic and social interests within the communities are shut into a communal and monolithic opposition of one group against another”. The ‘ethnic’ paradigm creates an environment where each issue, policy and challenge requires a complex

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“inter-communal bargaining” process. Gullick’s observations are mirrored by many others. For example, Embong and colleagues have observed an ongoing “inter-ethnic accommodation” process in Malaysia (and other ethnically divided countries). Gullick’s observations are highly relevant to this thesis, because the characteristically Malaysian ‘ethnic ideologies’ and associated inter-communal bargaining processes have “confronted Malaysian policy makers” for “many decades” and continue today to have a strong bearing on Malaysian policy formulation processes, and thus Malaysia’s policy outputs and outcomes. The historical formation of Malaysia’s pervasive ‘ethnic ideologies’ and their impacts on contemporary policy formulation processes are examined in detail in chapter two of this thesis.

An inseparable part of Malaysia’s omnipresent ‘ethnic ideology’ is the concept of Malay supremacy (Ketuanan Melayu). Enshrined in the Malaysian constitution, Malay supremacy requires that the Malaysian head of state will always be of Malay ethnicity, that Malay is the official language of Malaysia, and that special economic and educational concessions (special privileges) will be provided to Malay citizens of Malaysia. Leading scholars of Malaysia have argued that Malay supremacy was accepted by other ethnic groups in Malaysia as part of a bargain in return for citizenship status for non-Malays. The “ethnic bargain” is discussed further in chapter three of this thesis, which looks at Malaysia’s architecture of government.

Malay supremacy is a very politically sensitive issue. For example, in 2004, at the fifty-fifth General Assembly of the leading political party in Malaysia (the United Malays National Organisation (UMNO)), the Deputy

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94 Ibid.
97 A. Milner, The Malays. 158-159.
Chairperson, Badruddin Amiruldin, threatened that Malays would rise up should Malay supremacy be threatened. “Don’t poke at this nest, for if it was disturbed, these hornets will strike and destroy the country,” he declared to applause from delegates. He went on “fifty-eight years ago we had an agreement with the other races, in which we permitted them to menumpang (temporarily reside) on this land. In the federal constitution, our rights as a race have been enshrined. Let no one from the other races ever question the rights of Malays in this land. Don’t question the religion because this is my right in this land.” These passionate - and explicitly racist - comments demonstrate how Malaysia’s pervasive ‘ethnic ideology’ and notions of Malay supremacy continue to be firmly asserted by the Government, providing context for its decision making.

A climactic event in the history of Malaysia’s ‘ethnic ideology’ was the racial riots of 1969. Discussed in detail in chapter two of this thesis, these riots were seen as a “landmark” in Malaysia’s historical trajectory. The riots instilled an ongoing “sense of urgency” into the Malaysian Government and resulted in a chain of new policies purporting to ameliorate racist pressures – policies which continue to have repercussions in the current era. The racial riots, also, are discussed in detail in chapter two of this thesis.

To conclude, scholars of sociology have emphasised how changes emerging from an historical experience often resonate with pre-existing culture and values. As Swidler sees it, culture and values can be used to build a new paradigm, or to shape an experience. Thus, Swidler argues that culture and values are causal agents, not defining ends. Building on this, Hall and Neitz argue - as does this thesis - that

employing a research methodology which is open to influences from
culture and values enables a better understanding of the ways social
and political actions have been organised.\footnote{103} 

**Relationship between history and culture**

The previous discussion has focused on national values and national
culture identifying egalitarianism, individualism, social liberalism and
scepticism about government leadership and the political elites as
Australian ‘cultural values’. All these values have played a role in
Australian policy formulation processes. Equally it is argued that
hierarchy, feudal sentiments and ceremony are elements in Malaysian
culture which have helped shaped Malaysian policy formulation
processes.

This thesis, however, moves beyond Swidler’s discussion of a cultural
paradigm by arguing that culture \textit{and} history have each been important
influences in Australian and Malaysian policy formulation processes.
Although culture and history are separate variables, the fact that they
are closely intertwined allows us to speak of ‘cultural-historical
paradigms’. Thinking of history \textit{and} culture also moves the thesis
argument beyond the ‘Sprout paradigm’, which identified an
innumerable “psycho-milieu” of factors which shape the societal context
in which decision makers operate.\footnote{104}

Hofstede has described culture as a system of collectively held
values.\footnote{105} These values set out what is acceptable or unacceptable,
important or unimportant, right or wrong, workable or unworkable, and
so forth, in a community or society. Culture, however, is not static. As
a society undergoes transformation changes almost inevitably take
place in the values system, though each ‘value’ will not necessarily be
influenced equally by this change.

\footnote{103}{J. R. Hall and M. J. Neitz, \textit{Culture: Sociological Perspectives}. 225.}
\footnote{104}{H. Sprout and M. Sprout, \textit{Man-Milieu Relationship Hypotheses in the Context of
International Politics}.}
\footnote{105}{G. H. Hofstede, “Culture and Organizations.”}
It is here that history becomes particularly important. History, certainly, encapsulates a series of observable historical events, yet it is more than this. Raymond Williams has described history as “systematisations and interpretations” of “a continuous and connected process”. This process, Williams argues, enables scholars to connect the past with events that are occurring in the present. As Williams see it, history is made up of a number of “historical forces”. These forces are “active” in the present but remain products of the past.  

Viewing history as a process allows the term to capture the evolving nature of culture. Far from being static, culture is continually reshaped, reformed and remade over time. Emerging from history’s processes, present day ‘active’ cultures will not be identical to cultures of earlier periods even though past practices may continue to have potency. This observation is highly relevant to this thesis where the argument is not that a set of practices from, for example, ninth century Srivijaya remain intact in modern Malaysia. Nor that the values of early British penal convicts and their jailers are those still held by modern Australians. Rather, I am arguing that these early practices are ingredients or reference points in changing and dynamic political cultures.

Clifford has observed that analysing culture within history’s process embeds “cultural interpretation within larger (represented or implied) narratives of social and political existence - of people both gripped by circumstances and transforming them”. He stresses analysis of the historical “before-and-after” moves culture away from its “deceptively” static appearance and highlights instead culture’s genuine dynamism.

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106 R. Williams, *Keywords: A vocabulary of culture and society* (New York: Oxford University Press, 1976). 119-120.
108 Ibid. 10.
Southeast Asian scholars have long seen waves of influence from India, the Middle East and the West reshaping the local cultures of Southeast Asia. But there has also been close examination, for instance by Oliver Wolters, of the way local perspectives and priorities can themselves reshape and reformulate ideas and institutions coming from outside Southeast Asia. In these ‘localisation’ processes we see the intermeshing of history and culture. A new ‘active’ culture emerges which is the result of past and present civilisational influences.

It is often difficult to distinguish where the process of history has moulded ‘culture’, yet both Australia and Malaysia have experienced some historical episodes which scholars agree have had a causational or transformative effect on society and culture. Once such episode is colonialism. The ‘Malaysian’ experience of colonialism modifies the pre-colonial kerajaan experience and an alternate ‘Australian’ experience of colonialism modifies British-implanted institutions and beliefs. These episodes and their transformative nature will be discussed in chapters three, four and five of this thesis.

Another historical development that has intermeshed and redefined culture in Australia and Malaysia is massive migration. Migration itself has been important, but the physical act of migration has been coupled with a more influential local conceptualisation of migration. The resultant experience of migration is therefore a combination of local cultures and cultures brought by the British. As will be shown, the conceptualisation of migration has been particularly influential in Malaysia and now forms part of an omnipresent ‘ethnic ideology’.

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110 O. Wolters, *History, Culture, and Region in Southeast Asian Perspectives*.

111 The transformative nature of history is touched on by Milner in A. Milner, "Localisation, regionalism and the history of ideas in Southeast Asia," *Journal of Southeast Asian Studies* 41, no. 3 (2010). 544-545.
Separating out history and culture as two separate variables dispels criticism of this thesis’ argument as overly ‘essentialist’. I am not arguing there is a singular, unchanged link between pre-colonial practices and modern policy formulation processes. Rather, there appears “a process of culture-change”\textsuperscript{112} whereby history transforms culture but does not – nay cannot - entirely sever it from its earlier ‘traditional’ roots.

**Existing research on Malaysian-Australian public policy**

As discussed above, this thesis examines the policy formulation processes of Malaysia and Australia and considers how culturally-specific variances in these processes affect overall bilateral (government-to-government) cooperation. As the first step in understanding this topic, a review of the existing research on the Australia-Malaysia government-to-government cooperation was undertaken. The lack of analysis of Australian and Malaysian comparative public policy is surprising - and disappointing - particularly given Australia and Malaysia’s shared history and their similar Westminster architecture of government (see the subsequent discussion for evidence of this). Indeed it was this lack of academic comparison that led this study to question how the policy formulation process impacts the bilateral relationship.

**Foundations of comparative public administration**

To start broadly, many comparative public administration studies have been completed from within Europe, and only more recently from within Asia. A good starting point into this literature is *Comparative public administration: The Essential Readings* by Eric Otenyo and Nancy Lind who explain pithily that comparative public administration is a branch of public administration that focuses on comparative analysis of institutions and administrative processes (such as policy formulation). Otenyo and Nancy discuss how early scholarly work in public administration (the parent field) drew upon knowledge and perspectives

with cross-national origins. Likewise, past and recent non-Western scholarship has drawn substantial inspiration from European and American models. Looking more contemporarily, Otenyo and Nancy now acknowledge that the comparative method is central to both practical and academic aspects of public administration.\textsuperscript{113} These theoretical foundations of comparative public administration give encouraging support, in turn, for the comparative methodology used in this thesis.

In his study of comparative public administration, Headly observes that the study of comparative public policy has expanded enormously since the mid-1970s. Headly agrees with pioneers in the field that comparative public policy is "the cross-national study of how, why and to what effect government policies are developed."\textsuperscript{114} This definition fits nicely with the objectives of this thesis. Headly sees the rise of comparative public policy as "of great significance", as it copes with the "dilemmas of dealing with cross cultural factors"\textsuperscript{115}. Headly's explicit inclusion of cross-cultural factors provides support for the methodological approach in this thesis.

In contrast to Otenyo and Nancy and Headly, Jamil Jreisat argues that genuine cross cultural scholarship has been in very short supply, and this is a real weakness in the government administration development literature.\textsuperscript{116} His comments emphasise the importance of cross cultural comparative public policy studies - the domain of this thesis.

Research for this thesis supports Otenyo and Nancy and Headly's observations of a revival of cross cultural comparative policy studies, although arguably this revival occurred in the 1960s rather than

\textsuperscript{115} F. Heady, \textit{Public administration: A comparative perspective.}, 59. 45.
immediately following the Second World War. A more sustained academic effort to focus on ‘Asia’ began in the early 1990s and has continued until today.

Francis Castles’s work on *Comparative Public Policy: Patterns of Post-war Transformation* has surveyed the recurring themes of cross cultural comparative policy. Through general discussion and a series of case studies, Castles’s text provides an overview of the main themes and difficulties in comparative public policy. As a case in point, Castles stresses the wide range of policy determinants (influences on policy formulation) in any comparative study. The wide range of policy determinants was one of the difficulties which this study encountered. Castles puts a strong case for the need for further cross cultural public policy studies, because “culture matters a great deal”. He demonstrates that in some areas in his study, cultural differences fundamentally impacted the policy formulation process. Furthering Castles work, this study finds that culture matters, particularly, to policy formulation processes. Cultural influences and historical experiences are shown to shape and mould policy formulation and ultimately result in policy outputs and outcomes which may not necessarily meet the governments overarching strategic policy priorities.

While appreciating the difficulties in completing a comparative study, Castles also cautions against studies that focus only on the differences

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120 Ibid. 4-5.

121 Ibid. 316.
and similarities between states. He concludes that “comparison simultaneously supplies us with a logic which assists in identifying patterns of association between policy outcomes and the factors which influence them.” Consistent with Castles’s suggestion, this study also sought to develop a study which goes beyond noting the differences and similarities between Australian and Malaysian policy formulation processes. As suggested by Castles, this thesis draws on established academic policy formulation and administration models – such as the Australian policy cycle and attributes of governance – to provide a framework, logic and rigour to this study.

In closing this section on foundational academic work on comparative public administration, Peters has made a sobering observation in his book *Comparing Public Bureaucracies*. Peters writes “most of the issues that confound students of comparative public administration in 1994 are the same issues that have plagued us for decades and that have plagued students of comparative politics in general for the same length of time”. Peters adds “there is no quick technological fix for most of our research questions, nor any methodological medicine that will cure all our ills.”

**Studies on Australian public policy**

Australia has a much larger body of work on public policy. A publication used consistently throughout this work is *The Australian policy handbook* by Bridgman and Davis. The Handbook offers an excellent overview of the Australian policy formulation process from policy idea to policy evaluation. This progression is captured in the term “policy cycle”. As an accepted policy model, the policy cycle is used in this thesis as an intellectual framework for a systematic cross-government comparison of policy formulation processes. However, as this study shows, the policy cycle model alone insufficiently captures the full range of influences on policy formulation. While the policy cycle

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122 Ibid. 12.
model presents a sequenced process for policy formulation based on rationality and choice, scholars such as Colebatch and I argue that the real world of government is less orderly than the idealised model presented in the policy cycle. To better capture the full range of influences on policy formulation, such as customs, values, and history, this thesis also examines governance, government architecture, and the structure of the public service. The thesis therefore builds on Bridgman’s and Davis’s policy cycle by establishing a more comprehensive model for the study of policy formulation processes.

*Introduction to Australian Public Policy* by Alan Fenna is also essential Australian policy reading. Fenna notes “different countries have different economic and social structures, occupy different places in the global order, have different interest groups and party systems, and vary in their governmental institutions. To understand one country we need to see it in comparison with others.” Fenna singles out the comparative method as the main method of the social sciences and argues that almost all public policy analysis is *implicitly* comparative, even if it involves no explicit comparison at all. In latter chapters, the book looks at a series of case studies. It highlights that “broad social and political issues”, including immigration and aboriginal affairs, have severely tested the policy formulation institutions in Australia. The impact of such social and political issues is a key theme in this thesis.

Another key Australian work is *Public Policy in Australia* by Davis, Wanna, Warhurst and Weller. Relevant to this thesis, this book suggests that Australia lacks the “roll and pitch” of American policy formulation process. Instead, the book argues that Australian institutions are more closed, providing a comparatively sedate policy formulation environment. A non-partisan bureaucracy plays an

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127 Ibid. 383.
important role in this stability. The different consequences brought about by partisan and non-partisan bureaucracies is also a theme of this thesis.

A further influential Australian source is Hawker, Smith and Weller’s Politics and Policy. Although an older publication (1979), this book emphasises the “muddle, complexity, and disjointedness of the [Australian policy] process”. It also highlights how policy services a wide variety of purposes for a variety of actors. These concepts are highly applicable to this thesis. They directly acknowledge the range of influences that mould policy formulation processes.

The work of Hal Colebatch has been particularly influential in shaping this thesis’s outcomes. Colebatch has, for a number of years, argued that studies of Australian public policy must move beyond the policy cycle presented by Bridgman and Davis. Colebatch argues convincingly for recognition that policy making is the intersection of diverse agendas, and policy as the new “organising concept” in Australian government. He stresses that the results of policy are “ambiguous and contestable” and cannot be placed neatly into a singular sequential process. Colebatch’s numerous works emphasise a disconnect between Australian policy practitioners and Australian policy theorists. He promotes the need for newer models of evaluation which can better account for the nuances and undercurrents of government actions. In response to Colebatch’s work, this thesis proposes a new culturally-responsive model for analysis of policy formulation provides a more comprehensive framework for understanding government. As every policy must ultimately pass through a policy formulation process in some manner, study of policy

formulation processes can account for often neglected external influences such as culture and history. In this way the study of policy formulation processes allow scholars and practitioners to better grasp a holistic picture of policy and government.

**Studies on Malaysian public policy**

Research about Malaysian public policy theory is neither as extensive, nor specialised, as that written about Australia. The key author in this field is Tan Sri Dato’ Seri Ahmad Sarji bin Abdul Hamid, who was the Chief Secretary to the Government of Malaysia from 1990 to 1996, and who has written more than twenty books on the subject of Malaysian public administration. Although Ahmad Sarji is clearly a significant and respected figure in Malaysian public administration, many of his works present an idealised picture of Malaysian public administration, rather than an analytical examination of the strengths and weaknesses of the Malaysian system. Indeed some of his major publications, such as *Upholding the integrity of the Malaysian civil service*\(^{131}\) and *Malaysia’s Vision 2020: understanding the concept, implications, and challenges*\(^{132}\) were published while he still held an official position and it is likely that this restricted his capacity to write critically about Malaysian government processes. These works were utilised in this study for the information and views they presented, but the texts could not be relied on to present the full range of issues involved in Malaysian policy formulation.

Beyond Ahmad Sarji, a burst of Malaysian public administration scholarship was conducted in the 1970s. Nevertheless, many of these studies were ‘Western dominated’, focusing on the effects of British or colonial influences in Malaysia, rather than on examining the Malaysian system of the time. One study which did successfully move beyond defining Malaysia in terms of its colonial history is Milne and Mauzy’s *Politics and Government in Malaysia*. In this book Milne and Mauzy

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highlight factors which shape policy formulation in Malaysia, such as ethnicity, oligarchy, and legitimising practices. Many of the factors identified by Milne and Mauzy continue to be influential in today’s Malaysia, as evidenced by the following observation (as relevant in contemporary Malaysia as it was in the 1970s):

The “Western” view of democracy is that the politicians who constitute the Government have been chosen by the people, and that civil servants, who have not been so chosen, are in a clearly subordinate position. However, in some developing countries which claim to be democratic this relationship may not correspond to the facts. It may not always be obvious who is a politician and who is a civil servant (or a military person) and, even if it is discernible, it may not always be the politician who is in control. In Malaysia it is true that at present many of the top civil servants are members of the same group as some political leaders.\textsuperscript{133}

Another useful study is the Malaysia chapter of Profiles of Government Administration in Asia, a joint project in the mid-1990s between the Australian Public Service Commission and the University of Canberra. The Malaysia chapter outlines the history of Malaysia’s political and administrative development, including summarising the key administrative changes in Malaysia since independence, and describing the system of government, administration, and the public service. The Malaysia profile concludes that the Malaysian model offers “an interesting case for developed countries engaged in public sector reform”\textsuperscript{134}. Unfortunately, however, the text is now dated and important changes have occurred in Malaysia since its publication. Nevertheless, its descriptive and historical material has provided background for this thesis.

\textsuperscript{133} R. S. Milne and D. K. Mauzy, Politics and Government in Malaysia. 276.
Much more recently, in 2003, Richard Common has studied Malaysia in an edited volume on *Governance and Public Sector Reform in Asia*. Common proposes that earlier Malaysian public sector reforms did not provide a sufficiently strong platform for the country to fully withstand the shock of the Asian financial crisis. He observes that Malaysia’s pre-existing public management change program had little structural impact at the centre of government.\(^{135}\)

Drawing from this work, chapter five of this thesis makes the case that Malaysia’s administrative reform process has been targeted more towards building legitimacy and symbolism, and that the basic character of policy formulation processes has remained largely untouched.

Richard Leete has also published two demographic studies on Malaysia, each with arguments expanded on in this thesis. Although focused on the public policy of Malaysia’s changing demographics, Leete’s work is significant for this thesis’s analysis because, as the former Head of the Kuala Lumpur United Nations Development Program Office, Leete has had first-hand experience in Malaysian policy formulation processes. Indeed Leete has worked alongside Malaysian government officials on at least three of Malaysia’s five-year plans. Leete’s earlier book, *Malaysia’s demographic transition: Rapid development, culture and politics*, which seeks to understand demographic transformations in Malaysia, highlights three main findings, each of which are taken forward in this thesis. First, “the study shows the importance of culture and subculture” in Malaysia.\(^{136}\) Leete takes pains to highlight the “cultural and political factors” at play in Malaysia, and the significant influence cultural and political factors can have on more traditional variables, such as social and economic factors.\(^{137}\)

Second, Leete identifies “the key role that government population policy... can play among specific cultural groups”. He identifies that there is a “chain of causation” in


\(^{137}\) Ibid. 174-175.
policy changes linking “structural, institutional and ideational influences” in Malaysia. Thus, he argues that Malaysian government influence on Malaysian society (at least on demographic issues) is much stronger than other governments in the region. This observation is expanded in Leete’s later publication (see next paragraph) and incorporated in my own analysis of Malaysia’s top-down style of government leadership. Third, Leete concludes that there “is the need for culture and government population policy to be more centrally incorporated into theories which attempt to explain Asian fertility declines.” This finding is taken forward in this thesis, where I argue there is a need for culture, history and government policy decisions to be more centrally incorporated into theories which attempt to explain the Australia-Malaysia bilateral relationship.

Leete’s later publication, *Malaysia: From Kampung to twin towers: 50 years of economic and social development*, highlights the importance of “decisive” political leadership and “leadership vision” in Malaysia’s modernisation. Distinct from the *laissez-faire* approach to policy formulation and strategic planning exhibited by colonial administrators, the top-down leadership direction of Malaysian prime ministers - particularly early prime ministers - had policies being implemented “like a military operation”. This observation is built upon in this thesis’s analysis of Malaysia’s top-down (hierarchical) policy formulation style (see chapters four and five). Leete also describes the May 1969 racial riots as an “ideational turning point” in which ethnicity - and genuine fears of ongoing ethnic instability – pierced the strategic thinking and action of the top leaders of the Malaysian Government. The historical experience of the 1969 racial riots is also revealed as important in this thesis’ analysis of policy formulation processes and Malaysian government ideology.

138 Ibid. 39.
139 R. Leete, *Malaysia’s demographic transition: Rapid development, culture and politics*. xi..
141 Ibid. 47-48.
In 2009 Baginda released an edited volume titled *Governing Malaysia*. The volume accords with many of the themes in this thesis. For example, the authors discuss the influence of historical experiences in shaping the architecture and ceremony of Malaysian government. The analysis also draws out governance issues such as the “issues of institutional values, beliefs and norms and of individual attitudes”. Although the methodology of this thesis focuses more sharply on policy formulation processes, parallel conclusions about the importance of cultural influences and historical experiences can be drawn.142

**Studies on Malaysian government**

There is a large body of work examining Malaysian government (not specifically public policy or public administration). A standard text on Malaysian government is Harold Crouch’s *Government and Society in Malaysia*.143 Crouch argues that the Malaysian political system incorporates a mix of democratic and authoritarian characteristics. While these characteristics may appear contradictory, the repressive and the responsive features of the system combine in a uniquely Malaysian way. For the purposes of this thesis, the interplay of these features results in a policy formulation process which is also uniquely Malaysian. Crouch gives particular attention to the policy domination of the Malay party United Malays National Organisation (UMNO) - also a theme in this thesis - and its struggles to retain control in multi-ethnic Malaysia. Crouch observes that communal (ethnic), social, and economic factors have all contributed to shaping the Malaysian political decision making system. Crouch’s observation that such domestic factors shape the overall Malaysian political system influenced this thesis’ argument that varying cultural influences and historical experiences shape Malaysian policy formulation processes, specifically.

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143 H. Crouch, *Government and society in Malaysia*. 58
Funston’s Malaysia chapter in *Government and politics in Southeast Asia* is essential reading and has shaped this thesis’ outcomes. A strength of this chapter is its ability to separate the ‘facts’ from the ‘rhetoric’ surrounding Malaysian government and politics. For example, Funston notes “in practice, Malaysia’s bureaucracy has never been sharply separated from politics.”\(^\text{144}\) He explains how senior bureaucrats are expected to be sympathetic to the UMNO party cause. This observation is important for chapters four and five in this thesis, where accepted or expected bureaucratic behaviours are shown to be strongly influential in policy formulation and broader public administration processes. Funston also highlights the centralised power structure, with power centred around the Office of the Prime Minister - particularly the influential Economic Planning Unit, the Ministry of International Trade and Industry, and the Ministry of Home Affairs.\(^\text{145}\) Differences between the degree of influence of central agencies in Australia and Malaysia also emerge in the analysis of this thesis.

Funston makes some observations about governance, such as the existence of “crony capitalism”, and insights about “Malaysia Inc”, corruption, and citizen participation. These observations are taken up in the analysis of Malaysian governance in chapter five of this thesis.

Also relevant is *Westminster Legacies: Democracy and Responsible Government in Asia and the Pacific* which seeks to “track empirically the various ways Westminster notions of government had been transplanted into the Asia-Pacific region and how those self-governing polities had further adapted any introduced features.”\(^\text{146}\) However, the difference between this thesis and the Westminster text is that this thesis focuses on policy formulation while the Westminster text examines government processes more broadly. Nevertheless, many of the findings of the Westminster text have parallels in the findings of this thesis. For

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\(^{145}\) Ibid. 176.

example, Deborah Johnston and Anthony Milner’s chapter on Malaysia stresses the “key role played by the executive in Malaysia’s parliamentary system” and the importance of relationships more generally.147 These same features, as they apply to the Malaysian policy formulation process, are discussed in detail in this thesis in chapters three and four.

Two other baseline publications are essential to understanding modern Malaysian government. Joel Kahn’s and Loh Kok Wah’s, *Fragmented vision: culture and politics in contemporary Malaysia*148 provides important insights into the complexities of governing modern Malaysia. The editors explain that the book was titled ‘fragmented vision’ as they wanted to point to “a number of related phenomena which, taken together, have resulted in the proliferation of discourses and/or cultural practices which are either implicitly or explicitly particularistic, and which seek to replace or resist the imposition of universalistic value systems generally assumed to accompany modernisation.”149 Again, this ‘unique-to-Malaysia’ perspective of Malaysian government and society supports this thesis’ argument about the culturally specific factors influencing the policy formulation process. The book contains useful accounts of Malay political culture, ethnicity and the Left, and ethnic minorities. The analysis in these chapters highlights the omnipresent Malaysian ‘ethnic ideology’ which I discuss in this thesis. Overall, the book provides a good overview of the factions and pressures shaping power and decision making in Malaysia.

In 1997 (revised in 1999) Gomez and Jomo presented a new understanding of the Malaysian political-government paradox. Their study filled a gap in the literature by acknowledging and investigating

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149 Ibid. 4-5.
the “impact of party politics on the formulation of policy...”

Specifically the book highlights the close relationships between political, business, and administrative elites in Malaysia and the collaborative way in which economic policy is formulated. The authors point to “discretionary executive powers” which have effectively empowered political elites with administrative powers of policy formulation. The analyses of the separation of powers in chapter four and of transparency and accountability in Malaysia and Australia in chapter five of this thesis take and build on this concept to demonstrate that the use of “discretionary executive powers” actually hinder Malaysia's ability to formulate policies which achieve its stated national strategic policy priorities. The book also discusses the characteristically Malaysian relationship between government and business and links this back to historical experience such as the role of the British in the colonial period. The influence on policy formulation on Malay business interests and the process legacies of British colonialism are both key issues explored in this thesis.

Gomez and Jomo also examine UMNO’s hegemony and related political patronage. This thesis further develops their ideas as it examines the influence of UMNO on Malaysia’s architecture of government (chapter three) and attributes of governance (chapter five).

A good example of text which illuminates policy formulation processes across multiple areas of government in Malaysia is Hefner’s *The politics of multiculturalism: pluralism and citizenship in Malaysia, Singapore, and Indonesia*. Contributors to this book consistently note the “complexity” of Malaysian decision making processes and the “divisions” which vie for power and policy influence. The complexity and divisions in the Malaysian policy formulation process is also an issue which arose in this thesis. For example, ongoing tensions between the roles (and

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151 Ibid.
power assigned to those roles) of public servants and ministers is noted in chapters three and four.

*Asian forms of the nation* is a text which tries to understand the ‘Asian specific’ characteristics of government and society. In the last chapter of this book, Shamsul stresses the “political, economic and demographic circumstances within Malaysia” which have created the contemporary Malaysian system of government.\(^{153}\) Again, this thesis builds on this observation to argue that local ‘circumstances’ have fundamentally and uniquely shaped the policy formulation process in Malaysia and Australia.

A comprehensive work on the relationships and interdependencies between government and Malay elites is Gomez’s edited volume, *Politics in Malaysia: the Malay dimension*.\(^ {154}\) This book covers important factors influencing Malaysian policy such as the role of UMNO, political institutions and other recurring factors such as Islam and gender. A useful study of Malaysian - mainly Malay - industrialisation policy is Jomo’s 1993 publication, *Industrialising Malaysia: Policy, Performance and Prospects*.\(^ {155}\) This study examines the proactive policies that the Malaysian Government developed to accelerate industrialisation. It illuminates the many unique-to-Malaysia factors that weighed on the policy making process to yield a unique-to-Malaysia industrialisation policy. Looking at the area of Islam, the edited volume *Islam, democracy and good governance, the Malaysian experience: essays in honour of Tun Dr Mahathir Mohamad*\(^ {156}\) is useful, particularly for examining the relationships between Islam and the Malaysian administration including policy makers. Finally, Mavis Puthucheary’s study *Government policies and perceptions of policy makers and women*

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\(^{156}\) I. Abu Shah, ed. *Islam, democracy, and good governance, the Malaysian experience: essays in honour of Tun Dr. Mahathir Mohamad* (Shah Alam: Pusat Penerbitan Universiti, Universiti Teknologi MARA, 2004).
leaders on the status and role of women in society\textsuperscript{157} presents her research about the position of women in Malaysian society and their potential to influence policy formulation. Puthucheary was interviewed for this thesis and her ideas directly contributed to the research outcomes.

Alatas’s ‘Feudalism in Malaysian Society’ chapter in Modernisation and social change: Studies in modernisation, religion, social change and development in South-East Asia\textsuperscript{158} is also highly relevant to this thesis. Alatas draws out of the ongoing feudal nature of Malaysian society and political decision making processes. The ruler-ruled analysis of Malaysian government and society is carried forward in this thesis’ examination of policy formulation processes.

Pye’s work on the cultural dimensions of power in Asia has also informed this work. Pye’s work highlights the “cultural variations which are decisive to determining the course of political developments.”\textsuperscript{159} He stresses how Asian concepts have spawned varying understandings of ‘Western’ terms, such as governance, bureaucracy, separation of powers, and such like. Building on this, this thesis notes how Malaysian and Australian interpretations of a broadly ‘Westminster based’ policy formulation system have created uniquely Malaysian and Australian policy formulation processes. Pye also emphasises the different types of authority and the conflicts between traditional Malay hierarchy with a supreme figure and Western models of hierarchy which enable comparatively more dispersion of power. Again, this observation was a seeding for the analysis in chapter three of this thesis, in which the relatively different levels of authority of the executive arm of government in relation to the parliament and the judiciary are explored. In developing a framework for analysis, Pye highlights the difficulties of

\textsuperscript{157} M. Puthucheary, Government policies and perceptions of policy makers and women leaders on the status and role of women in society (Kuala Lumpur: Faculty of Economics and Administration, University of Malaya; National Population and Family Development Board; Ministry of National Unity and Social Development, 1991).

\textsuperscript{158} H. S. Alatas, “Feudalism in Malaysian Society”.

reconciling such a complex mix of cultures and dimensions. Analysis for this thesis, too, was challenging because of the need to take account of stereotyped and ‘weighted’ terms such as ‘culture’, ‘values’, social conventions and morals. The thesis seeks to deal with these less tangible concepts by considering them within a framework of academically established benchmarks for comparison such as the policy cycle and attributes of governance.

**Studies of the Australia-Malaysia relationship**

A last area of scholarship to be addressed in this thesis is the existing research on the broad Australia-Malaysia relationship. The first set of works that address this area of study are investigations into Australia’s relations with the region more broadly. Graeme Dobell’s *Australia finds home* or Anthony Milner and Mary Quilty’s investigations of *Australia in Asia* are excellent examples. These works provide a range of insights into Australia’s broad relationship with its Asian neighbours with some specific points focused on Malaysia. For example, Dobell analyses the ‘recalcitrant’ incident, the five power defence treaty, Australia’s Association of Southeast Asian Nations (ASEAN) partnership, and other key aspects in the Australia-Malaysia relationship. In each of these analyses Dobell notes domestic pressures and cultural confusion impacted on the levels of bilateral cooperation. Likewise, the Milner and Quilty *Australia in Asia* series examines “the nitty-gritty of cultural difference” in an Australia-Asia context and suggests, while there is substantial research comparing Australia and other ‘Western’ countries, very little lucid comparative work has been done in Asian-Australian studies. Particularly relevant to the policy formulation focus in this thesis is the ‘Government’ chapter of this book. This chapter hints at many of the themes of this thesis. It covers “the different approaches to

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160 Ibid. 255-56.
government”, “questions of legitimacy”, “the way in which political stability is maintained”, “expectations” of government, nation building, and the construction of government in ways shaped by “specific cultural and social experience”. Each of these themes is brought forward in more depth in the analysis of the policy formulation process in this thesis. However, the broad range of Asian countries included in these two texts was a challenge and, at times, the authors are compelled to skim over some of the ‘nitty-gritty’ of events and attitudes specific to Malaysia.

Milner provides a further example of ‘nitty-gritty’ cultural difference in his essay entitled *Mahathir, Australia and the Rescue of the Malays*.164 Milner observes that Australia’s egalitarian aspirations “make Australians blind to the real merit of the Malay case in Malaysia”. His analysis shows that the Australian form of egalitarianism does not fit comfortably with some aspects of the Malaysian style of government such as the rallying, didactic speeches and directive-style political leadership. These also are themes consistent with this thesis. Milner’s closing analysis argues “it is a mistake to assume that where differences do exist between Malaysia and Australia, they are always superficial or simply personality-based.”165 Rather, some Australians see the Malaysian Government’s pro-Malay policies as doing “violence to the egalitarian aspirations that are so deeply embedded in Australian society” and therefore in contradiction to Australia’s values and political direction. Chapter seven of this thesis shows how lack of understanding in Australia about the broader aims of policies – such as Malaysia’s pro-Malay policies – do genuinely affect the Malaysia-Australia bilateral relationship. Moreover, this thesis shows that government ‘values’, such as pro-Malaysia, continue to emerge during bilateral (Malaysia-Australia) policy formulation processes. This is a further argument for why it is important to complete studies such

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165 Ibid. 141.
as this one which examine and seek to understand what drives differences in policy formulation processes between partner governments.

Harold Crouch has also attempted to ‘understand’ Malaysia though Australian eyes. His chapter ‘Understanding Malaysia’ notes a number of “sensitive areas” in the relationship including racial discrimination, political freedom and different approaches to economic development and religion. These sensitive areas have also come to feature in this thesis. Crouch analyses how, at times, these sensitive areas have flared into diplomatic incidents and observes that Malaysians resent occasional belittling comments by Australians which suggest Malaysia should more closely follow ‘Western’ practice. He notes that certain comments by Australians - including those by Australian political leaders - reveal “basic misunderstandings about social and political realities inside Malaysia”. Building closely on this observation, this thesis argues that policy makers in Australia and Malaysia need to be more cognisant of the ‘basic realities’ of the differing policy formulation processes in the partner country.

Peter Searle presents an interesting take on a well-known Australia-Malaysia ‘diplomatic incident’ - the ‘recalcitrant’ incident. The incident occurred in 1993 when then Prime Minister Keating made an offhand remark describing countries, like Malaysia, who were unwilling to join his new vision for an Asia Pacific Economic Community as “recalcitrant”. The comment led to a diplomatic crisis between Australia and Malaysia. Searle’s article commences by highlighting the “recent crises in Australia’s relations with Malaysia”. He observes that the “West versus Asian” stereotypes only added to the difficulties as did “Malaysia’s preparedness for ‘the stain to spread’”. In his conclusion, Searle notes that “cultural values and styles were obviously important factors in the generation of bilateral tensions”. Searle goes on to suggest that the growing business relationship may play a key role in

166 H. Crouch, "Understanding Malaysia". 58.
stabilising the relationship.\textsuperscript{167} Thirteen years on from Searle’s observation Australia and Malaysia share stronger, deeper economic links with could be assumed to provide more ballast to the relationship. Yet tensions continue to exist and a deeper explanation of the reasons behind these tensions is still lacking. Drawing from historical experiences and general social and cultural differences, this thesis identifies culturally and historically based differences in policy formulation processes as a central factor challenging the Australia-Malaysia relationship.

Former Malaysian Trade Minister Dato’ Seri Rafidah Aziz compares the Australia-Malaysia relationship to a distorting mirror. She stresses that having recognised Australia’s neighbours are in Asia, Australia must “make it a point to understand them- from every possible angle - culturally, economically, politically, socially.”\textsuperscript{168} This thesis contributes to this understanding by considering the ways in which Australian and Malaysian domestic historical experiences and cultural influences create unique policy formulation processes, and unique policy outputs and outcomes from these processes. The unique processes and outputs/outcomes consequently impact the mutually-beneficial bilateral relationship.

Themes of historical experiences and cultural influences shaping the Australia-Malaysia relationship recur in many studies. Derek McDougall argues that there are “fundamental cultural differences”. He continually revisits this idea, stressing that “issues concerning culture feature in Australian relations with the Asia-Pacific.”\textsuperscript{169} Themes of cultural difference even arise in specialised case studies. For example, in Xavier’s comparative study of government budgeting processes in Malaysia and Australia, he concludes that the factors affecting the

\textsuperscript{167} P. Searle, “Recalcitrant or Realpolitik? The politics of culture in Australia’s relations with Malaysia,” in \textit{Pathways to Asia}, ed. R. Robison (St. Leonards: Allen & Unwin, 1996); ibid.


\textsuperscript{169} D. McDougall, \textit{Australian Foreign Relations: Contemporary Perspectives} (South Melbourne, VIC: Wesley Longman Australia Pty Ltd, 1998). 145 & 63
different processes in Australia and Malaysia consist of external environmental factors, as well as internal administrative culture, and administrative and decision making structures.\textsuperscript{170}

The recurring theme, across disciplines, that ‘culture matters’ was one of the key motivators of this study. The thesis questions particularly, which are the specific areas of government in which culture matters. It is not enough to assert that culture matters; this thesis seeks to identify and examine one specific area of government action where culture impacts. This thesis identifies that the primary space in which cultural norms, values, and historical legacies interact with government policy is in the policy formulation process. As such, the influences of any so-called “fundamental cultural differences” should be brought out through the analysis of the policy formulation process.

**Positioning this study in the existing research**

Existing relevant work covers comparative public policy theory, society and government, policy and governance and even some general comparative work on Australia and Malaysia. Each scholar has contributed a unique analysis, each work a new piece of a complex jigsaw puzzle. The work taken into account in this thesis ranges over 40 years and draws from at least five key disciplines: Public Administration; Cultural Studies; Asian Studies; History; and Anthropology. It is improbable that all these scholars actively sought to identify the same core issues, yet a recurring pattern emerges. Each study points to the existence of country-specific factors which shape processes and events in Australia and Malaysia. Moreover, the country-specific factors are common across the range of work and most can be described as historical experiences or cultural influences.

Scholars from all five disciplines have consistently drawn conclusions about fundamental differences in the historical and cultural experiences of Australia and Malaysia. Observations about the role of ethnicity in

society - seen through very different analytical lenses such as ‘values’, immigration and indigenous policy - and broader social issues such as gender and religion are prominent. Another recurring observation is the effect of history on nations’ societies and governments. Also prominent was the complexity of the social forces at play, and how these complex influences have moulded domestic structures and processes. Each of these issues is taken forward in this thesis. Throughout this thesis’ discussion of the architecture of government in Australia and Malaysia, public administration, and attributes of government, similar domestic cultural influences and historical experiences are shown to be moulding policy formulation processes. Where other scholars have identified cultural influences and historical experiences often shape policy outcomes relating to their own disciplines, the central argument of this thesis is that culture and history should be more clearly recognised as integral and inseparable from policy formulation process in any policy area.

On reviewing the range of literature on Australian government and policy, Malaysian government and policy, and comparative Australian and Malaysian government and policy a continuing set of factors which shape events in Australia and Malaysia - indeed shape the Australia-Malaysia relationship - emerge. Building on this, this thesis identifies the policy formulation process as the primary space where these varying domestic factors influence governments and their decisions, outputs and outcomes. Thus, the policy formulation process becomes a unifying concept for understanding Australia-Malaysia relations.

There is solid academic support for asserting the importance of the policy formulation process. For example, American academic Paul Sabatier has argued:

At least since World War II, most political scientists have tended to focus on either a specific type of institution (legislatures, the president, courts, interest groups, administrative agencies, local governments, political
parties) or on specific types of political behaviour outside those institutions (public opinion, voting, political socialisation). These have become the standard subfields within the discipline. In contrast, scholars interested in public policy have not been able to stay within these subfields because the policy process spans all of them. In the course of empirical work, policy scholars have highlighted a number of phenomena neglected by political scientists.\textsuperscript{171}

Sabatier’s comments highlight the transcending position of the policy formulation process across all other areas. It is the policy formulation process itself where a nation’s varying historical experiences and cultural influences interact and give birth to unique national policy outcomes. To rephrase, policy outputs, and thus outcomes, are the result of historical and cultural conditioning, and the policy formulation process is the essential avenue through which these factors exert their influence. Following from this understanding, these historical and cultural influences are essential in any bilateral negotiation.

In the Australia-Malaysia case, the characteristic domestic policy outputs flowing from each country’s varying policy formulation process define the bilateral relationship. While existing studies have recognised the influence of history and culture on policy outputs, they are yet to reflect on the centrality of the policy formulation process to these factors. The policy formulation process is the medium through which cultural and social factors shape policy. Analysis of countries’ respective policy formulation processes therefore provides scholars with a lens through which to study bilateral relationships. This thesis uses the policy formulation process to study the challenges and opportunities of the Australia-Malaysia bilateral relationship. However the general model has the potential to provide insights into the complexities of any cross cultural bilateral relationship.

Sources

The first source for this thesis is existing academic research, including the studies referred to in the preceding section. The existing research provided a solid platform from which to progress this project. Furthermore, the existing knowledge provided a common set of factors affecting domestic decision making processes in both countries. However, a lack of research focusing specifically on Malaysian-Australian comparative public policy formulation processes required that a wider range of sources be developed for this thesis.

Principal primary sources were the core policy documents of both governments. Some of these sources - like the most recent Malaysian economic development plans, Malaysia’s Vision 2020, and Australian departmental and ministerial press releases - presented new insights into the comparative relationship. Speeches from current and previous Australian and Malaysian prime ministers or cabinet ministers were used to further substantiate the conclusions of the thesis. These speeches often provided a more personal standpoint on certain policy issues. Combined, these core government texts are essential foundations for the formulation of the thesis argument.

At times, however, it was difficult to extract the relevant information and conclusions from these primary sources. Where information from government texts was incomplete, it was sometimes necessary to draw upon the media analysis and think tank reports which analyse these government publications. These non-government analyses, particularly opinion pieces and media transcripts, often presented different ways of viewing an issue.

The Australian Government also has initiated, funded and published various contemporary studies on the Australia-Malaysia relationship which have been used in this thesis. These Australian government publications have included the *Inquiry into Australia’s Relationship with*
Malaysia (2007)\textsuperscript{172} and the Inquiry into Australia’s Relationship with ASEAN (2009)\textsuperscript{173}. Studies by established think-tanks were also drawn on, for example the annual PricewaterhouseCoopers Melbourne Institute Asialink Index\textsuperscript{174}. Each of these publications noted the depth and breadth of the existing relationship while at the same time noting the potential for much stronger cooperation. In line with this research, this thesis argues that cooperation is hampered by an inadequate understanding of the respective cultural and historical influences on policy formulation in Australia and Malaysia.

In addition to these documents, the second and third categories of research data adopted in this study were interviews and questionnaires. Interviews were completed in early 2008 with more than thirty senior civil servants and opinion makers in both Australia and Malaysia. A full list of interviewees is at Annex B. As part of the interview process, each participant also completed a questionnaire. A copy of this questionnaire is included at Annex C. Although the number of interviews was insufficient for statistical purposes, the data collected in the interviews and questionnaires provides valuable qualitative background. For example in Australia senior - sometimes very senior - officers in nine out of a total 17 government departments were interviewed. Given that not all Australian departments cooperate with Malaysia, the responses to the Australian interviews therefore provide a representative view of Senior Executive Service Officers in the Australian Public Service who engage with Malaysia. The interviews were used to collect data on perceptions about policy goals, strategic policy priorities, and broad understandings (or misunderstandings) about the Australia-Malaysia relationship. Each interview lasted approximately one hour and consisted of 27 primarily multiple choice questions, as well as a period of open discussion. The questions aimed

\textsuperscript{172} Parliament of Australia, "Inquiry into Australia’s Relationship with Malaysia," (Canberra: Joint Standing Committee on Foreign Affairs, Defence and Trade, 2007).

\textsuperscript{173} ———, "Inquiry into Australia’s relationship with ASEAN," (Canberra: Joint Standing Committee on Foreign Affairs, Defence and Trade, 2009).

to elicit a set of numeric data and qualitative comment which could be used alongside the analysis of the core documents discussed above. Questions were structured to encourage participants to choose from a list of existing options, with an ‘other (please explain)’ option always available. An example questionnaire question is “Looking at the list below, what would you identify as your government’s top three program goals?” Listed options included: overcoming poverty; general economic development; developing international status; developing a strong defence force; elimination of corruption; building domestic stability and cohesion; or promoting environmental sustainability.

In addition to the structured questionnaire-style questions, open discussion was also employed. Open discussion gave interviewees an opportunity to present their own ideas, to follow up on issues identified in the questionnaire, and to address portfolio-specific issues. Examples of some of the open ended discussion questions include “What overall approach do you believe Australia/Malaysia takes in its policy making?” and “Do you have any suggestions for how Australia/Malaysia can better understand the Australian/Malaysian policy making approach?”. Interviews were designed to provide detail and context to existing documentary evidence.

A final category of research data used in this project was observation. The thesis author resided in Malaysia from April 2007 until February 2008. During this time I was privileged to be given the position of Visiting Scholar at the Institute of Management and Public Policy at the University of Malaya. As part of this position I was involved in a number of government related events, including several conferences on governance in Malaysia. I also assisted in preparing a government commissioned report on a confidential topic and this also provided useful insights into the processes and practices of the Malaysian Government. The project opened up avenues for discussion with informed Malaysian scholars and senior government officials.
CHAPTER 2. SHARED STRATEGIC POLICY PRIORITIES
**Australian and Malaysian strategic policy priorities**

The strategic policy priorities of a government are broader and more enduring than the specific goals of individual polices. A government’s strategic policy priorities often reflect the underlying values and the long-term vision of a particular society. The strategic priorities of a government form an umbrella over the range of specific policies and policy goals and reflect the overarching, highest level objectives of government. Strategic policy priorities may often be implicit, as they encompass the highest level vision for the nation.\(^\text{175}\)

Strategic policy priorities are distinct from the explicit political directions of the government of the day. Political directions will be medium-term priorities which can be linked to specific policies. Political directions are shaped by shorter-term political motives, and therefore do not always capture the longer-term more enduring strategic direction of a nation. An example of recent political priorities is Malaysia’s seven National Key Result Areas (NKRAs) which include: reducing crime, fighting corruption, improving students’ outcomes, raising living standards of low-income households, improving rural basic infrastructure, ensuring access to clean or treated water, improving urban public transport and addressing the cost of living. These NKRAs are discussed in chapter six of this thesis.

Strategic policy priorities are also distinct from specific policy goals. Policy goals will address a specific policy issue and are defined by policy makers.\(^\text{176}\) Policy goals will be linked directly to policy outputs and policy outcomes. Further discussion on policy goals is found in chapter

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four of this thesis. Figure three depicts the hierarchy of planning within government.

**Figure 3. Relationship between strategic policy priorities, political priorities and specific policy goals**

![Diagram showing the hierarchy of planning within government]

As shown in figure three, every government policy contributes, to some extent, towards achieving strategic policy priorities. Embedded in the concept of having or making a policy is the expectation that the policy will achieve something. Friedrich sums this up in his 1963 observation that “it is essential for the policy concept that there be a goal, objective or purpose.”\(^{177}\) The pursuit of varying goals, political priorities and strategic priorities has also been linked directly to policy formulation processes. For example, policy formulation is often described as a process or a cycle which seeks to obtain a set of goals.\(^{178}\)

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While many scholars have written about the differences between Australia and Malaysia, this chapter argues that the strategic policy priorities of both Australia and Malaysia are sustained economic development and social stability. Therefore, each policy or program developed in Malaysia or Australia can be expected to contribute to, or at least not detract from, at least one of these two strategic policy priorities.

The chapter also devotes time to explaining the respective migration experiences of Australia and Malaysia. The respective migration experiences have contributed to the formulation of Australia’s and Malaysia’s strategic policy priorities (and are therefore presented in this chapter). However, the respective migration experiences have had more far reaching impacts on Australian and Malaysian approaches to policy formulation. In Malaysia, for example, the creation of a plural society, the institutionalisation of Malay racial supremacy, and the searing impact of the 1969 racial riots, characterise Malaysian policy formulation processes. In Australia, the settler experience and subsequent waves of migration have shaped the society’s modern day policy formulation emphasis on individualism, egalitarianism and scepticism about government leadership and the political elites. At this introductory stage of the thesis, this chapter only describes the migration and ethnic experiences of Australia and Malaysia and links these experiences to strategic policy priorities. However, the significance of these experiences and the shared strategic priorities is necessary background for later chapters’ analysis of the influences of culture and history on policy formulation processes.

**Sustained economic development: a shared strategic policy priority**

The achievement of economic goals is of central importance for governments of most contemporary nation-states, including Australia and Malaysia.

**Economic development in Australia**

Australian policy scholars Davis et al. highlight the role of the economy in the policy matrix. They contend “the economy hangs like the Sword of Damocles over governments of all persuasions. A government considered incapable of managing the economy is invariably condemned as unsuitable to hold office, whatever the impact of its other policies.”¹⁸⁰ The attention of the media and academics, and the (revealing) behaviour of political parties themselves, all reinforces the relative importance of economic development in relation to other government policies in the Australian public policy context.

Australia has a long tradition of promoting economic development. In Australia, the term ‘economic development’ came into use in the late 1800s after demands by Australian colonists for stronger government action to develop the continent. Almost a century later, in the economic debates of the 1960s, Max Newton argued that the Government’s hands-on role in Australia amounted to a form of “de facto economic planning”.¹⁸¹ Likewise, Drake and Nieuwenhuysen have argued that the Australian Government’s strong economic development role has been “sought, accepted and established”.¹⁸²

More recently, Brian Head has observed that “all [Australian] governments, at state and federal level, are in favour of ‘development’.” He continues, “the very language of ‘development’ ideology has

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¹⁸⁰ G. Davis et al., *Public Policy in Australia*. 147.
importance in structuring the public discourse in which policies are debated and decisions are reached. Political leaders have become adept at manipulating a popularist rhetoric in which development is identified with the common good.”\textsuperscript{183} This observed ‘structuring’ of public policy discourse framed by economic development is further evidence of the superior position of economic development objectives in the Australian policy matrix.

Australian Government core documents support the superiority of economic development as an overarching strategic policy priority. Example government documents will be drawn particularly from the Rudd and Howard terms of government (1996-2010), and somewhat less from documents published by the current Australian Prime Minister Julia Gillard (2010-), as this earlier period more closely aligns with the period of this study.

The 2009-10 Australian Government Budget is replete with economic development language. According to the Australian Government’s budget papers, a centrepiece of the 2009-10 Budget is the AUD$22 billion investment in transport, communications, energy, education and health infrastructure. This new infrastructure policy (not economic policy) is promoted as “the building blocks of the future economy”. In releasing the budget, the Government stressed that “investment in these critical economic infrastructure [my italics] projects will provide a sustained boost to the economy now, building on economic stimulus measures already taken. In the longer term, it will enhance the productive capacity of the economy.”\textsuperscript{184} Employing terminology such as ‘economic infrastructure’ aligns the new infrastructure spending with promoting economic development objectives. It supports the proposition that sustained economic development is a strategic policy priority for the Australian Government. The analysis also demonstrates

how this strategic policy priority subsumes more specific policies and programs, such as infrastructure policy.

Sceptics may argue that prioritising the need for economic development at the time of the world’s worst financial crisis since the great depression was necessary current policy, rather than a demonstration of an enduring strategic policy priority. Yet economic development was also a strategic priority for the previous liberal government (1996-2007), led by Prime Minister John Howard, and a similar emphasis on economic development can be seen in previous Howard government budgets. In May 2007 (prior to the 2008 global financial crisis), the Howard government emphasised that the “the 2007-08 Budget will address productivity and participation imperatives to sustain Australia’s long-term prosperity.” Likewise the 2006-07 Budget opened with “the 2006-07 Budget includes a number of major initiatives, crucial to sustaining Australia’s economic prosperity.” It followed, “strong economic management delivers benefits for all Australians”. This pattern of emphases on the importance of economic development in a long succession of budget speeches demonstrates the enduring position of economic development as an Australian national strategic policy priority - spanning across party lines and through successive governments.

But references to the importance of economic development are not confined to budget speeches. The common thread can be seen in a range of planning documents and speeches. In former Prime Minister Rudd’s first speech to the Australian Parliament in November 1998, prior to being elected Prime Minister, he emphasised the importance of the economy in the Australian policy context. He described Australia’s key challenges as “the creation of a competitive economy while advancing the overriding imperative of a just society.” He went on to

describe these challenges as “a new formulation of the nation’s economic and social imperatives”.187 The economy’s prominent position in this formulation demonstrates the overarching strategic position of economic development in the Australian policy discourse. Notably, Mr Rudd’s speech also referenced Australia’s other strategic priority (social stability), which will be discussed in the next section of this thesis.

Throughout his term in office (2007-2010), former Prime Minister Rudd’s speeches consistently returned to the importance of economic development. For example, Prime Minister Rudd’s 2009 Australia Day speech explained how current government policies were “laying the ground for a stronger, more resilient economy”.188 Australia’s national day speeches are generally accepted as an occasion for political leaders to articulate a shared national vision. In this context, aligning Australia’s ‘future vision’ with current economic policies reinforces the high value placed by the Rudd Government on economic development.

Similar language about the importance of economic development is found in many of former Prime Minister Howard’s speeches. Mr Howard repeatedly affirmed the importance of economic development as a foundation for all other government policy. At various times throughout his terms in office he stressed “the need to maintain a strong economy” and noted how the economic argument “lies at the heart of our quest for a better society”.189 The repetition, across Australian political party lines, of the importance of economic development highlights a longstanding and widely shared national consensus about the importance of economic development as an overarching strategic policy priority in the Australian policy landscape.

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Most recently, in 2012, Prime Minister Gillard has continued to affirm the dominant position of economic development in Australia’s longer-term policy landscape. For example, the Gillard government has stressed “the long term story of the Australian economy is a story of strength”\textsuperscript{190} and “Australia walks tall because of the relative strength of our economy under the Gillard Government’s strong economic management.”\textsuperscript{191} Such comments may be political salesmanship, but the product being sold is the government’s claim to be a promoter of national economic development.

Data collected in personal interviews with senior public servants also supports the notion of economic development being an enduring strategic policy priority for successive Australian governments. When senior Australian public servants were asked to identify the top three priorities for a policy maker from Australia, 87 per cent identified ‘trade and economic growth’ as a high policy priority. Likewise, when asked to select their government’s top three program goals, all senior civil service respondents from Australia chose ‘general economic development’ as a top three goal. Respondents were given seven options to choose from, including an ‘other’ option.

Open ended interview discussion also drew attention to this issue. Dr Ian Watt\textsuperscript{192}, Secretary of the Australian Department of Finance and Administration from 2002-2009 and current Secretary of the Department of the Prime Minister and Cabinet specifically highlighted the importance of the Australian economy and Australian economic progress. Moreover, in later discussions on Australia’s top three program goals, Dr Watt, who has successfully served governments of


\textsuperscript{192} I. Watt, “Personal Interview with Ian Watt - 22 May,” (Canberra 2008).
both political persuasions, posited “general economic development is probably the top [Australian government] policy goal”. Such comments from Australia’s most senior public servant are strong evidence that economic development is a fundamental and enduring Australian strategic policy priority.

Pusey’s 2003 study of the academic backgrounds of Australia’s political administrators provides further evidence of economic development as a strategic policy priority of Australian governments. Of 215 Senior Executive Service Officers in key Australian departments, Pusey found that 44 per cent either held degrees in economics or commerce, or designated themselves as economists. Moreover, Pusey noted that even when the entire range of government departments was included in the analysis, and when further allowances were made for some over-representation of the so called ‘economic departments’, there was still a bias towards economic and business-oriented training. This economics/business orientation contrasts strongly with the picture in many comparable Organisation for Economic Cooperation and Development countries where the normal requirement for high bureaucratic positions is a liberal education or legal training.¹⁹³

In short, analysis of previous academic research, core government documents and recent personal interviews of key government personnel shows that sustained economic development is an overarching and enduring strategic policy priority for Australian governments.

**Economic development in Malaysia**

Turning to Malaysia, can it be said that sustained economic development is also a strategic policy objective for the Malaysian Government? Many scholars suggest this is the case. Malaysia has often been described as a ‘developmental state’.¹⁹⁴ Bagchi defines the

developmentalist state as one which “puts economic development as the top priority and is able to design effective instruments to promote such a goal.” Consistent with this definition, Nelson describes how successive Malaysian governments have “always assumed the need for an active governmental role in promoting economic growth.”

Rahman Embong has written extensively on Malaysia as a developmental state. His works emphasise the primacy of Malaysia’s developmentalist state outlook. He notes that leading Malaysian agencies, including the Economic Planning Unit, backed by the Treasury, Bank Negara (the Central Bank), the Statistics Department and the Federal Industrial Development Authority, championed “economic growth over other priorities.”

One difference between the strategic policy priority of economic development in Australia and in Malaysia is the different drivers for such a policy priority in each country. In Malaysia, the Government regards economic development, in part, as a means to achieving social (ethnic) stability. That is, the Government argues that economic development is both a goal in its own right and, at the same time, the way in which Malaysia can achieve its other central strategic policy priority of social stability. Put more succinctly, the Malaysian

\[\text{see the references listed below for detailed analyses.}\]

government appears to perceive economic development as a strategic policy priority and as a necessary condition for social (ethnic) stability. Muthiah Alagappa and William Case have shown how Malaysia’s strong economic performance has stabilised political and ethnic relations in Malaysia, particularly after the race riots of 1969. Alagappa proposes that economic development can be shown to stabilise nations in Southeast Asia, particularly where this economic development is seen to be benefiting all in the society.\textsuperscript{198} In his case study, William Case demonstrates how ethnic and political stability in Malaysia has weakened at points of economic downturn.\textsuperscript{199} Conscious of this linkage, the Malaysian Government continues to focus on economic development as an overarching strategic policy priority as this facilitates social (ethnic) stability.

The nuanced sequencing of the Malaysian Government’s strategic policy priorities is reflected in the National Credo. Known as the \textit{Rukun Negara} and introduced immediately following the racial riots of 1969, the credo is a fundamental and guiding document in Malaysia’s strategic planning.\textsuperscript{200} The first element in the credo is “achieving a greater unity of all her people”. The paramount position given to ‘greater unity’ highlights the predominance of seeking social (ethnic) stability in Malaysian government planning. However, through analysing government speeches used to promote the need for a national credo, it appears that economic development was identified early as the primary potential vehicle for achieving social stability. The foundational Malaysian credo speech by Tan Sri Ghazalie Shafie, the Permanent Secretary, Ministry of Foreign Affairs and a member of the National Operations Council, made clear reference to utilising economic projects,

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such as land schemes and rural subsides, for social stability.\textsuperscript{201} These economic elements flowing from the National Credo were taken forward in the New Economic Policy (NEP) (see discussion below).

In contrast to Malaysia’s ‘economic development to achieve social stability’ approach, the Australian Government sees social stability as the means through which Australia can achieve its strategic policy priority of sustained economic development. That is, government sees social stability in Australia as a necessary condition for successful economic growth. This hierarchy of strategic policy priorities in Australia is in accord with political theory developed in the 1960s.\textsuperscript{202} Theorists of this time argued that a critical factor in economic development was harnessing the nation’s people to work collaboratively and productively together. In later years, scholars such as Putnam\textsuperscript{203} have shown how stable and cooperative societies continue to be more economically successful than those who are less socially stable and cooperative.

Figures four and five show the different sequencing between Australia’s and Malaysia’s two strategic policy priorities.

Building on Malaysia’s National Credo, a further influential Malaysian government policy with a clear developmental focus was the New Economic Policy (NEP), which was implemented in 1971. The NEP was a policy with a forced birth - it would not have happened without the racial conflict of 1969. The NEP brought together Malaysia’s two stated strategic policy priorities: economic development; and social stability. Quickly becoming the central pillar of Malaysia’s development planning, the NEP focused not only on building the economy through sustained economic growth, but also on ensuring ‘appropriate’ resource distribution across society.\textsuperscript{204} In his foreword to the Second Malaysia Plan (the so called ‘blueprint’ for the NEP), then Prime Minister Tun Razak wrote “Malaysia needs more than merely a high rate of economic growth. While devoting our efforts to the task of achieving rapid economic development, we need to ensure at the same time that there is social justice, equitable sharing of income growth and increasing opportunities for employment.”\textsuperscript{205} As a long-lived central policy guidance document in Malaysia, the assignment of priority to economic development and social stability in the NEP is a strong indication of Malaysia’s enduring strategic policy priorities.

In 1990 the National Development Policy (NDP) replaced the NEP. The NDP continued to pursue many of the NEP policies including,

\textsuperscript{204} R. Leete, \textit{Malaysia: From Kampung to twin towers: 50 years of economic and social development}. 45.
significantly, the focus on promoting economic development to maintain social (inter-racial) stability. Both the NEP and the NDP have been criticised for creating political patronage, inequitable distribution of wealth, and corruption and other abuses of power, yet despite these criticisms the Malaysian Government has continued with these policies. This again indicates the Malaysian Government’s overriding pursuit of inter-racial social stability through economic development, if necessary at a cost to other political priorities or specific policy goals.

Focusing more closely on Malaysian economic development policy, a feature of the Malaysia’s economic progress has been its Export Oriented Industrialisation policy. Export Oriented Industrialisation aimed to speed-up Malaysian industrialisation processes and ultimately promote further economic development. Export Oriented Industrialisation focused on exporting goods for which Malaysia had a comparative advantage, mostly labour intensive manufactured exports such as electronics, footwear and garments. Export Oriented Industrialisation contributed to rapid growth in Malaysia’s economy and significant reductions in unemployment and underemployment. However, an adverse consequence of the Export Oriented Industrialisation was the creation of an environment where Malaysia is now dependent on low-cost labour intensive industries for continued economic growth.

While the National Credo is a foundational Malaysian planning document, more recent core Malaysian government planning documents also support the primacy of economic development in Malaysia’s overall policy landscape. Such core planning documents include Vision 2020 and the Malaysia Plans, with the most recent Tenth Malaysia Plan (2011-2015) representing the views of the current administration.

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These formal government planning documents all focus specifically on promoting economic development, rather than, for example, promoting nationalism, or inter-ethnic stability, or a sense of identity. The subject matter of foundational government planning documents is a significant indicator of the core priorities of any government.

The Malaysia Plans, particularly, are significant for this immediate discussion and the broader analysis in thesis as they set out the Government’s long-term perspective to nation building. Leete views the plans as “a sort of contract between the Government, the private sector, labour, and the people.”

The early implementation of a systematic long-term policy planning model represented a shift away from earlier laissez-faire styles of colonial administration, and accorded with the emerging ‘Asian’ (non-colonial) administration styles of other newly independent nations of Asia in the early post Second World War era. There have been ten Malaysia Plans, with the most recent spanning 2011-2015. No such clearly defined, regular long-term Government planning documents exist in Australia.

The Ninth Malaysia Plan (9MP) (2006-2010) will be used for this discussion of sustained economic develop as a strategic policy priority, rather than the Tenth Malaysia Plan (2011-2015), as the 9MP more closely corresponds with the period of analysis covered in this thesis. The content of the 9MP gives further weight to economic development’s pre-eminent position in the policy matrix. The major driver in the 9MP was identified as the Malaysian ‘national mission’. The national mission had five thrusts, with the first and most important focused on further economic development by means of a shift toward a more human capital driven economy. The Malaysian Government recognised that its economic growth would be unsustainable if it did not move away from the Export Oriented Industrialisation strategy discussed above. Political elites understood that failing to deliver economic gains

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209 Ibid. 43.
to the peoples of Malaysia could compromise their support base. Thus, while specific economic policies were reformed, the overarching strategic direction remained unchanged. This provides additional evidence that Malaysia’s first strategic policy priority continues to be the pursuit of economic development.

The mid-term review of the 9MP demonstrated the same ‘economy first’ approach. The review sought to ensure that the Malaysian Government continued to deliver “tangible benefits” to the Malaysian people. The report is populated with economically driven statements and a large proportion of the assessment is based only on economic deliverables. References are made to “favourable economic performance”, improvements to the “structure of the economy”, predictions of continued “robust” gross domestic product (GDP) growth, “strong” macroeconomic fundamentals, and a “conductive environment” for business - strong evidence of the way in which the Malaysian Government continues to place heavy emphasis on economic development as a strategic policy priority.

Another important high level Malaysian planning document is Vision 2020. Launched by Prime Minister Mahathir in 1991, the vision aimed to make Malaysia a fully developed nation by the year 2020. The key component of Vision 2020 is becoming a “prosperous society, with an economy that is fully competitive, dynamic, robust and resilient.” The Vision sets out a series of macro and microeconomic policies through which Malaysia will meet this development goal. It notes that Malaysia’s economy “must be able to sustain itself over the longer term, must be dynamic, robust and resilient.” The Vision’s concentration on economic development is a further demonstration of the extent to which economic development dominates the Malaysian policy discourse.

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Data from personal interviews conducted in early 2008 also demonstrates the strategic importance of economic development in Malaysia. When senior Malaysian public servants were asked to identify the top three priorities for a policy maker from Malaysia, 83 per cent of the respondents identified ‘trade and economic growth’ as a high priority. When asked to select their Government’s top three program goals, all senior public service respondents from Malaysia chose ‘general economic development’ as a top three goal. Respondents were given seven options to choose from, including an ‘other’ option.

Open ended interview discussion also drew attention to this issue. Ms Norani Ibrahim\textsuperscript{212} from the Economic Planning Unit in the Prime Minister’s department noted that Malaysia “needs” economic development to progress its day-to-day policy goals such as maintaining inter-ethnic social stability. Her comment implies that she believes Malaysia cannot maintain its social stability without economic development. In similar remarks, S. Vicknesan, Political Editor of the controversial National Consciousness Movement (\textit{Aliran Kesadaran Negara}, or ALIRAN) publication stressed the centrality of economic development to Malaysia’s entire political system. In his view “if the economy goes, the ruling coalition goes.” Mr Vicknesan went on to explain that economic development is core element which cements \textit{Barisan Nasional}’s (the National Front; BN) ruling position.\textsuperscript{213}

In summary, economic development is perceived as an overarching strategic policy priority for both the Australian and Malaysian governments. Established political scholars such as Pusey for Australia and Jomo and Weiss for Malaysia suggest the economy is fundamental to both governments’ mentalities. Analysis of core planning documents, such as successive Australian budgets, landmark Australian speeches, Malaysia’s NEP, Malaysia’s 9MP and Vision 2020 also demonstrate the

\textsuperscript{212} N. Ibrahim, ”Personal Interview with Norani Ibrahim - 25 January,” (Putra Jaya 2008).
\textsuperscript{213} S. Vicknesan, ”Personal Interview with S Vicknesan - 1 February,” (Kuala Lumpur 2008).
pre-eminence of economic development in Australian and Malaysian policy planning. Interview evidence collected from primary research also points to the potency of economic development in the policy landscape. Economic development forms a strategic policy priority for both Malaysia and Australia.

**Social stability: a shared strategic policy priority**

In addition to economic development, a second strategic priority for Malaysia and Australia is social stability. As this thesis will show, the Malaysian government sees maintaining social stability as the supreme strategic priority. Meanwhile the Australian government sees maintaining social stability as a means to achieve sustained economic development.

Social stability is a term used to describe an accepted normative social order which promotes solidarity in society. Social stability is not unlike the concept of social cohesion. Judith Maxwell describes social cohesion as the fostering of “shared values and communities of interpretation, reducing disparities in wealth and income, and generally enabling people to have a sense that they are engaged in a common enterprise, facing shared challenges, and that they are members of the same community.” Struggling to find a clear definition, Lockman describes social stability and cohesion as the polar opposite of “social dissolution”. Less circuitously, Cheong et al. describe social cohesion as referring “to common values and purpose in a society, including a sense of belonging and solidarity for people from diverse backgrounds.” Cheong and her colleagues conclude that the meaning of social stability is “a movable feast, aligned with the political and ideological positions of policy makers, practitioners and

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This research supports this argument, and will show how social (ethnic) stability has taken on nuanced meanings in Malaysia and Australia, respectively.

Stability and positive community relationships have been central to political analysis in Europe and Asia for generations. In the early 1990s, Putnam made a strong case for the importance of social cohesion in creating successful, economically productive societies. Using innovative methodology in a study of provincial Italy, Putnam concludes that Italian provinces with higher levels of social cohesion were more likely to be economically, politically and institutionally successful than those which were less cohesive. Putnam notes the networks, norms of reciprocity and trust that are fostered among the members of community associations by virtue of their experience of social interaction and cooperation lead to more effective government policy and faster economic development. Thus, Putnam identifies social cohesion and stability as essential ingredients in effective overall policy formulation. He calls the relationship between social cohesion and effective policy formulation “social capital”. He argues that social capital has a positive impact on governance because it allows community members to overcome the challenges of collective action which would otherwise hamper their attempts to cooperate for the purpose of bettering social life. Thus, Putnam sees social stability as essential to successful policy formulation. If social stability is indeed essential to good policy formulation, Putnam’s theory sheds light on the possible reasons for the Australian and Malaysian governments perceiving social stability as an overarching strategic policy priority.

Other scholars have developed similar theories linking the necessity of social stability to effective government. In Jupp et al. scholars argue that Australia has almost always seen the ‘threat’ to social stability as essentially coming from ethnic differences, unplanned immigration, and

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218 Ibid. 43.

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the demands of labour. Jupp’s and his colleagues’ volume examines the key means by which social cohesion has been constructively sought in Australia. The book concludes that overall, the planned program of immigration and settlement by Australian governments over the years has been successful in mitigating social disharmony.

Recent policy statements also support the linkages between social cohesion and economic development. For example, recent press releases by Prime Minister Gillard have linked “Australia’s future economic prosperity” with “social cohesion” and strategic planning. Prior to this Prime Minister Rudd also emphasised the linkages between social cohesion and strategic planning. In the first ever Australian government ‘National Security Statement’ Prime Minister Rudd identified social cohesion and economic prosperity as mutually interdependent, and as essential for Australia’s national security.

Underlying the strategic policy priority of social stability is a fear of instability. International relations scholars such as Rotberg have argued “nation-states fail because they are convulsed by internal violence and can no longer deliver positive political goods to their inhabitants.” Rotberg holds that as social unrest occurs, governments lose legitimacy as citizens perceive that the government can no longer function as mandated. Narayan builds on Rotberg’s argument, stressing that lack of social cohesion leads to severe income inequality and threatens a nation-state’s economic and political

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stability. In Narayan’s analysis, social unrest typically culminates in the overthrow of government and disruption and decline in the economy.\textsuperscript{224}

It is likely that a large part in the fears of social instability in Australia and Malaysia result from their ethnically mixed populations and long history of migration, and for that reason it is worth taking some time to understand the respective migration and ethnic experiences of Australia and Malaysia.

**Australia’s migration experience**

Following the establishment of a British penal colony in 1788, immigration to Australia in the late 18th and early 19th centuries focused on encouraging British settlers to emigrate to Australia. With early migration patterns to Australia linked with economic development and the foundation of new industries,\textsuperscript{225} convict transportation (1788-1868) was overwhelmingly from the British Isles and immigration assisted from public funds (1831-1982) was almost exclusively British and Irish until 1947.

To provide some figures, between 1831 and 1841 the British Government financially assisted 70,000 British nationals to emigrate to Australia.\textsuperscript{226} Australia’s population growth rate per annum in 1820-1870 was 3.4 per cent, with the average in Asia at this time being 0.2 per cent. The share of migration in Australia’s population growth between 1865 and 1932 was roughly 25 per cent.\textsuperscript{227}

The discovery of gold in Victoria in 1851 played a major role in these migration trends. In what is colloquially referred to as the ‘gold rush’

\textsuperscript{226} Ibid. 275.
era, the Australian population trebled from 430,000 in 1851 to 1.7 million in 1871. In the same twenty year period, the number of new migrants to Australia was greater than the number of convicts who had arrived in the previous seventy years. While the majority of these migrants were British nationals, other nationalities such as Chinese, Americans, French, Italian, German, Polish and Hungarians also arrived. Forming the largest non-British migrant group, the Chinese had an estimated population of 40,000 in 1861 and made up three per cent of the Australian population.  

Following federation in 1901, immigration policies became a Commonwealth constitutional responsibility. Known colloquially today as the White Australia Policy, the Immigration Restriction Act (1901) was the Australian Government’s first formal immigration policy. Reflecting the restrictive (racist) attitudes of Australian leaders at the time, “the Immigration Restriction Act of 1901 was designed to exclude any immigrant who because of his colour might dilute the white strain.” The White Australia Policy meant that Australia primarily functioned as “Anglo-outpost in the Southern hemisphere” up to the Second World War and even beyond. As a consequence, most areas of life - including literature, art, education and law - were dominated by European styles.

Under the White Australia Policy Britain continued as the main source for Australia’s migration intake. To help with industrialisation, assisted migration from Britain was increased from four per cent in 1905 to 58 per cent by 1911. This base level of migration was complemented by small groups of ‘specialist’ non-British migrants, such as Afghan

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230 T. Dare, Australia, a nation of immigrants (Frenchs Forest: Child and Associates, 1988). 121.
cameleers, German viticulturists, and Japanese pearl divers. Growth in migration continued until the Great Depression (1929–32), when “Australia could not afford to import even industrial skills”.233

The end of the Second World War resulted in a boom in Australian migration, with approximately 2.5 million people migrating to Australia from 1949 to 1970. Significantly, this was also the first period in which non-British (non-English speaking) nationals migrated to Australia in large numbers. In the immediate post-war years, resettlement of refugees from Eastern Europe was the predominant source of migration and subsequently “the Australian Government entered into formal agreements to sponsor migration from a number of European countries, including Germany, the Netherlands, Italy, Greece and Malta”.234

While originally intended to sustain White Australia by supplementing British immigration from Europe, these non-British white migrants demonstrated that new immigrants could succeed in Australia without necessarily assimilating into the accepted ‘Australian’ culture. With the sources of immigrants extending towards the Middle East and the completion of an agreement with Turkey in 1967, the ‘cultural arguments’ for White Australia became untenable. It became absurd to exclude professional Indians and Chinese while still encouraging the arrival of Balkan, Middle Eastern, and other noticeably non-British migrants.235 Moreover, analysis of early fractures in Australia’s social stability showed that “sloughing off ones culture and the adoption of a new culture [as was expected of new migrants at the time] was not as simple (or simplistic) as had been suggested.”236 Responding to these changes, between 1966 and 1973, government policies of racial

236 L. Foster and D. Stockley, Australian multiculturalism: a documentary history and critique. 25.
exclusion and immigrant assimilation were abandoned with surprisingly little political resistance.\textsuperscript{237}

Since the 1970s Australian immigration policies have continued to become more liberal and opportunities for migrants from around the world have expanded, although this acceptance has been balanced with a highly regulated policy regime. Within the migration program, each year the Government sets the number of people who can enter Australia as temporary or permanent migrants. For example, the planning level for the 2012–13 Australian migration program is set at 190,000 places, with 68 per cent of those places set aside for ‘skilled migrants’ who gain entry essentially because of their work or business experience, business qualifications, skills or sponsorship.\textsuperscript{238}

An indicator of the size of Australia’s migration program is net overseas migration. Net overseas migration (NOM) is the addition or loss to a country’s population arising from the difference between those leaving permanently or on a long term (12 months or longer) basis and those arriving permanently or for a long term. Figure six below shows Australia’s net annual overseas migration from 1982-2011.\textsuperscript{239} The figure demonstrates how migration has been used by the Government to significantly adjust Australia’s overall population growth.

\textsuperscript{237} J. Jupp, "From 'White Australia' to 'Part of Asia': Recent Shifts in Australian Immigration Policy towards the Region." 210.
Today almost half of Australians (46 per cent) were either born overseas or have at least one overseas-born parent. Figure seven shows the top 10 ancestries in Australia. The figure also shows that in the 2011 census only 35 per cent of Australians identified their ancestry as Australian.\[^{240}\]

Malaysia’s migration experience

Like Australia, Malaysia shares a history founded on waves on migration. One of the most striking contemporary features of Malaysia is its multi-ethnic community. According to the most recent Malaysian census (2010), the ethnicity of Malaysian citizens is *Bumiputera* (indigenous Malaysians) (67 per cent), Chinese (25 per cent), Indians (7 per cent) and others (1 per cent).\(^{241}\) This breakdown is represented in figure eight.

**Figure 8. Malaysian demographic breakdown by ethnicity**

As the figure shows, a third of the Malaysian population is perceived as being of migrant descent, despite many of these ‘migrants’ having lived in Malaysia for generations (see later discussion). Moreover, this figure does not include Malaysian citizens who originally migrated from within the Malayo-Indonesian archipelago and who - at least in British eyes - shared similar language, culture and custom to ‘local Malays’ and were

therefore categorised as of Malaysian citizenry during early anthropological studies and British-led censuses.\textsuperscript{242} In addition to these migration figures, the Government estimates an additional 3.1 million legal and illegal foreign workers reside semi-permanently in Malaysia.\textsuperscript{243} These workers comprise approximately nine per cent of Malaysia’s total resident population.

Historically, migration to Malaysia was centred around its strategic trading location. Over many centuries, traders from across the Malayo-Indonesian archipelago, India, China and the Arabic world passed through the Malacca Straits and established themselves in Malaya (as it was then called). There is strong evidence of frequent movements between Sumatra and the Malay Peninsula, with similarities in languages and culture being just one aspect of this.\textsuperscript{244} There was also deep and frequent interaction between the Malay Peninsula and the Indian subcontinent. Hindu/Buddhist structures, Indian-styled objects and inscriptions, and other archaeological and epigraphic evidence indicates the presence of Indian mercantile communities in several parts of early Southeast Asia. Indian traders tended to settle in areas functioning as centres of trade, such as Kedah and Seberang Perai (Wellesley Province in English). Muslim and Portuguese traders in Melaka intermarried with local women and integrated into the local Malay community.\textsuperscript{245} By the late seventeenth century the number of Chinese traders in the Malacca Straits had also increased substantially, although the majority of these Chinese did not establish a home in Malaya, but were considered sojourners who would settle temporarily and then return home upon completion of business transactions.\textsuperscript{246}

\textsuperscript{242} For discussion on this process see Chapter 2 of J. S. Kahn, \textit{Other Malays: Nationalism and Cosmopolitanism in the Modern Malay World} (Honolulu: Asian Studies Association of Australia in association with University Of Hawaii Press, 2006).


Traditional rulers often directly cultivated “special” relationships with these resident “foreign groups”, particularly the Chinese, who were seen to bring wealth and connections to a ruler.\textsuperscript{247} Thus, migration and trade was important in this early era, but ethnic division, also, was evident.

Trade opportunities arising from the European expansion into Southeast Asia attracted additional Chinese migrants, and Britain’s “founding of the first free port Penang in 1786 marked a new era of Chinese immigration to Southeast Asia”.\textsuperscript{248} Soon after, the Opium War (1834-1842), the Taiping Rebellion (1850-1864), and the lifting of the ban on Chinese immigration overseas (1893) triggered a rush of Chinese immigration to Malaya leading to Chinese migrants substantially outnumbering migrants from other areas. Additional Chinese were lured by lucrative mining concessions and other forms of patronage granted by local Malay rulers.\textsuperscript{249}

Yet many scholars, such as Kaur,\textsuperscript{250} Sandhu,\textsuperscript{251} and Kumar and Siddique,\textsuperscript{252} contend that it was the British who were most instrumental in encouraging and facilitating mass migration to Malaya, and consequently in creating Malaysia’s plural society. From 1881-1939 Malaya had the highest immigration rate (immigrants per 1,000 population) of the world; ten times as high as the rate for the ‘immigrant’ society of the United States. A total of around 10 million Chinese and three million Indians were documented as arriving between 1880 and 1939. In each decade until the 1930s, the number of

\begin{itemize}
\item \textsuperscript{247} A. C. Milner, "Who Created Malaysia’s Plural Society?", \textit{Journal of the Malaysian Branch of the Royal Asiatic Society} 76, no. 2 (2003). 12, 15, 17.
\item \textsuperscript{250} A. Kaur, "Crossing Borders: Race, Migration and Borders in Southeast Asia," \textit{International Journal on Multicultural Societies} 6, no. 2 (2004).
\item \textsuperscript{252} S. Kumar and S. Siddique, \textit{Southeast Asia: the diversity dilemma} (Singapore: Select Publishing, 2008). 17.
\end{itemize}
immigrants arriving in Malaya represented between 84 per cent and 100 per cent of its total population.253

Scholars such as Sandhu and Kaur argue that the industrial revolution in Europe and the development of large-scale production in Britain placed strong pressures on British colonies - including Malaya - to provide raw materials.254 Combined with a general increase in colonial agricultural activities in Malaya, these European pressures led to huge labour shortages in the plantation, mining, and other sectors of the Malayan economy. As labour shortages could not be met by the local populace, the demand for labour in Malaya was satisfied by recruiting migrants from India and China. Chinese were encouraged to work in the tin mines and Indians were brought in to oversee the rapidly growing number of rubber plantations. The colonial government continued to view these migrants as sojourners, to be repatriated when their services were no longer required.255

While some migrants came to Malaya as free migrants, meaning that they financed their own journey with savings or loans from their families or communities, the majority of the labourers who migrated to Malaya came as assisted labourers via the indentured labour system or the kangany system. These systems were based on credit advanced by entrepreneurs or employers in the country of origin or in Malaya to cover the migrant’s relocation costs. Entrepreneurs and employers also organised contracts, transportation and other services for the migrants.256

Under the indenture system, the labourer was ‘indentured’ to the employer for a period of five years (later reduced to three) and was paid fixed wages. Labourers often renewed their indenture at the end of five

253 A. Reid, "Malaysia/Singapore as Immigrant Societies".
255 ———, "Crossing Borders: Race, Migration and Borders in Southeast Asia."
years. According to Arasaratnam, the indentured labour system
“provided the first complement of Indian labourer settlers to the Malay
Peninsula”.\textsuperscript{257} Indentured labour was recruited mainly through
established private companies, and sometimes more transitory
speculators, based in China and South India.

An alternative mode of recruiting labour for Malaya developed during
the latter part of the nineteenth century was the \textit{kangany} system, with
\textit{kangany} being the Tamil word for overseer or superior. This alternative
system supplied most of the labour to the Malayan coffee and rubber
plantations until 1938. Unlike the indenture system whereby mostly
males migrated, the \textit{kangany} system paved the way for more families to
migrate to Malaya.\textsuperscript{258}

Despite the British administration’s ideas about the sojourning nature
of the migrants, by the twentieth century large numbers of migrants
had formed settled communities and there was a growing perception
among indigenous Malays that they were becoming economically
marginalised in their native country.\textsuperscript{259} Cross-ethnic tensions emerged
and were expressed in local newspapers of the time.\textsuperscript{260} The terms
‘migration’ and ‘citizenship’ became politically loaded and several of
Malaya’s independence movements drew on ethnicity and racial origins
to marshal support. This set the tone for future ‘ethnic-centric’
Malaysian politics.

In the post-independence period 1957-70, labour was imported to drive
Malaysia’s economic growth, although this time workers were brought
in from closer to home. Indonesians were recruited to work the rubber
and oil palm plantations in Johor state, and Thais were seasonally
employed in sugar plantations in Perlis and the rice fields in Kedah.

\textsuperscript{257} S. Arasaratnam, \textit{Indians in Malaysia and Singapore}. 12.
\textsuperscript{258} D. Northrup, \textit{Indentured labor in the age of imperialism, 1834-1922}. \textit{10-12}; ibid.
\textsuperscript{259} A. Kaur, "Crossing Borders: Race, Migration and Borders in Southeast Asia."
\textsuperscript{260} For analysis of local sources at the time see: W. Roff, \textit{The Origins of Malay
Nationalism} (Kuala Lumpur: University of Malaya Press, 1967). and A. Milner, \textit{The
Malays}. chapters 5 and 6.
As discussed earlier in this thesis, after the 1969 race riots the key development strategy in the New Economic Policy (NEP) period (1971-1990) shifted to promoting economic growth and raising the living standards of Malay-Malaysians. While pro-Bumiputera policies were not a new concept in Malaysia, the specific NEP policy was a directly policy response to fears that the Bumiputera population had become marginalised in their own country, one key objective of the NEP was to restructure employment to better reflect the country’s ethnic composition and to create a viable indigenous Bumiputera entrepreneurial class.

In creating such a policy, the Malaysian Government had to be very clear about what constituted ‘a Malay’ or ‘a Bumiputera’, particularly after the centuries of migration and integration noted above. The government introduced a ‘returns’ policy, which aimed at cracking down on illegal workers. Several thousand stateless Indian plantation workers were returned to India. The returns policy, combined with large scale migration of rural Malays into urban areas, led to labour shortages in the plantation sector and paved the way for the more organised and sustained entry of large numbers of unskilled Indonesians into plantations.

Indonesian-dominated migration patterns continue today. Numbers of Indonesian migrants grew substantially throughout the 1970s as plantation firms worked to cut costs by using subcontractors and immigrant labour. In addition to working on plantations, Indonesians began entering the construction sector, beginning with the construction boom of the late 1970s and early 1980s which pushed up wage rates and caused labour shortages in the sector. By 1984 the Malaysian Ministry of Human Resources estimated there were over 500,000

foreign workers, almost all in the plantation and construction sectors. From the late 1990s, Malaysia has been the largest labour importer in Asia, both in terms of the absolute number of foreign workers and their share in the domestic labour force. Migrant workers have represented between 20 and 25 per cent of the labour force since the 1990s.

A series of contemporary policy challenges have arisen from Malaysia’s migrant history and its current pattern of immigration. These challenges range from agreeing on criteria for citizenship, to balancing skills shortages with fears about “contamination” of Malaysian culture from the large numbers of migrants.

A key challenge for the contemporary Malaysian government is managing Malaysia’s ‘plural society’. The term ‘plural society’ was first introduced by J. S. Furnivall and describes a society “comprising two or more elements or social orders which live side by side, yet without mingling, in one political unit.” Furnivall observes that in a plural society, each community possesses a distinct set of values incompatible with those of other cultural groups. He characterises the plural society as one lacking consensus or common social ground. The grave social and political consequences of mismanaging ethnic tensions within a plural society were demonstrated to the Malaysian Government during

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266 A. Kaur, ”Order (and disorder) at the Border: Mobility, International Labour Migration and Border Controls in Southeast Asia,” in *Mobility, Labour Migration and Border Controls in Asia*, ed. A. Kaur and I. Metcalfe (Basingstoke: Palgrave Macmillan, 2006).
268 J. Furnivall, *Colonial Policy and Practice*. 

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the May 1969 racial riots (see discussion under social stability in Malaysia), and the legacy of this ethnic unrest and associated ‘ethnic balancing’ arrangements continue to haunt Malaysia’s government architecture and policy formulation processes.269

Social stability in Australia

Managing Australia’s complex social mix has been a consistent policy issue for consecutive Australian governments. As early as the 1970s it had become clear that there were “dilemmas arising from the ethnic issue” and that the economic benefits brought by mass migration were being undercut by the risks of social instability.270 The challenging multi-ethnic nature of contemporary Australian society has resulted in a constant policy struggle to manage social policies relating to migration and notions of ethnicity and identity within society. Indeed the process of stabilising - or uniting - the diverse ethnicities within Australia has been a major challenge for successive Australian administrations.

Most modern Australian political commentators support the central importance of social stability in Australia’s policy matrix. Looking specifically at migration and the role of ethnicity, Stephen Castles is surprised by how often governments fail to effectively manage migration and its effects on society. He notes that this observation relates not specifically to governments failing to implement migration policies, but rather how the policies implemented generally fail to achieve their stated goals.271 This observation hints at how specific policies and programs are often in conflict with strategic policy priorities, as is argued later in this thesis.

Australian historian Anna Clark has argued that the former Howard Government worked hard to promote policy which worked for “all of us”. She argues that Howard’s “all of us” concept invoked a shared

269 S. Kumar and S. Siddique, Southeast Asia: the diversity dilemma. 28.
270 L. Foster and D. Stockley, Australian multiculturalism: a documentary history and critique. 26.
Australian identity. She stressed that this was an important aspect of the Howard government’s approach to managing social stability.272

From a different discipline, the legal analysis presented by Australian criminologist Rob White in *Faces of hate: hate crime in Australia* indicates that proponents of social cohesion “have gone out of their way” to stress the negative issues which could arise from social disarray. White argues that fears associated with social instability are now inseparably linked to “the very heart of the nation’s economic and social institutions”.273 This, he argues, leads to a perceived fear of any social instability resulting in a collapse of Australia’s economy and society. In a 2008 medical publication, Professor of Public Health Rob Moodie suggests that social interactions and the level of social cohesiveness have direct social and economic costs, as well as affecting our health and wellbeing.274 These examples of research in such a diverse range of disciplines are evidence of a national consensus about the importance of social stability in Australia’s policy objectives.

Benedict Anderson’s argument that nationhood is politically and socially constructed highlights social stability as the ‘cultural roots’ of nationhood. Anderson further proposes that the creation of nationhood – described by Anderson as an “imagined community” – creates the perception of a deep, horizontal comradeship, even though citizens from differing social backgrounds or locations share very few tangible connections.275 In Australia, successive modern governments have created an ‘imagined’ identity which is inclusive and multicultural. According to Ho, in 1990, 83 per cent of Australians embraced multiculturalism and recognised the benefits which migration can

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More recently, studies by scholars Ang et al. and Dandya and Pe-Pua continue to support these findings. The overwhelming support for Australian multiculturalism found in Ho’s, Ang’s and colleagues, and Dandaya and Pe-Pua’s findings are significant as the minority of Australians who maintain ‘white Australia’ attitudes are often vocal and aggressive in making their views known to the wider population. For example, former Member of Parliament (1996-1998) Pauline Hanson regularly incited antagonism towards multiculturalism and non-White Australians. Dobell argues the fall-out from the ‘Hanson episode’ demonstrates the importance of structured government polices to manage ethnic diversity and multiculturalism.

Successive Australian governments have been largely successful in creating and sustaining a shared sense of nationhood which is built on many small elements of other cultures. However, as the Hanson episode shows, governments have needed to remain alert to the risk of minority negative opinion towards multiculturalism re-asserting itself. For this reason, government continues to view social instability as a threat to the nation, with the potential to dismantle the building blocks of Australian identity.

Australian core planning documents and speeches support the pre-eminent position of social stability in the policy matrix. Many of these speeches emphasise the importance of ‘Australian values’ including an openness to different social and cultural groups. In former Prime Minister Rudd’s first speech as Prime Minister he noted:

The Australian people are a decent bunch. When you talk to Australians around the world, they cannot help but be engaged in the interests of other people. Australians are not by their nature

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278 G. Dobell, Australia Finds Home. 313.
a selfish mob. The Australian people are deeply concerned about the wellbeing of others.279

Each of these sentences link to social stability; they suggest an Australia which is outward looking, which considers other cultures, and which cares about other (non-Australian) people. The paragraph places emphasis on building a society - a nation - which is inclusive, cohesive, stable and in which different groups work together. The paragraph also cleverly avoids stating exactly who is an Australian.

Recent speeches by Australian Governors General also support the perceived importance of social stability in Australian society. In both 2006 and 2007 the Governor-General Major General Michael Jeffery stressed “tolerance” and “collective endeavours”. Jeffery urged Australians to “inculcate in our children a code of living that we should always treat others as we would wish to be treated ourselves.”280 Again, each of these points stresses tolerance, openness, stability, working together and overall a sense of unity, cohesion and stability among Australian people.

The Australian Government has a range of important programs and initiatives which are designed to support social stability. The Department of Immigration and Citizenship manages Australia’s ‘Building Social Cohesion Programs’. On this topic the department notes “many cultures make up Australian society but we are united by our commitment to Australia. Government policies and services are in place to build social cohesion.”281 Under the umbrella of the Government’s ‘Building Social Cohesion Programs’, the Government

manages civics and citizenship, values education, local government, anti-discrimination laws, and other social and community issues.

One specific program promoting social stability is the National Action Plan to Build on Social Cohesion, Harmony and Security. Recent activities under the National Action Plan have included: projects run by various Australian government agencies, including the Department of Immigration and Citizenship; partnership projects between state and territory governments and the Australian Government; and community projects. Developed in 2005-06 the plan provides funding to organisations and individuals interested in working on Australian social cohesion. Recently funded projects include Muslim Australians and Local Government: Grass-roots Strategies to Build Bridges between Muslim, and Non-Muslim Australians and Understanding Muslim Identities: From Perceived Relative Exclusion to Inclusion.\textsuperscript{282} Tangible evidence of the positive results of these programs is not easily available. Nonetheless, the Government’s commitment to funding such programs for almost a decade suggests that policy makers continue to recognise the importance of specific programs to promote social stability.

Policies designed to support social cohesion, social stability and Australian values are sometimes associated with the Howard period of government. However, concerns about social stability have existed well before the Howard government, and continued to exist after the change in Australian political leadership. Indeed new steps and new institutions have been implemented by the Australian Labor Government to assist in managing Australian social stability. One such institution is the Australian Multicultural Advisory Council, which was officially launched by the Minister for Immigration and Citizenship in December 2008. The core roles of the Council are to provide advice to government on: social cohesion issues relating to Australia’s cultural and religious diversity; overcoming intolerance and racism in Australia;

communicating the social and economic benefits of Australia’s cultural
diversity to the broad community; and issues relating to the social and
civic participation of migrants in Australian society. Each of these
goals directly addresses the continuing challenge of maintaining
Australian social stability. The existence of new ‘social stability
building’ institutions and programs demonstrates the continued
currency of stability objectives in Australia today.

The Australian Government’s response to the 2009 attacks on Indian
students in Australia provides a recent example of the policy
importance placed on social stability. Attacks occurred in Melbourne
and Sydney. Subsequent protests by local members of the Indian
community were then held in the same cities. The incidents generated
international headlines and “handed Australia its biggest race relations
conundrum since Sydney’s Cronulla riots of 2005.” Responding to
the concern, the Australian Government established a taskforce to
identify measures to address the attacks. In addition, the Government
invited international student representatives to a roundtable discussion
on issues affecting their Australian study experience including
accommodation, safety and welfare. The Government also established a
free-call number to provide support, information and advice to Indian
students who are victims of crime. The Foreign Affairs Minister,
Stephen Smith, emphasised that these initiatives reflect the
Government’s wish to “restore confidence and trust” in Australia’s
society. Given the relatively limited nature of the attacks, the
Australian Government’s swift and decisive response provides further
evidence of its sensitivity to signs of social disharmony.

283 ———, “Australian Multicultural Advisory Council (AMAC),” Commonwealth of
284 T. Harris, “Indian students act against Australia attacks,” AFP, 14 June 2009.
http://www.google.com/hostednews/afp/article/ALeqM5gAz1zyrsxj3-Pz6g1-
1VjbrjksKQ. [Accessed 15 June 2009].
285 S. Smith, "Interview with Joe O’Brien: ABC2 News Breakfast " Australian Minister
for Foreign Affairs, 10 June 2009.
15 June 2009].
Personal interviews support the concept of social stability as an overarching Australian strategic policy priority. For example, Ms Robin McKay, Deputy Secretary, Department of Families, Housing, Community Services and Indigenous Affairs, identified ‘participatory productivity’ as a primary priority. In Ms McKay’s supporting comments she emphasised the importance of “stability in the community” and “feeling engaged in communities and neighbourhoods”. Ms McKay’s comments reflect the importance of social stability and inclusion in Australian society. The comments also draw out Putnam’s analysis (presented earlier) of the ways in which social cohesion and social stability lead to greater social capital and therefore greater national productivity.

To conclude, there is strong evidence that social stability is a strategic priority for successive Australian governments. This can be seen through the academic discourse on Australian government priorities, through the core documents and speeches of Australian political leaders, through the day-to-day programs of the Australian Government, and through personal interviews with senior public servants.

**Social stability in Malaysia**

Social stability is also a strategic policy priority in Malaysia. Like Australia, immigration has created ongoing difficulties for the Malaysian Government. Undoubtedly, one of the most salient features of modern Malaysian society is its constructed poly-ethnic character which pervades most of the institutions, activities, and attitudes of the population in all spheres of life. Malaysia’s omnipresent ‘ethnic ideology’ is a by-product of Malaysian historical events; notably, Malaysia’s migration experience and the unforgettable racial riots of 1969. Yet this ‘ethnic ideology’ has also been embedded in Malaysian culture through over a century of relentless debate and discussion.

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about ‘race’, ‘ethnicity’ and ‘the nation’. Furnivall’s term ‘plural society, described earlier, is highly descriptive of the Malaysian ethnic prism.\textsuperscript{288} All Malaysians are, first and foremost, categorised as one of the three major ‘races’, Malay, Chinese, or Indian, and are only secondarily ‘Malaysians’. It is virtually impossible to be ethnically neutral by claiming no intervening ethnic status at all. Identity cards (carried by every member of the population over the age of twelve) identify the bearer’s race, as do all official records, from educational institutions at all levels, to labour exchanges and the registry of births, marriages, and deaths.\textsuperscript{289}

Many scholars of Malaysia have remarked on the pervasiveness of social (inter-racial) stability in policy formulation in Malaysia. Gomez observes how much the “character and constitution of Malaysian political parties is influenced by the multi-ethnic nature of its population.”\textsuperscript{290} Abdul Samad argues that Malaysia did well under Abdullah Badawi because it is a “multi-racial and multi-religious country” which needs “good leadership” and “a steady pair of hands” to maintain social stability.\textsuperscript{291}

The defining moment in Malaysia’s ethnicity-riddled history was the race riots of 13 May 1969. The riots followed the results of the 1969 general elections, held on 10 May, in which party leaders stoked racial and religious sentiments in order to win support. The riots allegedly began when Chinese-Malaysians and Malay-Malaysians clashed at an United Malay National Organisation (UMNO) victory procession. Rioting quickly spread across the capital, Kuala Lumpur, and the surrounding areas of Selangor. Incidents of violence continued to occur in the weeks after 13 May, with Indian-Malaysians also becoming involved. Officially,

\textsuperscript{288} J. Furnivall, \textit{Colonial Policy and Practice}.
\textsuperscript{291} P. A. Samad, \textit{Abdullah Ahmad Badawi: A New Breeze in Malaysia’s Politics} (Kuala Lumpur: Parisan Publication & Distribution, 2008). 76-77.
196 people were killed between 13 May and 31 July 1969. Unofficial estimates suggest the death toll could have been over 2,000.\textsuperscript{292}

While the 1969 racial riots were but one event in Malaysia’s history, the deeper long-term significance of the riots cannot be overstated. The experience of the 1969 racial riots has torn through Malaysia’s overall historical narrative and entrenched itself Malaysian culture. The experience has created an omnipresent race-based ‘ethnic ideology’ which prevails in the strategic thinking and action of Malaysia’s top leaders and which is unlikely to fade away in the near future. In describing the 1969 racial riots, British academic C. W. Watson links the post 1969 social instability to Malaysia’s post-independence “sense of urgency” and the Government’s unsuccessful attempts to create a “shared common identity”. He notes that there remained “a sense, not of togetherness, but of separateness”. He concluded that the riots of 13 May 1969 demonstrated that a common goal of economic development was by itself insufficient.\textsuperscript{293} Other scholars have reached similar conclusions. Mehmet\textsuperscript{294} defines the 1969 riots as a “landmark” in Malaysian policy formulation, and Horii suggests the riots were “an outburst of chronic malaise suffered by multi-ethnic Malaysia”.\textsuperscript{295} Each of these scholars are, in different ways, suggesting that effective Malaysian ‘nation-building’ requires both economic and social stability strategies.

A fundamental nation-building document was the \textit{Rukun Negara} (National Credo), which was discussed in the earlier section on economic development in Malaysia. As already noted, the first element of the \textit{Rukun Negara} is an aspiration for Malaysia “to achieve a greater unity of all her peoples”. The concept of social (ethnic) stability among

\begin{footnotesize}
\footnote{293 C. W. Watson, "The Construction of the Post-Colonial Subject in Malaysia". 317.}
\footnote{294 O. Mehmet, \textit{Development in Malaysia: poverty, wealth, and trusteeship}. 6.}
\end{footnotesize}
Malaysia’s peoples is therefore noted as the first and foremost in Malaysia’s ideological planning.

Within this discussion it is important to recall that, until very recently (see below), the social stability striven for by Malaysia’s political leaders has been different from that sought by Australia leaders. Australian-government notions of social stability are expected to be grounded in - and are promoted by government as – those which stress shared ‘Australian values’. Malaysian government notions of social stability are ethnically plural. That is the Government promotes a society in which Bumiputera (the indigenous peoples of Malaysia) live in coexistence with other racial groups such as Chinese and Indians. To some extent, this coexistence has been ‘bought’. Since the racial riots of 1969 in particular, special concessions and benefits for the Bumiputera peoples have been provided by the Government. Ikmal Said observes how debates about national identity have centred upon “the legitimacy of Malay culture as the main pillar of Malaysia’s national culture”. Thus he sees Malay culture as “the dominant component of Malaysian culture.”296 These comments support the ideas of Watson (above) and his analysis of Malaysians ‘sense of separateness’ and lack of shared common identity.

Analysis of contemporary Malaysian policy documents provides further evidence that social (inter-racial) stability remains a dominant strategic priority. In the above discussion of economic development, Vision 2020 and the Malaysia Plans were identified as Malaysia’s core planning documents. The Ninth Malaysia Plan (9MP) (the plan which covers the period of this thesis) clearly and repeatedly identifies the Malaysian Government’s policy ambitions as promoting economic development and building social stability. For example:

The Ninth Malaysia Plan represents the first of three Malaysia Plans that form the National Mission to achieve Vision 2020. As

such the Ninth Malaysia Plan is consistent with the ambition to build a country with an advanced economy, balanced social development and a population which is united.

‘Balanced social development’ and ‘united’ people are clearly goals designed to contribute directly to building inter-ethnic social stability.

Today, the Malaysian government continues to struggle to create a united and cohesive society. The earlier discussions of Furnivall’s plural society concept in this chapter and more recent discussion of Watson’s analysis of the 1969 race riots have argued that ethnic communities in Malaysia live side by side and lack a “shared a common identity”. In seeking a ‘united population’, the 9MP is not aspiring to a mono-cultural, singular society, but rather is essentially promoting a uniquely Malaysian poly-ethnic society with a stronger sense of social stability across group boundaries.

The social stability rhetoric continues throughout the 9MP document. In the concluding prayers, the document closes with a call to Allah to assist in ‘building a developed nation’ and ‘building a united people’. This prayer resonates with the constantly reiterated core goals of Malaysian public policy, that is, economic development and social stability. Allah means ‘god’ for only 60 per cent of the Malaysian population, and consequently even the government rhetoric is divisive - or at least does not encourage unity.

Speeches from the ruling Malaysian coalition also demonstrate the dominance of social stability in the Malaysian policy medley. In his keynote address to the Fourth East Asia Congress in 2006, former Prime Minister Badawi stressed the importance of appropriate social policies in overall strategic policy planning. He pointed to the need to protect and promote a range of social issues including human

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298 J. Furnivall, Colonial Policy and Practice.
300 A. A. Badawi, "Ninth Malaysia Plan: 2006-2010".
responsibilities, political engagement, and civil society participation. Mr Badawi concluded that “most of all” the countries of East Asia need to “instil a very strong sense of social cohesion.”

In 2009, the current Malaysian Prime Minister, Mr Najib Tun Razak, reiterated these ideas. In a speech in Kuala Terengganu, Mr Najib urged Malaysians to place more value on (inter-ethnic) social stability. He stressed “no unity means no political stability, and no political stability means that we are all in trouble. All the races would be in trouble.” These comments highlight the continuing pivotal position of social (inter-ethnic) stability as a primary objective in Malaysian policy formulation.

Since becoming Prime Minister, Mr Najib has remained firm on the importance of social (inter-ethnic) stability and has taken what may prove to be an historic policy step towards re-defining the issue. In mid-2009 Mr Najib unveiled the 1Malaysia Policy. The stated aim of this policy is to “break away from operating in the ethnic prism”. In Parliament, the Prime Minister described the 1Malaysia Policy as “the goal of national unity envisioned by past prime ministers of this nation [but] with a different approach and method according to the current condition of the world.” He likened the 1Malaysia policy to a guideline on how to achieve a bangsa Malaysia (Malaysian race).

A bangsa Malaysia appears to be a different concept from the ‘plural’ Malaysia which has dominated Malaysian ‘ethnic ideology’ and policy formulation processes for decades. Indeed a bangsa Malaysia appears to be policy which would move Malaysia towards a more singular society.

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akin to that in Australia. A bangsa Malaysia, it seems, is a culture where all citizens are free to practice their own culture but, above which rests the belief in a set of shared values. Such a paradigm shift would likely take many years to take root. However, for the purposes of the argument of this thesis, its very launching provides further evidence of the continuing importance of social stability as a strategic policy priority.

Finally, personal interviews conducted in Malaysia for this thesis also demonstrate the overarching importance of inter-ethnic social stability in Malaysian policy formulation considerations. In an interview with his Excellency Dato’ Hussin Nayan, former Director General of the Southeast Asia Regional Centre for Counter Terrorism, Mr Nayan explained the importance of social stability in Malaysian policy formulation. Mr Nayan said “ethnic considerations form part of every decision the Government makes.”

He emphasised the Government’s ongoing concern about a reoccurrence of the 13 May 1969 racial riots, and its resolve to ensure that riots do not occur again.

**Conclusion**

Australia and Malaysia share two strategic policy priorities - sustained economic development and social stability. The governments’ prioritisation of these two objectives is evident in government planning documents, government speeches and statements, personal interviews, and academic analysis.

Each country’s strategic policy priorities are inseparable from the respective historical experiences of migration. Both countries have undergone periods of sustained migration which has substantially reshaped and restructured the ethnic composition of the population. Out of this migration, both governments now face challenges in building a united society and in encouraging economic cooperation between

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ethnic groups. Ongoing residual challenges from the shared migration experiences is a theme of this thesis.

The Australian and Malaysian Governments have a differentiated approach to the two strategic policies. In Malaysia, the Government views economic development as a means to achieving inter-ethnic social stability. That is, as argued by Alagappa and Case, continuing economic development appears to have become a necessary condition for social stability. In Australia, by contrast, social stability is perceived by the government as a necessary condition for successful and sustained economic growth. This differentiation is observed in the Australian government’s emphasis on migration and multiculturalism as contributing to Australia’s economic prosperity.

Strategic policy priorities are distinct from explicit political directions or specific public policy goals. Strategic policy priorities are the enduring vision which shapes the decisions of successive national policy makers. The significance of Australia’s and Malaysia’s shared strategic policy priorities for this thesis’ analysis of policy formulation processes is that both governments appear to be working towards the same broadest level objectives.

The next chapter takes the strategic policy priorities presented in this chapter and considers the structural and institutional framework within which the respective governments pursue those enduring objectives.

Moving away from similarities between Australian and Malaysian policy formulation processes, the chapter will show how historical experiences and cultural influences have given rise to locally-tailored structural frameworks for policy formulation.

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CHAPTER 3. ARCHITECTURE OF GOVERNMENT
Understanding the architecture of government

Many scholars have attempted to find a suitable term for the structural framework within which policy is formulated, implemented and applied. In struggling to capture a suitable description for this framework, scholars have employed such terms as “institutions of government”\(^{308}\), “political system”\(^{309}\), “political institutions”\(^{310}\), “state apparatus”\(^{311}\), “government machine”\(^{312}\), “architecture of government”\(^{313}\) or simply “framework of government”\(^{314}\).

This thesis has chosen to use the term architecture of government, as it most accurately portrays the systemic framework within which policy formulation occurs. In this thesis the architecture of government is defined as the institutional make up (the structure) of government and the higher level processes within these institutions for policy formulation and decision making.

While the terms and detailed features of the architecture of government differ between scholars, there is commonality about what sorts of features make up the architecture of government. For countries such as Malaysia and Australia, these include the constitution; the federal


system; the Parliament; the cabinet and the Prime Minister; the monarchy; the electoral system, and departmental structure. Other broader features are also included in the definition and can include elected representatives, non-elected administrative departments, and relevant organisations such as political parties. Another commonality among scholars is the importance of “knowledge of the structure and functions of government” as a “prerequisite”\(^\text{315}\) for an understanding of public administration, public policy, and political processes more generally.

Malaysia and Australia share an architecture of government based on the Westminster model. This includes a monarchical head of state, bicameralism, a structured process for making laws, and an executive body which forms the apex of decision making. They also share such modern structural features as the separation of powers, a written constitution and a federal system. These are the features which will be examined in this chapter’s analysis of the architecture of government.

Westminster architecture of government has been extremely influential in the shaping of modern democracies, particularly in democracies that were formerly ruled by Britain. Research by Arend Lijphart has argued that in former British colonies which adopted the Westminster model, the model was localised to accord with earlier local practices.\(^\text{316}\) Other political scholars, myself included, have drawn similar conclusions. For example Anthony Payne uses the term “Westminster adapted” in characterising the governmental systems of the former British colonies in the Caribbean.\(^\text{317}\) In a subsequent article, Lijphart argues that this term can be appropriately applied to former British dependencies elsewhere, such as in Australia and Malaysia. Lijphart describes such

\(^{315}\) R. N. Spann and G. R. Curnow, Public Policy and Administration in Australia (Sydney NSW: John Wiley and Sons Australasia Pty Ltd, 1975). 44.
adaptations as including a departure from bicameralism to
unicameralism, and variances in the degree of difficulty in amending
constitutions, the roles and power of judicial review, and the
independence of central banks.318

**Historical background**

Both Australia and Malaysia are constitutional monarchies with a
federal system of parliamentary democracy. Britain laid the
foundations for Australia’s architecture of government when, between
1855 and 1890, it assigned ‘responsible government’ to Australia’s six
colonies: New South Wales; Victoria; Tasmania (Van Diemen’s Land);
Queensland; South Australia (with Northern Territory also under its
time); and Western Australia. Responsible government meant that
each colony became responsible for managing most of its own affairs,
while remaining part of the British Empire. Britain retained control of
some matters, notably foreign affairs, finance, defence and international
shipping. ‘Responsible government’ also allowed for much power to be
held at the colony-level, and this arguably paved the way for Australia’s
classific characteristic form of federalism.

The first official move towards the formation of “Australia” came in 1889
when the New South Wales Premier Sir Henry Parkes proposed that the
time had come for the States to consider an Australian federation.
Momentum built, and in 1890 the representatives of seven British
colonies met in Melbourne and agreed in-principle to establish an
Australian federation. Representatives from Fiji and New Zealand were
also included in discussions on the possible federation. Both chose to
decline. Over the subsequent decade of negotiations, officials from
Western Australia and Queensland particularly expressed reservations
about joining the federation. Moreover, general lack of popular support
for the federation delayed official consensus and it was not until 1900
that a final draft constitution was formally agreed to. The passage and
approval of the Australian constitution through the British Parliament

318 A. Lijphart, "Australian Democracy: Modifying Majoritarianism?," *Australian
enabled the establishment of the Commonwealth of Australia on 1 January 1901. The agreed architecture of the Commonwealth of Australia borrowed heavily from the British style of administration (the Westminster system) but incorporated some elements which were more responsive to the local environment, such as a written constitution and a federal system. These elements will be discussed in detail in this chapter.

The British were also instrumental in laying the foundations for Malaysia’s architecture of government. Three administrative entities emerged on the Malay Peninsula under British rule during the nineteenth and early twentieth centuries: the Straits Settlements (including the cities of Melaka, Penang and Singapore); the Federated Malay States (Selangor, Perak, Negeri Sembilan and Pahang); and the Unfederated Malay States (Johor, Kedah, Kelantan, Perlis, and Terengganu). These entities were built out of the political units (kerajaan type polities) which had existed, for the most part, before colonial rule. The use of pre-existing political units as the building blocks for the colonial-imposed administrative entities is significant for this thesis as it shows that, even in the early stages of the formation of Malaysia’s architecture of government, new structures of government were ‘localised’ to fit with earlier polities and practices.

Naturally, not every kerajaan across what is now ‘Malaysia’ was identical in character or culture. Historians have noted the sub-cultural divide between the Malays of the East coast and northern states and those of the peninsula. Even within the Peninsula, each pre-colonial sultanate was known for its distinctive features, customs and norms. As Milner describes it there was no single kerajaan polity with a single kerajaan culture. Rather, “there was a multiplicity of polities” which left an “impression of heterogeneity”. Nevertheless,

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320 For more detail on this period see: E. Sadka, The protected Malay States, 1874-1895 (Kuala Lumpur: University of Malaya Press, 1968).
321 A. Milner, The Malays. 49.
across these many kerajaans there were, in Milner’s terms “common features”\textsuperscript{322} Particularly relevant for this thesis are the elements of hierarchy, patronage, symbolism and ceremony. To provide one example, Gullick describes that the early polity as “a political unit with its ruler who was drawn from a royal patrilineage and invested with attributes of supernatural power and dignity... In most cases he bore the Arabic personal honorific prefix Sultan (which in Arabic denotes an independent ruler.” Gullick notes that the functions of the ruler were to exercise the powers of central government and to “embody and symbolise the unity and welfare of the state. He observes that the ruler was “assisted and supported by his kinsmen in the royal lineage and by a number of executive assistants.\textsuperscript{323} The “common features” of the many kerajaans in early Malaya will continue to be discussed in detail throughout this thesis.

In the Federated and Unfederated Malay States, the British initially sought “to preserve the accepted customs and traditions of the country”,\textsuperscript{324} with the relevant treaty agreements binding Britain to respect Malay custom, religion, and the sovereignty of the sultans.\textsuperscript{325} Accordingly, the sultans continued their traditional ‘figurehead’ role, particularly in relation to decisions on Muslim Malay religion and culture, while the British ruled in other areas of administrative control.\textsuperscript{326} Again the preservation of Malay cultural customs and traditions is significant for this thesis as it further demonstrates that the adoption of a new architecture of government was influenced by earlier cultural practices.

\textsuperscript{322} ibid. 76.
During the Second World War (1941-1945), the Malay Peninsula and certain scattered parts of Borneo were occupied by the Japanese. At the conclusion of the war the British sought to re-establish power in Malaya by proposing that the states of peninsular Malaya (Johor, Kedah, Kelantan, Negeri Sembilan, Pahang, Perak, Perlis, Selangor, Terengganu, Melaka and Penang (excluding Singapore)) be united into a greater Malayan Union.\footnote{For details on the Malayan Union see Part I of: A. J. Stockwell, \textit{Malaya} (London: University of London, 1995).} For the first time in Malaya’s colonial history the Malayan Union created a “centralisation of the executive, judicial and legislative power in British hands”.\footnote{T. N. Harper, \textit{The end of empire and the making of Malaya} (New York: Cambridge University Press, 1998). 77.} The new direct administrative role of the British represented a move away from partial endorsement of earlier localised \textit{kerajaan}-style rule towards overt imperial influence on Malaya’s architecture of government. Significant for the discussion of ethnicity and social stability in this thesis’ analysis, the Malayan Union also allowed for equal citizenship rights for any persons (Malays, Indians and Chinese) who could demonstrate that Malaya was their homeland. Acceptance of equal citizenship required an ideological shift away from earlier ‘Malay-dominated’ perceptions of the ‘Malay nation’ towards more inclusive multi-ethnic ‘Malaysian’ concepts of the nation. In this way the Malayan Union sought to create a “multi-racial ‘Malayan’ national entity” (which would counter the growing “consolidation of communal identity”.\footnote{T. N. Harper, \textit{The End of Empire and the Making of Malaya} (Cambridge: Cambridge University Press, 1999). 308, 358, 11-12.} The Malayan Union came into effect on 1 April 1946.\footnote{W. Roff, \textit{The Origins of Malay Nationalism}. A. J. Stockwell, \textit{British Policy and Malay Politics During the Malayan Union Experiment 1942-1948}.}

However, at this stage in the nation’s formation notions of a plural or inter-ethnic nation-state (not an equally united ‘Malayan’ state) were already potent, and the Malayan Union did not last long. Malay nationalists (led by Malay elites) viewed equal citizenship sceptically, largely because they already felt threatened by the large number of Chinese, Indian and other ‘migrants’ (as they saw them) residing in
Malaya.\textsuperscript{331} As ethnic tensions increased, the British became increasingly unwilling - for financial and social reasons - to repress disturbances and to maintain rule.\textsuperscript{332} Faced with this “unprecedented opposition” the British negotiated with Malay nationalists and a new political entity was established – the Federation of Malaya.\textsuperscript{333}

The Federation of Malaya (1948-1963) brought together the same peninsular states but featured some significant differences in architectural design. First, the Malay states (Johor, Kedah, Kelantan, Negeri Sembilan, Pahang, Perak, Perlis, Selangor and Terengganu) were established as British protectorates and only Melaka and Penang remained as British colonies. This architectural design element is significant for this thesis as it shows that the state groupings which form Malaysia’s federation again drew from the local political units (\textit{kerajaan} type polities) which had existed before colonial rule. Second, the Federation was administered by a federal government working from the capital city, Kuala Lumpur. The architectural significance here is that Kuala Lumpur was promoted as a clear political and administrative centre of power. And third, suggesting that notions of ethnicity were significant for leaders in the Federation of Malaya, only second generation Chinese, Indians and other races automatically qualified for citizenship, whereas all Malays immediately qualified for citizenship.\textsuperscript{334} This was not necessarily architecturally significant, but did have repercussions into Malaysia’s modern day ‘ethnic ideology’ and its impact on governance and the establishment of strategic policy priorities (each discussed in this thesis). The Federation achieved independence from Britain on 31 August 1957.\textsuperscript{335}

\textsuperscript{331} A. B. Shamsul, \textit{From British to bumiputera rule: local politics and rural development in Peninsular Malaysia} (Singapore: Institute of Southeast Asian Studies, 1986). 154.
\textsuperscript{332} T. N. Harper, \textit{The end of empire and the making of Malaya}. 75-83.
\textsuperscript{334} A. Milner, \textit{The Malays}. 155-157.
\textsuperscript{335} J. M. Fernando, \textit{The making of the Malayan constitution} (Kuala Lumpur: MBRAS, 2002). 217.
The first official move towards ‘Malaysia’ - as we know it today - came in 1961 when Tunku Abdul Rahman formally proposed establishing a ‘Malaysian state’ consisting of the Federation of Malaya, Singapore, and the Borneo states of Sabah, Sarawak and Brunei. The proposed state, Tunku bargained, could offer equal citizenship for all races, but that the equal citizenship would be offset by specific concessions to Malays. Such concessions included: (1) a Malay head of state drawn from the Malay Sultans; (2) Malay as the official national language; and (3) promotion and subsidisation of Malay education and economic development. Malay concessions recognised ketuanan Melayu (Malay supremacy) in Malaya, and were the results of a prolonged inter-ethnic “bargaining” process which continues to define Malaysian policy formulation processes.\textsuperscript{336} Shamsul has summarised well the extended ethnic bargaining process over the decades from the early 1960s. Specifically, he observes that some elements of the bargain became “non-negotiable” following the racial riots of 1969.\textsuperscript{337}

Tunku Rahman’s proposal was generally accepted by the people of Malaya and Singapore who had common experiences of British colonial history as well as geographical contiguity and economic complementarily, but doubts were raised by the people of Sabah, Sarawak and Brunei. Like Peninsula Malaysia, the early polities in Sabah and Sarawak were of a kerajaan-style. However, their colonial experiences have been separate and distinct from Peninsula Malaysia’s British-dominated administration. Leete has argued that “the separate historical development of its [Malaysia’s] states still has important and interrelated influences... in particular, between the Peninsula and the geographically separated, larger, lesser developed and more ethnically diverse Borneo island state of Sabah and Sarawak.\textsuperscript{338} As we will see,

\textsuperscript{336} A. Milner, \textit{The Malays.} 158-159; J. M. Fernando, \textit{The making of the Malayan constitution}. 8-9.
\textsuperscript{338} R. Leete, \textit{Malaysia’s demographic transition: Rapid development, culture and politics}. 170.
East Malaysia’s unique historical experience has also shaped the modern architecture of Malaysian government.

Sabah was under Chartered Company rule from 1881 until Japanese Occupation. Sarawak, once a province of the Brunei Sultanate, was under the personal rule of the Brooke family from 1841 until the Japanese invasion of Southeast Asia. In 1941 a new Constitution was enacted, giving legislative and financial power to a Council Negri (corresponding to a Legislative Council in a colony) and providing for a Supreme Council (corresponding to an Executive Council in a colony). After the Second World War, Sarawak became a Crown Colony, but the councils provided in the 1941 Constitution retained their authority, with the powers of Raja Brooke being transferred to the Yang di-Pertua Negeri of Sabah (the ceremonial head of state, also known as the Governor of Sabah).  

The nation-state of ‘Malaysia’ was formed on 16 September 1963, following the recommendations of a 1962 Anglo-Malayan Commission into the proposed merger (see discussion on federalism for more details on the commission). While criticism and reluctance continued from some citizens of Sabah and Sarawak, the new ‘Malaysia’ incorporated the peoples of Malaya, Singapore, Sabah and Sarawak. Singapore’s formal merger with Malaya was short lived and, following clashes over resourcing, leadership and ‘ethnic ideology’, Singapore separated from Malaysia on 9 August 1965.

Malaysia’s modern day architecture of government remains very similar to that of the early (British-sponsored) Malayan Union. Key Westminster-like features of Malaysia’s architecture of government are: a king (Yang di-Pertuan Agong) as the official head of state, a bicameral

parliament, the notion of separation of powers, and an executive body (the Cabinet) which forms the apex of decision making. These Westminster-like features were coupled with additional non-Westminster architectural features including a written constitution and a federal system. Nevertheless, as the subsequent discussion will show, a localisation process morphed the British-implanted architecture of government. In the classic unpublished PhD dissertation of the late Abduallah Sanusi Ahmad, entitled *The District Office as an Institution of Development*, Sanusi Ahmad concludes:

Institutions transplanted from one milieu to another develop in unpredictable ways and serve needs different from those satisfied in the place of origin. Ideas and structures transferred from one society to another undergo transformations which modify them so radically as to be hardly recognizable from their parent source. Institutions are affected by their environment and vice versa and the product is often a synthesis. The British importation of the public bureaucracy... into Malaysia has suffered this transformation.342

A basic understanding of the historical processes of establishment of the governments of Australia and Malaysia is important for an understanding of the contemporary policy formulation processes in each country. Despite the strong role of the British in the formation of the architectures of both governments, the final architectural design of government took account of cultural and historical influences in each country. With this background in mind, the chapter will now identify some of the shared Westminster and non-Westminster characteristics of the modern architectures of Government in Australia and Malaysia, and contrast these against areas of difference.

*The constitution*

The respective constitutions are the supreme laws governing Australia and Malaysia. At the most basic level, they establish the “rules of the

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342 A. Sanusi Ahmad, "The District Office as an Institution of Development" (University of Southern California, 1977). 164-165.
by defining the legal framework for government and setting out the processes and procedures by which the government will achieve its outcomes. The constitution also sets boundaries on the government, by defining the parameters within which government can function. The constitution should provide consistency, including by ensuring that all government action and legislation aligns with the principles identified and agreed to in the constitution.

A significant difference between the Australian and the Malaysian architectures of government is in the provisions for amending the constitution. The Australian constitution can only be amended with the double majority approval of the electorate by voting in a national referendum. A double majority means that a national majority of electors (more than half the voters in Australia must vote yes in the referendum) and a majority of electors in a majority of the States (more than half the voters in at least four of the six States must also vote yes in the referendum). The double majority provision makes alterations to the constitution difficult and thus only eight out of 44 proposals to amend the constitution have been approved (some of these eight amendments included multiple minor amendments).

In contrast to the Australian model, but in line with other constitutional arrangements around the world, the Malaysian constitution leaves power of amendment with the elected representatives. The Malaysian constitution can be amended by a two-thirds majority in both houses of Parliament and, unlike Australia’s constitution, has been described

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344 G. Singleton et al., Australian Political Institutions. 27; ibid.
347 This is not true in all instances. Amendments pertaining to the powers of sultans and their respective states, the status of Islam in the Federation, the status and rights of the Bumiputera, the status of the Malay language as the official language, to name a few examples, require the assent of the Conference of Rulers. Amendments to the special provisions of East Malaysia require the consent of the Governor of the relevant East Malaysian state. Minor amendments and amendments to Part III of the Second
as a “working document”. As a consequence there have been many more constitutional changes in Malaysia than in Australia. According to Malaysian constitutional scholar Shad Saleem Faruqi, by 2005 there had been 42 constitutional amendments. As each amendment contained multiple clauses or involved multiple revisions, Faruqi estimates that there were a total of 644 amendments to individual clauses from 1957 until 2001 alone. Similarly Wu and Hickling have found that, between 1957 and 2003, almost 30 significant constitutional articles were added or repealed. The high number of constitutional amendments in Malaysia suggests a significantly greater degree of constitutional flexibility than Australia’s total of eight constitutional changes.

In both Australia and Malaysia there were clear political circumstances which spawned the constitutional changes. For example, in 1993 amendments were made to Articles 32, 38, 42, 63, 72 and 181 of the Constitution of Malaysia. These amendments removed the legal immunity of the royalty. Before the amendments were made, the Constitution granted rulers who have violated the law immunity from prosecution in the criminal court unless the ruler voluntarily wished to surrender his legal immunity. The amendments were directly linked to political events in Malaysia at the time. In the late 1980s and the early 1990s there was a series of incidents in which rulers came into conflict with Malaysia’s political leaders. For example there were incidents of assault by the Sultan of Johor and his younger son in 1992. In response to these domestic events, the government pressed hard, and eventually succeeded in having the Council of Rulers (see later

schedules may be made by a simple majority in Parliament. Articles 159 and 161E outline the process for amending the Constitution.

discussion) endorse the removal of the royal immunity provisions from the constitution.\textsuperscript{351}

Similarly, in Australia constitutional amendments have usually been in response to current political events and pressures. For example, in 1967 a referendum was held which approved two amendments to empower the Federal Government to make special laws that applied to indigenous Australians. The amendments were significant as they empowered the Federal Government to enact legislation that would end discrimination against Aborigines by state governments (although such legislation never was enacted). The amendments occurred at a time when Australian indigenous activism was accelerating, and followed a series of controversial political events demanding aboriginal land rights, equal pay, and an end to segregation.\textsuperscript{352}

Although the specific constitutional changes in Australia and Malaysia were in response to social and political pressures of the time, the overall constitutional amendment provisions within the respective constitutions appear to reinforce, or at least reflect, earlier cultural values. This observation is supported by broader analysis of governments in Asia. For example, Milner and Quilty have found:

\begin{quotation}
Governments in the Asian region today are the outcome of historical processes and, even with the impact of Western colonialism, are constricted in ways shaped by specific cultural and social experiences. Asian countries... possess analogues for government, power and politics that are evolved from a rich cultural heritage, contact with other nations, and historical circumstances”.\textsuperscript{353}
\end{quotation}


\textsuperscript{353} A. A. Badawi, “Ninth Malaysia Plan: 2006-2010”. 11; A. Milner and M. Quilty, \textit{Australia in Asia: Comparing Cultures}. 269.
In a later section, Milner and Quilty repeat this message by identifying history as a contributing factor in creating the “strong governments” found in Asia. They note many features, including loyalty and respect accorded to leaders, which appear to persist in the perception and conduct of government today can be traced to pre-modern times.\textsuperscript{354}

Chapter one of this thesis introduced the pre-colonial \textit{kerajaan} polities and highlighted three elements of these polities which appear to have some level of ongoing applicability in modern Malaysian policy formulation processes - hierarchy, patronage, and ceremony and symbolism. In considering the possible \textit{kerajaan} ideology of the time, Milner stresses that the raja-\textit{rakyat} (ruler-subject) relationship is the “critical one”. He further emphasises the mutual dependencies in the relationship (patronage), explaining the relationship as “benefiting both sides”.\textsuperscript{355} One significance of this hierarchical and mutually dependent relationship was that local Malays were subordinate to the ruling sultan or \textit{raja} and therefore always subject to ruling decrees.\textsuperscript{356}

In drawing parallels between the hierarchical \textit{kerajaan} system and Malaysia’s modern architecture of government, Johnston and Milner have observed that early Malay political elites were “imbued with a political culture which was premised on loyalty and obligation to the ruler”. In Johnston and Milner’s opinion “such a political culture has resonance today.”\textsuperscript{357} Mirroring this message in earlier publications, Milner has observed that the impact of the Malay heritage is evident in the manoeuvrings of modern Malaysian politics. He stresses particularly that the modern relationship between Malay political leaders and followers is “reminiscent of an earlier period”.\textsuperscript{358}

\begin{itemize}
\item \textsuperscript{354}———, \textit{Australia in Asia: Comparing Cultures}. 269.
\item \textsuperscript{355}A. Milner, \textit{The Malays}. 59-60.
\item \textsuperscript{356}R. Emerson, \textit{Malaysia: a study in direct and indirect rule}. 15-16.
\item \textsuperscript{357}D. Johnson and A. Milner, "Westminster Implanted: The Malaysian experience". 84.
\item \textsuperscript{358}A. Milner, \textit{The invention of politics in colonial Malaya} (Port Melbourne: Cambridge University Press, 2002). 294.
\end{itemize}
Quantitative research into modern Malaysian values appears to support the ongoing cultural importance placed on hierarchy and respect for leadership. In the late 1970s Geert Hofstede analysed the work related values of cultures around the world. One area of his study was the ‘Power Distance Index’, which measured how much the less powerful members of institutions and organisations expect and accept that power is distributed unequally. Hofstede found that Malaysian society had a very high Power Distance Index (scoring 104). The score was the highest of all the countries examined in Hofstede’s study and contrasts starkly with Australia’s score of 36. Hofstede further demonstrated that in cultures displaying a high Power Distance Index (such as Malaysia), the less powerful expect and accept that power relationships that are autocratic or paternalistic. Hofstede’s work will be discussed in more detail in chapter five.\textsuperscript{359} For this discussion, Hofstede’s Power Distance Index is further indication that traditional Malay political attitudes - that is confidence in, or acceptance of, the rightness of their ruler’s decisions - continues to resonate with modern Malaysian culture and that this attitude permeates into government.

The pre-colonial raja-rakyat (ruler-ruled) relationship and the traditional dominance of the raja may also have relevance to Malaysia’s constitutional provisions. The constitution was originally drafted by an independent constitutional advisory commission, known as the Reid Commission, and comprising representatives of each of the main ethnic groups of Malaya (Malays, Chinese, and Indians) as well as members from Britain, India, Pakistan and even Australia.\textsuperscript{360} Despite this broadly-based membership, the form of the constitutional provisions that eventually emerged do appear to resonate with pre-colonial (specifically Malay) notions of government, For example, through empowering the parliament to amend the constitution, Malaysia’s constitutional amendment provisions appear to assign more power to

\textsuperscript{359} G. H. Hofstede, \textit{Culture’s consequences: international differences in work-related values.}

\textsuperscript{360} J. M. Fernando, \textit{The making of the Malayan constitution}. 97.
the rulers than the double-majority constitutional amendment provisions which apply in Australia.

Many, perhaps most, Australians would have difficulty perceiving government (or indeed any leader) in the respectful and hierarchical manner associated with Malaysia. Rather, Australians are generally more egalitarian in their values and display higher levels of scepticism about government leadership and the political elites. Young has described Australian current attitudes towards government as “bleak cynicism”. Kelly has contributed “where people previously believed in at least some political leaders, today there is cynicism, mistrust or disgust with leaders and the political system itself.” And Grattan has written of “a growing distrust of and disillusionment with governments and governance” and a “crisis of cynicisms.”

Scepticism about government leadership and the political elites does not imply that Australian government is not highly active and, at times, intrusive. Indeed, when comparing Australian government against Malaysian government, Milner and his colleagues have observed that Australian government can appear more active and, particularly in regards to the provision of welfare, operates on a very large scale. Opinion polls show support for an activist government. For example, a 2012 poll found that 67 per cent of Australians agreed that an active government is necessary to provide important public services and to protect ordinary Australians from unfair policies and practices. A strong 68 per cent of Australians also believed that government subsidies and benefits should be means tested, suggesting overall support for state intervention which benefits the ‘lower classes’ of Australia. These polls demonstrate modern support for government

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361 S. Young, "Why Australians hate politicians: exploring the new public discontent". 182.
364 A. Milner and M. Quilty, Australia in Asia: Comparing Cultures. 8-9, 262-263.
intervention where is can be used to mitigate the ‘excesses’ of a free market economy and as a vehicle for claims of social justice.

Australia’s more ‘active’ government fits neatly with Australian support for welfare or social liberalism where, paradoxically, government intervention is seen as necessary to preserve and protect the (liberal) freedoms of the majority of the population. Indeed, in Australian social liberalism, regulation and social policy are seen as giving individuals in the working class “some degree of protection from market forces and some degree of opportunity in society.” Thus, Australians may be sceptical about government leadership and the political elites while at the same time supporting regulatory interventions in markets and the provision of redistributional government welfare services.

Returning to our discussion of leadership and hierarchy in Australia and Malaysia, quantitative social science research also finds a difference in Malaysian and Australian attitudes towards leadership and government. As discussed earlier, Hofstede found that Australia’s Power Distance Index is 36. This accords with similar ‘Western’ ratings such as the United Kingdom (35) and the United States (40) but is starkly different from Malaysia’s score of 104.  

Similarly, in a cross-cultural study of management practices in the Asia-Pacific region, Petzall and Willis found that Australians dominated the ‘executive’ management style classification. The executive management style is characterised by consultation, interaction and problem solving. Managers of this style generally include subordinate staff in decision making and are less inclined to make unilateral decisions. In Petzall and Willis’s study, Australians accounted for 95 per cent of the total executive style managers in their sample. The executive management style was contrasted with other management

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366 A. Fenna, Introduction to Australian Public Policy. 31-32.
367 G. H. Hofstede, Culture’s consequences: international differences in work-related values.
approaches used around the world, such as the autocratic management style, which was characterised as directive and controlling.\textsuperscript{368}

Turning more directly to government, a 2005 international study (including Australia) by Dalton found a correlation between education and levels of distrust in government. The study concluded “ironically, trust in government is decreasing most among groups that have benefited most from the progress of democratic governments during the late twentieth century.”\textsuperscript{369}

As in Malaysia, modern Australian scepticism about government leadership and the political elites may have its roots in Australia’s past. Paul Kelly argues that Australian values are linked to a set of “ideas which Australia had embraced nearly a century before and which had shaped the condition of the people”.\textsuperscript{370} Melleuish, also, argues that Australia’s modern day values were birthed in Australian settlers’ opposition to the colonial regime and associated hierarchical social structures.\textsuperscript{371}

General scepticism about Australian political elites was observed in Australia’s settler era. As early as 1867, Walter Bagehot wrote that:

[In Australia] there is a rich class which has little power, which is subject to a lower class, unfit to govern even itself, and still more unfit to govern those above it.... There is no such respect among the uneducated as would induce them to accept the judgment of the educated.\textsuperscript{372}

Bagehot’s observation suggests a lack of respect for hierarchy and scepticism about government leadership was present in Australian culture, even prior to federation.


\textsuperscript{370} P. Kelly, \textit{The end of certainty: the story of the 1980s}. 1.

\textsuperscript{371} G. Melleuish, "Australian Liberalism". 28.

\textsuperscript{372} Bagehot cited in D. Hamer, "Can responsible government survive in Australia?", (The Department of the Senate, 2004). 16.
Similar observations were made by Charles Bean during the First World War. Bean wrote eloquently of the way the “young branch of the British stock” that had settled in Australia had developed its own distinct “quality”. He described Australia’s “peculiar independence of character” as featuring a lack of respect for status or wealth and an egalitarian loyalty to a “mate”.373

In examining modern day Australian liberalism, Rowse observes that early liberal concepts were adopted in tandem with the rise of European liberalism and the international struggle for emergent working classes to advance liberalism and democracy. In this international context, Rowse notes that liberalism “found very little feudal inheritance in Australia” and was therefore able to flourish more quickly than in other emergent nation-states.374

Returning to our comparative discussion of the constitution, it appears that Australia’s double-majority referendum constitutional amendment provisions assign more power to the people of Australia, and less power to elected officials.375 While assigning more power to ‘the people’ correlates with observed modern day Australian scepticism about government leadership and the political elites, it also resonates with Australia’s earlier settler experiences and the (liberal) ideologies which were taking root at the time when the Australia’s architecture of government was adopted, and adapted, from Britain.

In summary, an important feature of the architecture of government in Australia and Malaysia is their respective constitutions. In both countries, the constitution provides the overarching structure and principles of government. However, the two countries’ different

historical experiences appear to have influenced the respective constitutional amendment provisions. In Australia, the double majority referendum constitutional amendment provisions appear to reflect Australians’ overall scepticism about government leadership and the political elites, while in Malaysia, the two-thirds majority parliamentary constitutional amendment provisions assign more power to elected officials and suggest stronger ‘faith’ in government leadership and political elites. In both Australia and Malaysia, the respective constitutional amendment provisions appear to have some resonance with the cultural practices and values which existed prior to the formal adoption of each state’s modern architecture of government.

**Federalism**

Australia and Malaysia are both federal systems. A federal system divides power so that the national and regional governments are each coordinated and at the same time able to function independently. The architecture of government in Australia and Malaysia places boundaries on the powers of the state and federal governments. However, the specific powers assigned to each level of government in Australia and Malaysia are different.

Section 51 of the Australian constitution defines forty specific areas over which the Federal Government (known in Australia as the Commonwealth Government) has the power to make laws. Part VI of the Malaysian constitution provides for the distribution of legislative powers between the Federal and State governments. This needs to be read in conjunction with Schedule Nine, which lists the legislative powers of the Federal and State governments, including concurrent powers. Table one below summarises the division of powers in Malaysia and Australia.

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377 G. Singleton et al., *Australian Political Institutions*. 27.
### Table 1. Division of Federal and State Powers in Australia and Malaysia

<table>
<thead>
<tr>
<th>Australia</th>
<th>Malaysia</th>
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<tr>
<td><strong>Federal</strong></td>
<td><strong>State</strong></td>
</tr>
<tr>
<td>Foreign relations</td>
<td>All other matters that occurred within State borders including:</td>
</tr>
<tr>
<td>Defence and national security</td>
<td>Police</td>
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<tr>
<td>Civil and criminal processes</td>
<td>Hospitals</td>
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<tr>
<td>Immigration, emigration and citizenship</td>
<td>Education</td>
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<tr>
<td>Trade, commerce and banking</td>
<td>Public transport</td>
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<td>Taxation</td>
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<td>Fisheries</td>
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<td>Quarantine</td>
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<td>Communication</td>
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<td>Railways</td>
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<td>Census and statistics</td>
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<tr>
<td>Currency</td>
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<tr>
<td>Marriage, divorce, guardianship</td>
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<tr>
<td>Pensions</td>
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<td>Special race laws</td>
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<tr>
<td>Astronomy and meteorology</td>
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</tbody>
</table>

* Federal and State governments in Malaysia have concurrent powers to legislate in regard to social welfare, scholarship, animal husbandry, town planning, fire measures, and housing.

Aspects of federalism in both Malaysia and Australia have, over time, evolved in nationally-characteristic ways. Fenna notes that “in theory, federalism assigns responsibility for policy making in different areas to each level of government”. However, in the Australian system the relationships between the levels of government have become blurred and Australian federalism is now often referred to as cooperative federalism. Cooperative federalism is characterised by joint schemes of policy and legislation and formal and informal national intergovernmental bodies. Australian federalism features continuing interdependency between state and Commonwealth governments through schemes that promise to bring agreed, joint benefits through

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378 A. Fenna, *Introduction to Australian Public Policy*. 95.
federal solutions.\textsuperscript{380} While a federal system arguably keeps government “close to the people”\textsuperscript{381}, Australia’s cooperative federal system has been criticised for facilitating “inter-governmental buck-passing”\textsuperscript{382} and limiting the powers of each department of administration.\textsuperscript{383} Today, Commonwealth and state governments are regularly criticised for not working together and for shifting blame on to the other party when tough policy decisions are required.

In Malaysian federalism, the reverse applies.\textsuperscript{384} Malaysia’s federalism was characterised from the start “by a high degree of centralisation”\textsuperscript{385} where the Federal Government holds clear supremacy over the states. According to Jawan, this supremacy “is apparent through many constitutional provisions that provide for the superiority of the Federal Government in many matters, including when necessary, legislating matters within the authority of the states.”\textsuperscript{386} Today, the Federal Government maintains power over forms of revenue raising (imposing a monopoly on direct taxation) and has become the dominant player in many policy areas such as internal security, justice, education, health and welfare. The dominance of the central government has created a position where, in many states of Malaysia, “the federal factor has been relatively unimportant, with state governments generally acquiescing to their political masters in Kuala Lumpur”.\textsuperscript{387}

\textsuperscript{384} The unique monarchical structures in Malaysia appear relevant to federalism, but this will be discussed in the subsequent section.
In a similar argument, Wong Chin-Huat observes that Malaysia’s federal system is “characterised by one-party predominance”. Wong argues that due to the dominance of the ruling coalition, the *Barisan Nasional* (the National Front; BN), state governments behave more like “branches” of BN than independent ruling powers.\(^{388}\) Also linking the political element to Malaysia’s federal architecture, Agus concludes that UMNO’s strong hold over the states, even those with opposition governments, has created a “quasi-federal state”.\(^{389}\)

While the Malaysian federal system may be more central in its ‘federal government’-to-‘state government’ relationships, this centralised system may be offset by the relatively strong powers of the state Malay monarchical rulers. Malay rulers maintain power over Islamic law, and have some discretionary powers in appointing the *Menteri Besar* (Chief Ministers) and may even refuse to dissolve a state assembly when requested by the *Menteri Besar*.\(^{390}\) Moreover, considered as a group, these rulers have the direct power to shape Malaysian public policy (particularly policies related to ethnicity) by approving or not approving constitutional changes relating the rights of the *Bumiputera*, Islam and their own powers. The powers of these rulers are discussed in detail in the section on monarchy.

Federal-state government relationships in Malaysia are also characterised by a divide between Peninsula Malaysia and East Malaysia, with Peninsula Malaysia displaying an historical tradition of stronger centralisation that the states of Sabah and Sarawak. The evolution of this division springs from differences in the histories of Peninsula and East Malaysia, particularly in terms of the transition from regionally distinct *kerajaan* states into the more unified modern Malaysia.


In the Historical Background section of this chapter, I described how Sabah and Sarawak experienced different treatment by the British; Sabah was under Chartered Company rule from 1881-1841 until the Japanese invasion of Southeast Asia and Sarawak was under the personal rule of the Brooke family from 1841 until the invasion. Due to the hesitancy of Sabah and Sarawak to join ‘Malaysia’, in January 1962 an Anglo-Malayan Commission was established to enquire into public opinion in Borneo relative to the ‘Malaysia proposal’. In August 1962 an inter-governmental committee was appointed to develop certain constitutional safeguards for Sabah and Sarawak. These safeguards were to ensure East Malaysia was not disadvantaged by the merger with Peninsula Malaysia. Known as the Twenty Point Agreement, the recommendations of the committee included provisions for the following:

- Islam’s status as the official religion is not applicable to Sarawak and Sabah;
- immigration control is vested in the state governments of Sabah and Sarawak;
- special finance arrangements for Sabah and Sarawak, including defined sources of revenues and grants;
- no amendments to any specific safeguard granted under the Twenty Points can be made without the agreement of the Sabah and Sarawak State governments; and
- Sabah and Sarawak have no right to secede from the Federation.

While the provisions in the Twenty Point Agreement remain in place today, centralised government has impacted East Malaysia through UMNO’s dominance. For example, in the 2008 General Election - an election remembered for a “watershed” swing to the opposition in

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Peninsula Malaysia\textsuperscript{393} - UMNO’s overall victory was based on a solid dominance in Sarawak and Sabah, where BN won 30 of 31 and 24 of 25 mandates respectively, for the national parliament. At the state level, BN was particularly successful in the concurrent 2008 Sabah State Election, winning 56 of 57 seats.\textsuperscript{394} BN also won 55 of 71 seats in the 2011 Sarawak State Election.\textsuperscript{395} With state-level UMNO leaders traditionally bowing to leadership by federal-level UMNO leaders, these UMNO election victories suggest while East Malaysia displays federal architecture through the Twenty Point Agreement, UMNO’s predominance allows Agus’s “quasi-federal state” theory to apply in practice equally in East Malaysia.\textsuperscript{396}

Differences in federalism impact on policy formulation in Australia and Malaysia. For example, in Australia, water policy continues to be shaped by tensions between the Commonwealth and state governments. Better management of Australia’s water resources was recognised as a national issue in 2004, when the Council of Australian Governments signed off on a policy blueprint to improve the way Australia manages its water resources – the inter-governmental agreement on a National Water Initiative. However, progressing the reform agenda set out in the National Water Initiative has become increasingly difficult, and part of this can be attributed to unwillingness on the part of state and territory governments to share power with the Commonwealth Government. According to the former Chair and Chief Executive Officer of the National Water Commission, Mr Ken Matthews, “inter-governmental processes are slow…. Intergovernmental decisions tend to be negotiated

\textsuperscript{395} M. F. M. Jali et al., ”Isu semasa dan persepsi belia terhadap politik dalam Pilihan Raya Umum Dewan Undangan Negeri Sarawak 2011 (Current issues and the perception of youth on politics in the General Election of Sarawak State Legislative Assembly 2011),” \textit{Malaysia Journal of Society and Space} 8(2012). 140.
\textsuperscript{396} Agus quoted in M. A. Yusoff, ”The Politics of Malaysian Federalism: The Case of Kelantan.” 20.
compromises." The slow progress in reform of such an important national issue as water demonstrates the power the state and territory governments continue to hold over what would appear to be a classic trans-boundary ‘national’ issue. The example shows the influence and power that state and territory governments have over Commonwealth policies and their capacity to thwart mutually beneficial national policy outcomes.

In Malaysia, also, differences in federalism impact on policy formulation. Although state governments led by the BN tend to be accepting of federal government direction, real challenges have emerged when the central government seeks to negotiate with state governments led by opposition political parties. For example, since 1990, Kelantan has been ruled at the state level by the Islamic Party of Malaysia (Parti Islam Semalaysia; PAS), a Malaysian opposition party, and this political difference causes continuing conflict between the central and state government. In challenging BN’s ruling power, PAS has repeatedly sought to implement alternative policies to the central government, including seeking to become an Islamic state. A specific example of how central-dominated federalism can affect policy outputs was the passage of the *hudud* (traditional Islamic) laws or the *Syariah Criminal Code Bill* by the Kelantan state legislature in 1993. These laws allowed for strict *Syariah* interpretations of criminal sentences including the amputation of hands, the administration of one hundred strokes for fornicators, and the stoning to death of adulterers. However, despite being passed unanimously in the state legislature, the State Government of Kelantan was unable to implement the *hudud* punishments because Article 75 of the constitution clearly states that any state law cannot be in conflict with a federal law.

A more recent example is the Federal Government’s unwillingness to pay the Kelantan government MYR11 billion (AUD$3.4 billion) in

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outstanding oil royalties for the Cakerawala gas field, which is situated in the Gulf of Thailand. Seeking the royalties, the State Government of Kelantan cited the *Petroleum Development Act (1974)* under which it was agreed that each state would receive five per cent of the value of any petroleum found and extracted from their territories, whether onshore or offshore, and sold by Petronas (Malaysia’s government owned oil company) or agencies or contractors. In 2010, after five years of dispute, the Federal Government agreed to pay a lesser sum of MYR20 million (AUD$6.2 million) to the Kelantan State Government as a ‘Compassionate Fund’, due under a separate oil and gas production arrangement. The example again shows the influence and power that the Federal Government has over state governments’ policy outcomes, even when the policy outcome seeks to build on mutually agreed federal-state provisions such as the *Petroleum Development Act (1974)*.

Historical experiences have been influential in shaping the forms of federalism in Australia and Malaysia. This chapter opened with a description of formation of the modern Australian and Malaysian nation-states. Australia, it was noted, was formed directly from the British colonies, with the federal structure appearing the most appropriate balance between centralisation and allowing some executive functions to continue to be fulfilled by the individual colonies.\(^{399}\)

However, Australia’s federal architecture also appears to reflect the values and ideologies which were dominant at the time (and which appear to continue to have resonance in modern Australia). Milner and Quilty have stressed that importing architectural elements which were popular at the time led to a more strongly embedded concept of “government of the people and for the people”.\(^{400}\) Indeed, one of the arguable benefits of federalism is that, while establishing a united nation-state, a federal architecture improves the likelihood that government will be kept close to the people. Anti-central government attitudes (or at least attitudes which suggest that power should be

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400 A. Milner and M. Quilty, *Australia in Asia: Comparing Cultures*. 277.
shared) have been voiced by Australians throughout Australian history. For example, Australian politician Earle Page argued in the 1950s that a successful federal system “must not only be government of the people and for the people, it must be within sight and hearing of the people”.

With Australian states continuing to exercise more power than Malaysian states, the historically more sceptical Australian attitudes towards central government leadership appear to have had some continuity into modern Australia.

The tenets of liberalism were also influential in Australia’s architecture of government, and specifically the doctrine of ‘social liberalism’ as promoted by T. H. Green in the 1880s and 1890s. This form of liberalism rejected many of the assumptions of classical liberalism, including the concept of non-state interference. Instead, this form of liberalism argued that state interference was justifiable in cases where there was a moral necessity, and as long as this intervention increased the capacity of citizens to make “the most and best of themselves”.

A feature of Sawer’s 2003 publication is its description of the way in which ‘social liberalism’ was imported to Australia at the time of nation-building and how the ideas were built into Australia’s distinctive government architecture.

And finally, the principles of egalitarianism appear also to be important in the formation and ongoing functioning of Australian federalism. Prior to federation, egalitarian values were already readily observable. In the 1850s a visiting English gold-digger observed rank and title have no charms in Australia and in 1886 Adam wrote of Australia as “a true republic” where “the people is neither servile nor insolent, but only

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shows its respect of itself by its respect for others.” Encel has argued that Australians “worship at the shrine of egalitarianism”. He draws attention to the “succession of literacy gents” who have drawn conclusions about the egalitarian nature of Australia society and associates the strength and pervasiveness of egalitarianism with Australia’s colonisation by British settlers.

Egalitarianism appears to have relevance to Page’s government “within sight and hearing of the people”. This perception of federalism appears to align with the overall concept of a less-hierarchical system of government. The Australian form of federalism also suggests equality across and between states, and therefore can also be seen to represent a more ‘horizontally egalitarian’ government architecture.

Historical experiences have also been influential in shaping Malaysian federalism. This chapter’s earlier discussion of the Malayan Union emphasised the significance of the centralisation of judicial and legislative power and Britain’s overt imperial influence on the design of Malaya’s architecture of government. While Malaysia’s final federal form was distinct from the Malayan Union, the Union paved the way for an architecture in which the central government would be dominant and state governments subordinate.

While the British were instrumental in defining the form of federalism in the Malayan Union - and indeed in modern Malaysia - modern Malaysian federalism appears to accord with some of the cultural practices of the Malayo-Indonesian archipelago in the pre-colonial period. First, this pre-colonial kerajaan era was characterised by a “big man” system. In this hierarchical system, the “big man” projected and

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imposed their “prowess” upon subject populations. And second, the system also allowed for a “hierarchy of rulers”, as identified by Hooker in his analysis of the Undang2 Kerajaan. Hooker’s analysis is supported by other historians, such as Wolters, who suggest that while the Malay raja was the supreme figure in his own kerajaan, he was at times willing to submit to a wider ‘international’ hierarchy. This is evidenced, for example, by the paying of tribute from certain kerajaans to the ‘Emperor’ in China. Again, these much earlier Malay values appear to resonate with the style of federalism which was adopted in modern Malaysia. The modern dominant ruler (the federal government) appears to have parallels with the traditional highest level raja, while the subordinate position of the modern state governments appears akin to the lower-level rajas of the pre-colonial era.

In summary, while Australia and Malaysia both share a formal federal architecture, the way federalism operates in each country is different. In Australia, where historical experiences and contemporary ideologies focused on access to government (government of the people, for the people and within sight of the people), social liberalism and egalitarianism, the federalism model operates to assign relatively more power to state governments (purportedly closer to the people) and implicitly, circumscribe the authority of the central government. In Malaysia, where the historical experience of British colonialism strongly influenced the future form of Malaysia’s federal architecture, the federal model operates by reserving more power to the central government. Malaysia’s modern federal architecture also appears to resonate with pre-colonial understandings of power relationships and is consistent with kerajaan “big man” polities and a hierarchy of rulers.

408 O. Wolters, History, Culture, and Region in Southeast Asian Perspectives. 2.
Monarchy

Both Malaysia and Australia have a monarch as the head of state yet there are clear differences in the place of the monarch in the respective architectures of government and the way this architecture operates.

The (British) Queen remains the source of legal authority for all government activity in Australia. As the formal head of state strong importance is placed on the monarch in Australia’s constitution. However, practically speaking, the Queen has nothing to do with the operations of the Australian Government, which is carried out in her name by her elected ministers. In Australia, the Queen is represented in person by her appointee, the Governor-General (and in each state separately by an appointed governor). The Governor-General is appointed by the Queen on the advice of the prime minister of the day for a fixed term of office. The Governor-General exercises many of the same functions as the Queen, but is subject to the Australian constitution. Among other duties, the Governor-General summons/dissolves parliament (usually only on the advice of the prime minister), opens federal parliament and ratifies all legislation with his/her signature. Under all normal circumstances, however, “real political authority is exercised by the prime minister”.411

Malaysia is also a monarchy and the Malay rulers have traditionally been regarded as one of the pillars of Malay collective identity.412 While Malaysia’s constitutional monarch provisions are tied closely to its federal structure, the Malaysian monarchy retains many “unique” characteristics which are “due to the nature and history of the country”.413 Nine of Malaysia’s thirteen states (Kedah, Kelantan, Johor, Perlis, Pahang, Selangor, Terengganu, Perak and Negeri Sembilan) have a monarchical head of state. The monarchs of these states except Perak

and Negeri Sembilan are hereditary and are known as sultans. In Perak, the throne rotates among three branches of the royal family and the ruler is known as the Raja. In Negeri Sembilan the monarch is elected from male members of the royal family by hereditary chiefs and is known as the Yang di-Pertuan Besar (literally ‘the one who is made big’). Each ruler is bound by convention to act on the advice of the head of government of his state, known as Menteri Besar (Chief Ministers) for all matters except those relating to Islam (in which jurisdiction he is the supreme head of state). Each ruler also has some discretionary power in appointing the Menteri Besar and in refusing to dissolve a state assembly when requested by the Menteri Besar.\textsuperscript{414}

The Yang di-Pertuan Agong is the federal head of state (sometime referred to in English as the King). The Yang di-Pertuan Agong is elected from among the state monarchical rulers every five years or when a vacancy occurs.\textsuperscript{415} The Conference of Rulers is the term used to describe the meeting from which state monarchical rulers elect a new Yang di-Pertuan Agong. The Conference of Rulers also gives assent to certain constitutional amendments relating to the status of Malays (see earlier discussion of the constitution).

The Yang di-Pertuan Agong is required to delegate all his state powers to a regent (except for powers in relation to Islam for the four states without rulers - Penang, Melaka, Sabah and Sarawak). Similar to the state rulers, the Yang di-Pertuan Agong is expected to act on the advice of the Prime Minister but has some discretionary powers in appointing the Prime Minister and refusing to dissolve Parliament. The Yang di-Pertuan Agong also appoints the Yang di-Pertua Negeri (the ceremonial governors for the four states without rulers) on the advice of the Prime Minister and the Chief Ministers of the states. The Yang di-Pertuan Agong is the head of Islam in his own state, the four states

\textsuperscript{414} N. H. M. Jali et al., \textit{Malaysian Studies: Nationhood and Citizenship}. 80-81.
without rulers and the Federal Territories (Kuala Lumpur, Putrajaya and Labuan).\textsuperscript{416}

Emphasising the difference in roles between the Australian Queen and the Malaysian \textit{Yang di-Pertuan Agong}, Kobkua writes of the “rejection” of the “Westminster-style constitutional monarch” and the creation of “another type of constitutional monarchy” which is - in a Thai national’s opinion - “akin to the concept and practice of the Southeast Asian monarchy perfected by the Ruler of Thailand since the 1970s”.\textsuperscript{417}

Similarly, former Lord President of the Supreme Court of Malaysia, Raja Azlan Shah has noted that it is “a mistake to think that the role of a King, like that of a President, is confined to what is laid down by the constitution. His role far exceeds those constitutional provisions.”\textsuperscript{418}

Reflecting on the rulers more generally, Embong has described their roles as (1) being a “symbol of unity and sovereignty” and (2) “providing checks and balances”. He views these two roles as “the basis for their [the rulers] continued relevance”.\textsuperscript{419}

A key difference in roles between the \textit{Yang di-Pertuan Agong} and the Queen is the \textit{Yang di-Pertuan Agong}'s more active roles in what would usually be seen by Australians as day-to-day political issues. For example, in July 2011 the \textit{Yang di-Pertuan Agong} urged pro-democracy \textit{bersih} activists and political leaders to settle their differences without proceeding with a formal demonstration. It is instructive that the protesting population responded to the King’s calls and moved the demonstration from the public streets to a stadium.\textsuperscript{420} Furthermore, it was rumoured that the Prime Minister and ruling Government members were displeased with the statement made by the \textit{Yang di-Pertuan Agong}

\textsuperscript{416} N. H. M. Jali et al., \textit{Malaysian Studies: Nationhood and Citizenship}. 80-81.
\textsuperscript{419} A. R. Embong, \textit{Malaysian studies: looking back, moving forward: selected speeches, public statements, and other writings}. 177.
as they perceived it was not assertive enough in condemning the demonstration.

This description shows that the monarchical architectures of Malaysia and Australia are different. ‘Australia’s Queen’ resides in Britain and her formal duties are performed through her representative, the Governor-General. She is considered a “mere figurehead”\(^\text{421}\) and usually “gives little attention to Australian political affairs”.\(^\text{422}\) Malaysia’s *Yang di-Pertuan Agong* holds a more active ‘head of state’ function. In the area of Islam, particularly, the *Yang di-Pertuan Agong* holds overarching power. Both Australian and Malaysian heads of state have some level of discretionary power to dissolve parliament or appoint prime ministers.

Yet deeper differences between the Malaysian monarchical architectures of Australia and Malaysia become evident when this architecture is studied in operation (for example, in a policy formulation process), and when the monarchical architectures are considered within their respective historical contexts. In Australia, the monarchy was one element of many British traditions which was adapted into Australia’s government architecture. Australians’ attitudes have traditionally not been anti-monarchical, but have rather been described as indifferent and purely symbolic.\(^\text{423}\) Singleton and colleagues have argued that until the Queen’s representative (the Governor-General) dismissed Prime Minster Gough Whitlam in 1975, few Australians thought of the monarchy in political terms at all. Today, the Governor-General is perceived as an important political figure because of the powers available to the office under the constitution, not because the holder is representative of an absent monarch.\(^\text{424}\)

\(^{421}\) A. Milner and M. Quilty, *Australia in Asia: Comparing Cultures*. 255.
\(^{423}\) See for example: ibid. 203. G. Singleton et al., *Australian Political Institutions*. 5.
\(^{424}\) ———, *Australian Political Institutions*. 5.
Even so, the perceived relevance of the monarchy has been in decline in Australia since federation and accords with Australia’s overall migration patterns of early United Kingdom-centred migration widening to broader international migration (see chapter one). For example, a majority (54 per cent) of Australians in 1967 felt the Queen was quite relevant, but this figure has declined steadily and is now a clear minority (29 per cent). Kullman has argued that the symbolism of the monarchy in Australia is linked directly to Australia’s British past, and the monarchy is therefore discredited as an ‘Australian’ institution.

Australian attitudes towards the monarchy appear to shadow history. At federation, when British leaders and British ideologies played a strong role in Australian society, the monarch was assigned a position of potential power in Australia’s architecture of government. However, the monarch’s strong constitutional position of power appears at odds with Australian liberalism (see earlier discussion on liberalism) and, confronted with such Australian values the monarch has never really sought to intervene in domestic Australian government (the possible exception to this is the controversial dismissal of Prime Minister Whitlam in 1972).

Compared to Australia, the Malaysian monarch appears to continue to exercise more influence and power in modern day Malaysia. Kobkua has recently written of a “socio-political revival” of Malay kingship and the Malay monarch. Milner has countered this, arguing that the Malaysian monarch has always played a strong role in Malaysian government. For example, Milner notes the high degree of “royal agency in the constitution-making process” and the constitutional powers assigned to the rulers for appointment of religious officials, direction of

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religion, and advising on senior appointments. Milner observes that royal assertiveness has been a feature of the Malaysian monarchy since federation. He provides multiple examples of rulers becoming directly involved in politics through, for example, the appointments of Menteri Besar who are not the first choice of the government party, through rejection of legislation, and through appointment of senior officials. Milner also suggests that rulers continue to display “informal and quiet influence” on political processes. In other works, also, Milner has remarked on the powerful role of the monarch in modern Malaysia. For example, in 2003 Milner emphasised that the monarch carries the aura (and authority) of the raja which predates the British constitutional system. The active and highly respected role of the Malay monarchs presented in Milner’s work is distinct from the largely figurative and legalistic roles exercised by the ‘Australian Queen’ and her appointed representatives.

Historical experiences and cultural influences may partially explain the ongoing importance which the Malay monarch holds in modern Malaysia. Through Malaysia’s historical experiences, the monarch has continually played an important - or at least potently symbolic - role. Islam, particularly, is inseparable from the Malay rulers. As the authoritative power on Islamic affairs, and in a country where Islam is enshrined in the Constitution, the Malay monarchs cannot - and never could - be described as purely symbolic. But more deeply, the modern role of the monarch resonates with the ideologies of the kerajaan polities. The much earlier symbolism and ceremony of the ruler does seem to accord with modern day Malaysian ruler practices. Similarly, hierarchy, patronage and protection over Malay society, and status all appear to continue in the modern Malay monarch. These elements all suggest some level of continuity from past to the modern day Malaysian monarchy.

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429 Ibid. 19-20.
430 A. Milner, "How "Traditional" is the Malaysian Monarchy?". 169-194.
**Parliamentary system**

Both Australia and Malaysia have a bicameral Parliamentary system based on the traditional British Westminster system. In Australia, the Upper House, the Senate, consists of equal numbers of representatives from each state plus a smaller number of representatives from the mainland territories. Senators are elected using a proportional representation system.\(^{431}\) In total, there are 76 senators. The House of Representatives, the Lower House, consists of members elected from single-member electorates. There are currently 150 members in the House of Representatives.\(^{432}\) Since 1924, voting for the Upper and Lower Houses of the Australian Parliament has been compulsory. Voters must be Australian citizens, over the age of 18, having resided for at least one month at their current address.\(^{433}\)

In Malaysia’s bicameral system, the Upper House or Senate is known as the Dewan Negara. The Lower House or House of Representatives is known as the Dewan Rakyat. There are currently 70 seats in the Malaysian Senate. Of these, 44 members are appointed by the Yang di-Pertuan Agong on the advice of the Prime Minister, including two members from the Federal Territory of Kuala Lumpur, and one member each from the Federal Territory of Labuan and Putrajaya. The remaining 26 members are elected by the 13 States’ Legislative Assemblies, with each State represented by two members. The senators, whether appointed or elected, serve a six-year term.\(^{434}\) The Malaysian House of Representatives consists of 219 members elected by

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a first past the post voting system. Voting in Malaysia is not compulsory. Voters must be Malaysians citizen, over the age of 21, residing in any Election Constituency in Malaysia, and un-disqualified.

Australia uses a preferential voting system which is significantly different from the standard first past the post voting system. The preferential system was not the original system of voting agreed with the British during federation. Rather, under pressure from the smaller Australian conservative political parties, the system was introduced in the Lower House (1918) and the Upper House (1948) to counter the possibilities of vote splitting and to encourage and reward collaboration or coalition arrangements between parties. The term preferential voting means voters can indicate an order of preference for candidates on the election ballot paper. That is, voters must nominate who they want as their first choice, second choice and so on. In the Australian preferential voting system candidates must receive an absolute majority to be elected. An absolute majority is recognised as 50 per cent plus one of the total formal votes cast. American political scientist Donald Horowitz argues preferential voting is particularly appropriate for societies divided along ethnic lines, as preferential voting allows political parties that successfully moderate their policies to pick up preferences from other parties’ supporters. While the historical motive behind the introduction of Australia’s preferential voting system was political, in the modern day context the system may assist in moderating the tensions and pressures present in Australia’s diverse society.

In Malaysia, a direct first past the post voting system is used. While a proportional representation voting system in Malaysia could be expected, given Horowitz’s analysis that preferential voting is the most appropriate system for societies split along ethnic lines, Horowitz also observes that the deep social and ethnic cleavages in Malaysia “makes it impossible to compress all the main tendencies into two or three parties.”

The Australian Parliament has a maximum term of three years. The average life of Parliaments is about two-and-a-half years. In practice, general elections are held when the Governor-General agrees to a request from the Prime Minister, who can choose any occasion to begin a campaign. The standard campaign period is six weeks. After a general election or the resignation or death of a Prime Minister, the Governor-General selects a new Prime Minister from the Lower House. By convention, this is usually the leader of the largest party in Parliament.

The Malaysian Parliament has a maximum term of five years. The Yang di-Pertuan Agong may dissolve Parliament at any time and usually does so upon the advice of the Prime Minister. Under Article 55(4) of the Federal constitution, a general election must be held within 60 days of the dissolution of Parliament, although Malaysian practice has been to hold the election within 16 to 20 days of the dissolution. After a general election or the resignation of a Prime Minister, the Yang di-Pertuan Agong appoints a new Prime Minister from the Lower House. In practice, this is usually the leader (the President) of the United Malays National Organisation (UMNO), the ruling political party.

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442 W. A. Wan Ahmad, "The Legislative: The Roles and Functions of Parliament". 172.
There are two major political groupings in Australia: the Australian Labor Party and ‘the Coalition’ (made up of the Liberal Party of Australia and the National Party of Australia). In Malaysia, the dominant ruling power is the Barisan Nasional (the National Front; BN). BN currently comprises 14 political parties but is dominated by UMNO. Other major parties within the coalition include the Malaysian Chinese Association (MCA) and the Malaysian Indian Congress (MIC). The dominant opposition is the Pakatan Rakyat (People’s Alliance), which is an informal coalition comprising of the Parti Keadilan Rakyat (People’s Justice Party), the Parti Tindakan Demokratik (Democratic Action Party) and the Parti Islam Semalaysia (Islamic Party of Malaysia).

This snapshot of the two bicameral systems shows some architectural variances between the Malaysian and Australian systems. Further variances are evident when analysing how these systems operate. One major difference in the operation of the respective parliamentary systems is the frequency of change in political leadership. Since the beginning of Australian federation the governing party has changed, on average, about every five years. The length of hold on government, however, has varied greatly. The Liberal Party led a coalition with the longest hold on government - 23 years (1949-1972), although during this time prime ministerial leadership transitioned four times. Several governments have lasted less than a year. In contrast to Australia’s generally fast changing political environment, political power in Malaysia has always been held by UMNO. UMNO has therefore held power for 53 years. While Malaysia has had six UMNO prime ministers since gaining independence in 1957, Australia has had almost double that number (11) in the same period. Malaysia’s longest serving Prime

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Minister was Tun Mahathir bin Mohamad, who held the post for 22 years (from 1981 to 2003).

The difference in numbers of Prime Ministers can be partially attributed to the term of governments (five years in Malaysia and three in Australia). The Australian system has been criticised for its short Parliamentary terms. It is argued:

The first year is taken up with planning and implementing election promises, and the third year is lost on electioneering. There is little time to engage simply on good government: to undertake long-term planning, to follow through programs and assess their effects, and to implement policies that are unpalatable in the short term but desirable in the long term.\footnote{446}

The policy implications of different terms of government are as follows. With longer terms and longer periods in power, the Malaysian Government has been able to focus, very strongly, on the future economic growth and social stability of the nation. Colin McAndrews concludes that “large-scale government intervention through national planning to change both the rate of development... and, at the same time, to maintain political stability has been the key to Malaysia’s development policy since 1957.”\footnote{447} In contrast, successive Australian governments have been faced with the challenge of balancing forward planning with delivering ‘quick wins’ to buttress their chances of re-election. The more limited opportunity for Australian governments to focus on forward planning has created challenges for policies which require ‘longer-term’ policy planning, for example health care, natural resource management, migration and settlement.\footnote{448}


Yet constitutional differences in the eligible terms of government cannot solely account for differences in the actual periods which political parties and prime ministers have held power in Australia and Malaysia. A further overriding factor is historical experience, particularly migration to Malaysia, the 1969 racial riots, and an ongoing ‘ethnic ideology’ in Malaysia’s senior leadership.

Chapter two of this thesis outlined Malaysia’s migration experience, emphasising the way in which migration created Malaysia’s plural society and the searing impact of the 1969 racial riots on Malaysian government. These experiences also appear to continue to impact Malaysia’s parliamentary system, particularly the ‘lives’ of government. Crouch has argued, for example, that the Malaysian system is a product of a rough balance between ethnic groups, each which have a stake in maintaining the status quo. Building on Crouch, Jesudason argues that Malaysia has a “particular type of state” which is “a product of a particular historical-structural configuration” and which draws on economic, ideological and coercive elements. The often surprising ethnic alliances of Malaysian government have been extensively studied, with most studies concluding that ethnic alliances allow the ruling party to hold power for long periods through a process of intensive bargaining and negotiation, continual internal reform, and some coercion. Malaysia’s migration experience, its ‘ethnic ideology’ and the associated ethnic plurality of Malaysian society is therefore likely a contributing factor to the longer ‘lives’ of governments in Malaysia.

450 J. V. Jesudason, "The syncretic state and the structuring of oppositional parties in Malaysia". 105.
Yet the longer ‘lives’ of governments in Malaysia also resonates with earlier pre-colonial values. Milner has written of the impact of Malay heritage and the ways in which much earlier politics “are carried on in the modern state”. Milner has emphasised the leader-follower relationship of Malay politics, suggesting that this ideological relationship leads to a “degree of devotion” from Malay followers. He observes the patronage-based nature of this relationship, stressing that subordinates “can often expect material advantages”.452

Building this Malay heritage into this overall argument about variances in policy formulation processes suggests that Malaysians in general have seen positive benefits from UMNO’s more ‘traditional’ practices of sustained leadership, particularly in regard to delivering on the two national strategic policy priorities. Since its formation in 1946, UMNO has shown its ability to deliver sustained economic development to the peoples of Malaysia. Moreover, UMNO has also been able to present itself as delivering some level of social stability (or at least preventing a recurrence of the 1969 racial riots). Given its current ability to deliver on its two stated strategic policy priorities, UMNO is unlikely to move away from ‘traditional’ longer lives of government and towards more ‘modern’ practices of shorter ‘lives’ of government.

By contrast, the Australian ‘lives’ of governments appear more reflective of Australia’s historical experiences, particularly in its migrant history, liberal values and scepticism about government leadership and the political elites. Chapter one discussed the impact of Australia’s settler experience on the creation of liberal values. Colonial society presented an opportunity for (migrant) individuals from any social class to rise up and ‘prove’ their individual worth. In observing Australian society in the 1940s Grattan has noted the tendency of Australia’s ‘people’ to not hold strong allegiances, and rather to “favour now one side, now the

452 A. Milner, The invention of politics in colonial Malaya. 294-295.
other”. In the 1970s, scholars such as Horne and Rowse suggested that Australia’s working class ideology seeks to critique the elites, remain “unsmudged” by politics, and draw out Australia’s pragmatism and individualism. These attitudes appear consistent with liberalism and scepticism about government (and are certainly distinct from Malaysia’s patronage-based attitudes). Australian liberal attitudes also appear consistent with the relatively shorter ‘lives’ of governments in Australia. Structurally, the three year formal terms of government are shorter than the five year terms of Malaysian government. Operationally, based on electoral patterns to date, Australians appear more willing than Malaysians to elect new governments. Therefore, Australians’ more sceptical and less patronage-based views about government leadership could be driving a greater willingness to ‘dismiss’ governments which have failed to deliver.

Using similar logic, the compulsory/non-compulsory and preferential/first past the post voting systems of Australia and Malaysia also appear to be reflective of historical experiences and underlying cultural influences. Somewhat counter intuitively, Australia’s compulsory and preferential voting system appears to be consistent with Australian liberalism. Compulsory voting arguably increases popular sovereignty, representativeness and presents a “symbolically powerful” signal of each individual’s role in government. Preferential voting can allow the individual to have more detailed influence through their vote, while encouraging collaborative campaigning and “moderate” “middle-ground” politics. While these architectural elements of Australia’s system were implemented in response to specific historical pressures, the structures do seem to align with Australia’s migrant experience, as Horowitz notes, and with Australians’ underlying liberal and individual values.

In Malaysia, first past the post voting arguably benefits larger parties (like UMNO). This architectural element may therefore be reflective of UMNO’s struggles to maintain power in modern Malaysia. Non-compulsory voting can encourage political and leadership issues to be resolved “exclusively between elites and elite interests.” This also accords with descriptions of Malaysia’s modern government as autocratic, oligarchic and where leaders are often “finding ways to secure and increase their rank”. However, Malaysia’s voting architectures also appear to have resonance with Malaysia’s earlier ideologies. These ideologies were built on a strictly hierarchical society, where the raja dominated and where leadership was “top-down”. Traditional rulers guided the populace in matters of law and spiritually. Rulers attracted loyalty and homage. Rulers epitomised custom and culture. Rulers ruled. In performing these functions, rulers were supported by a “warrior kingship group” (the personal retainers of the ruler) who “enjoyed great prestige and significance”. Without asserting a direct causal connection, there does appear to be some resonance between this kerajaan heritage and the modern day electoral architecture of Malaysia, with the voting system appearing to favour single-party dominance and elite-led politics.

**Separation of powers**

A key feature of Westminster and ‘modern’ architecture of government is the separation of powers. The theory of separation of powers provides for power to be exercised at three levels:

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460. A. Milner, The invention of politics in colonial Malaya. 258.
462. Ibid. 66-69.
• legislative power is the power to make laws. Legislative power is vested in the Parliament;

• executive power means the power to administer laws, and to carry out the business of government. Executive power is given to the government of the day (specifically the ministers of state, departments, other government agencies); and

• judicial power is the power to decide whether laws are legal according to the constitution. Judicial power is vested in the highest court.464

Table two summarises the principles of separation of power.

<table>
<thead>
<tr>
<th>Table 2. Separation of Powers465</th>
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<tbody>
<tr>
<td><strong>Executive</strong></td>
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<tr>
<td>The Prime Minister, the</td>
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<tr>
<td>Cabinet and other</td>
</tr>
<tr>
<td>Ministers</td>
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<tr>
<td>Government</td>
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<tr>
<td>Ministries/Departments</td>
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<tr>
<td>and Agencies</td>
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<tr>
<td><strong>Parliament</strong></td>
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<tr>
<td>(Legislature)</td>
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<tr>
<td>House of</td>
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<tr>
<td>Representatives and</td>
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<tr>
<td>Senate</td>
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<tr>
<td><strong>Judiciary</strong></td>
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<tr>
<td>Subordinate Courts</td>
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<tr>
<td><strong>Functions of the Executive:</strong></td>
</tr>
<tr>
<td>Day-to-day management of the</td>
</tr>
<tr>
<td>State, operationalise and</td>
</tr>
<tr>
<td>regulate legislation</td>
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<tr>
<td><strong>Functions of Parliament:</strong></td>
</tr>
<tr>
<td>Representation, Scrutiny,</td>
</tr>
<tr>
<td>Formation of Government,</td>
</tr>
<tr>
<td>Legislation</td>
</tr>
<tr>
<td><strong>Functions of the Judiciary:</strong></td>
</tr>
<tr>
<td>Enforcement of laws, Ensure</td>
</tr>
<tr>
<td>other arms of Government do not</td>
</tr>
<tr>
<td>act beyond the powers granted to</td>
</tr>
<tr>
<td>them</td>
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</tbody>
</table>

Theoretically, the powers of the three arms of government (the executive, the legislative and the judiciary) do not overlap and each has its own role. Each arm of government checks and balances the powers of the other two. Thus, in theory, the separation of powers limits the capacity for any group to assume for themselves all the power to govern a state. Fenna identifies this when he notes “the effect of this

separation of powers is to magnify the limitations on government that are often held to be the essence of liberal democracy.\textsuperscript{466}

As identified above, the government ministry is at the heart of the executive branch of government. In both Australia and Malaysia, after an election or on the advice of the Prime Minister, the head of state (Governor-General for Australia and \textit{Yang di-Pertuan Agong} for Malaysia) appoints ministers, establishes departments, and then formally allocates executive responsibility among ministers. Each minister is assisted in his/her executive role and functions by the public service. Thus, in both the Australian and Malaysian context, there is some cross over between the executive (as primarily represented by the Prime Minister and other ministers) and the government (as in the bureaucracy). Political theorists\textsuperscript{467} have therefore noted that the executive branch of a Westminster style government has two arms: (1) a policy formulation and political arm, consisting of elected politicians who are also ministers of state; and (2) a policy advising, implementation and administration arm, consisting of permanently staffed apolitical public servants, whose job it is to support the ministers of state.

Separation of powers is another area where historical experiences and cultural influences have influenced the respective architectures of government in Australia and Malaysia. Although the Malaysian Government contends that “the Federal constitution underlines the separation of governing powers among the Executive, Judicial and Legislative Authorities” and that “the separation of powers occurs both at the Federal and State level”,\textsuperscript{468} there is, in practice, a notable lack of separation of powers between the arms of government, and between the

\textsuperscript{466} A. Fenna, \textit{Introduction to Australian Public Policy}.
judiciary and executive particularly. While the Malaysian judiciary is constitutionally an independent branch of the Government, as part of the 1988 series of events which led to the suspension and eventual removal of the Lord President of the Supreme Court, Mr Salleh Abas, the judiciary was made subject to Parliament. Today, judicial powers are held by Parliament and vested by it in the courts (rather than being directly held by the judiciary as before or as in Australia). Among other things this means that all senior judges are appointed based on the recommendation of the Prime Minister. In 2006 an appeal was made against this process but this appeal was rejected by Cabinet, further demonstrating the powers of the Malaysian executive. To be fair, Australian senior judges are appointed in a similar style (by the Governor-General on the advice of the federal government of the day) however, due to more regular changes in government in Australia than in Malaysia, the total cohort of Australian senior judges is more likely to represent both sides of the political sphere.

However, the influence of the executive over the judiciary in Malaysia goes well beyond appointments. At the direction of Prime Minister Mahathir, in 1988 the Malaysian constitution was amended to enable the Malaysian Attorney-General to instruct the courts on what cases to hear, where they would be heard, and whether to discontinue a particular case. Powers to control the direction of all criminal prosecutions under the Criminal Procedures Code and responsibility for judicial assignments and transfers were also conferred. These changes led the sacked Supreme Court President to lament “our judiciary is in a shambles; it will take a whole generation to rebuild it but even then no one can say with certainty whether it will be the same again.”

comments highlight the former President’s concern about the breakdown of the separation of powers. This section’s earlier discussion highlighted that separation of powers is a key feature of Westminster and ‘modern’ architecture of government. Therefore, Malaysia’s diminution of the principle of separation of powers arguably suggests a significant adaption of a key architectural feature implemented by the British at federation.

While Malaysia’s judicial changes were made in response to events of the day, the changes again appear to resonate with a deeper kerajaan heritage. Traditional Malay rulers had jurisdiction over all legal and administrative matters. The ruler prescribed ‘laws’ (filling the role of the modern executive government and the legislative), but also passed sentences on unlawful activity (filling the role of the modern judiciary). Milner has written on the importance of regulation within the kerajaan, particularly on regulation of sumptuary law. Milner references law texts from the court of Melaka which open with a list of directions about the wearing of yellow (the colour indicative of the raja) and note that the punishment for disobedience could be death.474 Other texts, also, make reference to issues of relevance at the time - for example dress and housing - and prescribe associated punishments. There are also clear accounts from the kerajaan era of the ruler ‘passing judgement’ on subjects, with the most well-known example the story of Hang Tuah and Hang Jebat.475 Together, this evidence suggests the raja devoted much time to ensuring he ruled a “well-regulated polity”. If combined judicial and executive functions were a normal and expected part of Malay leadership in the pre-colonial era, persistent kerajaan ideologies from across Malaya and Borneo may partially explain modern day Malaysians’ willingness to accept the 1988 judicial modifications to the modern government architecture.

474 A. Milner, *The Malays.* 64.
The Cabinet

In Australia and Malaysia the Cabinet should be the key decision making body of the Government and the apex of executive government. Meeting regularly, Cabinet sets the broad directions of government, takes the most important decisions facing a government and resolves potential conflicts within government.

According to Weller\textsuperscript{476} and Davis\textsuperscript{477}, in Australia Cabinet fulfils the following functions. This thesis suggests the Cabinet in Malaysia fulfils similar functions:

- A clearing house, endorsing routine business, making authoritative choices about new policy issues, legitimising the activities of the public sector.
- An information exchange, letting Ministers know what is happening across government.
- An arbiter, resolving disputes between government agencies and/or Ministers.
- A political decision maker, applying political judgments to bureaucratic advice.
- A coordinator, preventing overlap, duplication and inconsistencies across the range of government activity.
- The guardian of strategy, keeping the ‘big picture’ in front of the Government, so that long-term strategic interests are not lost amid policy detail.
- Allocator of resources, developing and monitoring a budget strategy, making major expenditure and savings choices.
- Crisis manager, handling difficulties from internal party disputes to major world events, even wars.
- A watchdog, ensuring individual Ministers and agencies are not making unilateral decisions without government consideration.

In Malaysia, the power of the Cabinet is formally established in the Malaysian constitution, where Article 43 states that executive authority, or the authority to rule, is exercisable by a Cabinet of Ministers under the constitution. Specific cabinet protocols are not prescribed and, drawing from convention and practice, it becomes the responsibility of the government of the day to determine the shape and structure of the cabinet system and how it is to operate. The Australian constitution does not mention ‘the Cabinet’, and therefore - as in Malaysia - the government of the day prescribes the shape, structure and protocols of the Cabinet. The current Cabinet guidelines and practices are set out in the Australian Cabinet Handbook.\textsuperscript{478}

Cabinet is generally made up of the Government’s senior ministers, and in both Malaysia and Australia there are a number of ministries that are not included in the respective Cabinets. It is generally considered that existing Cabinet positions embrace subordinate functions assigned to junior ministers outside Cabinet. Table three shows the composition of Cabinet in Australia and Malaysia as at July 2012.

\textsuperscript{478} Department of the Prime Minister and Cabinet, "Cabinet Handbook," (Canberra: Commonwealth of Australia, 2012).
Table 3. Australian and Malaysian Cabinet Ministers 2011

<table>
<thead>
<tr>
<th>Australia</th>
<th>Malaysia</th>
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<tbody>
<tr>
<td>1. Prime Minister</td>
<td>1. Prime Minister, Minister of Finance</td>
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<tr>
<td>2. Deputy Prime Minister, Treasurer</td>
<td>2. Deputy Prime Minister, Minister of Education</td>
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<tr>
<td>3. Minister for Regional Australia, Regional Development and Local</td>
<td>3. Minister in the Prime Minister’s Department</td>
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<tr>
<td>Government</td>
<td></td>
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<tr>
<td>4. Minister for Tertiary Education, Skills, Jobs and Workplace Relations</td>
<td>4. Minister in the Prime Minister’s Department</td>
</tr>
<tr>
<td>5. Minister for School Education, Early Childhood and Youth</td>
<td>5. Minister of Plantation, Industries and Commodities</td>
</tr>
<tr>
<td>6. Minister for Broadband, Communications and the Digital Economy</td>
<td>6. Minister in the Prime Minister’s Department</td>
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<tr>
<td>7. Minister for Foreign Affairs</td>
<td>7. Minister of Home Affairs</td>
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<tr>
<td>8. Minister for Trade</td>
<td>8. Minister in the Prime Minister’s Department</td>
</tr>
<tr>
<td>10. Minister for Immigration and Citizenship</td>
<td>10. Minister of Rural and Regional Development</td>
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<tr>
<td>11. Minister for Infrastructure and Transport</td>
<td>11. Minister of Higher Education</td>
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<td>Affairs</td>
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<tr>
<td>Communities</td>
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<tr>
<td>15. Minister for Finance and Deregulation Minister for Innovation,</td>
<td>15. Minister of Tourism</td>
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<tr>
<td>Industry, Science and Research</td>
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<tr>
<td>16. Attorney-General</td>
<td>16. Minister of Agriculture and Agro-based Industry</td>
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<td>17. Minister for Agriculture, Fisheries and Forestry</td>
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<tr>
<td>18. Minister for Resources and Energy</td>
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<td>19. Minister for Tourism</td>
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<tr>
<td>20. Minister for Climate Change and Energy Efficiency</td>
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<td>21. Minister for Defence</td>
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<td>22. Minister of Transport</td>
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<tr>
<td>23. Minister of Women, Family and Community Development</td>
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<tr>
<td>24. Minister of Foreign Affairs</td>
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<tr>
<td>25. Minister of Federal Territories and Urban Wellbeing</td>
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<tr>
<td>26. Minister in the Prime Minister’s Department</td>
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<tr>
<td>27. Minister in the Prime Minister’s Office</td>
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<tr>
<td>28. Minister of Housing and Local Government</td>
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</table>

Cabinet debate and negotiations over policy decisions in Australia and Malaysia occur behind closed doors and once decisions are taken, they

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are binding on all ministries. Parliamentary traditions and party discipline require that the Cabinet discussion is kept secret and that the minutes from Cabinet meetings are confidential. Australian Commonwealth Cabinet minutes are only released to the public after 30 years have elapsed and the Cabinet notebooks, in which Cabinet note-takers record the views of individual ministers, are only released after 50 years. It is argued that Cabinet secrecy enables ministers to have a free and frank discussion in private before coming to an agreed (or at least a binding) view.⁴⁸⁰

An important aspect of the Cabinet is its collective responsibility. Consisting of the central members of government the Cabinet “is collectively identified as the one entity responsible for all that is done in the name of the Government”⁴⁸¹. New governments in Australia and Malaysia often seek to set themselves apart from previous governments by selecting new Cabinet Ministers and emphasising new functions, including in the names of portfolios.

A difference between the Australian and Malaysian cabinets is the strong power of the Malaysian Minister of Finance. In both Australia and Malaysia, the Finance Minister has significant discretion in the appropriation and allocation of funds for the various ministries in the Government, and therefore the Finance Minister is usually considered one of the most powerful Cabinet positions.⁴⁸² However, in Malaysia, the Minister of Finance has even greater powers than in Australia. Under the Minister of Finance (Incorporation) Act (1957), the Finance Minister’s statutory ministerial power cannot be delegated to any official or personality in the government (this is the only ministerial position to which this provision applies). Suggesting further centralisation of power around the Prime Minister, the current and previous two

⁴⁸⁰ G. Maddox, Australian democracy in theory and practice. 214; Department of the Prime Minister and Cabinet, Cabinet Handbook, 5th ed. (Canberra: Commonwealth of Australia, 2007), 5.
⁴⁸¹ G. Maddox, Australian democracy in theory and practice. 213.
Malaysian prime ministers have also held the position of Finance Minister, with the assistance of a second Finance Minister.  

A second difference between the Australian and Malaysian cabinets is the supporting institutions. The Malaysian Cabinet is assisted in the discharge of its functions by three national councils. All of these councils are based in the Office of the Prime Minister and chaired by the Prime Minister. Figure nine summarises the Malaysian Federal Government machinery, and represents the councils which assist the Cabinet with its functions.

**Figure 9. Councils assisting the Cabinet in Malaysia**

The highest decision making body, and the one responsible for major economic and social policy in Malaysia, is the National Planning Council. The National Planning Council comprises all the key economic ministers. Aside from the National Planning Council, there are two other Ministerial Councils, namely the National Development Council which deals with implementation of development programs and projects.

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and the National Security Council which deals with internal and external security issues.\textsuperscript{485}

The structure of the councils further demonstrates the importance of economic progress as a facilitator for social stability in the Malaysian policy formulation processes. The above figure clearly shows the strong emphasis placed on economic development, through the National Planning Council and the Economic Planning Unit, alongside the corresponding emphasis on social stability, through the National Security Council. This further demonstrates the way Malaysia’s enduring strategic policy priorities drive the architecture of government, in this case the Cabinet.

The Australian Cabinet also has a sub-committee structure with some parallels with the Malaysian system. However, Australian Cabinet committees are generally less formalised and have less independence than their Malaysian counterparts. For example, most committee decisions are subject to formal endorsement by the full Cabinet. Not all Australian Cabinet committees are chaired by the Prime Minister. Indeed, the Prime Minister is often not present.\textsuperscript{486}

An additional feature of the Malaysian Cabinet is the stronger weight given to the Prime Minister’s portfolio, and this is shown in three ways. First, the five supporting ministers within the Prime Minister’s Department are each given a seat in the Malaysian Cabinet; each supporting minister has one vote. The Prime Minister, obviously, also has one vote. This means that six of the twenty eight Cabinet positions (almost 22 per cent) are held by ministers within the Prime Minister’s portfolio. Second, as the scope of the Prime Minister’s Department in Malaysia is wider than that of the Prime Minister’s Department in Australia, more cabinet submissions are received from within the

department and this also influences policy formulation. Third, as discussed earlier, the Prime Minister also holds the position of Finance Minister and this position allows for even more relative power.487

Johnson and Milner have observed four key variances which arguably make the Malaysian Prime Minister more dominant than other prime ministers in ‘standard’ Westminster architectures. First, and most relevant to this section, Johnson and Milner observe “prime ministers did not always consult cabinet when making important decisions”. Rather, they argue, several prime ministers have worked with elites outside of the cabinet to successfully achieve political ends.488 Second, Johnson and Milner observe the Prime Minister’s “guiding hand’ in BN and UMNO party meetings. This is distinct from Australia where the prime minister is highly dependent on his or her colleagues for ongoing political support (see later discussion on the Australian Prime Minister).489 Third, Johnson and Milner observe that various Malaysian prime ministers have been described as having peremptory and even dismissive attitudes towards parliament. These dismissive attitudes suggest that such prime ministers view parliament as rather perfunctory (see later discussion on the Malaysian upper house) and do not view themselves as accountable to parliament and the party in the same way as Australian Prime Ministers.490 And finally, Johnson and Milner observe that Malaysian prime ministership “inherits some aspects of the political culture of pre-modern Malay polity, including elements of the roles of raja, chieftains and senior court officials.” Johnson and Milner note that early Prime Ministers were either princes or the sons of chieftains and their “royal status or connections gave them political credibility and legitimacy”.491 The modern dominance of the Prime Minister and its resonance with the pre-colonial era will be discussed shortly.

489 Ibid. 88.
490 Ibid. 91-92.
491 Ibid. 87.
In contrast to the dominance of the Malaysian Prime Minister, the Australian Prime Minister is viewed in Cabinet - at least in theory - as “the first among equals”. That is, the Prime Minister is allowed the authority of the chair of cabinet, but his/her portfolio does not hold additional ‘Cabinet votes’ as occurs in Malaysia with the five supporting ministers in the Prime Minister’s Department also being allowed one vote.\footnote{A. Kinga, "Policy Formulation in Australian Government: Vertical and Horizontal Axes." 48.}

Both the Australian and Malaysian governments have been moving towards an architecture of government which places more emphasis on the Prime Minister. For example, Australia’s previous Prime Minister, Kevin Rudd, was heavily criticised for seeking to by-pass or control Cabinet.\footnote{See for example: M. Rout, "Kevin Rudd pledges to restore cabinet power," \textit{The Australian}, 25 February 2012. http://www.theaustralian.com.au/national-affairs/in-depth/kevin-rudd-pledges-to-restore-cabinet-power/story-fnccyr6m-1226281038452. [Accessed 19 July 2012]; L. Taylor, "The Rudd gang of four," \textit{The Australian}, 9 November 2009. http://www.theaustralian.com.au/news/features/the-rudd-gang-of-four/story-e6frg6z6-1225795556696. [Accessed 19 July 2012].} Kinga has proposed that previous Australian Prime Ministers, such as Hawke and Keating, were less dominant in Cabinet but still “possessed a high level of latent authority and power which could be exercised by means of selective intervention”.\footnote{A. Kinga, "Policy Formulation in Australian Government: Vertical and Horizontal Axes." 48.} This shift towards a more Prime Ministerial-dominated architecture of government has led some scholars to define Australia as a “prime ministerial government”.\footnote{P. Weller, "Cabinet and the Primer Minister," in \textit{Government, Politics and Power in Australia}, ed. J. Summers, D. Woodward, and A. Parkin (Melbourne: Longman Cheshire, 1985).} Nevertheless, Hart observes that while there has been continual debate about the growing dominance of Australian prime ministers, including many media references to the prime minister’s supposed individual mandate and fixed term in office as akin to an American president, “Australia has not imported American-style
presidential government, not even a watered down version of it”.\footnote{496} Australian prime ministers remain restricted by their party and must rely on the support and goodwill of their colleagues, as demonstrated by Mr Rudd’s loss of party support and Ms Gillard’s rise into the Prime Ministerial position.\footnote{497}

Like Hart and Davis, I remain sceptical that the Australian Prime Minister will become overly dominant in the Australian system. The Australian system was adapted from the British system but has evolved into a system which is uniquely Australian. Underpinning that system is a uniquely Australian set of historical experiences and cultural influences which cannot be discounted. Australian egalitarianism and scepticism about government leadership and the political elites, for example, appears at odds with the concept of personality-based individual leadership and a dominant prime minister. Smolicz has discussed Australia’s heritage as an immigrant society, stressing the struggle occurring within and between Australians for equal acceptance into Australia’s “Australian-ness”.\footnote{498} Similarly Hirst has analysed Australian egalitarianism, remarking on Craig McGregor’s comment that Australians “feel under some pressure to be accepted by ordinary working Australians rather than the other way round.”\footnote{499} These ‘Australian’ attitudes are consistent with the more diffused power implicit in Australia’s current collective cabinet structure and with a prime minister whose powers are constrained by her elected colleagues.

Malaysia, however, appears to have a stronger tradition of a dominant executive and less collective leadership. Milner has argued there remains some “residue” from the kerajaan era in modern Malaysia.\footnote{500}

\footnote{497 G. Davis, ”The Core Executive”. 90-91.}
\footnote{499 McGregor quoted in J. Hirst, ”Egalitarianism,” in Australian cultural history, ed. S. L. Goldberg and F. B. Smith (Cambridge: Cambridge University Press, 1988). 74.}
\footnote{500 A. Milner, The Malays. 239.}
Milner’s ideas have been drawn on by other scholars. For example, Kessler observes a “culture of deference” in modern Malaysians, and Kessler links this culture to Malay history and ideologies present in the pre-colonial era. Alatas suggested the British perpetuated the values and outlook of Malay’s feudal past by consolidating the traditional Malay elites or aristocracy into Malayan government. He argues these feudal attitudes continue today. Maaruf supports this, arguing that modern Malay government “is heavily influenced by the old feudal psychology.”

Speaking directly of the kerajaan era, Milner has argued that the raja was conceptually central to every action taken, and describes the raja as “the organising principle in the Malay world”. Trying to understand this period, Milner proposes that traditional Malay culture was characterised by:

... a lack of political institutions, of legal structures, and of governments having concerns beyond “outward pomp”. The raja is the only institution, and the role he plays in the lives of his subjects is as much moral and religious as political. Malays, it would seem, believed service to the ruler offered the opportunity for social and spiritual advance. They understood that their position in this life and the next depended on the raja; he was the bond holding men together, and the idiom through which the community experienced the world. Men were not so much subjects as extensions of the raja...

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503 S. b. Maaruf, Concept of a Hero in Malay Society. 123.
505 Ibid. 217.
Embong notes that more recent Malaysian history affects the role of the Cabinet in another way. He argues that a political party that has been in power for a long period, such as the BN in Malaysia, will tend to conflate itself to be part of the ‘state’ and begin to speak in the name of the state. Over time, this may enable the Cabinet to cow the institutions of governance which, in theoretical models of public administration, are supposed to be professional and independent.506

With roots in such a culture where the ruler (the raja) was central, it is easier to comprehend modern Malaysian architecture of government and its emphasis on a dominant leader - the Prime Minister - within the Cabinet process. The modern structure also allows for a set of institutions - the respective councils - which support the Prime Minister’s policy formulation and other needs. These hierarchical but elite supportive councils also mirror Maaruf’s “feudal leadership” style used during the kerajaan period, when the raja was supported by senior advisors.

In conclusion, while the Cabinet processes in Australia and Malaysia are broadly similar, historical experiences have influenced form and function of the respective cabinets. Emergent Malaysian cabinet features include a more dominant prime minister, and supporting structures assisting the prime minister in his administrative Cabinet functions. These two elements hold “residues” of Malaysia’s feudal based kerajaan past. In Australia, arguably with links to egalitarianism and scepticism about government leadership and the political elites, the cabinet system has retained more of its original collective form and resisted pressures, especially media pressures, to move towards greater prime ministerial dominance.

**Legislative functions**

The key function of Parliament is to legislate. The general law making processes in Australia and Malaysia are similar. In both government architectures, Bills (laws that have not yet received ratification) are usually introduced by the Minister with responsibility for that portfolio. Bills in both Australia and Malaysia must be approved in the Upper and Lower Houses of Parliament. Responsibility for developing the details of Bills is delegated by the respective parliaments to government agencies. Each Bill follows the same process: a first reading (where the Minister submits the draft to Parliament), a second reading (where the Minister outlines the main principles of the Bill and Parliamentary debate is held), and a third reading (where the Bill is reviewed and voted on). Bills become laws when they are given ‘royal assent’ (by the Yang di-Pertuan Agong in Malaysia and the Governor-General in Australia).\(^ {507}\)

However, there are two important differences between law making in Australia and Malaysia: the legislative position of religion; and the legislative powers of the Senate. Again, these differences appear to be linked with the respective historical experiences and cultural influences of each country.

The place of religion in legislation is a particularly sharp difference between the legislative architecture of Australia and Malaysia. Chapter Five, Section 116 of the Australian constitution states “the Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office of public trust under the Commonwealth.”

This sets out the formal secular nature of the Australian system of government.

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While Islam is the official religion of Malaysia, Article 3(1) of the constitution states “other religions may be practiced in peace and harmony in any part of the Federation”. Freedom of religion is emphasised in Article 11(1) of the constitution: “Every person has the right to profess and practice his religion and, subject to clause (4) [specific state controls on the propagation of Islam among Muslims], to propagate it.” The constitution provides that laws pertaining to religion fall under the jurisdiction of the respective states (except in the Federal Territories of Kuala Lumpur, Labuan and Putrajaya), and the Federal Parliament cannot unilaterally make laws with respect to any matters of Islamic law or the customs of the Malays. Indeed, Article 76(2) states that “no Bill for such a [Islamic or customary] law is to be introduced into either House of Parliament until the Government of any State concerned has been consulted.”

On the face of it, the Malaysian constitution appears to give primacy in legislative powers in relation to religion to the states. However there remains significant debate in Malaysia about the powers of the Federal Government in this area. From a legislative perspective, Article 104 of the constitution states that State Legislative Assemblies can enact any law that is related to Muslim law, but Article 75 constrains the States from passing any law that is contrary to the Federal law. Specifically, where any State law is inconsistent with the Federal law, the Federal law shall prevail. This means that any religious laws must ‘fit with’ existing federal legislation, effectively returning overall leadership in relation to religion to the Federal Government. The situation is further complicated by constitutional amendment Article 121(1A), introduced in 1988, which states “The [High Courts] shall have no jurisdiction in respect of any matter within the jurisdiction of the Syariah (Islamic) courts.”

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Legal provisions aside, there have been numerous examples of the Federal Government exercising ‘in-practice’ control of religious legislation. For example, in the early 1990s the Federal Government blocked Kelantan State legislation which planned to introduce Islamic criminal law. More recently, there have been allegations that religious teachers in government funded Islamic schools have been monitored and those teaching a non-state sanctioned version of Malaysian Islam are retired or discharged. Strong measures appear also to have been taken to curtail or control senior religious leaders (ulama), each of whom are appointed and paid by the Government.

Illustrating the depth of intervention by the Federal Government in religious issues, the Federal Government distributes standard religious sermons for Muslim leaders to deliver at Friday prayers. Mosques are then monitored to ensure these sermons are followed and that other activities conform to the Government endorsed version of Islam. The Government also controls Islamic practices in the broader Malaysian society. In May 2000 the Government arrested a number of Muslims who were working in establishments which served alcohol. The Muslims were alleged to be guilty of “insulting Islam”. The Muslims were subsequently released without proceeding to trial.

From a political perspective, several Federal Members of Parliament, including the former Prime Minister Mahathir Mohamad, have asserted that Malaysia is an Islamic state and Abdullah argues that the belief that Malaysia is an Islamic state has “permeated not only the general public’s mindset but also more significantly, the administrative machinery in the government.” Adil supports Abdullah, expressing

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511 P. A. Martinez, “The Islamic state or the state of Islam in Malaysia,” *Contemporary Southeast Asia* 23, no. 3 (2001).
512 Ibid.
513 N. Abdullah, “Legislating Faith in Malaysia.”
concerns that proclamations of Malaysia as an Islamic state have been made without consulting state legislators.\textsuperscript{514}

Such examples provide evidence of the willingness of the Federal Government to influence matters of religion, despite holding no formal legislative power. Thus, the significance of religion in Malaysia’s legislative architecture is considerably more apparent, and more important, than in Australia’s.

However, the differences between the Australian and Malaysian law-making processes in relation to religion appear also to resonate with underlying cultural influences. There has been a marked change in the ‘religiosity’ of Australians since 1967, most notably in the great increase in the proportion claiming not to have any religion at all.\textsuperscript{515} In the most recent 2011 population and housing census, 22 per cent of the Australian population professed ‘no religion’, up significantly from 19 per cent of the population in 2006.\textsuperscript{516} Moreover, in the previous census 70,000 people identified themselves as a ‘Jedi Knight’ from the popular film Star Wars. This flippant response suggests that some Australians view religion as a topic of amusement.\textsuperscript{517}

Australians generally support secular institutional norms. While many Australians follow various religions, there is a separation between government and religion (reflected in the separation of religion from the state in Section 116 in the constitution) and social ideals of respect for different ethnic, cultural and religious groups in society (reflected in Australia’s multicultural policies). According to Elizabeth Burns Coleman and Kevin White, in Australia’s institutions, “religion is

\textsuperscript{514} M. A. Mohamed Adil, "Law of Apostasy and Freedom of Religion in Malaysia."
\textsuperscript{515} G. Singleton et al., \textit{Australian Political Institutions}. 155.
considered a ‘low-temperature’ matter, not something to get over-enthusiastic about, and certainly not a trumpeted certainty.\textsuperscript{518}

In contrast to Australia’s relatively secular values, all Malaysians must have a stated religion and Milner observes that Malays, particularly, are “deeply committed to their religious beliefs and practices”.\textsuperscript{519} Part of Malaysia’s more visible emphasis on religion could be derived from the intimate linkages between state and religion in the old Malay world. In traditional Malay culture, religion was tied to the ruler and rulings in relation to religion were well within the jurisdiction of Malay rulers. Milner has observed that some kerajaan texts link the raja directly with the afterlife and therefore appear to position the raja as the protector of his subject’s spiritual and physical well-being.\textsuperscript{520} With the adoption of Islam into the Malayo-Indonesian archipelago in the fifteenth and sixteenth centuries, rulers began to adopt Islamic titles such as the “Shadow of God on Earth”. While the ulama (senior religious leaders) defined the exact teachings of Islam, textual evidence continues to suggest that the ruler was directly involved in promoting - indeed commanding - religion ideals.\textsuperscript{521}

Fostering a direct relationship between the ruler and religious teaching is distinctly different from the approach taken by Australian leaders, where there has always been some form of boundary between the ruler(s) and the church. Religion has at times been influential in politics - for example the influence of the Catholic church in the Labor Party. However in general, the influence of the church has been limited to a broad Judeo-Christian orientation of the institutions of government. It is instructive that the current Prime Minister, Ms Julia Gillard, has professed herself to have no religious affiliation and that

\begin{footnotes}
\item[519] A. Milner and M. Quilty, \textit{Australia in Asia: Episodes}. 45.
\item[520] A. Milner, \textit{The Malays}. 68.
\end{footnotes}
profession seems to have been of no significant concern to the large majority of Australian voters.

The secular separation of church and state in Australia appears to resonate with earlier Australian historical influences and cultural values. For example, from the early nineteenth century in a range of countries there began to be increasing intellectual demands for the separation of religion from politics. Republicans in the United States, particularly, pressed for clergymen to stop “employing their pulpits for partisan ends”. These secular ideologies emerged during the formative period of Australian government, when Australia was looking to ‘borrow’ elements of its government architecture from both Britain and the United States. Domestically, O'Farrell has described early Australia settler society as characterised by the “the decline and disarray of religion” and featuring “religion’s assumed social irrelevance.” O'Farrell asserts that “no truly religious people” came to Australia, and that while in other places “religion remained as part of the cultural heritage” no such religious-cultural links were made in Australia. O'Farrell concludes that settler clergymen “failed - or largely failed” to relate ‘god’ to Australian society and environment.

It seems logical that the powers, and willingness, of the Australian and Malaysian governments to attempt to influence religious matters should reflect each country’s respective cultural influences. This analysis suggests that such a link can be made.

Returning to the earlier discussion of legislative functions of government, another difference between the Australian and Malaysian legislative process relates to the powers of the Upper House of Parliament. Theoretically, the Upper House of a bicameral parliament should take on a reviewing function for legislation, with consideration

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being given to the ‘states’ view’. However, reflecting on the Malaysian Upper House Wan Ahmad has observed “the Upper House has almost an unnoticeable impact on the business [of Parliament]. It is very rare to encounter a situation whereby the Senate truly objects to any Bill passed by the House of Representatives.” Wan Ahmad links the ‘clearing house’ functionality of the Malaysian Upper House to Malaysia’s system for appointing senators. As discussed in the section on parliamentary systems, there is no direct election to the Upper House and 63 per cent of senators (44 of the 70 total) are appointed by the Yang di-Pertuan Agong on advice from the Prime Minister and the Cabinet. The appointment system likely enables the ruling government to appoint their supporters to the Senate, thus ensuring that Bills introduced to parliament will face no or minimum hurdles on their passage to approval. Accordingly, when compared to Australia, the Malaysian Upper House appears to have a more perfunctory role.

The perfunctory role of the Malaysian Upper House appears to resonate with earlier pre-colonial ideologies. Soenarno observes:

Malay society was a feudal society par excellence. The ruler, known as the sultan, was eminently feudal and autocratic. He was responsible to none. He was assisted, in his capacity as Ruler, by senior and minor chiefs whose number varied from State to State. For example, in Pahang, there were four Major Chiefs, known as Orang Besar Ber-Empat. Under them there were the Orang Besar Lapan, the Eight Chiefs, and this group was followed by that of sixteen and thirty two.

Muzaffar has described the feudal nature of the pre-colonial Malay polity as an ideological “protector-protected relationship”. He expands on the relationship as preserving and perpetuating a “cultural atmosphere which facilities the psychological relationship of protection

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526 Ibid. 171.
in return for loyalty between ruler and ruled”.528 For those closest to the ruler, the protector-protected relationship meant high status or increased nama (name, credibility, face) for the individual in return for loyalty, allegiance and support to the ruler. In this way, an elite circle of key supporters - orang besar (advisors) - was created. Building on this pre-colonial order, Alatas suggests that rulers and ruling elites were absorbed into the ‘modern’ administration system. He draws on Alatas’ earlier arguments, which promoted the concept of the Malay rulers and supporting elites as “better off under the British” and as being provided with an increase in “prestige and position”.529 Thus, the protector-protected relationship was arguably taken forward into the colonial era. In modern Malaysia, it appears that these values may still resonate with the functioning of the Upper House. The Prime Minister (the ruler) appoints senators. These senators, then arguably owing allegiance and loyalty to the ruler, do not seek to critique the work of the ruler nor do they seek to look for the best possible outcomes to achieve the strategic policy priorities. Rather they perform a perfunctory role in formalising the legislative process.

The transfer of traditional loyalty and feudalism into modern day Malaysian government is pointedly summarised by Muzaffar:

It [loyalty and feudalism] acts as a psychological block to the realisation of the genuine interests of the Malay community in the political, economic and cultural spheres. It allows the ruling class to protect and perpetuate its own interest…. It strengthens and solidifies the position of the elites…. It enables the elites to consolidate their hold upon the community…530

In contrast to the perfunctory role of the Malaysian Upper House, the Australian Senate has gradually become more powerful and

528 C. Muzaffar, Protector? 124, 111.
529 H. S. Alatas, Modernization and social change: studies in modernization, religion, social change and development in South-East Asia. 97.
530 C. Muzaffar, Protector? 125.
increasingly active. Since the early 1970s, and arguably coupled with a rise in the number of small parties holding power, the Senate began to take a more active role in reviewing, delaying or outright rejecting Bills which had been passed in the Lower House. A defining characteristic of Australia’s contemporary government architecture is that there are often disagreements on Bills between the Upper and Lower Houses. In most cases an agreement - often a bargain with a smaller political party - is reached. If the two houses cannot agree, a Bill may be ‘laid aside’. Theoretically, in cases where there is an imminent constitutional crisis, an unresolved disagreement may lead to the dissolution of both houses by the Governor-General and subsequent elections. Although a double dissolution has only occurred six times in Australian political history (an average of once every 18 years), the possibility is referred to regularly in the Australia media and continues to shape Australian politics. Indeed, media and public discussion of the possibility of a double dissolution election have become almost routine. Australians have come to expect the Senate to reject bills and legislative deadlocks and the public no longer considers this threatening or even unusual.

Australia’s more ‘active’ Upper House role appears to resonate with Australian values of liberalism (or social liberalism) and individualism. In its classic form, liberalism assumes that individuals are for the most part motivated by self-interest, and regards each individual as the best judge of what this interest requires. Liberalism in politics is therefore largely about how to reconcile and aggregate individual interests. As discussed in earlier sections, social welfare liberalism is the dominant style of liberalism in Australia. Arneson suggests that “liberalism is strongly associated with strong protection of freedom of speech and assembly and related liberties”. As discussed earlier, a key theoretical legislative function of the Upper House is the review of

531 G. Maddox, Australian democracy in theory and practice. 232.
proposed Bills. In providing more vigorous critique of Australian Bills, and therefore ensuring that individual interests are reconciled and aggregated and that free debate is encouraged, the Australian Senate functions appear to resonate with deeper Australian notions of liberalism and individualism.

The Australian and Malaysian legislatures both use a bicameral architecture. Both have a structured process for making laws and both were adapted from British Westminster traditions. However, historical experiences appear to have moulded the accepted operations of both legislatures. The first difference is in legislating in relation to religion. In Malaysia, the legislature is more involved in legislation of religious matters (either formally or informally). In Australia, religion is not legislated and there is a stronger belief in secular government. The respective governments’ approaches to the legislation of religion appear to resonate with earlier cultural norms. The second difference is the role of the Upper House. In Malaysia, the Upper House performs a more perfunctory role. In Australia, the Upper House is more active in critiquing and reviewing Bills. These operations, also, resonate with longer standing cultural norms of feudalism (in Malaysia) and liberalism and individualism (in Australia).

**How similar are the architectures of government?**

Overall, how similar are Australia’s and Malaysia’s architectures of government? At the foundation level, both systems are constitutional monarchies based on Westminster architecture. Both systems incorporate ‘standard’ Westminster characteristics such as a monarchy, bicameralism, separation of powers, structured processes for making laws, and an executive body (the Cabinet) which forms the theoretical apex of decision making. Both Australia and Malaysia also have ‘modern’ features such as a written constitution and a federal system.

However, when examining each of these characteristics in detail, significant variances are noted and a general pattern of difference emerges. First, the respective constitutional amendment provisions
appear to suggest that Malaysians hold more ‘faith’ in government leadership and political elites, while Australians are broadly sceptical about government. Second, the respective federal systems appear to suggest that power in Malaysia is more centralised. Australia’s federal system assigns relatively more power to the states, and keeps government closer to ‘the people’. Third, the Malaysian monarch appears to have a more active role, while the Australian monarch is less engaged. Fourth, the separation of powers in Malaysia is weaker than those in Australia, particularly the executive’s influence on the judiciary. Fifth, the Malaysian Prime Minister appears to have a more dominant role in Malaysian Cabinet, while in Australia the Prime Minister is more dependent on party colleagues for collective decisions and continued support. And finally, the Malaysian legislature is more willing to legislate on religion, with the Upper House performing a perfunctory role. In Australia, legislative functions are usually secular, and the Upper House performs a more active legislative-reviewer role.

Each of the Australian and Malaysian variances from the originally adopted Westminster and ‘modern’ architecture of government resonates with earlier historical experiences and cultural influences. In Malaysia, the kerajaan system, with its dominant ruler and feudal relationships appears highly relevant to the above five architectural variances. In Australia, liberalism, individualism and scepticism about government leadership and the political elites appear to underlie the key Australian architectural variances.

The architecture of government is significant as it provides the framework of government through which policy formulation takes place. Policy formulation in both countries must, in some way, pass through and be developed within this existing architecture. While at the foundation level Malaysia and Australia share a similar Westminster-based architecture of government, the less visible culturally-responsive variances to this architecture steer policy formulation through alternate frameworks. Thus, the architecture of
government impacts and influences the policy formulation process itself and also the policy outputs and outcomes which result from this process.
CHAPTER 4. PUBLIC ADMINISTRATION AND THE POLICY FORMULATION PROCESS
Introduction

Government touches the lives of all people. It sets policies, provides services and creates laws and regulations that affect citizens every day of their lives. Building on the previous chapter’s analysis of the institutional architecture of government, this chapter seeks to focus more specifically on public administration processes and particularly the respective policy processes of the Australian and Malaysian public services. Spann notes that “it was once common to draw a neat distinction between policy and administration, or between political decisions about government policy, and the administrative task of implementing those policies.” Today, however, the lines between politics, policy and public administration are more blurred than they once were.535

The links among different areas of government are particularly evident when analysing policy formulation processes. The executive arm of government, particularly, is highly dependent on a workforce of public administrators (bureaucrats) who identify, research, formulate, recommend and implement the ideas of government. This chapter will look at differences between the Australian and Malaysian processes of policy formulation, including differences in their public services. Comparative policy formulation is relevant to this study because, as with other spheres of government, policy formulation processes in Australia and Malaysia are different, with each having been influenced by persistent, but sometimes opaque, cultural and historical factors.

The Australian Public Service

Within Australian government administration, the Australian Public Service (APS) is a core institution. The APS plays an essential role in assisting government to carry out its responsibilities on behalf of the Australian people. As at 30 June 2010, the APS had 164,596 employees and was continuing to grow. Many different types of work are performed in the APS. In 2010, the largest cohorts of public

535 R. N. Spann, Government Administration in Australia. 17.
servants identified that they worked in service delivery roles (23 per cent) and corporate services (21 per cent). The 2010 State of the Service Report did not include a breakdown by area, however, the 2008 report notes that information technology roles accounted for seven per cent of all employees and that other types of APS work included policy (12 per cent), exercising regulatory authority (11 per cent), and program design and/or management (11 per cent). Over one-third of APS employees (38 per cent of all employees in 2008) were located in the Australian Capital Territory.

APS agencies include departments, statutory agencies and executive agencies. There are currently 19 departments in the APS. Heads of departments in Australia are usually given the title Secretary. Heads of agencies are usually given the title Chief Executive Officer. Departments and agencies which administer similar policies are usually grouped together in one portfolio. Each portfolio is the responsibility of one minister or one minister and a number of supporting junior ministers. For example, the immigration portfolio includes the Department of Immigration and Citizenship, and other immigration-related agencies such as the Migration Review Tribunal, the Refugee Review Tribunal and the Migration Agents Registration Authority. The portfolio is the responsibility of the Minister for Immigration (senior Minister) who is supported by the Minister for Multicultural Affairs (junior Minister).

The basic laws regulating the structure, responsibilities and management of the APS have been the three successive Public Service Acts of 1902, 1922, and 1999. The current act includes: for the first time, an articulation of APS values; a legally enforceable code of conduct; and specific provisions affirming the merit principle and prohibiting patronage and favouritism.

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537 Ibid.
538 A. Fenna, Introduction to Australian Public Policy. 370.
The shape and structure of Australian governments has changed substantially during the last two decades, with the most striking change being the reduction in government owned enterprises. Since the early 1990s in excess of AUD$90 billion of publicly owned organisations have been sold into the private sector by Commonwealth, State and Territory governments. The process has covered a wide range of government assets, including telecommunications, electricity and gas, rail, ports and airports, banks, hospitals, gambling and prisons. The distinguishing character of governments in Australia has changed from being the owner and manager of these assets (which despite privatisations, generally continues to be the case in Malaysia) to becoming the standards setter and the regulator.\footnote{Australian Public Service Commission, \textit{The Australian experience of public sector reform} (Canberra: Commonwealth of Australia, 2003). 161.}

Reform of the APS is continuing to take place. On 21 March 2010 the Australian Prime Minister, Kevin Rudd, released a report which reviewed the current structure and functions of the APS and recommended areas of improvement. The report, \textit{Ahead of the Game - Blueprint for the Reform of Australian Government Administration}, identified nine broad reform areas and recommended twenty-eight specific changes each of which centred on building a public service which places further emphasis on putting the people first.\footnote{Advisory Group on Reform of Australian Government Administration, "Ahead of the Game: Blueprint for Reform of Australian Government Administration," (Canberra: Commonwealth of Australia, 2010).}

\textbf{The Malaysian Public Service}

Article 132 of the Malaysian constitution stipulates that the Malaysian Public Service (MPS) consists of:

- the armed forces
- the judicial and legal service
- the general public service of the federation
- the police force
- the railway service
• the joint public services
• the state public services
• the education service.\textsuperscript{541}

This is a wider definition of the public service than that used in
Australia; the Australian definition excludes the railway service, the
education service, or state and territory public services. Bearing this
difference in mind, the MPS is still considerably larger than the APS. As
at 30 June 2005 the MPS formally comprised 899,250 employees,\textsuperscript{542}
while the equivalent APS staff numbers at June 2005 were 133,596.\textsuperscript{543}
The MPS currently has over 1.2 million employees. As in Australia,
public servants in Malaysia perform a wide range of roles which include
delivering services, ensuring public security and safety, and community
programs.\textsuperscript{544}

MPS agencies include ministries, federal departments, federal statutory
bodies, the City Hall of Kuala Lumpur and the Municipal Council of
Labuan. Each MPS ministry (similar to an Australian portfolio and
accountable to one overarching minister, often with supporting
ministers) has multiple departments within it. For example, the
Malaysian \textit{Kementerian Pertanian} (Ministry of Agriculture) includes four
departments - the Department of Agriculture, the Department of
Fisheries, the Department of Irrigation and Drainage, and the
Department of Veterinary Services - as well as sub-agencies such as the
Fisheries Development Authority of Malaysia and the Malaysian
Agricultural Research and Development Institute. There are 24
ministries in total (including the Prime Minister’s Department). Heads

\textsuperscript{541} L. A. Sheridan and H. E. Groves, \textit{The Constitution of Malaysia}, 4th ed. (Singapore:
\textsuperscript{542} Centre for Public Policy Studies, “Towards a More Representative and World-Class
\textsuperscript{543} Australian Public Service Commission, “Australian Public Service Statistical
[Accessed 14 April 2010].
\textsuperscript{544} Chief Secretary to the Government, “History of Public Service,” \textit{Federation of
[Accessed 15 April 2010].
of ministries are usually given the title of Secretary General. Heads of departments are usually given the title Director General. One minister has political responsibility for one ministry, although he/she may be supported by junior ministers.

As in Australia, the MPS has undergone a series of reforms. According to Halligan, a key characteristic of the MPS has been its “effort to change the civil service rapidly and concertedly in relation to national objectives”. Contemporary reforms have been led by the Panel for Improvement of the Public Service, headed by the Chief Secretary to the Government. The efforts of the Panel have resulted in new programs which can be grouped into three categories: (1) improvements in public services, including for example the establishment of the Public Complaints Bureau in 1971; (2) improvements in productivity and quality, including for example the establishment of the Malaysian Administration Modernisation and Management Planning Unit (MAMPU) in 1977; and (3) changing values and ethics of public servants including for example the establishment of the National Institute of Public Administration Malaysia (INTAN) in 1972.

More recent well known Malaysian reforms of the MPS have included the Malaysia Inc policy (1980s), which aimed to encourage better public-private cooperation, and Malaysia’s privatisation reforms (mid-1980s until the mid-1990s), which were similar in aim to Australia’s privatisation reforms discussed above. Signifying the significance of the privatisation reforms, political economist Jeff Tan has described the

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reform package as “one of the most extensive in the developing world, both in terms of scale and scope”\textsuperscript{549}.

A significant feature of the Malaysian Government’s administrative reform processes, particularly since the mid-1960s, has been the influence of US-style administrative ideas through the concept of development administration. Development administration focuses on the impacts of outputs of government on society. It has a twin focus: to develop administrative institutions and capabilities which improve the managing of change processes, and to administer - shape and implement - development programs in all sectors of public policy.\textsuperscript{550} Americanised development administration reforms were first encouraged by the then Deputy Prime Minister, Abdul Tun Razak, as part of his “patient and unremitting campaign to modernise the civil service”.\textsuperscript{551}

The watershed in the Americanisation of the MPS was the 1966 Montgomery-Esman Report. At the request of the Government of Malaysia, the Ford Foundation provided the services of Professors John Dickey Montgomery (Harvard University) and Milton Jacob Esman (University of Pittsburgh) who travelled to Malaysia in mid-1965 to review Malaysia’s public administration. The report called for three important governmental actions: (1) the creation of a Development Administration Unit in the Prime Minister’s Department, staffed by professional management analysts; (2) improvement of the Government’s education and training programs for all levels of the MPS; and (3) strengthening the professional competence of the MPS so that it could provide the necessary administrative leadership for the rapidly development country.\textsuperscript{552} These reforms were reflective of the US system at the time. The prevailing reaction to the report among Malaysian

\textsuperscript{549} J. Tan, Privatization in Malaysia: Regulation, rent-seeking and policy failure (Oxon UK: Routledge, 2008). 39; ibid.
\textsuperscript{550} M. J. Esman, Administration and development in Malaysia; institution building and reform in a plural society. 1.
\textsuperscript{551} Ibid. 135.
officials was that the reforms proposed by the “new group of American ‘experts’” would “disrupt a basically sound administrative system”. However, open debate on the report was “cut off” by Razak’s decisive support for the reforms and swift implementation of the report’s recommendations.553

There continues to be debate about the successes of the implementation of the Montgomery-Esman Report. For example, Abdullah Sanusi Ahmad argued strongly that while some successes have been achieved, the implementation of Americanised development administration in Malaysia remains haphazard and lacklustre, with many administrators at the district level lacking both the core capabilities and the general facilities required to fulfil their administration roles.554

Leaving aside the overall successes or failures of the Montgomery-Esman initiatives, a tangential long-term effect of the report was the increased number of senior Malaysian public servants who came to be socialised within an US-oriented public administration framework, though postgraduate scholarship programs. A sub-recommendation of the report encouraged the Malaysian Government to “establish postgraduate development administration programs” through a “contract with a US university specializing in development or comparative administration”.555 Analysis of archived PhD theses from University Microfilms International shows a marked spike in theses completed by Malaysian senior officials and with a focus on public administration.556

Moreover, the report’s promotion of American-style public administration (and the subsequent changes adopted in Malaysian

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553 M. J. Esman, Administration and development in Malaysia; institution building and reform in a plural society. 143.
554 A. Sanusi Ahmad, "The District Office as an Institution of Development". 190-191, 405-408.
administration) was coupled with a growing general cultural influence from the US. Born out of the US’s communist fears of the Cold War era, the US Government steadily expanded its “soft power” and cultural influence over Malaysia. The US cultural expansion was made easier by rapid globalisation and sustained domestic economic development in Malaysia. For instance, US popular culture such as movies and media quickly became accepted as part and parcel of everyday Malaysian life. These non-British influences helped to reform, again, the shape and style of Malaysian administration.

While the US influence on Malaysian public administration is noteworthy, the potency of the pre-existing influences meant that the broad character of Malaysian public administration endured. Esman himself has stressed that the report recommendations sought to “work within the existing structure [of government]”. This included accepting the legitimacy of the current senior public servants who were perceived as “superior in power and status” and also accepting “Malay control” of the public service through the requitement quota system. As I will continue to discuss, these two existing structures are reminiscent of the pre-colonial kerajaan era.

The most recent MPS reforms in the MPS appear to fuse British and US elements. Launched by Prime Minister Najib in 2010 and known as the Government Transformation Roadmap, the reforms include commitments to “put the rakyat [the people] first”, develop people-centric models of public service delivery through promoting “innovation, choice and competition” and build the MPS by “strengthening performance management across all levels of government, including cascading the use of key performance indicators to all civil servants and implementing differentiated performance-based rewards and

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558 M. J. Esman, Administration and development in Malaysia; institution building and reform in a plural society. 145.
consequences.” When discussing his package of reforms Prime Minister Najib has consistently emphasised that Malaysian public servants need to “bersama menggalas transformasi” (carry forward the transformation [of the MPS] together) so that the MPS can become more transparent and accountable, more competitive, more merit-based, and generally transition to a knowledge-based and high awareness institution. Each of these governance-related Malaysian goals will be discussed in more detail in the following chapter.

The overall administrative structures in Malaysia and in Australia have not been designed as an integrated whole, but have emerged progressively in each country as a result of reorganisation, subdivision or rearrangement of existing units, or by adding new units to old ones in response to specific national circumstances. Consistent with one of the themes of this thesis, Hawker emphasises that “Australian public administration has always existed within its own particular historical, institutional and social setting.” For example, in Australia it appears public administration seeks to respond to Australian cultural values such as egalitarianism, individualism and scepticism about government elites. In Malaysia, it appears greater emphasis is placed on hierarchy, patronage and ceremony. The fluid, country-unique set of influences on the bureaucracies’ overall administrative structures and processes partly explains why both countries have recognised a need for ongoing reform programs. However, the organic structures and processes of the public services in Australia and Malaysia have also created distinctive challenges to policy formulation processes which are discussed

below. The acceptance of the influence of ‘unique’ domestic factors also appears in conflict with more traditional proponents of rational choice in public administration, who suggest that all action is fundamentally ‘rational’ in character. The application of ‘rational choice’ in public administration and policy formulation will also be discussed in the subsequent analysis.

**Policy versus politics?**

Public servants are integral to the policy formulation process. While ministers are usually the legally appointed ‘decision maker’, ministers source much of their advice from officials, and ministers’ broad policy directives usually leave a good deal of detail to be filled in. As a result, public servants are inevitably involved in policy formulation - which occurs at the ‘micro-level’ and is quite distinct from the formulation of political directions - and often have considerable discretion in carrying out policy as even a first-class minister cannot keep an eye on everything. Thus, while ‘the Government’ is driven by ministers and ministerial decisions, its policies and announcements are grounded in the less visible analysis and advice provided by public servants.

A further challenge to the ‘policy maker’-public servant relationship is the inseparability of policy and politics. There is no clear and accepted definition of what is a ‘political’ matter. A normally minor matter can sometimes arouse great public interest or alarm, especially if it has a hint of scandal about it, and it then becomes ‘the Minister’s business’. As Paul Appleby describes, “the level at which a decision is made ... may be shifted upward or downward as evaluations point to more or less controversy, or to more or less ‘importance’.”

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Another difficulty is the degree of specialist expertise needed to address a policy issue. In discussing the move to ‘evidence based policy’, Solesbury notes that scientific and other experts play an increasingly significant role in policy formulation. From human and animal health to social legislation, ministers and the wider government rely on specialist expertise to inform their decisions. Part of the challenge is that, for very complex policy decisions - and most of them are - the decision maker (the minister) lacks the relevant scientific, economic, or other specialist skills which are needed to analyse and resolve a policy issue. Senior career public servants are usually considered to be experts in administrative affairs. However, senior career public servants typically also acquire specialist knowledge and ‘corporate memory’ from many years working in a particular portfolio or on a particular issue. This specialist knowledge sets public servants apart from ministers who, due to the fluidity of politics, are unlikely to have overseen a single ministerial portfolio for more than a few years. Even at the lower levels of the public service, officers are increasingly expected to use detailed analysis and expert input to their policy recommendations. Their ‘on the ground’ practical knowledge about a policy proposal or burgeoning political issue is also, at times, richer than that of the minister.

Even in instances where a policy has had strong ministerial input, a public servant has considerable discretion in interpreting the policy and in organising the business of carrying it out. Carrying out most policies involves a good many decision makers at several different levels using their discretion to interpret statutes, ministerial directions, or policy frameworks, or exercising judgment in individual cases including setting priorities and determining which issues to deal with at their own level and which issues to escalate to a higher level for decision. Lipsky has written critically about the high level of discretion often exercised by, in his terms, “street-level bureaucrats”. In his analysis, Lipsky

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describes street-level bureaucrats as relatively junior public servants who are tasked with determining the specific operation and execution of policies. With responsibility for the detail of policy extrapolation, interpolation and policy implementation, Lipsky argues the combined actions and decisions of street-level bureaucrats can heavily influence the ultimate direction of a broad-brush policy.567 More recently, Denhardt and Crothers have concluded that “since the time that Lipsky’s important insights were published... the scope and range of street-level discretions have significantly increased.”568

To conclude, it is extremely difficult to draw a convincing distinction between policy and politics, or even between a policy advisor and decision maker. For this reason, while this thesis focuses on final ministerial (government) policy decisions, it also acknowledges that in both Australia and Malaysia there is significant scope for public servants - each with their own set of values and cultural experiences - to shape, modify and even thwart the government’s policy outputs during the policy formulation and implementation process. This is a shared characteristic of the Australian and Malaysian systems of government administration, but one which this thesis argues is likely to result in very different policy outputs in the two countries, given the cultural and other differences between the two nations’ public services.

**The policy cycle**

At its simplest, policy formulation is the rational activity of specifying objectives and devising a means for attaining them.569 Policy making is often seen as a sequential problem-solving process, with each step broken into manageable units of analysis. Many scholars have tried to define the process of policy formulation. For example, in 1968, Lasswell defined this process as “clarification of goals; description of trends;

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analysis of conditions; projection of future developments; and intervention, evaluation and selection of alternatives". Austin Ranney describes it as “an object; a desired course of events; a selected line of action; a declaration of intent; an implementation of intent”. Other writers have described policy formulation as a sequential process.

An important implication in these ‘traditional’ policy formulation models is the assumption of rationality in policy formulation processes, particularly rationality in the development of, and the process for obtaining, a final outcome - a policy goal. Hawker, Smith and Weller contend that the main function of the Westminster system is the attainment of ‘policies’ through a structured policy formulation process. Spann contends that the idea of a ‘policy’ does seem to assume some deliberateness of intent and some control over outputs. Figure ten provides a visual depiction of the traditional policy formulation model applied in this thesis (although as it is argued below, this model is incomplete and simplistic).

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573 R. N. Spann, Government Administration in Australia. 397-88.
Figure 10. Theoretical model of policy formulation

Rational choice theory is highly relevant to ‘accepted’ models of policy formulation. Rational choice theories argue that individuals (in this case policy makers) are motivated by their wants or goals. They act within specific, given constraints and on the basis of the information that they have about the conditions under which they are acting. As it is not possible for individuals (policy makers) to achieve all their various wants and goals, they must make choices in relation to both their goals and the means for attaining these goals. Rational choice theories hold that individuals (policy makers) must anticipate the outcomes of alternative courses of action and calculate – or believe that they are calculating - that which will be best for them. Rational individuals (policy makers) choose the alternative that is likely to bring the greatest perceived benefit and satisfaction. Using this theory, policy formulation becomes a ‘logical’, ‘rational’ and sequential process for obtaining a perceived goal. In the following section, the ‘rationality’

assumed in this process will be shown to be particularly important in this thesis’s cross-cultural analysis of policy formulation.

Bridgman and Davis have the most ‘accepted’ sequential-style model for policy formulation in Australia. The model also conforms to rational choice theory, assuming that policy makers make informed decisions at each stage of the sequential process. Known as the “policy cycle” the Bridgeman and Davis model breaks down the policy formulation process into:

- issue identification;
- policy analysis;
- selection of policy instruments;
- consultation;
- coordination;
- decision;
- implementation; and
- evaluation.

This framework is summarised in figure eleven below.

While not without its limitations (see subsequent discussion), the Bridgman and Davis model provides a sequential set of steps against which a comparison between Australia and Malaysia can be made. There is currently no policy formulation model with an equivalent level of acceptance in Malaysia. Given this, the Bridgeman and Davis model will be used as a starting point for comparison with Malaysia.

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While the policy cycle remains the most accepted policy formulation model in Australia, there remain some significant challenges with the model - indeed with the whole concept of applying a sequential, ‘rational choice’ approach to policy formulation. Colebatch sums this up neatly:

The dominant paradigm [of policy formulation] presents government as a process of authoritative problem solving: there are actors called governments, they confront problems and make choices, which are then enforced with the coercive power of the state. This defines the ‘normal expectation’ of government, and in so doing, discloses ‘problems’. Government is meant to be coherent, so if different public agencies have multiple and conflicting agendas, this is evidence of a ‘problem’ of ‘fragmentation’. If the work of the bureaucracy cannot be presented as the execution of commands from superiors, this is a ‘problem’ of ‘control’. And if it is difficult to discern pre-existing objectives, this is a

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Ibid. 26.
major ‘failure’ on the part of government (i.e. a failure of reality to conform to the tenets of the model) and both academics and practitioners should busy themselves with the task of defining objectives.578

The ‘dominant’ policy formulation model seems to ignore or undervalue the importance of apparently ‘irrational’ pressures on the policy formulation process - for example historical experiences and cultural influences - which surely impact on policy formulation processes. The importance of including ‘irrationality’ in the study of policy formulation is supported by scholars such as Everett and Colebatch, who argue the policy cycle model and the classic ‘rational’ paradigm of policy making ignores the complex, value-laden nature of the policy process.579

In line with Everett and Colebatch, the cross cultural policy formulation analysis presented in this thesis highlights the cultural dependency of such an idealised policy formulation process. Although policy makers in Australia and Malaysia may believe they are applying rational choice and judgment in their policy decisions, the choices and judgments made by Malaysians and Australians will be likely to differ due to different values, experiences and orientations. This concept calls into question the very notion of ‘rational’. Arguments that policy formulation is based on rational choice or judgment can only be sustained insofar as they apply the rational choices or judgments of that specific decision maker, which are in turn reflective of the values and cultural character of that society. Consequently, when traditional policy theory refers to decisions based on judgment or rational choice, it should be implicit that this refers to the judgments or rational choices of that particular society, or more specifically to the judgments or rational choices of one policy advisor or group of advisors in that society.580 If the same policy problem was presented in a different

580 H. K. Colebatch, "What work makes policy?."
society, a different policy decision may be made. This explains why, when considering policy formulation in a system with which one is familiar, one is much more likely to perceive coherence and systemic order. It appears ‘logical’ that a certain decision was reached, often because the final decision conforms to an individual’s understandings of choice and judgment in the context of that individual’s social values.\textsuperscript{581}

Supporting this, Rittel and Webber have considered the subjectivity of the term ‘judgment’ in general policy theory. They have argued that policy judgments vary according to group or personal interests, special value-sets, and ideological predilections.\textsuperscript{582}

By considering policy in this ‘culturally specific’ manner it becomes more evident that domestic historical experiences and cultural influences are continually shaping and steering policy formulation processes. To manage this ebb and flow of domestic influences, policy makers often compromise or adapt policy, moving away from the apparently ‘first best’ policy prescription for the sake of commitments to other domestic issues. Thus, by analysing in the light of the culture and values of the culture in which a particular policy was developed and implemented, it becomes clearer that policy outputs often do not conform to an individual’s own (culturally specific) expectations of policy decisions based on logical judgment. Put differently, a policy maker’s ability to apply judgment or rational choice to a policy decision is based on innate understanding and unacknowledged acceptance of the historical experiences and cultural influences which are at play in their own society. This more culturally-responsive model of policy formulation is presented in figure twelve (an adaptation of figure ten).

\textsuperscript{581} Ibid.
In short, the Bridgman and Davis policy cycle provides an ‘accepted’ model for policy formulation.\textsuperscript{583} The model provides a clear set of sequential steps for policy formulation and thus provides a useful starting point for this Malaysia-Australia comparative analysis. Nevertheless, as the model conforms to rational choice theory, assuming that policy makers make informed decisions at each stage of the sequential process, the model lacks sufficient consideration of underlying, less explicit and ‘illogical’ influences on policy formulation. Some of these less visible influences will be brought out in the subsequent step-by-step comparative analysis of the policy cycle in Australia and Malaysia.

Comparative analysis of the policy cycle in Australia and Malaysia

Step 1. Issue Identification

The first step in Bridgman’s and Davis’s cycle is the process of issue identification. In both Australia and Malaysia, issues are usually identified as a result of representations by interest groups, or in the media, with demands for government action. Kingdon questions why some subjects rise on policy agendas and are identified as problems deserving the serious attention of the government and the executive while others do not. He suggests that issues can elevate on the policy agenda by: (1) having widespread public attention or awareness of the issue; (2) having a shared concern by the public that action is required; and (3) having a shared perception that the matter requires government intervention.

Within this format, both new and continuing issues can be identified. Sometimes a new issue emerges and an entirely new policy is needed to address the issue. An Australian example of such a new policy is the recently endorsed Clean Energy Futures legislation. For the first time, this legislation put a price on carbon pollution. This issue of carbon pollution required a new policy as, until the last decade, Australian citizens had remained relatively sceptical about the scientific links between carbon pollution and climate change and therefore little consideration had been given to developing a suitable policy response to this issue. In addition to the creation of new policies, at other times, an existing policy proves to be no longer effective and requires a policy overhaul. For example, Malaysia’s original New Economic Policy (NEP) (1971-1990) was replaced in 1990 with the National Development Policy (NDP), and replaced again in 2010 with the New Economic Model.

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Due to the different ways in which the socio-political spheres in Malaysia and Australia function, the process of issue identification differs between Australia and Malaysia also. In Australia, it is evident that a larger number of issues are identified as a result of public attention or awareness of the issue. Many of these issues are driven by outspoken commentary in the media. An example of such an issue is the recent Australian Labor Government’s stance on Japanese whaling in international waters. Due to considerable pressure from activists and the media, in early 2010 the Australian Government announced it would initiate legal action against Japan in the International Court of Justice in The Hague. Pointedly, the Government chose this policy direction even when legal advice to the Government indicated that the International Court of Justice legal action was unlikely to be successful. Any such failure in the court would to some extent legitimise future Japanese whaling, not to mention the high cost to Australia’s overall diplomatic relations with Japan. Thus, the Government’s ‘decisive action’ can be seen to be a forced political response to media frenzy on the whaling issue, rather than a strategic and rational response to find a lasting solution.

In Malaysia, where the media is less critical of the government (refer to discussion in chapter five) issues are more often raised by groups close to the Government. For example, (Malay-dominated) industry groups who work alongside the government pressured hard for Prime Minister Najib’s recent package of economic reforms, known as the New Economic Model (see subsequent discussion). Thus, institutional and cultural differences between Australia and Malaysia such as the relative power of the media and differences in the relationships between

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business and government impact on the way policy issues are identified in each country.

**Step 2. Policy Analysis**

In policy formulation theory, once an issue has been identified, a line department takes responsibility for policy analysis (step two in the Bridgman and Davis policy cycle). Policy analysis involves determining and considering potential policy solutions and the advantages and disadvantages of each solution. The consequences (both intended and unintended) and the implications or impacts of each potential solution are also considered. Based on detailed analysis of the entire issue, policy formulation theory envisages that public servants will develop sound and thorough advice to their minister. When the analysis is complete, the public servants *usually* put forward a well-reasoned recommendation to address the issue to the minister.\(^589\)

The policy analysis process differs between Australia and Malaysia. Due to the more centralised structure of the MPS, issues of importance are almost always coordinated by the Prime Minister’s department. For example, tourism is supposedly coordinated by the Ministry of Tourism. Nevertheless, tourism policy is guided by the National Tourism Master Plan which is developed and reviewed by Malaysia’s central agencies as part of the set of Malaysia Plans.\(^590\) One indicator of the ‘hands-on’ policy formulation role played by the Prime Minister’s department is the number of ministers in that department. While the Prime Minister has overall responsibility, the Prime Minister’s department has an additional four supporting ministers assisting with its coordination. Each minister is part of the Prime Minister’s portfolio and reports to the Prime Minister. There is a further junior minister located in the Prime Minister’s Office, creating a total of five supporting ministers in the Prime Minister’s portfolio. Moreover, each of these additional ministers holds a seat in the Malaysian Cabinet (see discussion on the Cabinet in


Thus, while in Australia most policy analysis is completed in the line agency responsible for the implementation and maintenance of the policy, in Malaysia key policies are often developed within central agencies and then ‘given’ to line agencies to carry forward and implement.

**Step 3. Identification of Policy Instrument**

The third step in the Bridgman and Davis policy cycle is identification of the appropriate policy instrument. Policy instruments are the means by which the policy will be implemented. They may be laws, such as Acts of Parliament or regulations, programs administered by public servants or others, information or promotional materials like brochures or publicity campaigns, or infrastructure, such as hospitals, schools, roads, dams or buildings. During the policy analysis process, if government intervention is assessed as necessary, and if the benefits are judged to outweigh the costs and risks, public servants will identify an appropriate policy instrument(s) which will enable the policy issue to be resolved. A typical policy response will utilise multiple policy instruments.

The choice of policy instruments is a major concern in the policy formulation process, and recommendations about policy choice should canvass the full range of options. Cost and benefits, community and political acceptability and legality can all be fundamentally affected by the choice of policy instrument. The policy instrument choice may have major implications for the timing of policy implementation. Bridgman and Davis argue it is important that public servants consider implementation issues, such as policy instruments, from the outset of a policy project in order to ground policy proposals in the real world and improve probable success. Fundamentally, there is little point in engaging in detailed research of options for resolution if the recommended option is not practical or practicable.\(^{592}\)

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\(^{591}\) W. A. Wan Ahmad, "The Legislative: The Roles and Functions of Parliament".
Again, there are differences between Australia and Malaysia in the processes of policy analysis and choice of policy instruments. Malaysian public servants, particularly junior public servants, generally have less scope to recommend policy proposals than their counterparts in Australia. This is because policy proposals in Malaysia are more tightly controlled by the ruling political elites. Eugene Kolb observes that in some states, particularly those that are more authoritarian, the ‘rule making’ function of government begins to dominate other functions of government. It is then common for policy formulation to be dominated by political elites with only limited involvement from lower level executive and legislative elites. This tight control of power has occurred in Malaysia, compounded by the politicisation of the more senior levels of the MPS discussed in the subsequent chapter of this thesis. Various studies of the MPS elite since the 1960s demonstrate continued paternalistic attitudes amongst high-ranking civil servants and a lack of effective power-sharing architecture to curb political manipulation. Specifically, Leong suggests that political leaders and senior policy makers “have arrogated policy powers ... and sought to maintain as much influence as possible on policy output.”

During personal interviews, Datuk Dr Paddy Bowie, consultant to the Malaysian Government stated “policy development is top-down” and Mr James Crown, Chief Executive Officer of Knowledge Group Consulting Group, added Malaysian “low level staff don’t have the skills to develop policy.” These sentiments were repeated by other interviewees, with comments including “it is only senior level officers

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who have the authority and maybe the capability to make decisions”\textsuperscript{598} and “mostly it’s the senior level officers [who develop policy]”.\textsuperscript{599} Indeed, when interview data results were combined, only 21 per cent of Malaysian respondents felt that middle and lower level public servants had input into policy formulation. This is significantly different from policy in Australia, where 62 per cent of Australian respondents felt that middle and lower levels had input into policy formulation. There is a more established pattern that policy analysis and selection of instruments in Australia is completed by junior or middle level officers, under the broad guidance of more senior management, as these officers have the access to information, the corporate knowledge, and the time available to complete detailed policy analysis. The policy analysis is then ‘fed-up’ through the ranks of government to be accepted or otherwise by senior management and ministers.

**Step 4. Consultation**

Returning to the policy cycle, the next phase in the Bridgman and Davis policy formulation process is consultation. Modern political theorists argue that consultation is a good method to test the strength of the analysis and the feasibility of the proposed response. Because most issues involve a number of stakeholders, consultation provides a structured way for relevant parties to provide input into decision making about the issues in which they have an interest. Stakeholders can be other government agencies, individuals, organisations, industry or any range of other interested parties. Consultation can occur both within government and with groups outside government.\textsuperscript{600} The case for consultation has been made by Thompson, who identifies the need to address overlap of policy issues across functional departmental boundaries; the need to bring a diversity of expertise and administrative resources to tackle an issue; the need to overcome budget limitations; and the demand for integrated approaches and coordination. He notes that research from a range of different sources has shown that

\textsuperscript{598} T. Yeoh, “Personal Interview with Tricia Yeoh - 4 February,” (Kuala Lumpur 2008).
\textsuperscript{599} H. Nayan, “Personal Interview with Hussin Nayan - 13 February”.
\textsuperscript{600} P. Bridgman and G. Davis, *Australian Policy Handbook*. 
increased consultation and participation in government can lead to better results for government.601

Approaches to consultation differ significantly between Malaysia and Australia. In Malaysia, public participation in policy formulation is limited and “individuals, groups or organisations in society have little or no input in the process of government.”602 Leong suggests that some consultation does occur, however this is only “among the key groups that the government tries to accommodate”.603 Thus, broad based community consultation in Malaysia is unusual, with the Government preferring to obtain the view of (primarily Malay-led) peak bodies and elites through mechanisms such as the high level Cabinet advisory councils discussed previously.

In comparison, consultation in Australia is more central to policy formulation. Regular consultation among interest and industry groups, governments, unions and other relevant stakeholders is standard practice in modern Australian public administration.604 An example of broad based political consultation in the Australian policy cycle is former Prime Minister Rudd’s ‘Community Cabinet’ initiative. Community Cabinet meetings commenced in January 2008 and aimed to “ensure close [government] consultation with the Australian people on the things that concern them, whether they are national or local matters”.605 Meetings are held around Australia, usually at regional centres. The meetings usually involve an open public question-and-answer session followed by a series of pre-arranged one-on-one meetings. The Community Cabinet initiative mirrored a similar

604 G. Davis et al., Public Policy in Australia. 98-104.
successful initiative (the Community Cabinet initiative and the Regional Communities Program) delivered by the Queensland State Government. An independent evaluation of these programs undertaken in 2001 indicated that the process has resulted in “improved regional integration and a more community-responsive approach to government decision making”.

The difference between Malaysian and Australian approaches to consultation was clear in interview responses. When asked “On a scale of 1-5, where 1 is not very important and 5 is extremely important, how important do you believe are the following steps in the policy development process?” 88 per cent of Australian respondents felt that consultation was an important or very important step. In contrast only 42 per cent of Malaysian respondents ranked consultation as important or very important. More strikingly, over a quarter (26 per cent) of Malaysian respondents ranked consultation as not at all important, or not important. These interview responses suggest an underlying difference in approach between consultation for Australian and Malaysian policy makers. Possible reasons behind this approach will be discussed in the ‘cultural’ analysis presented in the following section.

**Step 5. Decision**

After policy coordination, in the Bridgman and Davis model, a policy solution is found. In theory, the policy solution addresses the specific problem, meets the Government’s broader policy goals and is financially sound. The line department then ‘recommends’ this policy solution to the minister who (in the normal course of events) approves and directs that it be implemented. In some cases, the minister will not have the delegation to make such a policy decision. In these cases, the policy solution is recommended to Cabinet for a final decision.

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In some cases, particularly where there is a strong ‘political’ dimension to an issue, the Prime Minister will become directly involved and even take ownership and decision making responsibility for a policy area which would traditionally fall outside the Prime Minister’s portfolio. For example, in 2003 the Australian Department of the Prime Minister and Cabinet (PM&C) drew officials from various Australian agencies and took policy responsibility for the development of the National Water Initiative. Similarly, in January 2011 the Malaysian Government established ‘TalentCorp’ under the Prime Minister’s Department to encourage and sustain human resources capital in Malaysia. Direct prime ministerial influence over traditional ‘line agency’ policies is much more common in Malaysia than in Australia. For example, in examining Malaysian policy formulation Milne has observed:

It is the Prime Minister who decides on the areas in which new policies are required and on their broad nature. There is usually minimal prior consultation with cabinet or party organizations before new policies are announced; he is basically a “one-to-one” person.608

Such direct prime ministerial influence over traditional ‘line agency’ policies with minimal consultation occurs much more rarely in Australia.

**Step 6. Implementation**

Sound policies are of little value if they are not implemented effectively. Implementation means activating the policy through the chosen instrument; for example new and/or amended legislation or the development and implementation of a new program. Without implementation, policies are nothing more than ideas or wishful thinking.

Both the former Secretary of the Australian Department of the Prime Minister and Cabinet, Mr Terry Moran, and the Australian

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Auditor-General have stressed that “the importance of policy implementation and service delivery for all levels of government cannot be overstated.” Indeed, the Australian National Audit Office has created its own better practice guide precisely on this subject. The guide, titled *Implementation of Programme and Policy Initiatives: Making implementation matter*, specifically states:

> Implementation and delivery of Australian Government policy initiatives is one of the key responsibilities of government agencies. In recent years there has been increasing focus on, and a community expectation of, sound policy implementation and seamless delivery of government policies - on time, within budget and to an acceptable level of quality.

Experience shows that optimal outcomes from policy initiatives are more likely to be obtained when there is early and systematic consideration of the practical aspects of implementation. This has been highlighted in several Australian National Audit Office (ANAO) audit reports in recent years. The work of the Cabinet Implementation Unit (CIU) within the Department of the Prime Minister and Cabinet (PM&C) has also highlighted the importance of a systematic focus on implementation.610

One key aspect of effective implementation is ensuring systems are put in place to ensure compliance with the policy. The theory of policy compliance and enforcement has been a keen interest of political scientists since the 1970s, with particular attention being given to how governments get their citizens to do what they otherwise might not do.611 Sometimes compliance may draw on policing processes.

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610 Ibid. 1.
Sometimes processes may be administrative, as with monitoring departments’ compliance with public service management policies. In either case, compliance requires well developed capabilities in the public service including the requisite high level attention, resources and skills.

It appears that, on the whole, contemporary Australian administration places somewhat more emphasis on implementation, including compliance, than Malaysian administration. For example, when senior civil servants and opinion leaders in Australia and Malaysia were asked to rate the importance of implementation in the policy development process the most common Malaysian response was ‘important’ while the most common Australian response was ‘very important’. Further evidence of the Australian Government’s relative attention to implementation is the creation within the Prime Minister’s department of the Cabinet Implementation Unit (referred to above) which provides regular reports to Cabinet on progress in policy and program implementation. While no corresponding structure or process is evident in Malaysia, under the packages of reforms defined as the ‘Government Transformation Roadmap’, the Malaysian Government has sought to report on the progress of policies implemented in seven National Key Result Areas (NKRAs) (see discussion under effectiveness and efficiency in the subsequent chapter). Linked to these reforms was also the establishment in 2009 of the Performance Management and Delivery Unit (PEMANDU). Located within the Prime Minister's Department, PEMANDU’s goal is to oversee implementation and progress of the government’s package of reforms. These very recent initiatives may suggest a move towards greater emphasis on implementation in Malaysian policy formulation processes.


Step 7. Evaluation

In Bridgman’s and Davis’s policy cycle model, the final step in the policy formulation process is evaluation. According to Wholey, “policy evaluation is the assessment of the overall effectiveness of a national program in meeting its objectives or assessment of the relative effectiveness of two or more programs in meeting common objectives.”613

More specifically, policy evaluation uses a range of research methods to systematically investigate the effectiveness of policy interventions, implementation and processes, and to determine their merit, worth, or value in terms of improving the social and economic conditions of different stakeholders. There is no single method of evaluation and often several different methods are used. Evaluation is essential so government can gauge the effects of a policy and adjust or rethink policy design as appropriate.614 There are many different ways to evaluate policy. Most commonly used is the goals-based evaluation. This system of evaluation assesses whether the goals of a policy, program or project have been achieved. Other common methods of evaluation include qualitative evaluation and economic appraisal and evaluation.615

The emphasis placed on policy evaluation differs between Australia and Malaysia, and evidence for this is provided by results from personal interviews of senior public servants and opinion leaders in Australia and Malaysia. 75 per cent of Australian respondents felt that evaluation was important or extremely important, while only 59 per cent of Malaysian respondents felt that evaluation was important or extremely important. Moreover, 12 per cent of Malaysian respondents indicated that evaluation was not important or not very important. During discussions on this issue, Mr James Crown from Knowledge Consulting Group in Malaysia proposed that Malaysians do not

615 Ibid.
emphasise evaluation in their policy formulation cycle as they lack the skills to formally evaluate policy (as occurs in other Westminster governments). I am unconvinced that a ‘lack the skills’ in policy evaluation provides sufficient explanation for the lesser emphasis placed on evaluation in Malaysian policy formulation processes. Rather, as discussed in the subsequent section, this thesis suggests that historical experiences and cultural influences may provide a better explanation for Malaysians reluctance to evaluate and critique government policies.

Again, structures and processes for evaluation appear somewhat stronger in Australia than in Malaysia. For example, the Australian National Audit Office (ANAO) conducts, and produces reports on, a range of ‘performance audits’ each year (on subjects of its own choosing). A parliamentary committee oversees the work of the office. Reports are tabled and debated in Parliament, with the record of discussions available to the public via the parliamentary Hansard record. The full evaluation is available publicly through the ANAO website. Evaluations are also promoted by the Department of Finance and Deregulation before re-funding decisions are made in the Government’s annual budgets.

Although Malaysia also has a National Audit Office, evaluations are only made available to Parliament and States Legislative Members. Evaluations are not released publicly. Yet the Malaysian Government has made very recent attempts to place more emphasis on evaluation. For example, the establishment of PEMANU and the reporting on the NKRAs perhaps suggests a new “seriousness” on behalf of Prime Minister Najib to “meet the major criticism of the government’s delivery system”.

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616 J. Crown, “Personal Interview with James Crown - 5 February”.
After evaluation, Bridgman and Davis argue that the policy cycle commences again, as a new issue or fresh way of looking at the original issue is usually identified through the evaluation process and a new policy response is required. The repetitive nature of the policy process informs their description of policy formulation as ‘a cycle’.618

The role of historical experience and cultural influences in shaping the policy cycle

This thesis proposes that varying historical experiences and cultural influences provide an explanation for the differences in the policy cycle between Malaysia and Australia, as identified in the previous section. To recap, these differences include:

- a relatively more centralised policy analysis process in Malaysia;
- relatively more scope for less senior policy officers to shape policy analysis and influence the choice of policy instrument in Australia;
- relatively greater emphasis on wider and more extensive consultation in Australia; and
- relatively stronger focus on successful implementation and evaluation in Australia.

As discussed in earlier chapters, in the pre-colonial era, Malaysian society was ruled by rajas each situated in their own kerajaan. In this society, the “sultan or raja was the lynchpin” and rank was determined in relation to the sultan.619 In this society, “every Malay considered himself to be living... under a particular raja.” In his numerous works on the kerajaan, Milner stresses that “Malays referred to themselves as the slaves (patik) of the raja”.620 Members of the rakyat did not critique the raja (the government) and the raja himself was unwilling to admit to policy failures, concerned that citizens might shift their allegiances to other rajas or sultans. As Carsten believes, maintaining a sufficient

619 A. Milner, The Malays. 66.
loyal population though ‘appropriate’ political actions, including endowments to the people, was an important, if subterranean, objective of rajas in the kerajaan and pre-British periods.\(^{621}\)

Out of this raja-centric society emerged an English-educated administrative class of Malay aristocracy who wielded “immense power and prestige vis-à-vis the rest of the population.”\(^ {622}\) As discussed earlier, Alatas has argued that many of the feudal traditions from the kerajaan era were taken forward into the British-endorsed aristocracy. Maaruf supports this, arguing:

By consolidating the traditional elite or the aristocracy and absorbing them into the civil service, the British also perpetuated the values and outlook of the feudal past. The civil service, in turn, came to be influenced by feudal values and outlook. When members of the civil service joined party politics in the forties and fifties, they coloured the parties with their feudal outlook which has its roots in the feudal past; and this situation has continued today.”\(^ {623}\)

The modern social scholar, Mavis Puthucheary, observes that the English-educated administrative class of the Malay aristocracy created by the British continues to fill the highest positions in bureaucracy\(^ {624}\) and Rashid notes that the elitism of traditional Malay rulers is a common feature of public bureaucracy in Malaysia today.\(^ {625}\) Building on these scholars, this thesis suggests that Malaysian public servants continue to act, perhaps subconsciously, in a kerajaan-influenced fashion, that is, in a fashion which apportions more power and respect to their public service seniors.

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\(^{623}\) S. b. Maaruf, Concept of a Hero in Malay Society. 54.


\(^{625}\) A. R. Moten, Government and Politics in Malaysia. 223.
Malaysia’s *kerajaan* history goes some way to explaining the differences between Australia and Malaysia in the policy cycle. For example, Malaysians’ willingness to have policy analysis conducted by central agencies seems to mirror traditional centralised leadership practices, where the *raja* held overall responsibility for governing the country. These centralised leadership practices, discussed by Alatas, Kessler, Maaruf and Milner, have been discussed in earlier chapters.626 Likewise, the *kerajaan* mentality may explain the Malaysian hesitancy to involve junior officers in policy analyses and selection of policy instruments. Again, these are processes that would traditionally have been completed by senior Malaysian elites. For similar cultural reasons a junior officer may be hesitant to exercise large amounts of discretion in policy implementation without clear guidance from above. Senior Malaysian officials may be equally unwilling to assign complex policy formulation tasks to junior officers, as in traditional Malay society this would have been perceived as relinquishing power.

Being accustomed to a style of ruling which positions the *raja* above the people may also explain why Malaysian leaders - who according to Rashid continue to exhibit the elitism of traditional Malay rulers627 - do not place the same value on broad based community consultation as leaders in Australia. The contrast between the Australian community Cabinet meeting process and the Malaysian high level Cabinet advisory council process is instructive. The former would appear to have its roots in culture of egalitarianism; the latter in the historical role of high level advisors to the *raja*.

Likewise, using policy evaluation techniques to formally critique the “work” of a *raja* - for indeed the *raja*’s role in traditional Malay society


was called work\textsuperscript{628} - could be perceived as inappropriate in modern
Malaysia. Hirschman has argued that, during the British period, it was
also highly unusual for Malays to critique government policy. In this
period British advisors were assigned to the Malay Sultans, with the
colonial government therefore exerting direct administrative influence
over virtually all aspects of government. Through this process the
Malay aristocracy became accustomed to working towards the goals of
these indirect administrators.\textsuperscript{629}

Research in other fields lends support to the notion that, at least to
some extent, kerajaan values continue to influence government
processes in present day Malaysia. As discussed in chapter three,
through his study of national work related values and his Power
Distance Index, Geert Hofstede\textsuperscript{630} has shown that Malaysia has a very
high Power Distance Index (104). A high Power Distance Index
indicates that persons with less power accept power relationships that
are autocratic or paternalistic. In high Power Distance Index societies
subordinates are unlikely and unwilling to demand the right to monitor
and critique the decisions of those in power. This research supports the
notion that modern Malaysians exhibit more respect for those in power
than Australians.

In contrast, Hofstede found that Australia’s Power Distance Index is one
of the lowest in the world (36), meaning that subordinates in Australia
demand the right to monitor and critique the decisions of those in
power. This again supports the hypothesis that Australians are
generally more willing to be critical of government than Malaysians, and
that accordingly the Australian policy formulation system places more
emphasis on consultation and evaluation.\textsuperscript{631}

\textsuperscript{628} A. Milner, \textit{The invention of politics in colonial Malaya}. 19.
\textsuperscript{629} C. Hirschman, "The Making of Race in Colonial Malaya: Political Economy and
\textsuperscript{630} G. H. Hofstede, \textit{Culture's consequences: international differences in work-related
values}.
\textsuperscript{631} Ibid.
In a fundamental difference from Malaysia’s *kerajaan*-influenced culture, Australian culture in more accepting of the possibility that the lowest ranked person could become a leader. During early Australian colonial history, a Certificate of Freedom was available to convicts who had completed a fixed term of sentence. Pardons or absolute pardons were available to convicts who demonstrated exemplary behaviour. This established a pattern whereby even the lowliest ‘criminals’ resident in Australia had the potential to achieve economic success, social standing and leadership roles - and some did just that. As discussed in earlier chapters, Australian scholars such as Sawer, Encel, Rowse and Melleuish\(^6\) propose that Australia’s early convict, pioneer and settler history was exceptionally important for creating the modern ‘Australian narrative’ and for shaping ‘modern’ Australian values. Smith has described this period as the first “golden age”\(^6\) and Day has claimed “the Australian way of life” builds on Australia’s early settler and pioneer history by emphasising “physical skills, rather than intellectual attainments, and a causal connection to egalitarianism and mateship”.\(^6\) These values of egalitarianism and equality of opportunity springing from early Australian white history are extraordinarily different from early Malay *kerajaan* history discussed above.

**Summary and conclusions**

Even though formal responsibility for policy decisions rests with the minister, in Australia and Malaysia public servants have significant scope for influencing the formation, interpretation and implementation of policy. Ministerial policy decisions are usually derived from analysis and advice provided by public servants and this gives public servants additional influence over policy decisions. Given this bureaucratic influence, any comparison of Malaysian and Australian policy


formulation processes must consider the bureaucracies and the bureaucratic processes in each country.

Both Malaysia and Australia have well-established public services. Both public services have undergone - and continue to undergo - intense periods of reform. Despite considerable changes in both public services, a major responsibility of each continues to be policy formulation.

The Bridgman and Davis model of the policy cycle provides an accepted benchmark for comparing Australian policy formulation processes with those of Malaysia. Culturally and historically-driven differences can be seen in each of the steps of the policy cycle, viz: issue identification; policy analysis; policy instruments; consultation; coordination; decision; implementation; and evaluation. This chapter has not sought to define which country has the ‘better’ policy formulation process. Rather, the chapter has shown that Australia and Malaysia place different emphases on the various steps of the policy formulation process and that these differences can be best understood by taking into account national cultural and historical experiences.

In Malaysia, the legacy of the Malay kerajaan system continues to touch on each of the steps in the modern policy cycle. The strict hierarchy and the dominant position of the traditional raja today shapes the role of the public service in issue identification, the extent to which public servants advise the minister on policy issues, and the process of policy evaluation.

The Australian policy cycle is also influenced by its own set of cultural and historical experiences. Australians have traditionally been wary of the government, firstly due to the divide between governments and the Australian ‘pioneers’ (including convicts), and later as a stronger culture of egalitarianism took root. Today, scepticism about government leadership and the political elites has shaped the Australian policy cycle
so that typical Australians expect more opportunity for input into policy formulation than those in more hierarchical countries, like Malaysia. Similarly, Australians place more emphasis on consultation and expect more transparent evaluation of policies and programs. Policy analysis, also, is important in Australia. That the government must provide analytical ‘evidence’ of the merits of each policy decision further demonstrates how scepticism about government leadership and the political elites continues to influence the Australian policy cycle. The same, also, could be argued for evaluation, where the Australian government has been described as “relatively tolerant” of critique and public feedback, and thus more open to genuine evaluation of its policy successes or failures.

Different emphases on the various steps in the policy cycle will lead to different policy outputs, even in situations where countries share the same strategic policy priorities. While in an ideal world policy formulation should be ‘logical’ and based on ‘judgment’, in the ‘real world’ decision makers’ logic and judgments are culturally dependent. Historical experiences and cultural influences seem to continue to exert their influence on the policy cycle in Australia and Malaysia. The influences of these ‘cultural elements’ in the policy formulation process may lead to policy outputs which do not necessarily align with the ‘rational’ goals set out by government. In short, while Malaysia and Australia may share strategic policy priorities, historical experiences and cultural influences have a bearing on the respective policy formulation processes in Australia and Malaysia, and consequently lead to policy outputs and outcomes which are unique to each country.

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635 A. Milner and M. Quilty, *Australia in Asia: Comparing Cultures*. 257.
CHAPTER 5. ATTRIBUTES OF GOVERNANCE
Introduction

Government policies are influenced not only by architecture and administrative ‘steps’ of policy formulation, but also by the governance arrangements in place at any given time. Thus, understanding a country’s governance is important for understanding its overall policy formulation processes. This chapter examines the attributes of governance in Malaysia and Australia. As noted in chapter one, there continues to be difficulty reaching consensus on the meaning of ‘governance’. Governance captures the arrangement of distinct but interrelated elements that influence government decisions and processes. Such elements may include: statues, including policy mandates organisational, financial, and programmatic structures; resource levels, administrative rules and guidelines; and institutionalised rules and norms.\(^{636}\) Employing the term ‘governance’ allows this study to consider both the formal mandates and the discretionary strategies employed by Malaysian and Australian policy makers in their policy formulation.

Due to the challenges in reaching consensus on what constitutes ‘governance’, it is very difficult to make a qualitative comparison between two countries. However, a sub-set of the study of governance is the study of good governance. Good governance seeks to promote established processes for decision making and implementation, with these processes arguably leading to the ‘best’ policy outcome for citizens.\(^{637}\) Promoted particularly by international development institutions such as the World Bank and the United Nations, good governance provides some established international criteria for the comparative study of ‘governance’. Described here as the attributes as governance, these internationally accepted criteria have been used for


similar cross-cultural comparisons of the more nebulous term, ‘governance’.  

This thesis uses the following eight attributes of ‘good governance’ identified by the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) as a framework to assess differences between Malaysian and Australian governance processes.

The attributes are:

- participation;
- consensus orientation;
- transparency;
- accountability;
- equity and inclusiveness;
- rule of law;
- effectiveness and efficiency; and
- responsiveness.

Analysis of these attributes suggest governance arrangements introduced by the British into Australia and Malaysia have since been uniquely localised in each jurisdiction.

An important part of this chapter’s analysis is considering the ways in which differences in governance may have been shaped by historical experiences and cultural influences. Possible experiences and influences include the respective countries’ pre-colonial experiences, the dominant role of the state in Malaysia, egalitarianism and a stress on openness in Australia, and general differences in overall social ‘values’.


Identifying the attributes of governance

The word ‘governance’ has been much used in the last decade. Although now a common term, there has been little consensus on which specific attributes make up ‘governance’. The lack of agreement and detail around specific governance attributes creates a challenge for scholars attempting to make assessments against a country’s ‘governance’ - what should we assess specifically?640

The Australian National Audit Office (ANAO) defines governance as “the processes by which organisations are directed, controlled and held to account. It encompasses authority, accountability, stewardship, leadership, direction and control exercised in the organisation.”641 The World Bank defines governance as “the traditions and institutions by which authority in a country is exercised for the common good. This includes: (1) the process by which those in authority are selected, monitored and replaced; (2) the capacity of the government to effectively manage its resources and implement sound policies; and (3) the respect of citizens and the state for the institutions that govern economic and social interactions among them.”642 Different again, the United Nations Development Program (UNDP) defines governance as “the exercise of political, economic and administrative authority to manage a nation’s affairs. It is the complex mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights and obligations, and mediate their differences.”

Although these definitions vary in their specific content, what is common across the definitions is an understanding that governance is more than just a term for government. Governance encompasses how public officials carry out their daily tasks. It is a word used to describe the processes of government.


Some governance definitions include sub-categories of governance. For example, economic governance includes decision making processes affecting a country’s economic activities and trade and investment relationships with other countries. Political governance is the process of decision making to formulate policy, and administrative governance is the system of policy implementation. The analysis in this thesis focuses on political and administrative governance.

Although detailed definitions of governance vary, UNESCAP’s attributes of good governance do provide some specific characteristics of governance which can be used for comparative analysis. These specific attributes are shown in figure thirteen below. UNESCAP’s attributes of governance have been adopted for this study as they provide an tangible and distinct set of points of comparison, as opposed to some other definitions (discussed above) which refer broadly to processes, traditions and institutions, capacity, etc. For the purposes of this thesis, participation and consensus orientation have been grouped together as the two have a direct relationship in the thesis’ analysis.

UNESCAP’s attributes of good governance are accepted, utilised and discussed within the wider Asia-Pacific academic literature as appropriate indicators of governance. UNESCAP’s attributes of good governance also fit within a wider literature on “good governance” which provides further analytical rigour to this study.

This study does not judge or rank Malaysia or Australia for the quality of their governance, as this is outside the scope of the study and would require a thesis in its own right. Rather, this study is focused on identifying differences and similarities between Australian and Malaysian governance attributes, and where there is a difference, examining the influences and pressures which may be driving these differences in process.

Many of the key attributes of good governance are embedded in the Westminster framework of government, the system implanted in both Australia and Malaysia by the British. Patapan and Wanna note that the Westminster system is invested with "various political attributes and characteristics... such as 'responsible government' and ministerial accountability to parliament"\(^{647}\) Significantly for this thesis, Patapan

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\(^{646}\) United Nations Economic and Social Commission for Asia and the Pacific, "What is good governance?". 2009.

and Wanna’s analysis goes on to explain “the polities that are understood ‘to be Westminster’ are themselves evolving and changing their attributes.” They refer to these polities as “adaptive systems.” Moreover, Patapan and Wanna further observe “even if ostensibly the political arrangements of Westminster systems have not been greatly altered, the relative importance of their key actors and institutions can and does vary between nations and over time.”

This observed ‘evolving nature’ of the Australian and Malaysian systems is important background for the analysis throughout this thesis.

**Attribute 1. Participation and consensus orientation**

**Participation and consensus orientation in Malaysia**

Political science theorists consider there to be two levels of citizen engagement in policy change: 1) engagement in the day-to-day policy formulation process; and 2) engagement in major policy or political change. In considering engagement by non-elite Malaysians in the day-to-day policy formulation process, a striking difference between Australia and Malaysia is the level of regulation governing the ways in which citizens may participate in government processes. Weiss has observed that:

> Wary of challenges and determined to streamline policy making as much as possible, the state leaves relatively little space for informal or oppositional political activity. Moreover, the regime may draw upon a regulatory framework bequeathed by the British colonial administration to curtail perceived threats to its authority. All the same, civil society retains an important niche in the polity.

A major - perhaps the major - force in promoting the views of civil society is non-government organisations (NGOs). Through their public

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648 Ibid.
involvement, NGOs are “catalytic agents for change”. NGOs help keep the state in line with citizens’ preferences and interests. In Malaysia, compared to Australia, NGO activity is heavily regulated. Indeed, registration of all NGOs is mandatory. The main statutes dealing with establishment and regulation of NGOs are the Societies Act (1966), the Companies Act (1965), the Income Tax Act (1967) and the House to House and Street Collection Act (1947). The Registry of Societies Malaysia (ROS) within the Ministry of Home Affairs is the principal government agency responsible for supervising and controlling the activities of NGOs. The ROS’s functions include registration, control and supervision of registered societies and their branches throughout Malaysia. According to ROS’s website, NGO registration is essential to ensure no adverse effect on security, peace, public order, good order, welfare or morality in Malaysia. This registration process places controls on the type of NGO that may register, with political NGOs facing tougher restrictions than other organisations.

Although NGO activity in Malaysia is highly regulated, there continues to be a myriad of social, economic and cultural NGOs which espouse or promote a wide range of interests and agendas. These NGOs can be broken into three broad groups. The first group are welfare and recreational-type NGOs which complement the Government’s activities by providing welfare and social services. A good example of a complementary NGO is Befrienders. Befrienders provide free emotional support to people who are suicidal, or in general distress. The Befrienders website makes the point that the NGO is “non-political, non-religious and non-sectarian, and volunteers do not seek to impose their own convictions on anyone.” The emotional support provided

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652 M. L. Weiss, “Malaysian NGOs: History, legal frameworks, characteristics”.
by Befrienders complements Malaysian government mental health initiatives. Recreational-type NGOs often work closely with state agencies, for example the Ministry of National Unity and Social Development. These organisations are seen as ‘non-traditional’ as the NGO activities usually complement government actions, rather than work to pressure government actions. Moreover, members of these types of NGOs usually maintain close links to the Government and often have personal connections with officers in the public service, or other relevant government sectors.656

The second group of NGOs are those that may in some circumstances challenge government policy positions. Such NGOs try to engage the Government on points of negotiation; these NGOs may have a differing view to the Government, but they work alongside government to seek policy change. An example of this style of NGO is Angkatan Belia Islam Malaysia (ABIM) or the Malaysian Islamic Youth Movement. Founded in 1972 ABIM claims a contemporary membership of over 50,000 people. Working to shape government policy - rather than to overturn it - ABIM has placed itself at the forefront of Islamic affairs in Malaysia.657

For example, in February 2011, ABIM president Amidi Abd Manan spoke out against (anti-government) political demonstrations and encouraged political leaders to use ceramah (religious sermons) to do the same.658 Another indicator of the strong links between ABIM and the Malaysian Government are the number of prominent members who have gone on to careers in politics, most notably the original founder Anwar Ibrahim.659

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658 "Educate supporters on rule of law, ABIM tells political parties," The Malaysian Insider, 29 February 2012.
The final group of NGOs are those that directly confront the Government. These NGOs include organisations such as Aliran Kesadaran Negara (National Consciousness Movement) (ALIRAN) and Suara Rakyat Malaysia (Malaysian People’s Voice) (SUARAM). Over the years both these organisations have taken clear anti-government positions on domestic and international policy issues. Hassan suggests that directly confrontational NGOs have been less successful in influencing Malaysian policy formulation due to the strong regulatory framework and the use of the *Internal Security Act* (ISA) (see discussion under transparency for details on the ISA) at times when the Government feels threatened.

In addition to seeking to influence the day-to-day and local policy formulation processes through NOGs, Malaysian citizens have from time to time joined mass movements seeking major policy or political change. Typically, these have not been successful. Singh observes “political change in Malaysia has generally been a top-down process. It is elite-initiated”. There have been instances of political moves led by citizens (or at least not by traditional elites), but the Government and ruling elites have quickly intervened to disrupt political momentum.

On the whole, the Malaysian Government has been less openly responsive to political movements which were not initiated by traditional elites, especially when these movements involved large numbers of Malaysian citizens. An example of such a movement is the *bersih* (clean) political campaign. Begun in 2006, the movement seeks electoral reform through more transparent electoral processes and strengthened public institutions and oversight. The first major political event associated with the *bersih* movement occurred on 10 November 2007. Now referred to as *bersih 1.0*, the day was significant as an estimated 30,000 Malaysians marched through Kuala Lumpur calling

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660 S. Hassan, “Political Non-Governmental Organisation: Ideals and Realities”. 211.
661 The ISA is discussed in detail in the below discussion on transparency.
for changes to the electoral process in Malaysia. In response to this strong political initiative by Malaysian citizens, the demonstration was shut down by Malaysian police using tear gas and water cannons. The Malaysian Government claimed the demonstration was unlawful, as the organisers had not been granted an assembly permit.\(^{664}\)

A subsequent demonstration took place on 9 July 2011 with Malaysians seeking similar demands. Known as *bersih 2.0*, this demonstration drew up to 50,000 people. Responding in a similar manner to *bersih 1.0*, the Malaysian Government used tear gas to break up the demonstration, arrested nearly 2,000 people before and during the event (including those who wore yellow clothing, the colour of the movement) and outlawed the *bersih* organisation. Malaysian political commentator Bridget Welsh noted the significance of the event was the Government’s “woeful mishandling” of a call for political reform by the Malaysian people. Welsh observed “*bersih 2.0* illustrates how Malaysia continues to call for political reforms and deeper democracy, despite an incumbent that remains ambivalent to substantive political reform.” She stressed the demonstration “showcased the insecurities of the ruling *Barisan Nasional* government, which adopted an over-the-top response to the rally from the start”.\(^{665}\)

The latest demonstration, known as *bersih 3.0*, was held in 28 April 2012. Estimates of the number of demonstrators range from 22,000 (government figure) to 250,000 (*bersih* organisers’ figure).\(^{666}\) The Malaysian Government’s decisive response to the demonstration was similar to previous years, including the use of tear gas and chemical-laced water. During the protests 471 people were arrested by


police but all were subsequently released. These actions show a strong, negative response from Malaysian government to mass citizen participation in government-critical political movements.

Welsh has argued that the bersih demonstrations have been successful in pressuring the government to implement some of the most recent political reforms. While it may be true that recent government reforms are a result - or a partial result - of the above citizen actions, the forcible and decisive government response in shutting-down the bersih demonstrations suggests the government is not comfortable with this style of mass citizen-level participation in decision making (unless such citizen-level movements are pro-government).

A final example of the Malaysian Government’s negative attitude towards major citizen participation and consensus for policy change occurred in 1998. Known as reformasi, this civil movement sponsored several mass demonstrations and rallies pressing for government reform. The movement was arguably a response to perceived corruption by Prime Minister Mahathir Mohamad and the sacking and mistreatment of Deputy Prime Minister Anwar Ibrahim, now Malaysian opposition leader. The movement continued until Anwar was arrested and jailed in late 1998, whereupon it slowly died down. The movement resulted in a large number of arrests under the Internal Security Act and reports of “police brutality in dealing with these demonstrations, which were largely peaceful in nature”. Considered alongside the bersih pressures and associated government actions, the Government’s swift and powerful response to the reformasi movement suggests a closed attitude towards blatant and highly visible civil society actions for political change and a government preference for more discreet and subtle methods of citizen engagement on policy change.

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668 B. Welsh, “People power in Malaysia: Bersih rally and its aftermath.”

Malayan history provides some possible contributing factors to the modern Malaysian Government’s reluctance to embrace citizen-led policy changes and non-elite political consensus. In the pre-colonial Malayan era, it has been well documented that the hierarchy of society was particularly important. In his book, The Malays, Anthony Milner observes that “the raja-rakyat (ruler-subject) relationship is the critical one”, and in a later section that “the ruler is set apart from the rest of the community.” Maaruf, Alatas and Muzaffar have made similar observations, stressing the feudal nature of the pre-colonial polity and emphasising the psychological and ideological importance of this hierarchy at the time and until today. For example, Muzaffar has discussed the “unquestioning loyalty” of Malay subjects to their ruler, and observed pointedly that “there is no point in refuting it anymore; neither education nor colonial rule had eroded unquestioning loyalty”. From the earlier analysis of such scholars it would appear that the separation of power, with the ruler positioned above the people, established a clear boundary between local people and affairs of the state. This boundary resonates with the current practices of the Malaysian government where subjects (non-elite citizens) are not encouraged to openly critique government policies.

In the British era, evidence presented by Emerson suggests the British fostered a society where government continued to remain separated from the people. According to Emerson’s understanding of the period, beginning in the 1870s, the various Malay rulers were encouraged or compelled to accept British advisers, or Residents, at their courts. As Emerson saw it, these Residents quickly became the ‘real rulers’ of the Malay states. British-run bureaucracies were developed along with vast communications and financial structures and, in 1895, the administration of four of the states was centralised in Kuala Lumpur.

670 A. Milner, The Malays. 59-60. 
671 S. b. Maaruf, Concept of a Hero in Malay Society. H. S. Alatas, Modernization and social change: studies in modernization, religion, social change and development in South-East Asia. C. Muzaffar, Protector? 
672 ———, Protector? 29, 143.
The sultans were retained in the new polity, the Federated Malay States, but essentially as ceremonial figureheads. They continued to possess certain powers in matters concerning Malay religion and custom but the real administration of the country was in British hands.673

Many historians have followed Emerson’s lead in describing the separation between the Malay rulers and the ‘real power’ of the British. Yeo describes the Resident as the “real ruler of the state”674 and Moshe Yegar’s study of Islam during the British period concludes that the British took power while only “the pomp and circumstance of their [the Malays] courts” remained the vestige of Malay authority.675 For Khasnor Johan the sultans were “mere figureheads” and the British were “the executors of the modern administrative and political functions of government”.676

However, other historians, like Milner and Ghosh, have a more nuanced view of the residual powers and influence of the Malay rulers during the colonial period. They suggest the Malay ruler retained considerable power through his traditional values and ceremony. Ghosh concludes that the British were influenced by a desire to “consolidate the Malay monarchies” in order to “preserve the traditional values of the Malay community”677 and Milner suggests that to downplay the role of the Malay rulers during the British era is to write history “from above and from outside”.678 In a more recent analysis, Milner points out that Malay rulers of the British period retained not merely their thrones but also the power of pardon in criminal law. Thus, they continued to be the final source of legislative authority in their states.679

673 R. Emerson, Malaysia: a study in direct and indirect rule.
679 ———, The invention of politics in colonial Malaya. 194.
Although academic debate continues over the role of the Malay elites in decision making in British Malaya, few scholars have argued that local Malay peoples had significant influence in policy making through the British period. Indeed, historian William Roff has recounted being told that Malay people did not get “mixed up in politics”. Therefore, governance in the colonial era – with governance being the processes of the British or perhaps those of the Malay rulers – continued to remain largely inaccessible to common members of the Malayan society.

It would be exaggerating to say local Malays never had input into early policy formulation or that there was never non-elite political consensus. Rather it appears that opportunities for input into policy change were few and far between. It is known that after the introduction of British ‘protection’ in 1891, Malay commoners had become “far less submissive to ill treatment”. There are also historical records suggesting that Malays became less rigorous in their adherence to strict hierarchal order, including unwillingness to follow traditional hierarchal Malay cultural practise such as sitting on the floor before the ruler.

While some level of policy making division between ruler and ruled is evident in almost all societies, Muzaffar makes a strong point about the links between Malay feudal history and contemporary Malay practice. He notes, while political control is evident in all societies “that does not mean that the attitude toward political control itself - in fact the whole attitude of leaders towards their followers and followers towards their leaders - is not the product of a certain history, a certain tradition.” He stresses that in examining modern Malay ruler-ruled interactions “there is a somewhat unique feature in our history which must be considered. This is the almost unbroken continuity associated with the court in Malay society”. Building on Muzaffar, it appears reasonable to

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683 C. Muzaffar, *Protector?* 144.
conclude that modern Malaysian government aversion to overt mass political movements and apparent preferences for more discrete and measured citizen participation in policy making do mirror the approaches and ideologies of a much earlier Malay *kerajaan* era.

Leaving aside the *kerajaan* legacy, a much more recent historical experience - ethnic tensions and the racial riots of 1969 - may also provide some insight to the modern Malaysian government’s hesitant approach to large scale policy change movements and non-elite political consensus (for details on the 1969 riots see discussion of Malaysian social stability in chapter two). Immediately after the racial riots, on 14 May and 16 May 1969, Parliament was suspended, a state of emergency was declared, and a curfew was applied throughout the country. A new National Operations Council was established as the supreme decision making body for the nation. The Council was supported by State and District Operations Councils who took over administrative control of the state and local governments. These changes allowed almost no avenue for interaction between civil society and the state. Parliamentary rule was not re-established until February 1971.684

Scholars of Malaysia have argued that the events of 1969 were a turning point in Malaysian civil participation and consensus orientation in Malaysian governance. Hwang argues the riots provided “crucial impetus” for Malaysian elites adopting a “governance behavioural code” which excluded citizen participation, disregarded non-elite political consensus, and established “more repressive hegemonic control.” Hwang concludes that although parliamentary rule was restored fairly swiftly, “the style of Malaysian politics changed significantly after the May 13 riots. Since then, ‘the threat of a racial riot’ has been used by

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(UMNO) political leaders as an enduring means of regime maintenance."^{685}

To conclude, when compared with Australia (see following discussion), Malaysian governance is less participatory and less consensus-oriented. Engagement in day-to-day and local policy formulation processes does occur through different types of NGO activism. However, on the whole, opportunities for NGO and citizen participation are closely regulated and the Malaysian Government appears to prefer more discrete and unobtrusive participatory methods. When faced with overt large scale citizen movements for political change, the Malaysian Government has responded quickly to strengthen control and to return Malaysia to the government-nominated path. The Malaysian patterns of governance may reflect Malaysia’s earlier political experiences. From the raja-ruler divide in pre-colonial times, to the perceived ‘threat’ of further racial riots in more recent years, it appears that Malaysia’s experiences have taught the Government to be wary about citizen participation and non-elite public consensus.

**Participation and consensus orientation in Australia**

Compared to Malaysia, Australian governance allows for higher levels of citizen engagement and is more consensus oriented. As Considine reminds us, citizen engagement can include engagement in the day-to-day policy formulation process and engagement in major policy or political change.\(^{686}\) Australian governance has many avenues for citizen engagement in the day-to-day policy formulation process. Most Australian government decisions, and certainly those of an important or controversial nature, involve lengthy private and public consultation exercises. These consultations are typically supported by the provision of detailed information in the public domain. Writing about Australia, Bridgman and Davis believe that “pressure on governments to consult about public policy is considerable, and unlikely to diminish.”\(^{687}\) From

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my personal experience, formal government documents almost always include a section on government consultation and policy proposals are only considered once enough consultation has been undertaken to demonstrate an acceptable consensus on the policy direction, or at least a very clear understanding of the stakeholders’ positions.

In Australia, the role of NGOs, ‘peak’ industry bodies and unions in the consultation and participation process has been changing in recent years. This may be because, as some Australian political scholars have argued, responding only to different NGOs or pressure groups “does not take account of the interests of the unorganised, the poor, minority groups, or most consumers”.688 Further arguments have been made that “the leaders of interest groups are not representative of their members or responsive to them” and that “only those with ideas acceptable to the system can legitimately attempt to exercise pressure”.689

As a consequence, recent Australian governments have been moving towards ‘participatory government’.690 Participatory government is the term used by scholars and practitioners to describe active partnerships and collaboration between civil society, the private sector and governments.691 Participatory government is about collaborative relationships; specifically about making a role for non-government players, beyond delivering services, to a role in the policy development process. It requires structures and arrangements which support effective relationships across public, private and community sectors as they collaborate in decision making processes towards agreed

689 Ibid. 154.
objectives. The shift towards participatory government has led to political scholars describing Australia as a “self-governing’ political nation”.

Pierre observes that over the past few years, an increasing number of countries have begun developing new forms of policy advice and citizen participation, and that the basic drive behind these moves for participatory government is to make policy advice and public policy more directly accessible and responsive to citizens’ preferences and also to provide policy makers with a wider variety of ideas, perspectives and suggestions than traditional policy advice can offer. This appears to align with Australia’s objectives whereby, during a personal interview with the former Australian Public Service Commissioner, Ms Lynelle Briggs, Ms Briggs stressed the Australian government seeks to be seen as “working with other groups” to find “the best fit for our policies.”

The growth in Australian participatory government has occurred alongside the rise of ‘e-government’. E-government can enhance opportunities for public participation in the affairs of government and bring people and government closer together. Political scientists have identified two direct links between e-government and participatory government. First, they argue email and the Internet allow the public to have improved access to information and greater opportunity to provide input into the policy process via websites and the ability to email government directly. Second, political scholars contend e-government supports direct democracy though cyberspace meetings and the

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695 L. Briggs, ”Personal Interview with Lynelle Briggs - 19 May,” (Canberra  2008).
creation of networks in which government is not a controller but a mediator in deliberative policy making processes. A recent example of an Australian e-government initiative is the roll out of the Australia.gov.au website. This website advertises “easier” dealings with the Australian Government with a single account to sign on to multiple agencies - but not all agencies - including Centrelink (Australia’s social welfare agency) the Australian Tax Office, and the Department of Immigration and Citizenship. The website has links to government information, media releases, and even some government pages on social media sites such as Facebook at Twitter.

However, the implementation of e-government in Australia has not been without its critics. For example, Teicher argues that e-government in Australia has been largely focused at the information only level; that its spread is uneven, particularly in rural and remote areas; and that it has been matched with a confusing increase in the number of government portals at each level of government (rather than a single point of entry). Nevertheless, the overall policy trend towards e-government suggests an ongoing attempt to encourage and facilitate citizen participation in Australian policy making.

In addition to citizens directly participating in - as distinct from influencing - the day-to-day policy formulation process, the Australian Government also appears to be more responsive to consensus on major policy or political change. Because the Australian Government is already more participatory than its Malaysian counterpart, and because in Australia there is widespread acceptance of the political system, there have only been limited calls for major political change in Australia in the past few years. Most such calls for change were addressed through federal elections or by early pick-up and response by

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representative political parties before reaching the level of mass-action consensus observed in the Malaysian *bersih* demonstrations.

An example of a people-led political move which appears linked to a major policy change was ‘Corroboree 2000’. On 28 May 2000, more than 250,000 people walked across Sydney Harbour Bridge in support of Indigenous Australians. Large bridge walks were also held in other capital cities around Australia. The walk brought indigenous issues back into the political spotlight by demonstrating an Australian consensus – or at least a large body of opinion – on the need for changes to indigenous policy. The Howard government introduced a number of changes to indigenous policy and eight years on, following a change in Australian political leadership, former Prime Minister Rudd formally apologised in the national parliament for the laws and policies of successive parliaments and governments that discriminated against indigenous Australians and especially for the removal of Aboriginal and Torres Strait Islander children from their families, their communities and their country.

Personal interviews also highlighted the differences in consensus orientation and participation in Australia and Malaysia. As part of standard interview questions I asked interviewees “If you could improve three things about the process of policy development in your country, what would they be?” Without prompting, almost 60 per cent of Malaysian respondents noted ‘more consultation’ (or some derivative of this) as one of the policy improvements which could be made. This was the most common response to this question. Follow-up questions highlighted that most Malaysians respondents felt that more consultation would improve processes and result in better quality policy formulation. In contrast only 25 per cent of Australian respondents

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suggested that the Australian policy formulation process could benefit from improved consultation.

Another insight from the interviews was the response to “Since 1996, do you feel that there has been any change in your government’s approach to public policy making?” A common answer in Australia was “it has become more consultative”, yet in Malaysia changes in consultation were not mentioned by any interviewees.

There may be links between Australia’s historical experiences and values and its willingness to embrace participatory and consensus oriented government. Australia is a migrant country. Early Australian migration was different from Malaysian migration as many more migrants to Australia intended from the outset to settle permanently or semi-permanently. The higher rate of permanent migration has been described by Borrie as a “striking feature” of migration to Australia.\(^\text{702}\) Bean has found that “Australia and the United States betray the legacy of having been ‘settler societies’.”\(^\text{703}\) Australia’s historical patterns of permanent migration differed from migration to Malaysia, where migrants continued to be defined (and often defined themselves) as “sojourners”\(^\text{704}\) even after several generations of residency. With a stronger and more enduring stake in their country, permanent migrants to Australia are likely to have more interest in involving themselves in “getting government policies right” and pressing harder for access to government policy formulation processes.

There may also be links between Australia’s egalitarian values and the emphasis on consultation and consensus in Australia’s governance. According to Kabanoff et al., contemporary Australia has been shaped


by “an emphasis on egalitarianism and ‘social justice’ as opposed to authority and social power”. Kabanoff and his colleagues argue that a “concern with the pursuit of egalitarianism through a quasi-level and redistributive system is a defining characteristic of Australia…”\textsuperscript{705} Likewise, Duncan observes that “egalitarianism, is the most revered of the traditional Australian values.”\textsuperscript{706}

It is instructive to compare this emphasis on egalitarianism with British values, particularly those of the nineteenth century when the Westminster system was implanted in Australia at the time of federation. Britain at that time was internationally renowned for its “strongly inegalitarian ideology”,\textsuperscript{707} a polar opposite of how Australians describe themselves today.

In summary, citizen engagement and consensus orientation in the policy formulation process in Australia and Malaysia are different. In Australia, citizen engagement and consensus orientation form part of the daily policy formulation process, with consultation being a compulsory requirement for almost all ministerial decisions. Australian government processes are seeking to become more ‘participatory’, suggesting an ongoing trend towards consultation and consensus. In Malaysia, most consultation occurs with like-minded organisations and elite groups with strong links to the government. Consultations may also occur with organisations which challenge government policy somewhat, although these inputs are usually provided in a respectful and constructive manner, rather than in a confrontational fashion. Mass movements for policy change are little tolerated.


The differences in approach to engagement and consensus in contemporary Australia and Malaysia seem at least partially explainable by historical legacies and differing social values. Due to the extent these different influences do impact the respective countries’ policy formulation processes, it is likely that the resultant policy outputs and outcomes will be different too.

**Attribute 2. Transparency**

According to the Asian Development Bank, transparency “entails low-cost access to relevant information. Reliable and timely information is a must for the public.” Transparency in government has several dimensions. First, transparency requires the provision of information about policy goals and policy objectives. Second, detailed information is required on government operations, including the publication of documents on budgeting for programs and other activities. The third dimension consists mainly of behavioural aspects, including clearly established conflict of interest rules for elected and appointed officials, freedom of information requirements, a transparent regulatory framework, and open public procurement and employment practices and published performance audits. Transparency means that information is freely available and directly accessible to those who will be affected by decisions and that enough information is provided in easily understandable forms and media. This requires that decisions are made and enforced in a manner that follows rules and regulations. In short, transparency is the processes and practices of government which are associated with openness.

One of the most direct ways to promote transparency is through legally allowing access to information. Access to government-held information is essential for ‘open government’ and for allowing the populace to participate effectively in policy formulation. Access to information is

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increasingly seen – at least by Western governments – as a basic political right within the context of substantive democracy.\textsuperscript{711}

The usual legal framework for accessing government information is Freedom of Information (FOI) legalisation. Mirroring Ackerman and Sandoval-Ballesteros’s views that freedom of information is a basic political right, Ricketson has observed that “FOI and a free press are two of the several checks and balances essential in a true democracy.”\textsuperscript{712} Blanton also suggests that FOI also assists with “market regulation, more efficient government, and economic and technological growth”.\textsuperscript{713}

**Transparency in Malaysia**

According to Dee, “Transparency is the most pressing issue that needs to be accommodated within the institutional structure of the policy formulation process in Malaysia. This would have to be incorporated at all levels of the policy formulation process...”\textsuperscript{714}

As will be shown, one of the greatest challenges to transparency in Malaysia over the past half century has been the *Internal Security Act* (ISA) (see below). The ISA was enacted in 1960 at the end of the Communist insurgency in Malaysia (then known as the Federated States of Malaya) as a measure to ensure internal security by detaining without trial suspected communist insurgents who may have been planning and implementing acts that endanger public safety. According to the Malaysian Centre of Public Policy Studies, since its enactment, more than 10,000 citizens were “deprived of their liberty and have been mentally and physically tortured under the ISA”.\textsuperscript{715} However, the


Malayan Communist Party (MCP) has since been disbanded and Malaysia has established diplomatic ties with China, the MCP’s main benefactor. Since the decline of the communist threat, the ISA has mainly been used against the government’s perceived political enemies, for example opposition politicians, spokespeople for non-Malay ethnic groups, and Malaysian academics seen to be highly critical of the government.\(^7\)\(^1\)\(^6\)

It is important to recognise just how restrictive the ISA law was. While the original ISA legislation allowed for judicial review, this clause was removed by the Mahathir regime. Until its repeal in 2012 the Home Minister had absolute power to determine who was a threat to ‘national security’ and did not need to justify his/her actions. With the judicial system and security agencies (police, military, and civil defence forces) under the control of the ruling party, the law gave the Home Minister unbridled power.\(^7\)\(^1\)\(^7\) Under the ISA, a person could be detained for up to 60 days without trial for an act which was “prejudicial to the security of the country”. Exactly what constituted a prejudice to security was - and continues to be - unclear.

The law also suffered from various procedural deficiencies. A person detained under the ISA did not have effective recourse to legal protection nor opportunity to establish innocence. This sometimes led to detention for extended periods. After the initial 60 days of incarceration, detention could be extended for a further two years and then renewed for successive two-year periods. A detainee could thus expect to remain in detention indefinitely. During the first 60 days of detention, detainees were allowed no family visits and no access to legal counsel. If a further two-year detention was approved, the detainee was taken to the Kamunting Detention Centre where they were held in isolation in what the Asia Pacific Human Rights Network described as

\(^7\)\(^1\)\(^6\) S. Ansori, "New Modes of Communication: Web Representations and Blogs: Malaysia," in *Encyclopaedia of Women & Islamic Cultures* (BrillOnline, 2012).
\(^7\)\(^1\)\(^7\) Ibid.
An example of this indefinite detention is Abdullah Daud, a geo-information lecturer at the University of Technology in Johor, who has been detained under the ISA since February 2002. Even though the ISA was revoked in April 2012, Abdullah Daud remains under arrest as the revocation did not apply to persons who were in ISA detention at the time of the Act’s revocation.719

Suggesting a possible change in contemporary Malaysian governance, in September 2011 Prime Minister Najib announced that the ISA would be revoked and replaced by new ‘preventive detention’ laws.720 The new laws, known as the Security Offences (Special Measures) 2012 Act were passed by Parliament in April 2012 and given the royal assent on 18 June 2012. At the time of writing, the laws were yet to come into effect.

However, the Security Offences (Special Measures) 2012 Act does not appear to be a significant move away from the ISA. While the initial period of police detention is cut to a maximum of 28 days, with the Attorney-General then given powers to decide whether to prosecute and on what charges, these legal adjustments have been balanced with new restrictions in other areas, for example, a lack of judicial oversight during the first 24 hours of police custody. Coupled with amendments to other Malaysian security laws, the revocation of the ISA appears to some critics as having “tightened restrictions or banned outright activities already under constraint, added limits to previously unrestricted activities, and broadened police apprehension and surveillance powers in new and innovative ways.”721 Like the ISA, the

new definition of a security offense is unclear - “an act prejudicial to national security and public safety” - and continues to give the Government sufficient power to act against ‘non-traditional security threats’, such as political activists or demonstrators.\textsuperscript{722}

Another challenge to Malaysian transparency is the \textit{Official Secrets Act (1972)} (OSA). Pro-democracy supporters have been highly critical of the OSA, arguing that it obstructs the free flow of information from official sources, grants the state extensive powers to intrude in and interfere with private speech, and ultimately allows the Malaysian Government to withhold an expansive range of information from public view.\textsuperscript{723} The OSA initially defines Official Secrets as any documents of the Cabinet, State Executive Council and documents concerning national security, defence and international relationships. However, under Section 2, the OSA also defines an Official Secret as any official letters, information, and other material which is classified by a minister, the Chief Minister of a state or appointed public officers as ‘Top Secret’, ‘Secret’, ‘Confidential’ or ‘Restricted’.\textsuperscript{724} The decision of government officials on the classification of documents is final and cannot be challenged in court. This legislation effectively means that ministers and government officials “have total control of the government documents and can hold it [sic] as secret as long as they want”. Moreover, evidence suggests that “many government documents are unjustly classified as ‘secret’”.\textsuperscript{725}

A third challenge to Malaysian transparency is \textit{The Sedition Act (1971)}. The Act “makes it unlawful for anyone, including Members of Parliament, to discuss or question ‘ethnically sensitive' issues” such as the powers or status of Malay rulers, citizenship rights, Malay special


\textsuperscript{725} M. A. M. Sani, \textit{Freedom of Political Speech and Social Responsibility in Malaysia} (Bangi: Penerbit University Kebangsaan Malaysia, 2010). 52.
rights, the status of Islam as the official religion, and Malay as the national language.726

There are also less overt barriers to transparency in Malaysia. Around the world, one of the easiest and increasingly common ways of providing the public with information is publication of information on government websites. More information delivered in a more timely fashion to citizens increases transparency of government, empowering citizens to more closely monitor government performance.727 Ho has shown how posting information on the Internet has forced agencies in many countries to provide ‘one stop’ access to government, to present information in more user-friendly formats, and to generally improve transparency.728

While the Malaysian Government has increasingly been utilising the Internet for providing information to the public, the level and type of information displayed is still significantly circumscribed. Most Malaysian government departments have websites published in English and Malay; a few departments - such as the Malaysian Police Department - have websites published only in Malay.729 Approximately 40 per cent of the Malaysian population (the Chinese and Indian ethnic groups) speak Malay as a second language and of the remaining 60 per cent of the population (the official Bumiputera population), many speak dialects at home. Therefore, this provision of purely Malay

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language government information does not necessarily accord with what the citizens need or want.

Effective transparency also depends on the type of information provided on the website. While Australian departments generally provide information about the goals of the department and the progress towards these goals, information provided on Malaysian government websites typically relates to services which the ministry provides, rather than the outcomes and outputs of the relevant policies. Moreover, where services are accessible online, the process usually involves manually printing a form and taking/posting that form to the relevant office, rather than offering genuine ‘e-services’, on-line as in Australia. For example, the Ministry of Foreign Affairs website provides direct links to relevant templates for applying for Malaysian police clearances. However, when looking for information about the functions of the ministry, the customer is provided only with four broad dot points about ‘departmental functions’. As discussed in earlier chapters, the department’s ‘functions’ are distinct from its policy goals, and the lack of information provided about goals or progress against goals suggest a lower level of emphasis on transparency.

Another simple way governments can distribute information is via annual reports. The role of the annual report in rendering government accountable is often emphasised, with the preparation and communication of annual reports considered as being in the public interest.730 Malaysian departments do not regularly provide their annual reports to the public. Some ministries, such as Ministry of International Trade and Industry, do publish public annual reports on their website, however the majority of departments do not.

In addition to access to information for citizens, Grundy argues that freer access to information also allows the media to report on the Government, and thereby play a role in facilitating transparency.\footnote{B. Grundy, “Who Sets the News Agenda: the turkeys or the chooks,” in Corruption and Reform: The Fitzgerald Vision, ed. S. Prasser, R. Wear, and J. Nethercote (St Lucia: Queensland University Press, 1990). 28; ibid.} Likewise Snell argues that the media can only promote transparency if it has access to accurate, unbiased information.\footnote{R. Snell, “FOI and the Delivery of Diminishing Returns, or How Spin-Doctors and Journalists have Mistreated a Volatile Reform,” Australian Review of Public Affairs 2, no. 3 (2002).}

The Malaysian media landscape includes a wide range of information-providing organisations. The national broadcaster, Radio Television Malaysia and the Bernama news agency are both government-run. At the other end of the spectrum are autonomous websites operated by individuals, businesses or civil society groups. In between are commercial newspapers and television and radio stations that are technically private sector companies but operate under strict government supervision and the influence of owners tied to the establishment.\footnote{C. George, “Media in Malaysia: Zone of Contention,” Democratization 14, no. 4 (2007). 894.} Despite this range of sources, media criticism of the Government is generally muted. A number of factors may contribute: restrictive laws such as the OSA, the ISA and now the Security Offences (Special Measures) 2012 Act; political connections between the Government and media proprietors; and the absence of a journalistic tradition and history of a vigorous free press.

Formal media censorship provisions in Malaysia are coupled with the phenomenon of ‘self-censorship’, especially in matters relating to controversial government policies and actions.\footnote{K. Kaur and S. Ramanathan, “‘Wither’ media regulations?,” Journal of International Communication 14, no. 1 (2008). 9.} Media self-censorship is non-externally compelled acts committed by media organisations aiming to avoid offending power holders such as the government and
major business corporations. Writing in 1983, under a pseudonym, one Malaysian journalist asserted that “reporters exercise self-censorship to protect themselves”. There is anxiety among journalists about possible government retribution for anti-government reporting, with the Malaysian Government demonstrating it is willing to act against journalists who are too critical in their reporting. For example, journalist Hishamuddin Rais was detained under the ISA in 2001 and was not released until 2003.

Research by Bridget Welsh provides some insights into Malaysian attitudes towards press freedom in Malaysia. In her 1996 study, Welsh found only 29 per cent of respondents in Kuala Lumpur and 39 per cent of respondents in other areas felt that the right to free speech/press should be a priority in a democracy. While 86 per cent of respondents supported press freedom, only 40 per cent said they were willing to utilise the press to speak out on sensitive issues such as questions relating to race, religion or culture.

More recent research by Freedom House supports these statistics. In its 2011 annual press freedom report, Freedom House ranked Malaysia as 64: Not free. Countries ranked similarly were Cambodia (63), Iraq (68) and Pakistan (61). In contrast, Australia was ranked 21: Free. Countries receiving similar rankings were Japan (21) Canada (19) and the UK (19). The report noted that “there were growing indications of attempts by Malaysia’s ruling Barisan Nasional (BN) coalition to rein in the press”. It also noted that there was a particular emphasis strengthening regulation of “Internet media in particular, which continue to hold a unique position in an otherwise tightly controlled press landscape.” In its 2008 report, Freedom House had stressed

“the threat of expensive defamation suits, sackings, media closures, media bans, and unannounced interrogation by the Ministry of Internal Security for any “mishandling” of information generally inhibits investigative reporting.” In a later section, the report explained that “a history of political interference in media coverage of issues considered by the Government to be against the national interest or “sensitive” has fostered a culture of self-censorship on the part of traditional media.”

When discussing transparency and access to information, it is useful to clarify the difference between on the one hand, deliberate secrecy and misreporting and on the other, a technical inability to provide certain information. A deliberate lack of transparency is usually attributed to a government’s attempt to escape public scrutiny, or to avoid possible adverse reactions from the public and from the markets on which it depends for economic stability. In the case of Malaysia, it may be that a deliberate lack of transparency, through legislation such as the ISA and OSA, is coupled with technical inability to provide certain information.

Driven by substantial advances in the development of information and communications technology, Malaysia’s technical capacity to provide information is increasing. Information and communications technology can provide relevant and timely information in large quantities and makes governmental processes more open and democratic.

In Malaysia, the development of information and communications technology is impacting in the policy arena. Given the mainstream Malaysian media’s pro-government orientation, Malaysians have increasingly been turning to ‘new media’ for independent analysis of Malaysian politics. Popular sites include: YouTube; Malaysiakini; the Malaysian Insider; political blogs, such as those by Jeff Ooi, Ronnie Liu,

740 G. Kopits and J. Craig, ”Transparency in Government Operations”.
and Ahirudin Attan; and the independent news portal ‘Malaysia Today’, run by Raja Petra Kamaruddin. These media have become a key means for opposition groups to disseminate policy related information. Moreover, there are now many social networking websites and fora that circumvent the official media and information restrictions. These new media are contributing to creating more transparency in governance in Malaysia.

To provide an example of how such sites are being utilised, in the 2008 elections blogging was one of the chief methods employed by the opposition to disseminate information. Indeed, during election night on 8 March 2008, Malaysiakini had over half a million visitors an hour. Even in rural areas, printouts of the opposition’s online information, updated daily, were distributed. This shows how information and communications technology has the potential to create transparency in a previously restrictive governance system.

A consequential impact of the rise in more open reporting on new media sites is a reduction in self-censorship among working journalists in Malaysia. Chin observes that there is now an increasing practice of mainstream media publishing new media stories, such as stories by Malaysiakini. This arguably reflects not just the emergence of a new more ‘open’ online media community but also the online media community’s influence on the broader Malaysia media industry and a partial relaxation of self-censorship.

The opportunities for information dissemination - and thus increases in transparency - through the Internet are expanding exponentially. In 2000, only seven per cent of the population had an Internet subscription, but by 2007 this figure had almost tripled, up to 19 per

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742 C. George, “Media in Malaysia: Zone of Contention,” 901.
743 A. Ufen, “The transformation of political party opposition in Malaysia and its implications for the electoral authoritarian regime,” 616.
cent of the population. Likewise, Internet users as a percentage of population rose from 0 per cent in 1990 to 56 per cent in 2010 (approximately 16 million users). Although the Internet is at this stage overwhelmingly an urban middle-class phenomenon, many rural Malaysians have kith and kin who have moved to the towns and cities, so information does spread between urban and rural areas.

The Malaysian Government is concerned about the increase in policy related blogging, and a series of new controls on communication, especially among Internet weblogs (blogs) have been enacted. For example, in reacting to allegations over corruption made against him in 2007, Johari Baharum, the deputy security minister, ordered the police to track down those who spread “lies” via websites, saying that “the police must act to prevent those [bloggers] from tarnishing the image of the country.” Also in 2007, the PKR’s webmaster, Nathaniel Tan, was arrested under the OSA after copying onto his blog the allegations made against Johari. A prominent human rights activist, Elizabeth Wong, observed that “the arrest of Tan has shaken up the blogging community. We are all asking, who is next?” Despite these criticisms, efforts by the BN to confine the new Internet freedoms have been mostly in vain. Examples include the confiscation of the online independent news agency Malaysiakini’s computers in 2003 and in 2007, as well as the suing of two bloggers by the New Straits Times for defamation in 2007. Acts such as these have tended to increase solidarity among Internet community activists.

Malaysian Government attempts to directly censor the Internet (including online news sites, political blogs, and real-time networking

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sites) are partially restricted by The Communications and Multimedia Act (1998). The Act guarantees free data traffic and no censorship of the Internet, but is offset by later clauses stating that anything said on the Internet remains subject to the laws of the land, such as those concerning defamation, official secrets, and sedition. The Act was brought in as part of government-led attempts to transform the country into a regional centre for information and communication technology and the ‘no censorship’ clause was arguably part of the Government’s marketing effort to establish itself as a haven for information technology investments. As discussed in chapter one, the provisions in the Act are a good demonstration of some of the difficulties in achieving Malaysia’s strategic policy priorities – in this case sustained economic development - while maintaining more specific policies such as restrictions on transparency.

More recently, there have also been instances of the use of information and communications technology in shaping political decisions, with ‘real time’ social networking sites posing real challenges to the Malaysian Government’s style of closed administration. Long term opposition member Lim Siang Kit is now renowned for ‘twittering’ during parliamentary sitting time. This has led to public access to information in virtual real time. Twittering is becoming so popular in political circles that Lim has, on several occasions, been involved in a ‘twitter-off’ with UMNO members. In June 2009 the Malaysian Insider reported that, Lim Kit Siang and Khairy Jamaludin “competed against each other to report live from Parliament House, beating all media agencies.” Such new and unforseen opportunities to use information and communications technology to share information are placing new pressures on the Malaysian Government and this may result in civil and political liberalisations, including more transparency in Malaysian governance.

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748 C. George, Contentious Journalism and the Internet: Toward Democratic Discourse in Malaysia and Singapore (Seattle: University of Washington Press, 2006).
In summary, transparency in the Malaysian system has been inhibited by restrictive legislation such as the OSA and the now revoked ISA. This legislation curtailed the media’s capacity to assist with providing information about the business of government to the people. Policy changes such as the implementation of *The Communications and Multimedia Act (1998)*, the revocation of the ISA and the implementation of the *Security Offences (Special Measures) 2012 Act* may suggest the Malaysian Government is seeking to become more transparent about its activities. However, deeper analysis of the specific legal provisions contained in these Acts suggests that debate and critique of government policy will continue to be formally monitored and restricted. Nevertheless, advances in information and communications technology do appear to be shaping the way the Malaysian people access information, resulting in possible reductions in media self-censorship in the future, and placing new pressures on the Malaysian Government for increased access to information.

Malaysia’s historical experience of balancing ethnic tensions may contribute to an acceptance among many Malaysians of less transparency in Malaysian governance when compared with Australian governance. Malaysia scholar Harold Crouch has noted that Malaysia has the “ingredients for continued ethnic tension and violence”, yet it “is not on the brink of national disintegration caused by ethnic conflict.” Nevertheless the searing historical experience of the 1969 racial riots has validated fears that ethnic conflict may recur and embedded an ‘ethnic ideology’ in Malaysian society and government. Extreme commentary – particularly race-related commentary is therefore discouraged. This appears to have influenced Malaysian perceptions that certain restrictions to Western concepts of freedom of speech could be an acceptable price to pay to avoid the recurrence of racial conflict.

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Personal interviews give further evidence of the pervasive fear of racial instability and the ‘ethnic ideology’ of Malaysian society. When asked “When developing policy, on a scale of 1-5, where 1 is not very important and 5 is extremely important, to what extent do these issues shape policy makers intentions”, 86 per cent of Malaysian senior civil servants ranked “ethnic considerations” as (5), very important. Moreover, ethnic considerations far outranked other more conventional policy constraints such as budgets or program sustainability objectives. In contrast to these Malaysian ‘ethnic-centric’ responses, all but one Australian senior civil servant ranked “ethnic considerations” as not very important (1) and the remaining officer ranked it not important (2).

Malaysia’s more restrictive approach to transparency also appears to resonate with the values and ideologies of the pre-colonial era. Drawing on the work of historians such as Milner, Alatas, Maaruf, and Muzaffar, earlier chapters in this thesis have discussed in detail the ideologies present in the kerajaan era. These ideologies emphasised feudalism (especially hierarchy and patronage), ceremony and nama (face, status). This was a system in which “government was kerajaan, the state of having a ruler, and they [the Malays] visualised no other system.”

Kessler, also, has looked at the linkages between the traditional kerajaan polity and modern Malaysian ideologies. Reflecting on the kerajaan, Kessler has observed:

Malay society and culture, as they conceive of themselves, rest centrally upon a political condition: upon people having and being subjects of a raja, a ruler. The polity, a kerajaan,

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is not only a ruler’s domain but his subjects’ sociocultural condition, that of having a *raja*.\(^{753}\)

Through this description Kessler emphasises the importance of the hierarchical relationship between ruler and ruled. In a later section, Kessler observes that while modern Malay political culture is characterised as “a culture of absolutism or domination”, scholars should equally consider the element of “followership” – in opposition to leadership – in this culture. Followership, according to Kessler, is “a culture of deference” and “something that is so pervasive and fundamental” to Malay society that it creates “immediate political significance”.\(^{754}\)

Kessler’s observations about the ruler-ruled divide and the “followership” nature of Malay political society may contribute to our understanding of why modern the Malaysian government places less emphasis on transparency. Indeed, the Westminster (Western) concept of transparency is premised on the notion that citizens desire to know (and critique) government policy. Kessler’s analysis suggests the whole concept of citizens being ‘involved’ in government, and particularly being involved in criticising government, may be foreign to historically-derived elements of Malay political culture. Fusing Westminster characteristics with existing Malay political culture may have resulted in the creation of a polity where, despite the value judgments of Westerners, transparency is regarded by Malaysians as less important.

In summary, transparency in Malaysia does not hold the same meaning or importance to Malaysians as it does to Australians. Building on the work of Malaysian scholars such as Kessler, Milner, Alatas, Muzzafar, Crouch and Welsh, it appears likely that traditional Malay ‘values’ such as the *raja*-ruled divide and a culture of “followership” may have shaped how citizens and the Government view transparency in Malaysia. Likewise, Malaysia’s fears of racial conflict substantiated by historical

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\(^{754}\) Ibid. 148.
experience may also be continuing to shape attitudes to transparency in Malaysia today. However, recent advances in information and communications technology are challenging Malaysian interpretations of transparency and these changes may see Malaysia developing an interpretation of transparency in governance closer to those of ‘Western’ countries, including Australia.

**Transparency in Australia**

Perhaps the most apparent difference between transparency in Malaysia and Australia is the respective legislative frameworks. The cornerstone of Australian transparency-related legislation is the Commonwealth *Freedom of Information Act (1992)* which extends “as far as possible the right of the Australian community to access to information in the possession of the Government of the Commonwealth”,755 Australia’s FOI legislation has been heavily scrutinised by legal scholars, focusing on interpretation and functionality,756 and by media analysts concerned about the use of FOI in journalism.757 Responding to criticisms, former Prime Minister Rudd announced as part of his 2007 election policies that he would reform the Commonwealth *FOI Act* with the principal objective of promoting a pro-disclosure culture across the Government and building a stronger foundation for more openness in government.758 Subsequently, the *Australian Information Commissioner Act (2010)* and *the Freedom of Information Amendment (Reform) Act (2010)* passed through the Parliament on 13 May 2010. Among other things, these acts: (1) established a new Office of the Australian Information Commissioner; (2) required all relevant government agencies to publish information; and (3) shortened the ‘open access period’ in the *Archives Act (1983)* for most records, including Cabinet notebooks. According to

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the Government, these reforms respond directly to “community and media concern that the FOI Act has failed to live up to its stated objectives.”

As already noted, public reporting of achievements has been shown to improve performance measures and overall governance. The main tool for reporting on Australian government performance is through annual reporting. Section 63 of The Public Service Act (1999) requires that “after the end of each financial year, the Secretary of a Department must give a report to the Agency Minister, for presentation to Parliament, on the Department’s activities during the year.” This report must be prepared in accordance with guidelines approved on behalf of the Parliament by the Joint Committee of Public Accounts and Audit. These guidelines provide that a copy of the annual report is to be laid before each House of the Parliament on or before 31 October. This legislative requirement for departments to publish annual reports suggests a clear attitudinal difference between Australia and Malaysia, where annual reports are neither required nor usually provided.

While the provision of information through the media and regular government reporting brings more transparency to the Australian system, there remain many criticisms of the Australian Government’s annual reporting process. For example, while Australian Accounting Standard 29 prescribes that departmental annual reports should present a summary of the “identity and purpose of each major activity undertaken by the Government department during the reporting period”, the document does not require compulsory reporting of actual performance, or background information about the development

762 Public Service Act, 1999.
and implementation of performance measures. While reporting about financial management is clearly important, most members of the public are less interested in reports of aggregate spending by government departments or even in calculations of aggregate “net cost of services” delivered by an individual government department (the data currently reported in some government budget papers). Rather, the public is generally interested in what government agencies are actually doing, and what resources have been allocated to specific programs. Indeed, while there is minimal demand for public sector annual financial reports, there appears to be strong demand for information in the form of performance indicators.\textsuperscript{764}

In comparison to Malaysia, new technologies in Australia are being utilised more broadly to deliver information to citizens through government websites. Australian government websites have become the primary medium for reporting on performance. They now routinely carry digital versions of agency annual reports, plus much more. Increasing Australian government utilisation of the Internet for transparency and information dissemination purposes is likely a response to increases in overall Australian Internet usage. Internet users as a percentage of the Australian population have risen dramatically from 0 per cent in 1990 to 76 per cent in 2010.\textsuperscript{765} From mid-1998 to mid-2011 the proportion of Australian households with access to the Internet more than quadrupled from 16 to 79 per cent. Moreover, the number of households with a broadband Internet connection is growing at similar remarkable rates. In 2007-08 an estimated 4.3 million households held a broadband connection and by 2010-11 this had risen to 6.1 million.\textsuperscript{766} It is logical that the high

\textsuperscript{765} The World Bank, "Internet users as percentage of population". 2012.
uptake of the Internet is encouraging the Australian Government to use this relatively low-cost avenue to provide further information to citizens.

In addition to the Internet, the media in Australia is less restricted than that in Malaysia and this enables the media also to provide relevant information to the public. However, certain forms of self-censorship do take place, with the media accepting or rejecting certain kinds of information and stories, letters to the editor, articles or even cartoons. In this manner “extreme political positions of all kinds tend to be suppressed”. A more punitive kind of censorship operates through Australia’s laws of libel and defamation, which can and has suppressed access to important ‘public’ information. In addition, a system of ‘D-Notices’ (voluntary censorship of certain defence and intelligence information) has long applied to government documents which contain sensitive ‘national security’ information. Seldom the subjects of debate, all these forms of censorship are readily understood within Australia, and demonstrate Australian society’s “wide” acceptance of “the need for some form of censorship”.

However, the promotion of highly transparent government is not without drawbacks. Mulgan notes that the opening of the system has led to the collecting of official evidence that supports the Government’s policies. He also suggests that increased transparency may have led to a reduction in the collection of “uncomfortable facts”. The former Australian Public Service Commissioner, Andrew Podger, has publicly warned the Australian public that “there is widespread concern in Government and the senior echelons of the service that FOI has so widened access to information that counter-measures are needed. Fewer file notes, diaries destroyed regularly, documents given security classifications at higher levels than are strictly required to minimise the chances of FOI access….departments are not only publishing less policy

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767 A. Milner and M. Quilty, *Australia in Asia: Comparing Cultures*. 214
768 Ibid. 214
research but are conducting less. Thus, while Australia may be more ‘transparent’ when compared to Malaysia, greater openness and transparency has created new Australian governance problems.

Again, historical experience and Australian ‘values’ may assist in providing some context to Australia’s pro-transparency attitudes. Chapter two of this thesis recalled Walter Bagehot’s nineteenth century observation that:

[In Australia] there is a rich class which has little power, which is subject to a lower class, unfit to govern even itself, and still more unfit to govern those above it... there is no such respect among the uneducated as would induce them to accept the judgment of the educated.

This attitude of the ‘uneducated’ (the people) being unwilling to accept uncritically the rule of the ‘educated’ (the rulers) is quite opposite to what Kessler observed in Malay ‘follower’ political culture.

Other Australian scholars, such as Rowse, Kelly, Thompson and Melleuish, have suggested that modern Australian values can be linked to Australia’s convict and settler experiences and the ongoing effect of empowering previously ‘lower class’ individuals – such as convicts – with opportunities to ‘rise up’ into positions of power. These observations suggests that early Australians already placed strong value on egalitarianism and scepticism about government leadership and the political elites, and this emphasis would likely have shaped the formation of Australian governance arrangements.

Research by Thompson and Stannard has found that Australian government institutions and processes - or “governance” - have needed to conform with the type of citizenship that the Government

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prescribes. Building on this, Thompson and Stannard suggest that
government promotion of citizenship which is “liberal” and includes an
“active civil society” has encouraged a society where “good citizens
scrutinise government action”. Valuing such scrutiny suggests that
government processes will be shaped accordingly.

In summary, the levels of transparency in Australia and Malaysia are
different. Through strong FOI legislation and prescribed government
performance reporting, Australia displays higher levels of transparency.
Nevertheless, the higher levels of transparency come with costs such as
distortions to research and record keeping processes whereby officers
may sometimes intentionally counter the spirit of FOI legislation.
Historically, Australians have been wary of divisions between rulers and
the ruled and the ruled have been sceptical about the performance of
the rulers. Rather than assume the good intentions of the ruling elites
Australians generally insist on transparency measures to provide
assurance of ‘integrity’ and ‘honesty’ in government actions. This
attitude is likely linked to Australia’s liberal values which promote an
active civil society and close scrutiny of government action.

Attribute 3. Accountability
The concepts of transparency and accountability are closely linked:
transparency is supposed to generate accountability. Not
coincidentally, the terms transparency and accountability are both
quite malleable and therefore - conveniently - can mean many things to
different people. Definitions of accountability are imprecise in meaning,
scope and emphasis, with different disciplinarily approaches from law,
political science, public administration, journalism and economics.
However, these definitions have some common themes. These are:

773 L. J. Thompson and J. Stannard, “Australian Values, Liberal Traditions and
Australian Democracy: Introductory Considerations of Government for Contemporary
775 L. J. Thompson and J. Stannard, "Australian Values, Liberal Traditions and
Australian Democracy: Introductory Considerations of Government for Contemporary
Civil Society." 60.
776 J. Fox, "The Uncertain Relationship between Transparency and Accountability,"
Development in Practice 17, no. 4/5 (2007).
accountability describes the relationship between those entrusted with public power and the people who entrust that power to them; a purpose of accountability is to uphold underlying and fundamental principles, such as public interest, public trust, rule of law and good governance; accountability defines the expectations of the public concerning the responsible exercise of public power, on matters such as financial probity in government, the behavioural integrity of officials, and the protection of vulnerable members of the community; an important dimension of accountability is the sanctions that can be imposed and remedies applied when there is an accountability breach; and the essence of accountability is that those exercising public power must be answerable, responsive and transparent.\footnote{J. McMillan, “Accountability of government,” \textit{Speeches, Commonwealth of Australia}, 12 May 2007. http://www.comb.gov.au/commonwealth/publish.nsf/Content/speeches\_2007\_02. [Accessed 23 October 2007].}

Notwithstanding the different emphases in these definitional aspects of accountability, the point of common focus is a set of standards for those who exercise public power.

**Accountability in Australia**

Compared to Malaysia, Australia places stronger emphasis on the accountability of the Government, particularly the accountability of ministers. Therefore, to enable a more robust understanding of the theory behind ministerial accountability, accountability in Australia will be discussed first in this section.

In Australia, ministers have overall responsibility for the administration of their portfolios and for carriage in the Parliament of their accountability obligations arising from that responsibility. They can be held to account for matters for which they were personally responsible, or where they were aware of problems but had not acted to rectify them. This does not, however, mean that ministers bear individual liability for
all actions of their departments or even personal staff. Where they neither knew, nor should have known about matters of departmental administration which come under scrutiny it is not unreasonable to expect that the secretary or some other senior officer will take the responsibility.\textsuperscript{778}

Australian ministerial responsibility does, however, imply that ministers accept two major responsibilities: first for the overall administration of their portfolios, both in terms of policy and management; and second, for carriage in the Parliament of their accountability obligations to that institution. This is known in the Westminster system as general responsibility to the parliament and individual responsibility for the department.\textsuperscript{779}

In Australia, no minister or parliamentary secretary is permitted to have conflicting interests. That means a minister’s private life and private interests should not intersect with the work of their portfolios. To ensure no conflict occurs, most ministers need to have regard to the interests of their immediate families (to the extent that ministers know their interests) as well as their own. This ensures that no conflict or apparent conflict between interests and duties arises.\textsuperscript{780}

Of course Australian ministerial responsibility ‘in practice’ does not always align with the somewhat idealised principles noted above. For example, Davis, Wanna, Warhurst and Weller have noted that “in almost all cases, Australian politicians have not resigned their portfolios whenever a mistake is made, though such demands are invariably heard from the opposition.”\textsuperscript{781} Similarly, Emy and Hughes stress the “gap between theory and practice” in Australian ministerial

\begin{footnotes}
\textsuperscript{779} Ibid. 10.
\textsuperscript{781} G. Davis et al., \textit{Public Policy in Australia}. 147; ibid.
\end{footnotes}
These scholars have emphasised the Australian system “embodies an idealised version of British government between 1880 and 1914”. This system features “earlier maxims then in vogue” but which “do not seem so applicable today.” These comments suggest - again - the impacts on modern day governance of the legacies of the original British system. Indeed they suggest that to understand accountability and ministerial responsibility in Australia, scholars and practitioners must understand the “liberal mythology” from which these governance practices emerged.

According to Emy and Hughes, a difficulty with modern day Australian ministerial responsibility is “it presumes the existence of a reasonably clear line between policy (or politics) and administration: ministers make policy; public servants implement it.” However, as stressed in the previous chapter, today there is no such clear or unambiguous line between these two roles. This blurred distinction makes it particularly difficult for a minister to be expressly held responsible for an action.

In response to this unique and blurred distinction, the Australian convention of ministerial responsibility is “still evolving”. Drewry has noted that the malleability of ministerial responsibility has created “problematical uncertainties about who is responsible for what” and Wright suggests that:

Ministerial responsibility has come to mean that ministers are expected to accept responsibility for those matters which they personally, or their civil servant on their instructions, have initiated, developed or carried through. They are no longer expected to accept responsibility for

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783 Ibid. 350.
784 Ibid. 350.
785 Ibid. 353.
786 Ibid. 353.
those culpable actions of their civil servants of which they had no prior knowledge and of which they disapprove. Nor are they expected to accept responsibility for those errors or delays of their civil servants which do not involve an important issue of policy. Thus, what ministers properly can be held responsible for has been consistently circumscribed in recent years; conversely, civil servants are now liable to be held responsible for a wider range of issues.

Perhaps in response to these developments, Australian public servants are now also accountable to the parliament. The main way this is done is through the biannual ‘Senate Estimates’ process. Under the ‘Senate Estimates’ process, twice each year estimates of proposed annual expenditure of government departments and authorities are referred by the Senate to eight legislation committees for examination and report. These estimates are contained in the main appropriation bills introduced into Parliament as part of the budget (usually in May) and in the additional appropriation bills introduced later in the financial year (usually in February). While in theory ‘Senate Estimates’ inquiries are supposed to focus on upcoming expenditure, in practice questions focus on all matters of policy and public administration.789

One of the most significant features of the procedure for examining estimates is the opportunity that senators have to question officers of the public service directly. Standing order 26(5) provides that the committees “may ask for explanations from ministers in the Senate, or officers, relating to the items of proposed expenditure.”790 In practice, the majority of questions which committee members ask are answered by officers of a department or agency.

Through the ‘Senate Estimates’ process, the focus of public accountability in Australia has shifted away from ministers towards civil servants, even downwards towards middle-level civil servants. This evolving unique-to-Australia concept of ministerial responsibility seems more closely to reflect the Australian community’s resistance of very visible distinctions between ruler and ruled. The unique-to-Australia concept therefore allows policy responsibility to also rest with public servants, rather than only ministers, and therefore correlates with Hofstede’s work on Australia’s very low Power Distance Index and other scholars’ work on Australia’s egalitarian values. The continuing refinement of Australian concepts of ministerial accountability also suggests that policy making power - and associated policy accountability - in Australia is less concentrated and more evenly spread than that in Malaysia.

**Accountability in Malaysia**
The contrast between Australian and Malaysian of concepts of ministerial responsibility is a good illustration of how similar legislative frameworks can be applied differently ‘in practice’. In theory, Malaysian ministerial responsibility is the same as Australian ministerial responsibility, yet Turpin observes that while ministerial responsibility is an essential feature of democracies, it “is something malleable and precarious in practice, depending as it does upon procedure and custom, upon intangible understandings and traditions, and upon political circumstances”.

As in Australia, when a Malaysian minister is appointed to head a ministry he/she then becomes responsible for carrying out certain duties entrusted upon him or her according to the *Ministerial Functions Act (1969)*. The Act assigns similar obligations and responsibilities to

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Malaysian ministers as those assigned to Australian ministers (see earlier discussion).

However, rather than fostering accountability, the Malaysian *Ministerial Functions Act* appears to be treated more as a ‘theoretical document’ rather than the legislative driver for Malaysian accountability. For example, Heufers has noted that Malaysian ministers are seldom held responsible or accountable before parliament and that this is a significant barrier to Malaysian governance. Similarly, the former president of the Malaysian Bar Council, Param Cumaraswamy suggests that ministerial accountability in Malaysia is fundamentally “a myth,” as it is frequently traded off in favour of party solidarity and party discipline. In this latter regard, the Malaysian Prime Minister plays a key role. In some senses, ministers are accountable to the Prime Minister and can be dismissed for perceived failures. The 1998 ‘sacking’ of Anwar Ibrahim by Prime Minister Mahathir Mohamad is a good example of such action.

Moreover, in contrast to Australia, accountability procedures in Malaysia do not extend from the ministerial sphere into the administration sphere. For example, while public servants in Australia are directly accountable to parliament through the twice yearly ‘Senate Estimates’ process, in Malaysia the parliament is not afforded any opportunity for direct questioning of public servants. According to Lim this has created a tendency for Malaysian ministers to blame individual public servants when failures occur.

Siddiquee argues that accountability in Malaysia is weak and largely ineffective. According to Siddiquee, there are regular allegations that

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795 Ibid.
contracts are awarded based on political and kinship ties and kickbacks, and that bribes are common for obtaining governmental approval for business. According to a 1991 study (albeit focused on one state), corruption is rampant at all levels of the government, and is strongly embedded in the operations of the police, roads and transportation, immigration, customs and excise, and local government.

The Malaysian Government has made a number of attempts to enhance the effectiveness of existing accountability mechanisms, particularly in regard to accountability for public servants. For example, the Anti-Corruption Act (1997) (Act 575) provides a detailed framework for dealing with bribery and other forms of corruption in the public service and the Public Officers (Conduct and Discipline) Regulations (1993) defines the rules that allow disciplinary actions against errant public servants.

More recently, commencing in 2009, Prime Minister Najib unveiled the Government Transformation Program which included implementation of seven National Key Result Areas (NKRAs): reducing crime, fighting corruption, improving student outcomes, raising living standards of low-income households, improving rural basic infrastructure, and improving urban public transport and addressing the cost of living. Ministerial Key Results Areas (MKRAs) were also put in place in critical areas not covered by the NKRAs. Progress against MKRAs and NKRAs is now monitored and progress and results must be reported regularly to a new oversight body, the Performance Management and Delivery Unit (PEMANDU). While these changes appear positive, the reforms have not yet resulted in any evident consequences for the relevant Malaysian ministers. For example, no formal ministerial changes have occurred as a result of failure to meet the MKRAs or NKRAs. This lack

800 N. A. Siddiquee, "Public Accountability in Malaysia: Challenges and Critical Concerns." 118
of visible action suggests that the Government is unwilling to enforce the concept of public ministerial accountability in Malaysia.

Research by Transparency International supports the claim that the Government Transformation Program has not yet had a significant impact on improving Malaysia’s accountability mechanisms. In 2011 Malaysia scored a rating of 4.3 in Transparency International’s Corruption Perception Index. The Corruption Perception Index ranges from 0 to 10, with 0 being highly corrupt to 10 being very clean. Political commentators describe an index score of 4.3 as reflecting “serious corruption”. Malaysia’s ranking was 60th out of 182 countries (Australia rated 8th and scored 8.8). The 4.3 rating was the lowest-ever rating received by Malaysia on this index.

History may assist to understand Malaysia’s relatively weak accountability mechanisms. Pye suggests that, in traditional Malay notions of authority, “the expectation is that the supreme figure will always rise above his immediate passions and achieve a blend of impartial detachment”. Indeed, he colourfully proposes that “the Malay image of authority is an extraordinary blend of traditional Southeast Asian sentiments of deferential accommodation, Islamic norms of fatalistic commitment... and British aristocratic standards of fair play (but with status barriers)”. Pye describes a Malaysian leader who is respected and feared by his/her citizens and who society is reluctant to investigate, scrutinise or inculpate. This is not a model conducive to the implantation of ‘Western’ concepts of accountability.

Pye’s observations align with earlier kerajaan arguments presented in this thesis. In these arguments it was emphasised that pre-colonial Malaya featured a feudal, “big man” system. In this system the raja

803 L. W. Pye and M. W. Pye, Asian power and politics: the cultural dimensions of authority. 255-256.
ruled in a strict hierarchical manner without critique - or opportunity for criticism - from local people. In this strict hierarchical raja-centric culture, enforcing ‘accountability’ on the raja could have resulted in the undermining of the entire kerajaan system.

More recent history also provides a possible further explanation for Malaysia’s relative lack of public accountability. As discussed in chapter two, Malaysians tend to perceive of their society as fragile because of its ethnic composition and the 1969 racial riots appear to demonstrate - at least to the ruling elite - the negative social, economic and political impacts of social instability. According to Lustick, “in deeply divided societies where consociational techniques have not been, or cannot be, successfully employed, control may represent a model for the organisation of intergroup relations that is substantially preferable to other conceivable solutions: civil war, extermination, or deportation.”

In a similar argument, Rabushka and Shepsle note that where ethnic violence is feared “the symbols of democracy remain; the substance atrophies.” These scholars argue that in ethnically divided states like Malaysia, political powers usually expand their controls to maintain dominance.

In Malaysia, UMNO’s dominance has been observed and analysed by scholars and theorists from around the region. Neher believes Malaysia’s UMNO is “the single most dominant party” in all of Asia and Puthucheary suggests that UMNO is so dominant that “the opposition is regarded at best as unnecessary and at worst as evil”.

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From Singapore, Ooi Kee Beng observes that UMNO dominates both the state and Malaysian society.\(^809\)

Accepting Lustick's, Rabushka and Shepsle's observations, it may be that UMNO has become dominant in Malaysia partly because of its successes in building ethnically-based political coalitions and the association that it offers the best chance of avoiding race-based civil strife. However, as a consequence of UMNO’s political dominance, the development of accountability mechanisms in Malaysia may have been inhibited.

**Attribute 4. Equity and inclusiveness**

According to the United Nations, equity and inclusiveness are important in governance as they ensure that “all its members feel that they have a stake in it and do not feel excluded from the mainstream of society. This requires all groups, but particularly the most vulnerable, have opportunities to improve or maintain their well-being.\(^810\)

**Equity and inclusiveness in Malaysia**

Since independence, Malaysia has faced ongoing challenges with inequality, particularly income inequality between races, religious inequality and gender inequality.

Since the 1980s, Malaysia has enjoyed one of the highest economic growth rates of any developing country and the average household income has risen dramatically. However, the increase in income has not brought about a significant reduction in income inequality among Malaysian households. The Gini coefficient is often used to measure the degree of inequality in the distribution of household incomes in a country. Perfect equality is ranked as 0 and total inequality is ranked as 1. Using the Gini coefficient, Shari has shown that income

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inequality in Malaysia fell from 0.51 in 1970 to 0.44 in 1990. Since 1990 the Gini coefficient has remained fairly steady around 0.46. Shari argues that “the general development policies implemented under the New Economic Policy (NEP) (1971-1990) had a major impact on reducing income inequality in Malaysia”

Malaysia’s current Gini coefficient of 0.46 is higher than others in Southeast Asia and higher than that in Australia. For example, Southeast Asian ratings from within the last five years include Thailand (0.40), Laos (0.36) and Vietnam (0.36). Australia’s current score is 0.33.

A second area of inequality in Malaysia is religion. According to Lee and Ackerman Malaysian organisational analysis shows that “there is a ‘real’ distinction between Islam and other religions in terms of cultural and political development, structures and institutions.” The Malaysian constitution guarantees the freedom of religious practice but confers no special standing on non-Islamic religions. Lee and Ackerman argue that the distinction between Islamic and other faiths suggests important differences in terms of ideological cohesiveness, legal prerogatives, and bureaucratic development. They conclude that the dominance of Islam over other faiths is evidence of ethnic monopoly and ideological state control. Lee and Ackerman cite the exclusiveness of Syariah law (applying only to Muslims) as evidence of a formal state imposed boundary between Muslims and non-Muslims.

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Gender inequality is also a challenge for the Malaysian Government. In the last decade alone, the Government has adopted numerous policies and measures to promote women’s development and address gender issues. Some such policies include the provision of microcredit, information and communications technology, and skills training to women. Moreover, the establishment in 2001 of the Ministry of Women, Family and Community Development, and the establishment in 2004 of the Cabinet Committee on Gender Equality have provided greater coherence to policies for mainstreaming women in development. To help monitor the progress of narrowing the gender gap, in 2004 the Government and the UNDP created the Malaysian Gender Gap Index (MGGI). The MGGI is designed to measure and monitor the extent of gender inequality in Malaysia by analysing four key dimensions: health, education, economic activity, and women’s empowerment. Within each dimension, scores are allocated on a scale of 0-1, with 1 representing full gender equality. The final MGGI is the combined results across the four dimensions. Trends in the MGGI show that, despite the government’s initiatives, the level of gender inequality in Malaysia declined sharply from 0.340 in 1980 to 0.243 in 2004. According to the World Economic Forum’s Gender Gap Index 2011, Malaysia ranked 97 out of 135 countries for gender equality while Australia ranked 23. Rankings for Malaysia’s Southeast Asian neighbours further demonstrate Malaysia’s relatively low gender equality within the region; Indonesia 90th, Vietnam 79th, Thailand 60th, Singapore 57th, and Philippines, 8th.

Since Prime Minister Najib came to power in 2009, the Malaysian Government has placed more emphasis on building equity and inclusiveness in Malaysia. The key change has stemmed from Najib’s ‘1Malaysia’ concept. The goal of 1Malaysia is “to preserve and enhance”

818 Ibid. 4, 31.
Malaysia’s “unity in diversity”. The concept emphasises an inclusive society, with all Malaysians viewed as part of a greater ‘Malaysian community’. The concept is a direct challenge to existing socially accepted understandings of Malaysia being made up of separate Malay, Chinese and Indian ethically-based communities (see discussion in chapter two on the plural society). While the Government has emphasised 1Malaysia will foster equity and inclusiveness, the opposition has claimed that the concept is too rhetorical and has no real policy agenda, except only for gaining supporters across ethnic groups and portraying a new image of the government with the same old policy of repressive politics.

Malaysia’s historical migration experience and associated ‘racial ideologies’ have almost certainly shaped Malaysia’s less equitable and inclusive governance mechanisms. As outlined in chapter two, ethnicity in Malaysia permeates into all areas of government. Derichs argues that ethnicity in Malaysia is a politicised term which continues to create “quite obvious” cleavages in Malaysian society. Welsh concludes Malaysia is faced with serious “ethnic problems” and suggests that ethnicity as an ideology in Malaysia “cannot be disinvented easily”. Guan observes that “ethnicity remains the most potent force in Malaysia”, and Haque speaks of the “ethnic structure and ethnicised mindset in Malaysia”. Within this ethnically charged society, the government of Malaysia maintains clear affirmative action policies to promote the interest of Malay-Malaysians. Malays (Bumiputeras) receive special privileges from the government including preferential status for government procurement, restricted university entrance quotas, and a

821 Ibid. 116.
range of other business and economic concessions. These policies are openly and actively discriminatory and are inconsistent with ‘Western’ interpretations of equity and inclusiveness.

Yet Malayan society was an inequitable and divided society well before its colonial-era migration experience led to the current ethnic cleavages and ‘ethnic ideology’. In an important contribution to understanding the current Malaysian ethnic divisions, Milner has argued that the kerajaan regimes “played a part in establishing ‘the Chinese’ as a communal grouping possessing a special role.” This ‘separate’ role of the Chinese (and Indians) was then fostered into the British period and continues into today.826

Inequality more broadly appears to feature in traditional Malay polities. Pre-colonial polities were structured around the king, with society governed by a strict hierarchy. The ordering and treatment of subjects according to rank was “a fundamental element” of the traditional Malay system.827 Maaruf and Alatas - among others - have also emphasised the feudal nature of pre-colonial Malay society, the “division of society”, and the “big gulf” between classes.828 This was not a system of equality or inclusiveness, as the United Nations defines this governance attribute, but a system where social inclusiveness was grounded in inequality. That is, a citizen’s position in relation to the king defined the extent of their inclusion in society. In considering how these much earlier cultural concepts may continue to resonate with modern Malaysia, Milner observes an ongoing “Malay essence”. This essence, he argues, continues to feature “top down” structures and divisions between parts of society.829 This essence, also, is consistent with the less equitable and inclusive governance processes of contemporary Malaysia.

826 A. C. Milner, "Who Created Malaysia’s Plural Society?" 12.
827 A. Milner, The Malays. 60.
829 A. Milner, The Malays. 238-241
**Equity and inclusiveness in Australia**

The equity and inclusiveness movement in Australia is more developed than that in Malaysia, but still someway off leading countries such as those in Scandinavia.\(^{830}\) The Australian Government has a series of policies which aim to foster the benefits, and manage the challenges, of diversity. The governance position is articulated in the Australian Government’s current multicultural policy statement, *The People of Australia, Australia’s Multicultural Policy*. The policy articulates four principles: (1) celebrating and valuing the benefits of cultural diversity; (2) committing to a just, inclusive, and socially cohesive society; (3) welcoming the economic benefits arising from a multicultural nation; and (4) promoting understanding and acceptance while responding to expressions of intolerance and discrimination.\(^{831}\)

Australian levels of equality are high when compared with many other countries. In the 2006 Global Gender Gap Report, released by the World Economic Forum, Australia, along with New Zealand, were highlighted as “leaders in closing the gender gap”.\(^{832}\) Australia’s Gini coefficient is 0.33,\(^{833}\) which places Australia on par with countries such as Canada (0.32), Korea (0.37) and the UK (0.34). With regards to ethnic diversity, James Jupp has concluded that Australia has, among other characteristics, a “high level of employment and opportunity”, “a relatively equalitarian distribution of resources and prestige, and “an industrial arbitration system which is fairly successful in preventing exploitation”.\(^{834}\)

The Australian Government promotes equality of access to government services through its Access and Equity strategy. The strategy seeks to

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\(^{831}\) "The People of Australia: Australia’s Multicultural Policy”. 5.


promote fairness and responsiveness in the design, delivery, monitoring and evaluation of government services in a culturally diverse society. Between 1996 and 2005 the department published the Access and Equity annual report which reported on progress in implementing the Charter of Public Service in a Culturally Diverse Society. In 2007, the Charter was replaced by a new strategy, Accessible Government Services for All. This framework was adopted to promote fairness and responsiveness in the design, delivery, monitoring and evaluation of government services in a culturally diverse society. In 2008, Accessible Government Services for All reverted to the Access and Equity name however the strategy remains the same. An example of an Australian government initiative falling under the Access and Equity program is the Translating and Interpreting Service. The Translating and Interpreting Service provides free interpreting services 24 hours a day, seven days a week for people wishing to access Australian government services but who do not speak English.835

A challenging issue for the Australian Government’s pro-equity and pro-inclusion attitudes is the status of indigenous Australians. According to Roberts, in 1998, almost 75 per cent of Aboriginal and Torres Strait Islanders lived in minority situations in and around towns and cities, with the remainder living in outstations and Aboriginal settlements.836 The relatively isolated (non-inclusive) position of indigenous communities inhibits access to government services and excludes many indigenous Australians from the Australian Government’s vision of an inclusive society. For example, a 2001 study of indigenous community housing and infrastructure needs found that 77 per cent of indigenous communities had no access to government supplied drinking water and only 51 per cent of these communities were connected to government supplied sewerage. A similar study found that indigenous Australians

had only 40 per cent of the access to general practitioner health care when compared with non-indigenous Australians.\textsuperscript{837} The disparity between indigenous Australians and Australians from other backgrounds has been an ongoing issue for the Australian Government and constitutes an evident failure in the Australian Government’s equity and inclusiveness policies and programs.

Australian cultural values may help explain why the Australian Government places more emphasis on equity and inclusiveness when compared with Malaysia. Duncan observes “egalitarianism is the most revered of the traditional Australian values.”\textsuperscript{838} Reinforcing this view, Fred Argy maintains that Australians “overwhelmingly believe in equality of opportunity as a social norm”. Argy suggests that “a great many” Australians also believe that Australians’ life chances are less dependent on their circumstances of birth and less hampered by rigid class structure, debilitating snobberies, or lack of social networks, than are the life chances of many people in comparable nations.\textsuperscript{839}

Kabanoff et al. argue that Australia has been shaped by “an emphasis on egalitarianism and ‘social justice’ as opposed to authority and social power”. They argue that a “concern with the pursuit of egalitarianism through a quasi-level and redistributive system is a defining characteristic of Australia.”\textsuperscript{840} Jupp supports this, arguing that there is a “consensual belief in intellectual and educational circles that Australia should be a liberal and egalitarian society.”\textsuperscript{841}

Accepting that Australians have long valued egalitarianism, it is likely that successive Australian governments will have been prompted to

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\textsuperscript{838} M. Duncan, Imagining Australia: ideas for our future. 18.
\textsuperscript{840} B. Kabanoff, N. Jimmieson, and M. Lewis, "Psychological Contracts in Australia A "Fair Go" or a "Not-So-Happy Transition"?”. 39.
\textsuperscript{841} J. Jupp, "Are Australian families like others?". 51.
\end{flushright}
establish governance mechanisms for promoting egalitarianism and inclusiveness. In contrast, modern Malaysian culture has its origins in a ‘raja-centric’ polity which provided a contrary hierarchical model for social organisation. Thus, difference in culture and values may explain in part why today, Australian governance places more emphasis on egalitarianism and inclusiveness than does Malaysian governance.

**Attribute 5. The rule of law**
The rule of law is a ‘fair’ and transparent legal framework that is enforced impartially. Impartial enforcement of laws requires an independent judiciary and an impartial police force of high integrity. The rule of law has been described as a “rare and protean principle” of political tradition.\(^{842}\) The rule of law centrally comprises “the values of regularity and restraint, embodied in the slogan ‘a government of laws, not men’.”\(^{843}\)

The principle of rule of law operates to provide citizens with certainty - clearly identifying the conduct required by the law - and protection, by requiring the Government to act according to the law. However, the principle is not defined in Australia’s or Malaysia’s constitution or other legislation, and its meaning and application has been open to interpretation.

**The rule of law in Malaysia**
There are some real complexities in the application of ‘rule of law’ in Malaysia. The first relates to interactions between Malaysia’s parallel civil law and syariah law (Islamic law) legal systems, and the second, relates to a more visible level of involvement in the judicial processes by the executive arm of the Malaysian Government.

Malaysia’s civil legal system is based on the English common law system. In the English ‘Western’ context, the term “common law” is usually taken to mean the unwritten law and legal customs which have


\(^{843}\) Ibid.
been recognised over time and given the force of law. Common law is “unwritten” in the sense that the law is not embodied in a code or statute but is found in the recorded judgments of those judges who interpreted the law.  

As discussed in chapter three, the supreme legal document in Malaysia is the constitution. The constitution provides for written laws or statutes to be enacted by Parliament. Judicial power is held by Parliament and vested by it in the courts. The Federal Court of Malaysia is the highest judicial authority and the final court of appeal in Malaysia. The country, although federally constituted, has a single judicial system consisting of two parts - the superior courts and the subordinate courts. The subordinate courts are the Magistrate Courts and the Sessions Courts whilst the superior courts are the two High Courts of equal jurisdiction and status, one for Peninsular Malaysia and the other for the States of Sabah and Sarawak, the Court of Appeal and the Federal Court.

Article 121(1A) of the constitution of Malaysia allows for a dual system of law comprising civil law and Islamic law. Article 3 provides that Islamic law is a state law matter with the exception of the Federal Territories of Malaysia. Islamic law refers to syariah law, and the court with jurisdiction over Islamic religious matters is known as the Syariah Court.

There are some specific regulations regarding syariah law in Malaysia. First and foremost, syariah law only applies to Muslims. With regards to civil law, the syariah courts have jurisdiction in personal matters, for example, marriage, inheritance, and apostasy. In some states, syariah law exists as the criminal law, for example, the Kelantan Syariah Criminal Code Enactment 1993. Their jurisdiction is however limited to

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imposing fines for an amount not more than MYR3000 (AUD$981), and imprisonment of not more than six months.

Malaysia’s dual justice system creates some complications for the notion of ‘rule of law’ as recognised in many Western countries. It is inherently difficult to have two set of legal principles operating side by side in one country. Indeed, the dual functioning of these laws creates challenges in recognising which law is the supreme law, and which principles are the supreme principles.

An example is in the context of freedom of religion. Article 11 of the constitution provides that “every person has the right to profess and practice his religion”. However in the case of Lina Joy - a Malay woman who converted to Christianity - the Federal Court of Malaysia refused to allow her to change the religion indicated in her identity card (MyKad). The High Court judges held that they had no jurisdiction on the matter, and that the case was a matter for the Syariah Court as indicated in Article 121(1A) of the constitution. To apply to change religion in the Syariah Court would be considered apostasy and punishable by Syariah law accordingly. As Milner has argued, the Lina Joy case suggests that Islamic law can take precedence over civil law in Malaysia and therefore challenges ‘Western’ notions of ‘rule of law’ as recognised in Britain and Australia.846

A second challenge to the rule of law in Malaysia is the lack of separation of powers between the executive and the judiciary (see discussion in chapter three) and the executive’s more active role in the application of the rule of law. In brief, in 1988 the Malaysian Attorney-General was conferred powers to instruct the courts on what cases to hear, where they would be heard, and whether to discontinue a particular case. Powers to control the direction of all criminal prosecutions under the Criminal Procedure Code and responsibility for

judicial assignments and transfers were also conferred. These changes have arguably created a system whereby the executive arm of government is directly involved in the application of the rule of law.

One example of the executive’s involvement in the principle of ‘rule of law’ is the case of former Deputy Prime Minister, Anwar Ibrahim. Anwar Ibrahim is a Malaysian politician who served as Malaysian Deputy Prime Minister from 1993 to 1998. Towards the end of that period, Anwar’s political relationships began to deteriorate and he became increasingly critical of the Malaysian Government leadership. Fearing overthrow, it is now widely accepted that Prime Minister Mahathir Mohamad took steps to secure his position. These steps included expelling Anwar from UMNO and detaining Anwar without trial under the Internal Security Act. Anwar was subsequently charged with corruption and sodomy and, after a six month trial, was found guilty of corruption but not guilty of sodomy. He was sentenced to six years imprisonment. In a government-led appeal against the sodomy decision, Anwar was found guilty and he was sentenced to another nine year term. This sentence was to run consecutively with the previous six year sentence. Appeals in late 2000 as well as those in 2002 were denied. Anwar completed the corruption sentence in 2003 after it was reduced to four years for good behaviour.

Abbott describes Anwar’s trials as notable for “political interference”. For example, at the preliminary judicial hearing Anwar appeared with a swollen eye and bruised arm and complained that after his arrest he had been handcuffed, blindfolded and beaten by the police. A doctor later confirmed the injuries were likely due to assault.

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848 R. Heufers, "The Politics of Democracy in Malaysia."  
850 R. Heufers, "The Politics of Democracy in Malaysia."  
Under a new Malaysian Prime Minister, Abdullah Badawi, in September 2004 the Federal Court ruled that the trial court had misdirected itself and that Anwar’s conviction for sodomy was unjust. Although finding some evidence that Anwar was involved in homosexual activities, the Federal Court of Malaysia overturned the conviction on the basis that the violation of sodomy laws was not proven beyond reasonable doubt by the prosecution. Despite this, the Federal Court still dismissed Anwar’s petition to reconsider its 2002 appeal decision, leaving Anwar ineligible to participate in politics until 2008. The 2004 decision coincided with the implementation of a self-evaluative reporting mechanism by the Chief Justice to increase public confidence in the judiciary’s capability. The findings of this new initiative were released in the judiciary’s *Inaugural Report on the Superior and Subordinate Courts in Malaysia*. The report acknowledged the existence of many deficiencies of the court system and suggested possible areas for reform.

After a significant shift away from UNMO and towards Anwar’s *Parti Keadilan Rakyat* (People’s Justice Party) at the general elections in March 2008, Anwar was again arrested on charges of sodomy. His second trial commenced in February 2010 and focused on the provision of medical and other DNA evidence (provided by both the prosecution and the defence). After almost two years consideration, the judge found Anwar not guilty, with the DNA evidence submitted by the prosecution deemed unreliable. Chin describes the not guilty verdict as “a surprise ending to a two-year trial widely seen as politically motivated”.

The Anwar example raises several good questions in relation to the rule of law in Malaysia, but perhaps indicates a recent shift towards more emphasis on the rule of law in Malaysian governance. Some observers

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853 M. H. R. Abdullah, “Human Rights In Malaysia: Challenges And Constraints In The Malaysian Context”.
suggested that Anwar’s first trial demonstrated a continual eroding of Malaysian rule of law, and was generally not well received by the public.\footnote{J. W. M. Aun, “The saga of Anwar Ibrahim,” in \textit{Constitutional landmarks in Malaysia – The first 50 years: 1957-2007}, ed. A. Harding and H. P. Lee (Singapore: LexisNexis, 2007). 286–87.} The trial led Kanishka Jayasuriya to describe the Malaysian Government as employing “rule by law not the rule of law.”\footnote{K. Jayasuriya, “The Rule of Law and Regimes of Exception in East Asia,” in \textit{Working Paper No. 96} (Asia Research Centre, 2000).} Following Anwar’s second conviction, the Malaysian legal system received further criticism, particularly from Malaysians in urban areas where the allegations had “widely been ridiculed”.\footnote{J. Chin, “Malaysian Politics: Anwar and Najib’s Moment of Truth.”} The Anwar case suggests that the executive can and does apply the rule of law in Malaysia in a self-interested way. Despite Anwar’s latest not guilty finding, public attitudes towards the even-handed application of ‘rule of law’ in Malaysia remain sceptical.

The unique features of rule of law in Malaysia - the challenges in the dual law system and the possible abuse of the judicial principle of ‘rule of law’ by the executive – have resonance with earlier Malaysian historical experiences and cultural influences. Acharya has written on the localisation of security norms. He argues that as “local agents” take over “foreign ideas” - such as the rule of law - they seek to fit them into an “existing normative framework” or “cognitive prior”. Existing frameworks may include the “traditional or historical practice of statecraft”. Acharya observes that the “cognitive prior” is unlikely to be static, but has been in turn influenced by earlier agents, localisations, and changes.\footnote{A. Acharya, “How ideas spread: whose norms matter? Norm localization and institutional change in Asian regionalism,” \textit{International Organization} 258, no. 2 (2004). 21-23.} Making a similar observation in the practice of law, Salim has written that “it is commonly accepted that transplanted laws will evolve as they interact with elements in the local environment.”\footnote{M. R. Salim, “Legal transplantation and local knowledge: Corporate governance in Malaysia,” \textit{Australian Journal of Corporate Law} 20 (2006). 1.} Acharya’s and Salim’s comments suggest that there may be connections between Malaysia’s current application of the rule of law and earlier Malay values and practices.
At the broadest level, rule of law in the pre-colonial period appeared to feature a strong role of the executive and a tension between Islamic and non-Islamic law. Malay inscriptions found at historical sites such as Telaga Batu suggest that the ruler had arbitrary power to make judicial decisions and that he would “punish” and “kill” those who were not “submissive to me and to my empire”. Chapter two of this thesis discussed traditional Malay rulers’ jurisdiction over all legal and administrative matters. It was observed that the ruler prescribed ‘laws’ (filling the role of the modern executive government and the legislature), but also passed sentences on unlawful activity (filling the role of the modern judiciary). This observation was supported by scholars such as Milner and Hooker, who note the direct involvement of the raja in sentencing, justice, and other ‘rule of law’ matters.

Lack of separation between the ruler as the legislature and the ruler as the judiciary does not appear to have impacted local attitudes towards ‘justice’. Rather scholars such as Henley have suggested that ‘justice’ in traditional polities in the region was an important and respected ideological concept. Henley observes “the quality of the justice which a leader could offer” was “an important criterion” of his fitness to rule. Henley continues “while a ruler’s fairness ensured that his judgements would be worth listening to in principle, his homicide record ensured that they would also be heeded in practice even by those individuals who proved insensitive to moral arguments.” Thus, the fusion of executive and judicial power in pre-colonial Malaya does not appear to have detracted from an underlying importance of ‘justice’.

History also sheds light on tensions between civil law and *syariah* law. As outlined in earlier chapters, Malaysia’s experience of migration and

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social instability have created a society where an ‘ethnic ideology’
dominate, and where Malay-Malaysians are set apart from Malaysians
of other ethnicities. In Malaysia, syariah law is only applicable to
Muslims, and Muslims are primarily Malay-Malaysians. All non-
Muslims follow Malaysia’s civil laws. Means has observed that prior to
the establishment of ‘Malaysia’, Malays viewed Islam not only as
defining community boundaries, but also distinguishing between those
who were believed to have legitimate rights and those who should be
excluded from participation in the political system because they were
deemed to be “aliens”. Thus Islam became a clear way of dividing
Malays from the other ethnicities resident in Malaysia.

Today, these attitudes continue and ‘Malaysian-Muslim’ is almost
synonymous with ‘Malay’. In contemporary Malaysia, Means observes
that “the legal status of Islam is directly tied to Malaysia’s elaborate
system of Malay special privileges. Consequently, religious issues
intrude directly or indirectly into the whole area of inter-ethnic relations
and become entangled in nearly all government social, economic, and
educational policies.” In this way, ethnic (religious) divisions
compound the challenges of even-handed application of the rule of law
in Malaysia.

The rule of law in Australia
In Australia, the rule of law is a foundational philosophy or principle
underpinning Australia’s system of government and the principle has
been cited in many High Court judgments. Expectations about the
rule of law were brought to Australia by British migrants and the rule of
law was initially intended to be practiced in Australia as in Britain.
However, even from the earliest years, Australian colonial society was
not the same as British society and, with strong migration and steadily
growing multicultural influences, Australia continued to evolve into a
society quite distinct from Britain.

863 G. P. Means, “Public Policy Toward Religion in Malaysia,” Pacific Affairs 51, no. 3
864 A. Fenna, Introduction to Australian Public Policy. 111.
Consistent with Acharya’s observations of the localisation of norms, it appears that British rule of law principles have also been ‘localised’ into modern Australian arrangements for political and social enforcement. One example of such localisation is Australia’s recent anti-terrorism laws. Commonwealth anti-terrorism laws were introduced into parliament incrementally after the 9/11 attacks of 2001, with the former Howard government passing 44 pieces of anti-terrorism legislation whilst in power. Perhaps the most significant of these laws was the Anti-Terrorism Bill (No. 2), which was enacted on 6 December 2005. This law included several provisions which were seen as diminishing the rule of law in Australia, including the potential for preventive detention, ‘control orders’ (restrictions on named individuals) which may be granted for a period of one year before review, restrictions on the right of any citizen to express certain opinions, and increased police investigation powers, to name a few.\footnote{C. Michaelsen, “Anti-Terrorism Legislation in Australia: A Proportionate Response to the Terrorist Threat?,” \textit{Studies in Conflict & Terrorism} 28, no. 4 (2005); A. Lynch and A. Reilly, “The Constitutional Validity of Terrorism Orders of Control and Preventative Detention,” \textit{Flinders Journal of Law Reform} 10, no. 1 (2007).}

Overall, the Howard government’s anti-terrorism laws aroused such deep public concern about diminishing the rule of law that it took the Howard government up to 18 months to shepherd some of them through parliamentary inquiries. While the Liberal Government of the time argued that these laws were necessary as the country faced a “significant threat” of attacks by extremists, scholars and critics of the legislation countered that the threat of terrorism was actually small, arguing that “the chances of getting killed in a terrorist attack in Australia are close to zero.”\footnote{C. Michaelsen, “Anti-Terrorism Legislation in Australia: A Proportionate Response to the Terrorist Threat?.” 23.}

An interesting aspect of these laws is the current Australian Labor government’s approach to them. In March 2010, the Rudd government introduced the \textit{National Security Legislation Amendment Bill}. The Bill was designed to address the recommendations of several inquiries and
reviews into Australia’s national security and counter-terrorism legislative regime. The Bill was marketed as “instilling confidence that our national security and counter-terrorism laws will be exercised in a just and accountable way.”\textsuperscript{867} The Act passed through parliament in November 2010, with some portions commencing in May 2011.

Despite its stated goals, critics argue that the Act signifies a further shift away from ‘traditional’ (British) principles of rule of law. For example, the Act granted new powers to the police to enter a premises without a warrant in an emergency related to a terrorism offence where material is located that is believed to present a risk to public health or safety. The Act also established a seven-day total detention period but includes a provision for disregarding this total detention period when a person is arrested for a terrorism offence. In addition to this, and in conflict with many recommendations of the reviews and inquiries noted above, the Act upgrades the power of the Australian Security Intelligence Organisation to detain and interrogate individuals not suspected of involvement in any terrorism offence, for up to seven days, simply to enable it to collect unspecified intelligence. Many of the other contentious provisions contained in previously enacted legislation (and criticised by numerous reviews and inquiries into rule of law in security legislation) were similarly overlooked or ignored in amending the Act.\textsuperscript{868}

In the context of this policy formulation study, Australia’s security legislation provides a direct demonstration of how cultural influences and historical experiences shape the rule of law. Despite the high level criticisms from expert senior legal practitioners and international legal scholars, the majority of ‘regular’ Australians have a deep concern about terrorism and agree that the Government must respond strongly. A survey conducted by Issues Deliberation Australia/America in 2007 found that almost half of Australians believe Muslims have a negative

impact on Australia’s social harmony (48 per cent) and national security (47 per cent). Moreover, most Australians rated extremists using violence to advance their political agenda as the biggest contributor to terrorism (95 per cent in agreement). Australia’s restrictive security legislation can be seen as a direct response by the Government to a strong public demand for tighter counter-terrorism laws.

Both Australia and Malaysia drew the principles of rule of law from Britain, and both countries appear to have adapted, localised or applied the principles in very different ways. In Malaysia, the principle of rule of law has two noticeable features. First, there are actually two ‘rules’ of law applied in parallel - Islamic and civil. This Malaysian modification of the rule of law is congruent with Malaysia’s ‘ethnic ideologies’ and the ‘special position’ of the Malays among other races in Malaysia. Second, the executive arm of government in Malaysia appears more willing to be directly involved in the application of the rule of law, with the Anwar cases providing examples of this. The direct involvement of the executive arm of government in applying the rule of law appears to resonate with earlier pre-colonial practices, in which the traditional ruler performed both the legislative and judicial functions of government.

In Australia, also, the rule of law appears has been adapted and now resonates with Australian support for ‘welfare liberalism’ which features fear of terrorism and encourages government intervention when required.

Attribute 6. Effectiveness and efficiency
Effectiveness and efficiency are interlinked concepts. In its broadest sense, effectiveness is the extent to which goals are accomplished. To say that one is 100 per cent effective implies full success at achieving a particular goal. In the case of public policy, the policy goals are often

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set by those who are tasked with achieving them.\textsuperscript{870} Efficiency is the measure of how well the resources expended are utilised to achieve the objective. It is not sufficient to measure efficiency alone. If a goal is only partially achieved, then the effort is only partially successful, regardless of whether the portion completed was done with excellent resource utilisation. Thus, effectiveness and efficiency must be considered together. When combined, these attributes generally give some indication of the overall performance of an organisation.

A major way in which governments demonstrate efficiency and effectiveness is through the implementation of Key Performance Indicators (KPIs). According to many administrative theorists, KPIs provide “intelligence” in the form of useful information about a public agency’s performance.\textsuperscript{871} According to Ingraham “it is important to expect that citizens see and understand the results of government programs. It is necessary that public employees and their leaders not twiddle their thumbs when public dollars are wasted on poorly planned or unrealistic public programs. Performance is, at its heart, about governance and accountability.”\textsuperscript{872}

Most public administration scholars argue that the usefulness of KPIs is heavily dependent on their disclosure and actions taken against underachievement. Cavalluzzo and Ittner\textsuperscript{873} have also shown that KPIs improve the quality of decisions, but they argue that this improvement is linked directly to information disclosure. Cavalluzzo and Ittner stress that although internal reporting of KPIs may be useful for internal performance management, external reporting (disclosure) encourages “better”, more effective and efficient government processes. Also

\textsuperscript{873} K. S. Cavalluzzo and C. D. Ittner, “Implementing performance measurement innovations: evidence from government ” \textit{Accounting, Organizations and Society} 29, no. 3-4 (2004).
important is actions taken against performance reports. Boyne, Law and Walker\textsuperscript{874} propose that public reporting authorities cannot improve accountability, effectiveness and efficiency if these authorities do not act on the performance indicators provided to them. They argue that disciplinary action is particularly important when agencies fail to meet minimum performance standards.

**Effectiveness and efficiency in Malaysia**

For the past two decades, Malaysia has been seeking to improve the effectiveness and the efficiency of the public service. Reforms to achieve this goal have ranged from the establishment of the Malaysian Administrative Modernisation and Management Planning Unit within the Prime Minister’s Department, to the creation of the *Anugerah Kualiti Sektor Awam* (Public Sector Quality Awards) for public sector agencies that have excelled in total quality management or other specific areas. However one recent and potentially far-reaching efficiency and effectiveness reform has been the implementation of KPIs.

Malaysia’s KPI push began in 2004 when the Malaysian Government introduced key performance indicators and performance-linked compensation for managers\textsuperscript{875} and a mandatory Client’s Charter for each government ministry.\textsuperscript{876} These moves were part of a wider push to implement ‘New Public Management’, and to promote public sector efficiency and performance in service quality and delivery.\textsuperscript{877} In its early stages, assessments against KPIs and client service standards were not published.

Most recently, in July 2009, Prime Minister Najib continued his push for transparency by insisting that Malaysian ministers and their

\textsuperscript{874} G. Boyne et al., “Plans, performance information and accountability: the case of best value. ,” 707.


\textsuperscript{877} N. A. Siddiquee, "Public management reform in Malaysia."
ministries be evaluated against seven National Key Results Areas (NKRAs): reducing crime, fighting corruption, improving student outcomes, raising living standards of low-income households, improving rural basic infrastructure, and improving urban public transport. A further NKRA, addressing cost of living, was added in July 2011 to address the issue of inflation and rising daily household costs.

Ministerial Key Results Areas (MKRAs) were also put in place in critical areas not covered by the seven total NKRAs. MKRAs aim to ensure that adequate attention is given to resolving existing issues and enhancing performance delivery. MKRAs are monitored and implemented directly by the ministers of each respective ministry. MKRAs include specific targeted outcomes such as responding faster to public complaints and reducing the number of road traffic accidents. Complementing MKRAs, Ministerial Key Performance Indexes (MKPIs) have been introduced for the respective ministers to set out clear goals to achieve the various targets within their respective ministries. Progress and results must be reported regularly to the Performance Management and Delivery Unit (PEMANDU) which, as discussed in earlier chapters, was especially established to oversee progress against each NKRA and MKRA.

Significantly, for the first time since implementing KPIs in 2004, Prime Minister Najib also announced that in 2009 performance against NKRAs would be published in an annual progress report. The first report, not published until April 2012, listed numerous initiatives but did not provide detail on actual activities nor demonstrate how these initiatives contributed directly to meeting the NKRA. For example, the report noted that “since 2010 to June 2011, the Government has spent approximately MYR37.6 billion [AUD$11.5 billion] providing assistance in various forms.”878 Reporting along these lines does not provide Malaysian citizens with useful information about what programs where delivered nor if the money used was spent effectively and efficiently.

The implementation of NKRAs, MKRAs and MKPIs appears to demonstrate increasing interest by the Government in efficiency and effectiveness, but without reliable public reporting (disclosure) it is too soon to judge if Prime Minister Najib’s changes will bring genuine improvements in Malaysian governance. To produce genuine improvements in efficiency and effectiveness, the Malaysian Government will need to provide further detailed information on progress against NKRAs and associated performance indicators, as well as acting upon this disclosure.

Malek has observed that some of the barriers in Malaysia to increased efficiency and effectiveness include resistance to change among public sector employees, difficulty in handling and dealing with poor performers due to the lack of an exit policy, over-centralised decision making, lack of systematic succession planning that leads to unclear career paths, and lack of focus on human resource management by the top management in the agencies. This analysis is supported by Siddiquee, who claimed that public sector in Malaysia has long been criticised for “inflexibility” and “poor performance among the officials”.

Senior government leaders also accept that - despite ongoing administrative reforms - Malaysia is still some way off achieving the ‘good governance’ standards established by the World Bank and followed by other, primarily Western, governments. In his last speech as UMNO president, former Prime Minister Abdullah Badawi outlined the governance challenges facing Malaysia. He observed provocatively that UMNO has grown into a party which is known for its “complacency”, its “ineffectiveness” and its “materialism”. These comments further demonstrate that New Public Management initiatives,

880 N. A. Siddiquee, "Public management reform in Malaysia.”
such as KPIs, which should be reforming the Malaysian Government, are yet to take strong effect.

Having shown that the usefulness of KPIs is linked to their disclosure and subsequent action, and accepting that the Malaysian Government is not disclosing the relevant achievement/underachievement information, why did the Government implement them? One view is the implementation of performance measurement systems possesses important international and domestic symbolic value. The implementation of a performance measurement and reporting system creates an image of a business-like modern, rational, responsible and, most importantly, legitimate government. Indeed, the implementation of KPIs appears to align Malaysia with world’s best practice in effective and efficient governance.

The fact that KPIs tend to be quantitative has also strengthened this image. The implementation of performance measurement and a ‘rational’ reporting system can play an important symbolic role in creating an image of a government striving for better governance. Quantitative KPIs portray an image of objectivity and rationality. “Through measurement, the Governmental empiricist could show the legislature and the public that the singular executive was successfully eliminating waste and corruption”. In short, by implementing KPIs, the people of Malaysia may perceive the Government to be striving for gains in efficiency and effectiveness.

The implementation of a performance management framework can also increase a government’s legitimacy as an ‘international player’. As discussed in the earlier part of this paper, there has been widespread


\[883\] D. P. Moynihan, "Managing for results in an impossible job: solution or symbol?,

\[884\] D. Williams, "Measuring government in the early twentieth century," 655.
application of KPIs across the public sector of many industrialised countries. DiMaggio and Powell\textsuperscript{885} argue that the adoption of established and “legitimated practices” (like KPIs) from sources that are perceived to be more successful can enhance a government’s legitimacy. In this case, the adoption of KPIs which are viewed internationally as a ‘good’ management device can further increase a government’s domestic and international credibility.\textsuperscript{886}

The Malaysian Government has worked hard to convince local voters that Malaysia is a respected world power. Nain has described in detail the role of \textit{Malaysia boleh} (Malaysia can) in the local media. This Malaysian campaign - perhaps better termed a Malaysian complex - was conceived when the Malaysian economy was booming and aimed to build Malaysian nationalism. The activities to demonstrate \textit{Malaysia boleh} ranged from erecting expensive skyscrapers (and claiming world records for them), to climbing Mount Everest, sending a mission to the South Pole, single-man boat rides around the world using an obscure route, and most recently, putting a man in space at an estimated cost of MYR1 billion (AUD$300 million).\textsuperscript{887} With the Malaysian Government already working so hard to prove to local voters that Malaysia is internationally credible, the Government may also wish to be seen by voter and the international community as implementing cutting edge governance reforms. In short, the implementation of KPIs shows Malaysian voters that the Malaysian Government is keeping pace with international trends in New Public Management, and is therefore a legitimate political leader.


\textsuperscript{886} D. de Kool, “Monitoring and utilization: surveillance, struggle, symbol or source of inspiration?,” in \textit{Conference of the European Group of Public Administration} (Ljubljana, Slovenia: 2004).

The implementation of KPIs in Malaysia is particularly interesting where there is such divergence between ‘in theory’ and ‘in practice’ policy formulation. In their ‘decoupling’ theory, Meyer and Rowan stated that institutionalised organisations can minimise scrutiny by emphasising formalised practices. This shifts attention away from the ‘informal’ interactions. “Thus, decoupling enables organisations to maintain standardised, legitimating, formal structures while their activities vary in response to practical considerations.”

This theory is particularly relevant to Malaysia where the difference between ‘in theory’ governance and ‘in practice’ governance is considerable. By implementing KPIs, the Malaysian Government can draw attention towards its internationally accepted models of governance and established Westminster governance frameworks. This shifts attention away from the Malaysian Government’s ‘informal’ practices and its less-than-perfect governance record in practice.

The implementation of KPIs can also serve as a symbolic replacement for genuine political reform. Taylor has associated the implementation of KPIs with East Asian countries that have legacies of colonial or military rule or one-party authoritarianism (Malaysia has both). The administrative reforms in East Asia - and Malaysia - are therefore seldom solely about efficiency. Rather, these reforms have been undertaken “to secure new or reinvented structures and systems of operations that can improve the capacity of the state (and of the bureaucracy) so as to better lead nation building and economic development efforts”. This has led Lee and Haque to comment that governance reform in Asia, including the implementation KPIs, “appears to serve as a substitute for political reform.”

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889 J. Taylor, ”The Usefulness of Key Performance Indicators to Public Accountability Authorities in East Asia,” Public administration and development 27(2007).
890 A. Cheung, ”The politics of administrative reforms in Asia: paradigms and legacies, paths and diversities,” Governance 18, no. 2 (2005).
The implementation of a performance measurement system should promise improved governance through increases in efficiency and effectiveness. However, in Malaysia, these improvements have not been demonstrated. Instead, the implementation of a system that can be used to “maintain the assumption that people are acting in good faith” is observed.\textsuperscript{892} Despite the lack of significant tangible gains, the establishment of such a system can - and has - helped to create a sense of progress and efficiency.\textsuperscript{893} In short, Malaysia’s performance management system seems to be more symbolic than targeted towards genuine improvements in effectiveness or efficiency.

There may be links between traditional Malay political culture and the Malaysian Government’s present day symbolic reforms to public sector effectiveness and efficiency. Osman has stressed that “it is important to know this [traditional Malay political world-view] in order to understand the present political structure in Malaysia”. He goes on to explain how traditional Malays perceived the distribution of power and authority in society in a different manner, and that “through the centuries” this influence has created uniquely Malaysian political relationships.\textsuperscript{894} Osman’s work accords with scholars such as: Milner, Kessler, and Maaruf, to name a few, who observe respectively a “Malay essence”, a culture of “followership”, and a “feudal ideology”.\textsuperscript{895}

Traditional Malay polities thrived on symbolism and ceremony, particularly in regard to the actions of the ruler. Milner has argued that traditional Malay rulers - \textit{raja} - also had a “vital concern” for ceremony. Ancient court text praised a ruler for his “perfect manners” and his “refined speech”. Indeed, as Milner has argued, the ceremony of the \textit{rajases} defined their status. Ceremony was not just ritual or practice, it

\textsuperscript{893} D. P. Moynihan, "Managing for results in an impossible job: solution or symbol?.”
was “work”. For example, the ceremony of costume was critical in the *kerajaan* era with historical texts of the time according severe punishments - including death - for individuals who chose to ‘dress’ in a manner inappropriate to their social status.

Various scholars have made correlations between the ceremony of the *kerajaan* era and modern day ceremony and symbolism in Malaysian government. In the late 1970s Muzaffar wrote of the continued importance of royal titles and ceremony in modern Malaysia. In the same period, Nagata observed that “etiquette and attention to the niceties of social interaction are considered so important among Malays.” More recently, in 2002, Kennedy has stressed that modern Malaysia continues to place emphasis on the correct use of titles and protocol. To provide evidence, Kennedy cites examples of the ways in which honorifics are used to indicate fine gradations in social status and levels of authority based on connections with royalty, religious standing, and awards for service to the state. Kennedy’s specific research is supported by Hall’s general analysis of non-Western expressions of power - including those in Malaysia. Hall’s study concluded that non-Western societies continue to view social rank and “sustaining ritual performance” as important characteristics of power.

Since 2009, the Malaysian Government has implemented substantial reforms which it argues are aimed at improving government effectiveness and efficiency. Such reforms mirror the governance processes of other ‘developed’ countries and include, for example, the implementation of public NKRAs and MKRAs. However, deeper analysis

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897 ———, *The Malays*. 64.
of the Malaysian Government’s package of reforms suggests that the reforms are unlikely to bring about significant, tangible improvements to government effectiveness and efficiency, and perhaps are more symbolic than substantive. ‘Symbolic’ governance gestures have been observed by scholars of Malaysia for at least the last four decades. However, ‘symbolic governance’ also has resonance with Malaysia’s pre-colonial era in which ceremony, status and nama (name, face) were inseparable from the raja.

**Effectiveness and efficiency in Australia**

Since the 1970s the Australian Public Service (APS) arguably has undergone some of the most significant and far reaching changes in its entire history. The fundamental changes in the organisation and administration of the APS have been a direct response to philosophical drives for a more efficient, effective and accountable public sector.\(^{902}\) Central to these changes has been performance measurement, including the implementation of KPIs and other performance management tools.

Many of the initiatives in Australia designed to improve effectiveness and efficiency in government have been grouped together as performance management reforms. The National Academy of Public Administration defines performance management as “a process of defining a mission and desired outcomes, setting performance standards, linking budget to performance, reporting results, and holding public officials accountable for those results.”\(^{903}\) In Australia, performance management forms an “essential component” of the governance system.\(^{904}\)

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According to the Australian Government, “performance indicators set clear goals for performance.” The Australian Auditor General has also noted the usefulness of KPIs. “When able to draw on sound and reliable information, agency management has a powerful tool to motivate their teams and to help communicate their vision to stakeholders.” Performance information, such as KPIs, is also said to assist program management by its input into:

- planning (choice between alternative strategies; determination of priorities and changes in policy directions);
- budgeting (justification of use of resources, development of cost targets);
- implementation (actual results checked against budgets and goals, corrective action guidance); and
- evaluation (assistance in determining program effectiveness, examination of other ways to meet objectives, assistance in determination of better ways to implement programs).

However, studies of the APS show that managers and staff have found some aspects of performance management particularly difficult to grasp. For example, according to a 2001 report by the Institute of Public Administration Australia, APS staff find it difficult to measure performance where work is qualitative in nature. Some APS staff and line managers also feel sceptical about the value of attempts to measure and review performance and express concerns that performance standards are too vague and not standardised. These attitudes suggest there may be a variance between what is actually measured/reported, and what should be measured/reported.

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Performance management methodology in Australia is applied, at least in principle, right to the individual level. Moreover, performance management applies equally to Senior Executive Service managers or lower level APS officers. Indeed, it could be argued that the Australian Government has chosen to build efficiency and effectiveness throughout the APS through implementing performance management from large organisational work units cascading down to each individual’s work. Arguably, when each individual is functioning efficiently and effectively, then the organisation (the department) as a whole will also function efficiently and effectively.

As with Malaysia it is likely that there are parallels between Australian history and culture and Australia’s approaches to efficiency and effectiveness. Supporting this, Geert Hofstede has consistently demonstrated that there are national and regional cultural groupings that affect the behaviour of societies and organisations, and that are very persistent across time.909

Along with the Power Distance Index referenced in chapters four and five, Hofstede also assessed attitudes towards individualism and collectivism. Known as the Individualism Index, Hofstede created an assessment mechanism to measure how much members of a culture define themselves apart from their group memberships. In individualist cultures, people are expected to develop and display their individual personalities and to choose their own affiliations. In collectivist cultures, people are defined and act mostly as a member of a long-term group, such as the family, a religious group, an age cohort, a town, or a profession, among others. According to Hofstede’s study, Australians place very high value on individuality, scoring 90 out of a possible hundred (the second highest score of any country in Hofstede’s survey). The world average for the individualism index was 43, less than half that of Australia. Malaysia ranks well below the world average, with an

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909 G. H. Hofstede, *Culture’s consequences: international differences in work-related values.*
individualism index of only 26.\footnote{Ibid.} Hofstede’s observations about Australian individualism may partially explain the stronger emphasis placed on specific individual performance management and individual effectiveness and efficiency.

Barbara West and Frances Murphy have undertaken an extensive study of Australian culture and the workplace, including Australian attitudes to individualism. West and Murphy stress that Australian society is historically rooted in individualism.

From an early age, Australian children learn the value of independent thought and argument. Children are also expected to achieve financial independence and move out of their parents’ home around their early twenties. Individual achievements, while not paraded in front of others, are sought after and recognised – in an understated, Australian sort of way.\footnote{B. A. West and F. T. Murphy, \textit{G’day Boss!: Australian Culture and the Workplace} (Abbotsford: Tribus Lingua, 2007). 50.}

Melleuish has argued that modern day Australian individualism can be linked to Australia’s settler experience. As Melleuish describes it, Australian individualism grew out of a desire “to be self-reliant and not to be compelled to depend on others for their well-being. Its origins lay in the traditional British ideal of the yeoman farmer, who was able to support his family by cultivating the soil of his modern farm.”\footnote{G. Melleuish, \textit{The Packaging of Australia: Politics and Culture Wars} (Sydney: University of New South Wales Press, 1998). 37.} Today, Australian-individualism has morphed into what scholars such as Elliott and Lemert\footnote{A. Elliott and C. C. Lemert, \textit{The new individualism: the emotional costs of globalization} (London: Routledge, 2006). 160-164.} and Follett\footnote{M. P. Follett, \textit{The new state, group organization the solution of popular government} (Philadelphia: Pennsylvania State University Press, 1998). 73-74.} describe as “new individualism”; a style of individualism which features maximising aspirations to ensure that individual self-fulfilment is reached.\footnote{G. Melleuish, \textit{The Packaging of Australia: Politics and Culture Wars}. 40.}
The stronger focus on efficiency and effectiveness in the Australian Government appears to be consistent with the Australian community’s high value placed on individualism. When compared against Malaysia, the Australian government appears to place much stronger emphasis on individual performance management and therefore individual contribution towards government outputs and outcomes. Individual performance management in the Australian Government is distinct from Malaysia’s newly implemented ‘national’ and ‘ministerial’ performance management programs, which focus more on senior staff (hierarchy) and overall organisational performance.

In conclusion, Australia and Malaysia have both introduced reforms to better manage performance and to promote efficiency and effectiveness in government administration. However, the way these reforms have been introduced is reflective of each country’s local values and historical experiences. The feature of Malaysia’s performance management reforms has been the introduction of KPIs. However, this initiative appears more symbolic - promoting the appearance of good governance - rather than substantive. Symbolic and ceremonial government actions were fundamentally important in traditional pre-colonial Malay polities, and it is likely that some residue of this early period continues to influence modern Malaysian governments. In Australia, improvements in effectiveness and efficiency appear to have focused on individual performance (rather than overall organisational performance). This appears consistent with Australian individual values and increasing trend towards the “new individualism”.

*Attribute 7. Responsiveness*
A final attribute of governance is responsiveness. Good governance requires institutions and processes sufficient to service all stakeholders within a reasonable timeframe. The main stakeholder of government is the public, whose views in Australia and Malaysia are represented through democratically elected ministers. This ‘democratic legitimacy’

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is particularly important in assessing responsiveness. Ministers are elected politicians forming a government with the support of a majority in the lower house. Chosen by the voters, ministers are accountable - or should be - to the voters, via parliament and through other channels. According to Westminster tradition, this fact gives them the ‘democratic right’ to impose their own directions on government departments and gives non-elected public servants a corresponding obligation to follow such directions.

Given the links between responsiveness and democratic legitimacy, responsiveness can be assessed by considering the public service’s responsiveness to the demands of the people (represented by ministers who are elected into government). A ‘responsive’ public service should be able to work with any elected government regardless of their political position. This principle is often expressed in Westminster-based literature as the need for public servants to be ‘apolitical’, ‘impartial’ or ‘politically neutral’. The principle is particularly important for study of public administration as, while elected governments may come and go, the public service is expected to remain in place. Indeed, the public service consists of permanent government institutions (subject to occasional modification) staffed by career bureaucrats who must be able to serve alternative governments with equal loyalty and equal responsiveness.

However, public servants inevitably are drawn indirectly into politics, much of it highly partisan in nature. They assist ministers in deflecting and rebutting opposition arguments, they implement policies obviously designed to wedge the Government’s political opponents, and they provide extensive information and advice to the Government of the day (and not to the opposition’s shadow ministers). As one senior

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919 Ibid. 348; ibid.
920 Ibid. 348.
Australian public servant has put it, “senior public servants can ‘stay out of politics’ as much as a fish can stay out of water.”

Political scientists continue to grapple with the distinction between responsiveness to the government of the day (the elected ministers), and overall responsiveness to the public directly. In the former interpretation (responsive to the public), public servants would need to employ “business-like, apolitical methods” to enable officers to provide the government with ‘frank and fearless’ advice about policies and programs. In the earlier interpretation (responsiveness to the government of the day), public servants would need to act with “ready docility” to elected ministers, particularly when these ministers have chosen politically motivated directions which potentially go against the results of earlier policy analysis or broader public opinion. The nuanced interpretations of ‘responsiveness’ are particularly relevant in the current Australia-Malaysia comparative analysis, where Australian governance appears to place more emphasis on responsiveness to the public and Malaysian governance places more emphasis on responsiveness to the government of the day.

Responsiveness in Australia

In Australia, the public service has come under criticism for becoming increasingly political. This transformation began in the late 1970s, continued through the 1980s, and remains today. The Whitlam (1972-1975) and Hawke (1983-1992) governments sought to challenge public servants’ monopoly on advice to ministers and questioned their indispensability in the process. This was made explicit in the 1983 White Paper Reforming the Australian Public Service, which stated that “the balance of power and influence has tipped too far in favour of

permanent rather than elected office holders”.924 To diminish public servants’ domination, the number of ministerial staff increased throughout the Hawke government. Moreover, these staff began to take over some of the roles that were previously the province of senior public servants.925

By the 1980s the model of ‘career public servant’ was breaking down through a series of changes. Perhaps most significant in these changes was the redesignation of the departmental head as a fixed-term appointment, rather than a permanent appointment. This was coupled with additional changes including increasing opportunities for outsiders to join the APS and greater flexibility in senior staffing arrangements by grouping these staff into the Senior Executive Service (Band 1, Band 2 and Band 3 positions). The raft of changes was described by policy practitioners as a “very significant step away from the Westminster system”926 and by scholars as “some striking departures from tradition”.927

While the above changes were clearly intended to enhance ‘responsiveness’ to the government of the day, Australian governments since then have generally supported career public servants and an apolitical public service. On assuming government, former Prime Minister Rudd promised that there would be no political appointments to the Australian Public Service, and that his government would not follow the actions of his predecessor, Mr Howard, who sacked six departmental heads when he took power in March 1996. Instead, former Prime Minister Rudd argued that he would allow senior public servants an opportunity to prove themselves prior to making any

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926 G. Windsor, "Defence head lashes out over Howard sackings," The Australian, 4 June 1996.
decisions about senior appointments. In August 2009, a year and eight months after Mr Rudd took office, a reshuffle was announced but, true to his early comments, the reshuffle appeared not to dismiss ‘unfavoured’ heads of departments or support supposedly pro-Labor public servants. Reflecting on the reshuffle, an Australian political observer posited “I don’t think we can see it as a political move, actually. And I think the Prime Minister has gone to great lengths to show that it isn’t.”928 In subsequent speeches, former Prime Minister Rudd emphasised the importance of public servants being creative and more innovative and at the announcement of his public service reform advisory group, Mr Rudd stressed “public servants should not ... be afraid to be bold... As I have said before, we cannot afford a culture where the public service only tells the Government what it wants to hear.”929

More recently, the current Prime Minister Gillard has supported the implementation of reforms recommended in the Blueprint for reform of the APS, which was publically released only weeks before Prime Minister Gillard was sworn into Government. Many of these reforms focused on improving government responsiveness to citizens. This pattern of long-term support for reforms targeted at improving responsiveness to both ministers and to the people suggests that, on the whole, Ms Gillard leads a government that continues to believe in an apolitical public service.

Personal interviews demonstrate the strong emphasis placed by public servants themselves on responsiveness to the public (as distinct from responsiveness to the government of the day). During personal interviews with key Australia senior public servants, all respondents agreed or absolutely agreed with the statement “I am apolitical”. A

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further 88 per cent agreed or absolutely agreed with the statement that, in offering policy advice to the Government of the day “I am frank and fearless”. Frank and fearless is an Australian political term generally taken to mean telling government all the facts and considerations relevant to a particular policy decision.930 In the Australian political context, the provision of frank and fearless policy advice to ministers should means public officials tell government what it needs to know, not what it wants to know. The high percentage of Australian responses who believed they provided ‘frank and fearless’ policy advice suggest that Australian public servants perceive themselves to be more responsive the public and the public’s best interest (not necessarily the government of the day).

Embedded in Australian Government (democratic) processes is the assumption that ministers as elected politicians are accountable - or should be - to the citizens through elections. As already noted, according to Westminster tradition, this ministerial accountability gives ministers the ‘democratic right’ to impose their own directions on government departments and gives non-elected public servants a corresponding obligation to follow such directions.931 Ministers are seen as quite separate from government officials, who are not elected by citizens and who cannot be voted out should citizens disagree with their policies. Following this theoretical model, ministers should make decisions and set political directions; public servants follow these directions and remain ‘apolitical’.932

Australians’ stronger belief in the impartiality and apolitical nature of the public service appears to resonate with widely held Australian beliefs in democracy (and the associated principles of ministerial responsibility). Patricia Harris, Vicki Williams, Carol Johnson and

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931 R. Mulgan, “How Much Responsiveness is Too Much or Too Little?,” 345-46.
Seymour Lipset\textsuperscript{933} have each noted the ways in which Australia’s ‘democratic’ beliefs influence Australia’s system of government. Most recently, Harris and Williams have stressed that the value of democracy in Australia has been “mustered and affirmed” and that Australia’s “moral imagination” emphasises the importance of democracy above other values.\textsuperscript{934}

In short, Australian governance appears to place relatively more emphasis on responsiveness to the public (rather than to the government of the day). Using this model public servants are encouraged to provide impartial, apolitical, ‘frank and fearless’ advice to ministers. This style of advice should tell ministers what they need to know, not what they want to know. An emphasis on an impartial public service accords with Australian ‘democratic’ values, which stress ministerial responsibility and the rights of the citizens to endorse or reject the decisions of ministers at election time.

**Responsiveness in Malaysia**

According to Seidman and Seidman, in developing countries, the distinction between politicians and bureaucrats tends to be blurred and an alliance between the ruling elite and high-ranking officials has often led to an oligarchy of power and privilege.\textsuperscript{935} *Pemudah* (the Malaysian special taskforce to facilitate business) has observed that Malaysian public servants sometimes find themselves in situations of having to implement dubious and technically incorrect decisions due to instructions from “higher up” officials. *Pemudah* has stated publicly that members express concern about the rise of political power into the executive wing of government and the declining authority and influence of the civil service.\textsuperscript{936}


\textsuperscript{934} ———, “Social inclusion, national identity and the moral imagination.” 211 & 216.


\textsuperscript{936} “Civil Servants Must be Apolitical,” *The Sun*, 4 February 2008.
Leading Malaysian academic scholars have drawn similar conclusions. Khai Leong Ho has found that reforms of the MPS have led to “greater administrative nepotism” and Noore Alam Siddiquee has suggested - on several occasions - that a major inhibitor to Malaysia’s administrative reform campaign is the “ politicisation of bureaucracy”. More generally, Embong argues that “the state as a whole is manned and managed by a ruling elite which often claims to rule on behalf of society, though in practice it is biased towards certain classes, factions, and interest groups”. Siddiquee sums up these observations neatly:

An important feature of the Malaysian bureaucracy is the intimate relationship between political leadership and public servants. This has been the case since the early years of independence. Although in theory, members of the public service subscribe to the principle of ‘political neutrality,’ in practice, bureaucracy in Malaysia has never been separated from party politics. In the near past, it was common for the civil servants to contest for party positions. This may have been prohibited later, but the government seems to have always encouraged bureaucrats to be associated with the Barisan Nasional politics, policies, and programs.

Data from personal interviews with senior Malaysian public servants also suggests a tendency towards politicisation within the public service. When asked on a scale of 1-5, where 1 is don’t agree and 5 is absolutely agree, to what extent do you agree with the statement “I am apolitical” only 50 per cent of respondents agreed or strongly agreed.

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940N. A. Siddiquee, “Public Accountability in Malaysia: Challenges and Critical Concerns.” 111.
with the statement (scores 4-5). Likewise, when asked the same question, but referring to the statement in offering policy advice to the Government of the day “I am frank and fearless”, only 25 per cent of Malaysian respondents agreed or strongly agreed they gave frank and fearless advice. No public servants strongly agreed (score of 5) with this statement. Figure fourteen, below, contrasts Malaysian public servants’ responses to this question with Australian public servants’ responses.

Figure 14. Senior public servants agreement with specific statements

Most scholars credit the politicisation of the MPS to the comparatively more dominant role of the Government in Malaysian society. Malaysia’s post-independence period involved the extensive and rapid expansion of government functions. For instance, economic management programs and projects were launched, new public organisations were created, and mobilisation programs were established. Public institutions and the Malaysian bureaucracy became the centrepiece of these new endeavours. As Malaysia moved into its ‘developmental state’ mentality (discussed in chapter two), a government-centred style of public administration emerged. In this arrangement, the main functions of public service agencies were seen as expediting service delivery related to issuance of permits, licenses, land administration, and suchlike. As this arrangement grew, the public service agencies became known as
“one-stop clearance centres to reduce time taken in obtaining approvals.”941 Thus, the public service was seen as - in former Prime Minister Mahathir’s own words - “the service arm” of government.942

Encouraging the politicisation of the MPS is the disproportionate representation of Malays in the bureaucracy. Malays in the MPS are heavily over-represented and other ethnic groups, including non-Malay Bumiputera, are significantly under-represented. As a matter of public policy, Malay-Malaysians have traditionally received preference in MPS recruitment processes. In 2005, Malays accounted for 77 per cent of the entire public service, yet in the same year they made up 49 per cent of the Malay population.943 Moreover, the percentage of Malays in the public service increased with level: it was 76 per cent for the support group, 82 per cent for the management and professional group, and 84 per cent for the top management group.944 This means that the ethnicity of senior public servants aligns with the ethnicity of the ruling political power, UMNO. Moreover, Siddiquee has suggested that beyond being of the same ethnicity, Malay administrators “share similar social and educational backgrounds and ideological values with political elites, the relationship between these two groups is marked by both intimacy and interdependence.”945 These relationships are more likely to result in senior Malay public servants offering policy advice which aligns with the political aspirations of UNMO (the government of the day), rather than that of the people directly.

945 N. A. Siddiquee, "Public Accountability in Malaysia: Challenges and Critical Concerns." 111.
Malaysia’s more political public service appears to resonate with earlier historical practices. Earlier chapters of this thesis have discussed the feudal and patronage-based characteristics of the pre-colonial kerajaan polities. Within this patronage-based system, Alatas has stressed the close relationships between the rulers and the aristocracy.\footnote{H. S. Alatas, Modernization and social change: studies in modernization, religion, social change and development in South-East Asia. 96.} Osman has emphasised that in traditional Malay culture the ruler and the ruling class were of one mind, with senior advisors demonstrating a “deep sense of loyalty to the leader”.\footnote{M. T. Osman, "The Traditional Malay Socio-Political World View". 51-52.} Maaruf also, has discussed the concept of ‘loyalty’ of this era, stressing that “loyalty to these men meant accepting without question obviously unjust decisions of the Sultan”.\footnote{S. b. Maaruf, Concept of a Hero in Malay Society. 9.}

Kessler, Maaruf, Muzaffar, and other scholars, have argued that these ‘traditional Malay’ characteristics such as patronage and unquestioning loyalty have, to some extent, been taken forward into the modern era through authentication and dissemination of classical Malay literature such as Sejarah Melayu (The Malay Annals) and Hikayat Hang Tuah (The Epic of Hang Tuah). For example, Maaruf observes that Hang Tuah is the archetype of a feudal hero who is “praised for his blind loyalty which superseded ethnic considerations”.\footnote{Ibid. 16.} Muzaffar, also, observes that in modern Malaysia Hang Tuah is exalted for his loyalty in “executing the order of the monarch irrespective of other considerations”.\footnote{C. Muzaffar, Protector? 8-9.} These traditional values and practices emphasise responsiveness to the government of the day (the ruler), rather than to the people. Such modern day authentication of ‘traditional values’, argues Kessler, has created the “quite extraordinarily political character of Malay culture”.\footnote{C. S. Kessler, "Archaism and Modernity: Contemporary Malay Political Culture". 137.}
Modern day acceptance - and sustainment of - ‘traditional Malay’ values such as loyalty and unquestioning devotion to the ruler may also have fostered the close political relationships between Malaysian ministers and public servants. Shamsul has discussed the significant politicalisation of the local bureaucracy in Malaysia. He observes how following independence “it was common for newly-recruited Malay bureaucrats to become UMNO members or officials in their kampong [village] branches, in the hope that one day they would be chosen to run for higher office.” Although, direct transfer from bureaucrat to politician is less common today, the widespread historical practice remains significant and demonstrates an acceptance of a political public administration.

The type of responsiveness observed in MPS appears to be different from that in Australia. Malaysian public servants appear to be more political than Australian public servants, meaning that they are likely to be more responsive to the wishes of government directly (and less directly responsive the ‘the people’). This characteristic is obviously augmented by the ‘quasi’ democratic nature of modern Malaysian society, but is possibly underpinned by enduring traditions of loyalty and respect for rulers and an ‘inherently political culture’. In contrast, Australian public servants place somewhat stronger emphasis on remaining apolitical, suggesting an underlying emphasis on responsiveness to the people directly. The adoption and reinforcement of ‘democratic values’ as ‘Australian values’ likely leads to stronger demands for the APS to be responsive to the people and is underpinned by the principle of democratic legitimacy.

**Conclusion**

In the early 1980s prominent Southeast Asian cultural historian Oliver Wolters developed a theory of “localisation”. By examining the import of

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ideas from India into Southeast Asia from about the fourth to fourteenth centuries, Wolters observed that indigenous, or local, elements of early the Southeast Asian culture were retained and even reaffirmed when confronted with foreign elements. Wolters viewed himself as “a restless experimentalist” seeking to explain “the cultural features” and “widespread cultural traits” of early Southeast Asia.

More recently, Acharya has written of “constitutive localisation” as a process in Southeast Asia in which “foreign ideas about authority and legitimacy” are borrowed and then “fitted into indigenous traditions and practices”. ‘Localisation’, as Acharya sees it, is a more useful concept than ‘adaptation’ as the ideas of ‘adaptation’ can ‘subsume all kinds of behaviours and outcomes.’ In this way localisation is seen to explain how “local beliefs are always responsible” for the initial form of the practices and processes.

Writing of Australia, Rhodes has stressed that “distinctive governmental practices and beliefs” are found in the Australian system. Matthews has also observed the process of localisation in Australian government:

Consider now how the Australian Public Service interacts with the nation’s parliamentary system. The Australian system of government is often referred to as the ‘Westminster System.’ The APS is not a pure Westminster system; nor is it, as is sometimes claimed, a ‘Washminster’ hybrid. It is already uniquely Australian - I sometimes refer to it as the ‘AusMinster’ system. The uniquely Australian features of Australian government administration which have evolved over time derive from many sources. These include the differences in the Australian Constitution from

954 O. Wolters, History, culture, and region in Southeast Asian perspectives (Singapore: Institute of Southeast Asian Studies, 1982).
other countries’ foundation documents. Legal case law has evolved in characteristically Australian directions. Parliamentary processes have evolved to meet uniquely Australian political and administrative needs. Uniquely Australian public administration institutions and processes have evolved. There is certainly a uniquely Australian ‘culture’ in the APS. In my view we should be very proud of our uniquely Australian model of public administration. For me the fact that it has evolved far from its Westminster origins is thoroughly positive. It captures the dual ideas of the APS as a great, continuing national institution - but one which at the same time is responsive and ready to change - that is, a willingness to continue to adapt to Australian circumstances and national needs.958

Localisation is highly relevant to this thesis. Australia and Malaysia share a Westminster-based government architecture which embeds many of UNESCAP’s ‘attributes’ of good governance. However, when compared systematically, attribute for attribute, it appears that governance in both system has been localised throughout the countries’ histories and is now reflective of our historical experiences and enduring cultural practices. In Australia, some relevant historical experiences and cultural practices include Australia’s migration experience and the associated emphasis in Australia on egalitarianism and equal access to opportunity, individualism, strong support for democracy, and underlying scepticism about government. Each of these experiences and values has some association with Australia’s settler past. In Malaysia, some enduring cultural practices include loyalty, hierarchy, feudalism, patronage and symbolism. Each of these practices was evident in the pre-colonial kerajaan era.

The respective variances in policy formulation processes between Australia and Malaysia are more fascinating due to their shared stated strategic policy priorities (sustained economic development and social stability) and shared Westminster based government frameworks. As discussed in chapter four, the ‘rational’ model of policy formulation suggests that policy decisions made in Australia and Malaysia should be similar. Indeed both countries should be using their system to promote social stability and economic development. Demonstrating a further weakness in the ‘rational choice’ policy formulation model, this chapter has shown that governance processes in Australia and Malaysia have been ‘localised’ and now resonate with less-visible earlier cultural influences and historical experiences. The new ‘localised’ governance would likely not appear ‘rational’ when considered by persons who do not understand the context in which they have evolved and are applied. Thus, culture does matter in policy formulation processes.
CHAPTER 6. THE MALAYSIA-AUSTRALIA FREE TRADE AGREEMENT:
A CASE STUDY OF DOMESTIC INFLUENCES ON POLICY FORMULATION AND IMPLEMENTATION
Introduction

Building consensus on difficult issues in such a diverse region is always challenging. Formulating bilateral (government-to-government) policy is always difficult, but is all the more so when two countries have very different approaches to policy formulation. The extended cyclical process of consultation, negotiation, amendment and review can be one of the most trying of government processes. Bilateral policy formulation is a process where national differences - be they culturally or historically-based - become starkly apparent.

This thesis has shown how policy formulation processes in Malaysia and Australia are shaped by each country’s different historical experiences and cultural influences. For example, individualism, welfare liberalism, egalitarianism and scepticism about government leaders and political elites are key cultural influences on Australian policy formulation processes. Migration and Australia’s settler legacy are key historical experiences. In Malaysia, policy formulation processes have been influenced by historical experiences leading to the development of a pervasive race-based ‘ethnic ideology’ and cultural factors such as hierarchy, feudalism and patronage-based relationships, and emphasis on ceremony and symbolism in government.

So, what happens when two countries with such diverse cultural and historical influences attempt to cooperate in formulating ‘mutually beneficial’ public policy? The answer – some real challenges emerge.

This chapter examines the bilateral policy formulation processes underpinning the seven years of negotiations to yield the Malaysia-Australia Free Trade Agreement (MAFTA). I focus mostly on the process involved in negotiating the free trade agreement (FTA), rather than the

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959 J. Howard, “Speech delivered by The Hon John Howard at the Asia Society AustralAsia Centre Annual Dinner,” (Sydney: 2007).
final agreement itself. A trade agreement is a new government output which, like any other government policy, must pass through the policy formulation process before it is implemented. An FTA is unique in that it passes through the policy formulation processes of two - or more - countries. A study of the FTA negotiation process brings to the surface the distinct historical and cultural influences on policy formulation processes of the governments involved. For the purposes of this study, the final MAFTA agreement itself is less significant that the processes involved in negotiating the agreement.

This case study will focus on three main areas of negotiation: government procurement, tariffs and non-tariff barriers, and dispute settlement mechanisms. These negotiation areas best demonstrate how individualism, welfare liberalism, egalitarianism and scepticism about government leadership and the political elites dominate Australian policy formulation processes, while in Malaysia, respect for rulers, a pattern of hierarchical or ‘patron-client’-like relationships, acceptance of close linkages between government and the economic and social elites, and emphasis on ceremony and symbolism in government dominate Malaysian policy formulation processes. These cultural values are coupled with a pervasive ‘ethnic ideology’ grown out of the historical experience of the 1969 racial riots.

**Overview of the Malaysia-Australia trade relationship**

Sandra Tweedie has shown that Malaysia and Australia have a long history of trade relations. From at least the 19th century, Malay people were participating in the pearling industry in Australia’s northern waters.\(^{960}\) During the colonial period, both countries were ruled by the British and this link provided a further platform for trade. For example, Australians and Malaysians worked closely in the mining industries in Malaya.\(^{961}\) Interpersonal linkages were common, with Australians living


in Malaya and Malays living in Australia. After the Second World War, the development assistance relationship arising from the Colombo plan further increased ties, particularly people-to-people, and this in turn led to increases in trade and mutual investment.

Today, Malaysia and Australia’s trade relationship is underpinned by strong interpersonal links, including in business and education, and substantial cooperation between the two governments, especially in defence, immigration and counter terrorism. Both countries remain members of the Commonwealth. The bilateral relationship has been explored in depth by scholars such as Crouch (in Milner and Quilty, 1998), Funston (1995), Milner (in Barlow and Wah, 2003), Shamsul (1993) and Searle (in Robison, 1996). At the government level, the relationship has been explored through publications such as the report of the Australian Parliamentary inquiry into Australia’s relationship with Malaysia and the report on Australia-Malaysia Connections: Exploring the Cross-Cultural Dimensions of Australia’s Relationship with Malaysia. More broadly, the often challenging bilateral relationship has been examined by scholars such as Milner, Sheridan, FitzGerald, Dobell, and Medansky, to name a few.

The trade and investment relationship is significant for both countries. Malaysia is Australia’s 10th largest trading partner (and third largest among ASEAN countries). In 2011 two-way goods and services trade totalled AUD$16.0 billion, representing 2.6 per cent of Australia’s total

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962 Ibid. 8, 31.
trade in goods and services.\textsuperscript{967} Australia imported AUD$9.9 billion in goods and services from Malaysia and exported AUD$6.1 billion in goods and services to Malaysia. Comparatively, in 2011 Australia was Malaysia’s 10th largest export destination (3.6 per cent of Malaysia’s exports) and Australia was Malaysia’s 11th largest source of imports (2.2 per cent of imports).\textsuperscript{968}

Trade between Australia and Malaysia is largely complementary. Australian exports to Malaysia focus on natural resources (such as copper, crude petroleum, and coal), as well as wheat and dairy products. In contrast, Malaysian exports to Australia primarily comprise manufactured products, such as monitors, projectors, TVs, computers and telecommunications equipment and parts. Also significant is the trade in services, with Australia exporting over AUD$1.2 billion in travel-related services to Malaysia in 2011.\textsuperscript{969}

A difference between the two countries is the relative overall economic value placed on trade. In 2011 Australian exports of goods and services only accounted for approximately 21 per cent of GDP. In the same year Malaysian exports of goods and services accounted for around 92 per cent of GDP, making Malaysia one of the top ten most successful exporters in the world (as a per cent of GDP).\textsuperscript{970} This shows the Malaysian economy is much more dependent on trade than the Australian economy.

The bilateral investment relationship is significant, and Malaysian investment in Australia has grown rapidly over the last few years. In 2009, Malaysia held almost AUD$8.6 billion in stock in Australia, up nearly 400 per cent from AUD$2.2 billion in 2001. In 2011 alone,

\textsuperscript{967} Department of Foreign Affairs and Trade, "Malaysia-Australia Free Trade Agreement – Regulation Impact Statement," (Canberra: 2012).
\textsuperscript{968} Ibid.
Malaysians invested almost AUD$1.4 billion in Australia.\textsuperscript{971} Australian investment in Malaysia is less significant at only AUD$5.6 billion, and there is said to be potential for growth in this area.\textsuperscript{972}

An important institution for overseeing the modern trade and investment relationship is the ministerial-level Malaysia-Australia Joint Trade Committee (JTC). The JTC was established in 1986 and has held regular ministerial meetings since 1996. The JTC provides a platform for high level discussion of key trade policy and economic cooperation issues. These regular meetings suggest strong public commitment by both governments to the bilateral trade and investment relationship.\textsuperscript{973} The JTC was a key driver in initiating the MAFTA negotiations, and has subsequently played a significant role in removing barriers and insisting on progress towards the completion of the MAFTA.

While the Malaysia-Australia trade and investment relationship may have been strong in recent years, the same could not be said for the level of mutual understanding of the historical and cultural influences at play in each country. Searle has observed ongoing “tensions” in the Malaysia-Australia bilateral relationship and attributes these to misunderstandings when playing the “cultural card”. He argues that Australians have been “caught off balance” by Malaysian claims of Australian “cultural insensitivity” and naivety about Malaysia’s historical experiences, and that these rebukes should have been “valuable long-term lessons” for Australia’s relations with Malaysia and with the Asian region in general.\textsuperscript{974} Examples of Malaysia-Australia cross-cultural misunderstandings that have impacted negatively on the broader bilateral relationship include the “recalcitrant incident” (1993),

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\textsuperscript{971} Department of Foreign Affairs and Trade, “Malaysia: Fact Sheet”. 2012.
\textsuperscript{973} Department of Foreign Affairs and Trade, “Summary Record of the 16th Malaysia-Australia Joint Trade Committee Meeting,” (Kuala Lumpur: 2012).
\textsuperscript{974} P. Searle, “Recalcitrant or Realpolitik? The politics of culture in Australia’s relations with Malaysia”. 56.
\end{footnotesize}
the “embassy series” (1991) and the “barbaric” Barlow and Chambers legal case (1986).975

More generally, Milner and colleagues have observed that “difficulties arising in interactions between Australians and other people in the region... are frequently affected by differences in perceptions and values.” Milner stresses that Australians, particularly, have a tendency to “deny the significance of culture, insisting rather, that one’s own view of the world is somehow rational and reasonable.”976 Sheridan too, has stressed that cultural and historical difference can and indeed does pose a significant barrier to Australia’s cooperation with the region. He rebukes Australian politicians for their view of “culture as but the decorative fringe on the armchair of international relations” and emphasises “there’s no other element in Australia’s relationship with the region that is potentially more important, profound or abiding in its effect.”977

In short, while the formal Malaysia-Australia bilateral trade and investment relationship appears strong, the underpinning ‘cultural relationship’ - including the associated historical understandings - appears weaker and, importantly, less well recognised. This thesis argues that these failures to understand the cultural and historical dimensions to the bilateral relationship impacted significantly on the process of formulating and negotiating the terms of the MAFTA.

**Cultural and historical differences in international negotiation theory**

A growing literature in the social sciences suggest that international negotiations may be strongly influenced, and even hindered on occasion, by the confrontation of disparate assumptions about the culture, history and values of a counterpart society. In Binnendijk’s frank terms cross-cultural negotiation styles “are shaped by the nation’s

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975 For details on these misunderstandings see: ibid.
976 A. Milner and M. Quilty, *Australia in Asia: Comparing Cultures.* 2.
culture, history, political system, and place in the world”. In his view, a better understanding of each nation’s particular style can strengthen the ability of negotiators to reach a better deal.  

There have been a number of suggestive applications of cross-cultural barriers in the field of international negotiation. For example, Marie Strazar has examined the effect of cross-cultural elements in the negotiation of the 1951 San Francisco peace treaty between the US and Japan. She argues that the conclusion of the talks was made possible, in this particular situation by a “complementarity” of “cultural traits”. Among other cultural traits, she argued that Japanese acceptance of hierarchy in social life was compatible with American readiness to accept a role of responsible leadership. Another noteworthy case study in international negotiation was Hiroshi Kimura’s analysis of the Soviet-Japanese fisheries talks, held in Moscow in 1977. Hiroshi argues that it was not just the intractability of the issues involved which hindered the discussions, rather there was a clash of “culturally conditioned patterns of behaviour and thought”. Raymond Smith, also, has written about Soviet negotiating behaviour which is reflective of social values and historical experience. He argues that Soviet officials had a preoccupation with authority, sought to avoid risk, and displayed an imperative need to assert control. Smith maintains that these features “provide the context within which specific issues on the table are negotiated” (my italics). He goes on to make the point that a clash of culturally-based negotiating styles could lead to a breakdown in talks. Once this point is realised it may be possible to study the differences between the two countries’ approaches and to use this information to negotiate more effectively in the future. Smith therefore argues that what is interesting about international negotiation

978 H. Binnendijk, National negotiating styles (Washington: Foreign Service Institute, U.S. Dept. of State, 1987), V.
is not the issues themselves per se, but the process by which officials seek to resolve issues and the ‘culture’ and historical perspectives which underpin this process. Smith’s underpinning ‘cultural and historical focus’ is taken forward in this thesis chapter.

More recently, Cohen has made some useful observations about the role of ‘national culture’ on international negotiation. In his work, *Negotiating Across Cultures*, Cohen argues “the true problem is not deciding whether cultural dissonance impinges on negotiation, but determining when it may be more or less salient.” As this chapter will show, the salience of cultural dissonance may have been overlooked in the MAFTA negotiation process. Cohen also observes there is less likelihood of cultural factors impeding talks where there is a greater convergence of interest and a greater power differential. Conversely, lower level political engagement and greater power symmetry create much greater scope for cultural antinomies.982 As Malaysia and Australia are viewed as ‘middle powers’ in international hierarchies (creating a strong power symmetry), and both government’s expressed prime ministerial level political support for an agreement to be reached, Cohen’s theory signals that cultural antinomies would be significant in the MAFTA negotiation process.

This thesis moves beyond these ‘cross-cultural’ studies in two ways. First, the thesis has adopted a much broader meaning of ‘culture’. ‘Culture’ as employed by the scholars above, appears to focus more on the mannerisms and practices used by negotiators. These practices are analysed in numerous ‘cross-cultural’ texts.983 However, ‘culture’ as employed in this thesis, captures a much broader meaning of the term. As discussed in the thesis’ introduction, culture is not only practices

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and mannerisms of a society but a “system of collectively held values”\textsuperscript{984} which guide not only action but also judgement, choice, attitudes, argument, rationalism, etc.\textsuperscript{985} Thus, my broader definition of culture allows for a wider analysis of the ‘cultural’ factors at play during international negotiations. My analysis includes not only practices and mannerisms but also values, such as egalitarianism and respect for hierarchy, as well as modes of thinking such as ethnic-based ideologies and scepticism about government and political elites.

Second, my thesis brings out the importance of history as an independent variable shaping and redefining a ‘fluid’ culture. This thesis’ introduction discussed the relationship between history and culture, stressing that culture alone is not sufficient to explain the connections between early cultural values and modern policy formulation processes (or in this context, modern negotiation styles). History, or more precisely the process of history, is the connecting concept which shapes how cultures have been transformed over time. Individual historical events will impact the shape and form of cultures, bringing out a new ‘active’ culture with a remnant of earlier modes of practice. Thus, building directly on Cohen, I argue that history provides some indicators as to when cultural dissonance will be more or less salient.

In conclusion, while economic and political factors are without doubt key drivers of international negotiations, modern studies have begun to unpack the significance of culture in the negotiation process. While not an overt consideration in international negotiations, scholars such as Binnendijk, Smith and Cohen argue that ‘culture’ must be given more acknowledgment and consideration in international negotiation theory and practice. ‘Culture’, they argue, is important as it has the potential to inhibit even the highest level international negotiations. If not managed appropriately, cultural misunderstandings can result in a

\textsuperscript{984} G. H. Hofstede, “Culture and Organizations.”
\textsuperscript{985} R. Williams, “Change and stability in values and value systems: A sociological perspective”.

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breakdown of talks even in instances where an agreement is given strong support by senior political leaders. Building on these culturalists, I argue that culture and history have the potential to inhibit international negotiations. Analysis of these two factors gives a more holistic picture of the influences at play in a country’s policy formulation processes, including any international negotiation processes.

**The long MAFTA negotiation process**

Malaysia and Australia had overt political and economic imperatives in negotiating the MAFTA, yet reaching agreement took eight long years. The process began in July 2004 when the Australian and Malaysian governments announced an agreement to conduct parallel scoping studies for an FTA. The studies were to provide a basis for the two governments to decide whether to proceed to FTA negotiations. The announcement was made at the 11th meeting of the Malaysia-Australia JTC, in Australia.

Completed in 2005, both governments’ scoping studies identified the strong positive economic impact which an FTA would have on each country. For example, the Australian scoping study suggested that an FTA would increase Australia’s GDP by AUD$1.9 billion by 2027. Malaysia’s GDP was estimated to increase by MYR18.3 billion (around AUD$6.5 billion) over the same period. Both the Australian and the Malaysian scoping studies found that Malaysia would gain more from the FTA, as the Malaysian economy had higher trade barriers and a higher ratio of trade to GDP. Australia’s tariff and non-tariff barriers were already considered to be relatively low.

Both FTA scoping studies emphasised the strong potential for economic “win-win outcomes” - that is, shared economic benefit was the driving factor behind the negotiations.

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987 Ibid. viii.
both governments’ strong desire to achieve the shared national strategic policy priorities of economic development and social stability. Win-win economic outcomes would contribute directly to promoting sustained economic development. However, as discussed in chapter two, economic development in Malaysia is seen as a necessary pre-condition for social stability. Given the critical importance of social stability in Malaysia, it is likely the Malaysian Government would have almost taken as given (and assumed that Australia would recognise) the need to avoid disturbing the measures in place to promote Malay (Bumiputera) interests – notwithstanding their trade distorting effects. Similarly, at this initial stage of the process, it is unlikely that key FTA supporters in the Malaysian Government had a deep understanding of Australia’s open and highly transparent trade and investment regime, and the underlying (less visible) ‘egalitarian’ and other historical and cultural values which have driven its development. Indeed, Australia’s Special Negotiator, Free Trade Agreement Division, Department of Foreign Affairs and Trade, Mr Michael Mugliston (Australia’s lead negotiator on the MAFTA) revealed that in the early MAFTA preparation and planning stages, both negotiating teams had certain understandings about the other side’s position. From the Malaysian side, Ms Rohana Malek, international negotiator from the International Affairs Division of the Malaysian Attorney General’s Department, has observed that many of the most difficult challenges in negotiations between trade partners arise from different backgrounds, with different systems, structures, frameworks and principles. She therefore concludes “good complementary understanding of national polices” is a core lesson from her experience of negotiating FTAs. With the Australian and Malaysian governments initially seeing only the rich potential economic benefits from the MAFTA, it may be that some of these more nuanced necessary understandings were overlooked in the FTA planning process.

While the formal FTA scoping studies emphasised the positive economic benefits from a potential FTA, the Australian public submissions received as part of the consultation process for the Australian scoping study appear more ‘realistic’. As well as emphasising the positive economic benefits, these submissions also urged caution in negotiating (changing longstanding policy on) specific issues such as government procurement. General concerns, also, were raised about the “problem of increased complexity in bilateral free trade agreements” and inconsistent strategies in negotiating different bilateral agreements. The authors of these submissions were arguably suggesting that the MAFTA negotiation process may be more challenging that the governments appeared to believe. This suggestion, in hindsight, appears insightful.

In April 2005, following completion of both FTA scoping studies, the prime ministers of Malaysia and Australia agreed to launch formal negotiations on a bilateral FTA. The FTA announcement was made following a meeting between the Malaysian Prime Minister Abdullah Badawi and his Australian counterpart Mr John Howard. Direct prime ministerial involvement suggests that both leaders were personally supportive to the FTA, although there was a hint of naivety about how difficult the MAFTA negotiation process would be. Both leaders, indeed both Governments, appear to have believed that due to the already strong relationship between Australia and Malaysia, the process to develop the FTA would proceed rather smoothly. For example, at the joint press conference announcing the decision to formally commence

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MAFTA negotiations, Mr Howard spoke out against critics who suggested the MAFTA negotiation process could be difficult and downplayed the significance of the research and commentary on persistent cultural and historical misunderstandings between Australia and Malaysia (see earlier discussion). He stressed “like all countries that take their relationship seriously, there is bound to be differences, but the solid superstructure of this relationship has remained intact and will continue for a long time.” In a later comment he added “there never has been so much written about the relations between two countries as that between Australia and Malaysia, especially the negative side of it… To the commentators, I say that the relations remain strong and will continue to do so.”

The importance of the MAFTA to the overall bilateral relationship was also evident in personal interviews with Malaysian and Australian government officials conducted for this thesis in 2007, 2008 and 2013. Negotiations for the FTA were commenced in 2005, yet when asked two years later “Since 1996, what three events or issues involving Australia do you believe have had the most impact on Malaysia’s bilateral relationship with Australia? Why?”, the decision to commence FTA negotiations and Mr Abdullah’s first visit to Australia were commonly identified as the defining events in the relationship’s recent history. Other high ranking responses included Australia’s participation in the Australia, New Zealand and ASEAN special summit on 30 November 2004, and Malaysia’s veto of Australia joining the economic zone being created by ASEAN (2000).

When expanding on her pro-FTA response, Ms Tricia Yeoh, Director of the Centre for Public Policy Studies, Asian Strategy and Leadership Institute, Kuala Lumpur, noted that the FTA was significant as it would bring big changes in both countries in economic and non-economic

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Her comments suggest a further admission that the governments’ view of the “strong” “multifaceted” bilateral relationship was perhaps unrealistic and did not give enough consideration to the non-economic (cultural and historical) elements of the relationship.

Ms Yeoh’s comments are confirmed by other scholars writing on Australia in the region. For example, FitzGerald observes a lack of “informed” “deep knowledge” in Australia’s Asian relationships. He emphasises that bilateral relationships are not “conceptualised within an understanding of the elemental forces at work within the societies” and laments the lack of “intellectual engagement”. In lacking these necessary cultural and historical understandings, FitzGerald criticises Australia’s Asian relationships (including the Australia-Malaysia relationship) noting that the relationships are “almost incapable of sensitivity to subtlety or sub-text or silence”.

The first round of MAFTA negotiations was held in May 2005. General discussions on the format and scope of the FTA were held and key working groups were established to formulate in the areas of goods, services, investment and other issues. In keeping with earlier indications that both governments appeared to be unrealistic about the possible negotiation challenges in the FTA, it was agreed that the negotiations could be concluded by mid-2006.

Reflecting on the early stages of the MAFTA negotiation process, Australia’s lead negotiator, Mr Michael Mugliston, said both sides were challenged by the other country’s trade regime. This included varying approaches on the interface between trade policy and domestic policies,

993 T. Yeoh, "Personal Interview with Tricia Yeoh - 4 February".
994 Department of Foreign Affairs and Trade, "An Australia-Malaysia Free Trade Agreement: Australian Scoping Study". 123.
995 Parliament of Australia, "Inquiry into Australia’s Relationship with Malaysia". vii.
996 S. FitzGerald, Is Australia an Asian country? 2.
particularly on issues which intersected with ‘national’ areas of sensitivity, such as social stability and ethnicity. Mr Mugliston explained “we did not have a good understanding of each other... certain assumptions were made that proved not to be the case. We had to revisit a number of issues to find common understanding.”

Datuk Dr Rebecca Fatima Sta Maria, then Deputy Secretary General (Trade) from the Malaysian Ministry of International Trade and Industry (now Secretary General) has made similar observations. During a personal interview Ms Fatima commented that “through the FTA negotiations” Malaysia and Australia were discovering “slowly but surely” just how different the country’s respective trade and investment policies are.

These reflective comments from two very senior Malaysian and Australian trade negotiators resonate with FitzGerald’s earlier lamentations about a disregard for “intellectual engagement” between Australia and Malaysia.

With these negotiation challenges emerging, and still aiming for the tight deadline of mid-2006, the second round of negotiations was held in August 2005 and the 12th Malaysia-Australia JTC meeting, at which the MAFTA was a key agenda item, was held later that month. At the post-meeting joint press conference, the Malaysian International Trade and Industry Minister, Datuk Seri Rafidah Aziz, reaffirmed her government’s public commitment to complete the FTA negotiations by mid-2006. “There is a possible implementation of FTA [between Malaysia and Australia], in which we hope to complete the [negotiation] process by mid next year”. In a more cautionary (and more significant) approach, Australian Trade Minister Mark Vaile responded “obviously, when the negotiations are completed and the agreement is reached, we will sign it. We are hopeful that it [the signing] will take place during the course of 2006, and that is the target we will work towards... if it could be quicker, all the better but we want to ensure that the

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998 M. Mugliston, "Personal Interview with Michael Mugliston - 22 April".
999 R. F. Maria, "Personal Interview with Rebecca Fatima Sta Maria - 8 February," (Kuala Lumpur 2008).
1000 S. FitzGerald, Is Australia an Asian country? 2.
agreement is a good agreement for both sides.”

Mr Vaile’s comments were the first formal sign that process to develop the MAFTA was not proceeding as easily as the governments had envisaged and hinted at underlying difficulties in the FTA negotiation process.

Despite these public commitments to finalisation, the third full round of bilateral negotiations was postponed until early 2006. At that stage, with the proposed conclusion date only months away, the Australian Government acknowledged (finally) “a mid-2006 conclusion to negotiations is now not feasible.” Instead the Governments proposed to develop a new schedule of meetings which would allow the negotiations to be completed “in a reasonable timeframe”.

The third full round of negotiations was held in March 2006. Both parties agreed to a new negotiation deadline of the end of 2006, and working groups were encouraged to hold inter-sessional meetings “wherever possible” and to “maintain the momentum in the negotiations”. The fourth full negotiation round was scheduled for June 2006, but was not held until July 2006. Following this meeting, the published Australian Updates on Negotiations, referred to “fundamental differences between Australia and Malaysia.” This acknowledgment, delivered 14 months after the negotiations commenced, was the Australian Government’s first direct reference to the countries’

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underlying differences to be reconciled. The statement suggests that the Australian Government - at least - was becoming increasingly realistic about the genuine challenges in developing an FTA with a country where the influences bearing on policy formulation processes were vastly different to its own.

The scheduled March 2007 negotiating session was postponed due to the “departure of key Malaysian negotiating personnel”, including the lead negotiator. No dates for further meetings were provided.

With the conclusion of the negotiations almost 12 months overdue, three key ‘sticking points’ emerged. The first was Malaysia’s unwillingness to discuss government procurement (government purchases of goods and services), and Australia’s steadfast desire to have government procurement included in the agreement. This challenge was highlighted in personal interviews and formal Australian government publications on the MAFTA negotiation process. For example, the March 2006 update notes “Malaysia maintained its reluctance to discuss Government procurement issues” and the July 2006 update notes more pointedly “Australia underscored its disappointment that government procurement was again not discussed at this session. We continue to argue for the inclusion of commitments on government procurement in MAFTA.” As government purchases of goods and services typically account for about 10 per cent of a country’s GDP, it follows that Australia was particularly interested in encouraging the Malaysian Government to consider purchasing overseas (i.e. from Australia) rather than favouring domestic suppliers.

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Second, despite the lengthy discussions, agreement on reductions to tariff and non-tariff barriers continued to be a challenge. For example, while the Australian and Malaysian governments believed that Australia and Malaysia already shared a strong mutually compatible trade and investment relationship, two full rounds of negotiations were taken up only developing the necessary complementary understanding of the respective trade regimes. Moreover, even after these lengthy background discussions, each working group required additional “topic-specific” information before progressing negotiations.\textsuperscript{1010} According to Australian officials key challenges were in the areas of regulation of the services sectors including financial services, respective foreign investment regimes, tariffs and non-tariff measures, particularly for the automotive industry and various agricultural products such as rice and wine.\textsuperscript{1011} These challenges embrace the areas in which Malaysia has long had specific protectionist policies in place to promote or sustain local (Malay) industries or beliefs – arrangements implemented in response to the specific historical incident of the 1969 racial riots and viewed by the Malaysian Government as part of a decades-old “ethnic bargain” to preserve social stability in Malaysia’s ‘racially charged’ political context.\textsuperscript{1012}

Third, agreement on dispute settlement mechanisms appears also to emerge as a challenge to the overall negotiation process. For example, two separate intersessional meetings were required only to discuss dispute settlement mechanisms.\textsuperscript{1013} Again, dispute settlement is an area where there are key differences between the Australian and Malaysian approaches, and in which the two government’s varying


\textsuperscript{1011} M. Mugliston, "Personal Interview with Michael Mugliston - 22 April".

\textsuperscript{1012} A. R. Embong, "Introduction". 13.

approaches are underpinned by their respective historical experiences and cultural influences.

By May 2007 Malaysia had assigned a second lead negotiator (and many new team members) and in June 2007 the key negotiators from each side came together and tried to reinvigorate the process.\textsuperscript{1014} Spurred on by the new Malaysian lead negotiator, further meetings between leaders and co-chairs of the various working groups were held in October 2007. These meetings aimed to “map a way forward for the negotiations.”\textsuperscript{1015} A further “preparatory meeting” was scheduled for early 2008, with a view to holding a full negotiation round by mid-2008. Despite these aggressive plans, negotiations were ultimately suspended, with both sides arguing that progressing the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA) was a higher priority.

The AANZFTA negotiations were concluded in August 2008 (the agreement was then signed on 27 February 2009). With this priority aside, at the 14th Malaysia-Australia JTC meeting in October 2008, the Australian Minister for Trade, Mr Simon Crean, and the Malaysian Minister for Industry and Trade, Tan Sri Muhyiddin Mohammad Yassin, agreed to reinvigorate the process to develop the MAFTA.\textsuperscript{1016} It was agreed that the MAFTA would strive for ‘AANZFTA-plus’ outcomes by earlier or immediate reductions on key tariffs and non-tariff barriers.\textsuperscript{1017} Seeking agreement on ‘AANZFTA-plus’ outcomes created further challenges for both countries, as both countries had arguably already negotiated as intensively as possible to reach agreement on the AANZFTA. Under AANZFTA, Malaysia committed to eliminate tariffs on 96 per cent of its tariff lines by 2020, which will provide duty-free


\textsuperscript{1015} Ibid.


\textsuperscript{1017} Department of Foreign Affairs and Trade, “Malaysia-Australia Free Trade Agreement – Regulation Impact Statement”.
treatment to around 97 per cent of current Australian exports to Malaysia. Australia agreed to eliminate tariffs on 100 per cent of its tariff lines by 2020, with 96 per cent of tariffs eliminated on 1 January 2010. It is difficult to move beyond this (particularly Australia’s 100 per cent tariff elimination other than by bringing forward the timing). More significantly, the AANZFTA is a “comprehensive FTA negotiated as part of a ‘single undertaking’, i.e. spanning goods, services, investment, as well as other subjects, such as competition policy, intellectual property and trade facilitation”. Thus, in seeking AANZFTA-plus outcomes the Malaysian and Australian governments also implied that the agreement would be more comprehensive than the AANZFTA.

Following this announcement, Australian and Malaysian officials met in November 2008 to agree on a process and work program with a view to resuming formal MAFTA negotiations in 2009. However, consistent with the emerging pattern of delays, formal MAFTA negotiations did not resume until August 2009. This fifth round of negotiations marked the first full MAFTA negotiations since July 2006. The negotiations led to “constructive and productive” discussion across the range of issues including AANZFTA-plus issues. The negotiation round had been immediately preceded by the annual Malaysia-Australia JTC at which Australian Trade Minister Mr Crean and his new Malaysian counterpart, the Minister for International Trade and Industry, Mr Mustapa Mohamed, jointly “called for an expeditious conclusion to the negotiations.”

The new urgency to conclude the agreement may be partially attributed to the ministerial appointment of Mr Mustapa. Appointed in April 2009,

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Mr Mustapa had a much deeper knowledge of Australian economic policy (and Australian values and history) than his predecessors. Indeed, Mr Mustapa graduated from the University of Melbourne with an economics degree. He also pursued postgraduate economic studies in the United States. Mr Mustapa’s Australian educational experiences likely provided Mr Mustapa with the necessary “intellectualised” engagement necessary to more fully understand Australia’s policy constraints and objectives, and to recognise where possible compromises might be possible.

The sixth round of negotiations was held in December 2009. According to the Australian Government, these negotiations helped to make “steady progress across most subject areas”, although there were a “number of issues still outstanding”. Commenting on this meeting, the Prime Ministers of Australia and Malaysia this time said that there was no deadline for conclusion of negotiations. Such banal and uncontroversial public statements do not ‘overpromise’ and suggests the two governments may finally have recognised the challenges inherent in formulating an agreed policy position between two countries with very different cultures and historical experiences.

The seventh and eight rounds of negotiations were held in April and October 2010.

In October 2010 Prime Minister Gillard visited Malaysia and subsequently, in March 2011, Prime Minister Najib made a return visit to Australia. These high level visits resulted in agreement to “accelerate the free trade agreement that our two countries have been

1022 S. Fitzgerald, Is Australia an Asian country? 2.
Clear political direction was given to negotiators (i.e. the policy advisors involved) that they should “do everything possible to bring this agreement to a successful conclusion within one year.” It was also understood that if no agreement was able to be reached within the new 12 month deadline, the MAFTA would be put aside. The ‘acceleration’ announcement came almost six years after the first round of negotiations and almost five years after both governments had originally agreed the FTA would be concluded. The direct involvement of the highest level leaders in both countries shows that finalisation of the MAFTA remained a clear policy priority for both governments, despite the inability of government officials to formulate an agreed policy position to date.

Following the joint announcement on the new MAFTA timeline, the 9th round of negotiations was held with renewed vigour in July 2011. Following the negotiations the language used in Australia’s Updates on Negotiations, which had traditionally been diplomatic and patient, became noticeably more pointed, suggesting a high level of internal Australian Government frustration with the ongoing negotiation process. Examples include “Malaysia has not yet addressed some of Australia’s key market access requests” and “government procurement remains an area Malaysia is not willing to engage on”. The 10th round of negotiations was tentatively scheduled for late October 2011, however, under pressure to meet the prime ministers’ new deadline for conclusion, the round was held in two blocks; in late October and late November 2011.

1027 M. Mugliston, “Personal Interview with Michael Mugliston - 22 April”.
Hinting again at frustrations in different cultural approaches between Australia and Malaysia, Australian negotiator Mugliston reflected that the final 12 months was a very intense negotiation period. “We [Australian officials] had a very clear road-map for tackling issues without leaving them to the end.” For each meeting Mr Mugliston noted “I wanted a very clear agenda to maintain momentum in the negotiations.” The Malaysian approach, as Mr Mugliston viewed it, was weighted to deferring as many ‘hard issues’ as possible to the concluding negotiation stage in the hope that there would be sufficient substance in the approved draft text without having to tackle all of the hard issues to finalise the agreement within the timeframe. That is, to avoid discussion or negotiation of as many of the ‘hard issues’ as possible, in seeking to ensure that such issues would be left out of the final agreement.1030

The 11th full round of negotiations was held in January 2012. The negotiations coincided with the 16th Malaysia-Australia JTC - more than two years since its previous meeting. Ministers at the JTC were able to “consider progress in negotiations and provide direction to negotiators”, suggesting that high level Ministerial intervention was required to resolve what were referred to as “long-standing sticking points”. It was proposed that the agreement be signed in May 2012, two months later than the March 2012 deadline set by the respective Prime Ministers in 2011.1031

Final negotiations were held in March 2012, and the agreement was concluded on 30 March 2012 and signed on 22 May 2012. At the signing ceremony, Australian Trade and Competitiveness Minister

1030 M. Mugliston, “Personal Interview with Michael Mugliston - 22 April”.
Mr Craig Emerson said that the agreement reflected a “year’s intense negotiations” in a climate where “anything is possible”.1032

The final MAFTA is a comprehensive agreement with 21 chapters covering trade in goods and services, investment, economic and technical cooperation, intellectual property rights, e-commerce and competition policy, as well as legal and institutional provisions. Under the agreement, both countries made strong commitments on liberalisation of trade in goods. Australia agreed to eliminate 100 per cent of its import tariffs upon entry-into-force while Malaysia agreed to progressively reduce or eliminate import tariffs on 99 per cent of its tariff lines by 2020. Both countries also reduced non-tariff barriers in the services sector, particularly in education, telecommunications, financial services and hospital services.1033 The MAFTA entered into force on 1 January 2013.

Negotiating the MAFTA took eight years, involved 11 full rounds of negotiations, additional intersessional negotiations, and the high level involvement of both the JTC and the respective prime ministers. Eight years is a long time, and FTA negotiations between Australia and ‘like-minded’ states have traditionally been much quicker. For example, the Australia-United States Free Trade Agreement (AUSFTA) only took 15 months from joint announcement to agreement conclusion, and the actual negotiation time was less than 12 months. Likewise, the longstanding Australia-New Zealand Closer Economic Relations Trade Agreement was negotiated in less than three years (1980 joint prime ministerial communiqué; agreement signed 1983). Other Australian FTA negotiations with less ‘like-minded’ partners have also been considerably quicker. For example, the Singapore-Australia FTA (SAFTA) was concluded in three years and even the Australia-Chile Free

1032 C. Emerson, "Malaysia-Australia Free Trade Agreement Signing Ceremony". 2012.
Trade Agreement was concluded in a ‘mere two years’. Indeed, the only Australian FTA negotiation which to date has taken longer than the MAFTA is the Australia-China FTA, with both countries agreeing to commence negotiations in 2005 and negotiations remaining incomplete.

**Challenges in negotiating the MAFTA**

Personal interviews, government publications and media reports from both countries identify some key areas of disagreement in the process to develop the MAFTA. Such issues include: disagreement on acceptable tariff levels and other trade barriers, and differences in approach to government procurement and differences in approach to dispute settlement. It is likely that these areas were particularly sensitive for both governments as they represented areas where country-specific cultural and historical experiences have manifested in localised policy formulation processes and practices.

As this thesis has already discussed, some relevant Australian cultural and historical experiences bearing on the process include egalitarianism, individualism, and scepticism about government leadership and the political elites. Some relevant Malaysian cultural and historical experiences include migration and a pervasive ‘ethnic ideology’ which promotes Malay supremacy, and remnant feudal values with an emphasis on respect for the ruler.

**Disagreement on acceptable tariff levels and trade regulations**

In the course of the negotiations, both governments noted - on several occasions - that disagreements regarding acceptable tariff levels and trade regulations were a challenge for MAFTA negotiators. At the commencement of the MAFTA negotiations both countries (but particularly Malaysia) had considerable barriers to trade in certain sectors, with barriers including ad valorem tariffs; specific duties; a variety of non-tariff barriers; and a range of barriers to trade in services.  

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1034 ———, “An Australia-Malaysia Free Trade Agreement: Australian Scoping Study”.  

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Non-tariff barriers, particularly, have been identified by FTA negotiation experts as presenting “a more serious challenge” to conclusion of an FTA than negotiation on more traditional tariffs. Non-tariff barriers can take the form of: differences in standards; caps on foreign ownership; different kinds of subsidies, and unnecessarily bureaucratic processes for approvals and permits. Non-tariff barriers are more difficult to quantify, and to target, manage and control through a trade negotiation process. Concessions gained at the negotiating table on tariffs can often be undermined by the more fluid behaviour of non-tariff barriers.\textsuperscript{1035}

Australian trade negotiation officials have documented that they are “well aware of the significance of non-tariff barriers” and the challenges for negotiating on these issues. Yet despite this, the complexity of non-tariff arrangements in some Southeast Asian partners (including Malaysia) reduces the capacity of Australian officials to address non-tariff barriers during trade negotiations.\textsuperscript{1036}

Australian negotiator Mugliston expressed that some of the most difficult aspects of the MAFTA negotiation were reaching agreement on comprehensive tariff elimination and specific commitments on non-tariff measures, particularly in “sensitive products” such as automotive, wine and rice.\textsuperscript{1037} While each of these industries has its own economic significance in Australia and Malaysia, the respective government positions on these industries cannot be rationalised by pure fiscal gain. In these industries particularly, Malaysian tariff and non-tariff barriers are explicitly used to promote pro-Malay social goals (at high economic cost to Malaysia’s trade-dependent GDP). In Australia, while these three industries are of economic significance and present opportunities for fiscal gain, general attitudes towards egalitarianism and equity of opportunity, suggest negotiators fought harder to agree on reductions to tariff and non-tariff barriers than otherwise would have been the case.

\textsuperscript{1035} Parliament of Australia, “Inquiry into Australia’s relationship with ASEAN”. 43-44.
\textsuperscript{1036} Ibid. 43.
\textsuperscript{1037} M. Mugliston, “Personal Interview with Michael Mugliston - 22 April”.

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For example, the Malaysian automotive industry is one of Malaysia’s core economic industries. The industry employs more than 300,000 workers and represented a total investment stock of MYR 2.2 billion (AUD$698 million) in 2010. The industry has an estimated import/export value of MYR 5.5 billion (AUD$1.7 billion). Australia is a key export market for Malaysian manufactured cars, particularly protons.

The Malaysian Government has traditionally maintained very high trade tariffs on automotive imports, with all vehicles imported into Malaysia subject to two categories of tariffs - import duty and excise duty. At the commencement of MAFTA negotiations, tariffs on completely built up motor vehicles (i.e. vehicles that are assembled overseas then imported into Malaysia) were 50 per cent, with an excise tax of up to 250 per cent. Tariffs on automotive components were also very high. For example, tariffs on seat belts and brake linings for passenger motor vehicles were 30 per cent, and tariffs on gear boxes for these vehicles were 25 per cent. There were also substantial non-tariff barriers in Malaysia’s automotive sector.

While economics is clearly important in the Malaysian Government’s automotive trade regime, economics alone does not seem to account enough for the Government’s ongoing automotive trade protections and a deeper examination of the cultural and historical influences in the Malaysian automotive industry appears to provide more insight.

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1040 Department of Foreign Affairs and Trade, "An Australia-Malaysia Free Trade Agreement: Australian Scoping Study". 5.
1041 Ibid. 33.
The Malaysian automotive industry is shaped by the National Carmaker scheme, which gives preferential status to four car companies: Perusahaan OTomobil Nasional (PROTON); Perusahaan Otomobil Kedua Bhd. (PERODUA); Industri Otomotif Komersial Sdn. Bhd.; and Malaysian Truck and Bus Sdn. Bhd. Established as part of broader government efforts create a viable Bumiputera entrepreneurial class, each national carmaker company was traditionally a joint venture with foreign companies, but is dominated by locals Malays though their majority shareholdings. Therefore, profits made by national car manufactures can be directly traced to profit for ruling Bumiputera families. Although Malaysia has an additional ten non-national status car assemblers and three composite body sports car manufactures, the national carmakers indisputably dominate the industry. In 2002 about 80 per cent of Malaysia’s total automotive production was contributed by the four national carmakers. PROTON and PERODUA together produced 47 per cent and 29 per cent respectively of the total car production in the country. These figures demonstrate the intentionally tight linkages between Bumiputera business and the Malaysian automotive industry. Furthering this point, during a personal interview Ms Fatima, then Deputy Secretary General (Trade) from the Malaysian Ministry of International Trade and Industry, described Malaysia’s 2009 national automotive policy measures as one of the “toughest policy decisions in her country”. Among other objectives, the new policy measures sought to ensure the “long term competitiveness and capability of the domestic automotive industry” while also continuing to “enhance Bumiputera participation” in the industry. Ms Fatima added that the new policy measures were so difficult because they “caused us to counter a lot of our [more liberal]

international policies.” Ms Fatima is now the Secretary General of the Malaysian Ministry of International Trade and Industry.

Rice, also, is a politically important industry in Malaysia. Rice is Malaysia’s stable food and accounts for 86 per cent of the country’s food grain production. Due to Malaysia’s dependence on rice imports to meet domestic demand, and the sensitivities associated with increases in the local cost of rice, the Malaysian Government has been highly interventionist in the rice market. Significantly, while the rice industry only provides the main livelihood to a little more than one per cent of the country’s total population, these farmers are primarily poor Bumiputera whose voices have a strong influence on voters and politicians in Malaysia’s ethnic-centric political paradigm.

Malaysian Government policies on wine also appear to have close links to the Islamic faith practiced primarily by Malay-Malaysians. According to Jernigan and Indran, Malaysian government policies on alcohol, including wine, are “shaped by religious, political and economic factors.” Malaysian syariah law (Islamic law) forbids Muslims from drinking and there have been recent instances of Muslims being whipped for drinking in public. In more Islamic states such as Kelantan, alcohol sales to Muslims and non-Muslim are banned in public places. Despite strong government regulation of Muslim alcohol consumption, Malay elite continue to hold a strong interest in alcoholic beverage production, including in the production of local samsu (distilled rice wine) which is particularly popular with non-Malay

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1045 R. F. Maria, "Personal Interview with Rebecca Fatima Sta Maria - 8 February”.
1049 A. C. Milner, Contesting human rights in Malaysia. 93-94.
**Bumiputera** communities in Eastern Malaysia.\(^{1050}\) According to interviews conducted by Jernigan, alcohol is viewed by government officials as “a ‘sensitive’ subject because of the racial issues raised by drinking”. Jernigan notes that Malay officials believed issues relating to alcohol were “an Indian issue” and emphasised Islam’s prohibition against the use of alcohol by the Malay majority. Indian officials responded by pinpointing that other Malaysian ethnicities, in particular Malays, were known to drink heavily.\(^{1051}\) These observations highlight the ethnically sensitive (i.e. non-economic) nature of policies relating to wine in Malaysia.

Australian officials identified that agreement on tariffs and non-tariff measures for the automotive, rice and wine industries were some of the most challenging discussions in the MAFTA negotiation process. Without doubt, the potential economic gains or loses to these industries provided the overt rationale for each country’s negotiation position. However, deeper historical and cultural influences, particularly those relating to Malaysia’s pervasive ‘ethnic ideology’ and feudal-like patron-client relationships, appear also to have been potent.

As discussed in chapters two and four, the New Economic Policy (NEP) (1971-1990) was a historically and culturally significant Malaysian economic policy. While the policy spearheaded modern Malaysia’s rapid economic development, it also sought to promote national unity through addressing the economic marginalisation of the indigenous Bumiputera population and by creating a viable Bumiputera entrepreneurial class.\(^{1052}\) The policy defined Malaysia’s “particular brand of economic nationalism” which featured “pragmatism” and in which economic

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growth was balanced with improvements in wealth distribution, particularly for Malay-Malaysians.\textsuperscript{1053}

One of the most visible and still ongoing effects of the NEP was “the mushrooming of agencies and enterprises specifically created by the Government to undertake commercial and industrial ventures on behalf of the Malays and other indigenous people.”\textsuperscript{1054} Such ventures included, for example, automotive production through the four national car markers. A key feature of NEP policies was that they were “highly interventionist measures that distorted the market mechanism in order to achieve specific political ends.”\textsuperscript{1055} In the longer term, the NEP continued to foster a “stereotyped society” which was divided between an “economically dominant (non-indigenous) sector” and an “economically weak (indigenous) sector”.\textsuperscript{1056} Perceptions among the majority Malay racial group that they were economically disadvantaged and required government support effectively manoeuvred the Malaysian Government into a position whereby it became ideologically critical that economic concessions for Bumiputera’s were maintained - including trade protections in key industries. The objective of these concessions was to improve the economic position of the Bumiputera population, thus contributing to social stability between racial groups in Malaysia.

The NEP also continued to nurture close ties between the state and business, as demonstrated by the close ties between Malay political elites and Malay businesses.\textsuperscript{1057} In fostering a small, select Bumiputera entrepreneurial class, the NEP also continued to promote “exclusionary politics, nepotism, corruption and the blurred lines between political

\textsuperscript{1053}A. R. Embong, “Social transformation, the state and the middle classes in post-independence Malaysia.” 525.
\textsuperscript{1056}S. Siddique and L. Suryadinata, "Bumiputra and Pribumi: Economic Nationalism (Indiginism) in Malaysia and Indonesia." 283.
\textsuperscript{1057}P. Searle, The Riddle of Malaysian Capitalism: Rent-seekers or real capitalists? (St Leonards: Allen & Unwin, 1999).
and economic power”,\textsuperscript{1058} as had been important in pre-colonial Malay society. Described by Menon, NEP policies were responsible for creating a “rent-seeking” environment whereby Bumiputera enterprises were closely linked to government policy and became practiced in the art of persuading the government to maintain their favourable treatment.\textsuperscript{1059} Indeed, Richard Common has observed that the entire contemporary Malaysian political system relies on a close relationship among the Malay elites.\textsuperscript{1060} These close ties intensify the pressure on the Government to continue to deliver policies which favour indigenous enterprise, even where the economic benefits for the favoured groups could be outweighed by the greater benefits of liberalisation to the economy as a whole.

The NEP and its present day policy ramifications cannot be understood without a knowledge of Malaysian history and the country’s tense and tightly balanced multi-ethnic character. According to Abdullah:\textsuperscript{1061}

\begin{quote}
The NEP was not only an economic program, but was also a socio-political agenda to ensure equitable distribution among social groups, to promote national unity and maintain political stability. All in all it was an “affirmative action” program, necessitated by pressing problems of economic inequality between races, as a by-product and a legacy of colonialism and its open door immigrant policy, and precipitated by violent racial clashes (known as the 13th May 1969 incident).
\end{quote}

Abdullah’s observation captures neatly the historical forces – the process – which led to the implementation of the NEP. Malaysia’s history of migration, particularly migration encouraged by the British, is

\textsuperscript{1059} J. Menon, “Macroeconomic management amid ethnic diversity: Fifty years of Malaysian experience.” 27.
\textsuperscript{1060} R. Common, “Malaysia: A case of ‘business as usual’?”. 167.
important but does not alone rationalise the implementation of the NEP. Increasing ethnic tensions, particularly economic-related animosity, are also important, but again not sufficient, in capturing the broader rationale behind the NEP. The racial riots are perceived as a landmark in Malaysia’s pro-\textit{Bumiputera} policies but, considered in the context of Malaysia’s history, the racial riots are merely a singular event in an emergent historical trajectory - an ethnic-centric trajectory - which continues to feature in the Malaysian Government’s present day ‘ethnic ideology’. Thus, as Milner has argued, a knowledge of Malaysian historical experiences is therefore a necessary pre-condition for understanding Malaysia’s NEP and associated pro-\textit{Bumiputera} policies.

Knowledge of pre-colonial Malaysian history also assists scholars in understanding Malaysia’s present day pro-\textit{Bumiputera} policies. Indeed, the relatively condescending analysis of scholars such as Searle, Menon and Common suggests they lack the relevant historical knowledge required to view the NEP as a continuation of earlier political practices - a continuation which were reignited by the historical event of the 1969 racial riots - rather than as an entirely new political and social direction. Chapters three, four and five have emphasised the hierarchical nature of the traditional Malay \textit{kerajaan}. In the \textit{kerajaan} polity, there existed a clear “hierarchy of rulers”\textsuperscript{1062} and a governing elite (led by the \textit{raja}) who ruled above local subjects. Earlier chapters have drawn on Soenarno’s neat description of this hierarchy as featuring “layered” supporters around the king - the four major chiefs, the eight chiefs, the sixteen, and the thirty two, and so on.\textsuperscript{1063} Soenarno’s observations feed into more recent work, such as that by Milner, which expands not only on the physical hierarchical nature of early Malay polities, but also on the ideological significance of this – that is, the creation of a “\textit{kerajaan} ideology” and a deep mentality of reverence the ruler and the society’s hierarchical structures.\textsuperscript{1064}

\textsuperscript{1062} M. B. Hooker, “The Challenge of Malay Adat Law in the Realm of Comparative Law,” 493.
\textsuperscript{1063} R. Soenarno, "Malay Nationalism, 1896–1941.” 1.
\textsuperscript{1064} A. Milner, \textit{The Malays}. 59.
Moving forward in history, this thesis’ earlier chapters argued that, as the British moved into the Malay Peninsula, they often sought to “consolidate the Malay monarchies” in order to “preserve the traditional values of the Malay community”. Thus, as Aziz Ahmad argues, when the post-colonial Malaysian government structure emerged, “it combined the elements of its own indigenous political heritage and that of the British.”

Looking at modern Malaysia, Alatas has described remnant traditional kerajaan values as “psychological feudalism”. This is consistent with Milner’s observation of a much earlier “kerajaan ideology”. Alatas argues that modern-day “psychological feudalism” is characterised by personal attachment to the leader and continued feudal perceptions about government. Similarly Chandra Muzaffar has argued there exists a traditional “Malay protector-protected relationship”. This protector-protected relationship emphasises the need for rulers to “protect” the interests of their local vassal subjects.

Malay “psychological feudalism” is potentially an alternate influence legitimising Malaysia’s pro-Bumiputera tariff regimes. Malaysian tariffs are targeted at areas where Malay business interests continue to dominate, such as the automotive and agricultural sectors, or where the industry appears particularly sensitive to Malays for religious, cultural or historical reasons. While the protective policies were initially designed to breakdown ethnic economic divisions, a by-product of these pro-Bumiputera policies is “low levels of trust between Malays and non-Malays” and ‘proof’ of the widely-held perception that the Malaysian Government is ‘protecting its vassals’ (local Malays) by building a

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1067 S. H. Alatas, “Feudalism in Malaysian Society: A Study in Historical Continuity.”
1068 C. Muzaffar, *Protector* vi, 1.
supportive, feudal-like ruling class of Malay elites - a ruling class which excludes non-vassals (non-Malays). This approach adheres to Alatas’ observations about a “psychological feudalism” in modern Malay society, including in the Malay-dominated Malaysian Government.

In comparison with Malaysia, Australia’s tariff regime has a relatively stronger emphasis on free trade and equal access to opportunity for almost all firms – regardless of origin or ownership. Free trade has been linked closely with liberalism and individualism, whereby individual decisions are made based on individual best interest.1070 Chapters three, four and five discussed Australian attitudes towards government including the emphases on egalitarianism and inclusiveness, and the need for appropriate detachment between government officials and business leaders. The chapters emphasised that egalitarianism “is the most revered of the traditional Australian values”1071 and “a defining characteristic of Australia”.1072 It was argued that this emphasis on egalitarianism grew out of a desire by Australians “to be self-reliant” and not to depend on others for their well-being”.1073 Linking back to historical experience, it was suggested these values emerged during Australia’s early settler and pioneer period.

Earlier chapters also argued that inclusiveness is an important Australian value, as most Australians “overwhelmingly believe in equality of opportunity as a social norm”,1074 although the well-documented disadvantage of indigenous Australians 1075 demonstrates that such values have not always been successfully translated into outcomes ‘on the ground’. The thesis further suggested that, emerging from Westminster traditions, most Australians strongly believe in clear

1071 M. Duncan, Imagining Australia: ideas for our future. 18.
separation of the private and public interests of officials (see discussion under chapter five, responsiveness).\textsuperscript{1076}

During personal discussions, Ms Rebecca Fatima, Secretary General of the Malaysian Ministry of International Trade and Industry, made several references to Australia’s openness and transparency. Among other comments, Ms Fatima described Australia’s approach to policy making as “very clear, very transparent”, featuring “a high level of openness”, and as allowing for “self-criticism, which is good”. Her comments suggest that the most senior Malaysian negotiators may have begun to recognise the importance of openness and transparency in Australia. In contrast, her perceptions about Malaysian policy making were more critical, reflecting that “policy decisions often have no policy basis”.\textsuperscript{1077} Her Malaysian observation accords with this thesis’ argument that cultural influences and historical experiences are strong - yet less-acknowledged - factors in policy formulation processes.

Striking differences between Malaysian and Australian historical experiences and cultural influences do affect both the policy formulation process, and also the outputs and outcomes of that process. For example, in the bilateral policy formulation process to develop the MAFTA, it appears that Malaysian historical experiences and cultural influences, particularly Malaysia’s ‘ethnic ideology’ and associated affirmative action trade policies, manifested themselves in difficulties withdrawing pro-Malay tariff and non-tariff barriers. At the same time, Australian historical experiences and cultural influences, particularly liberalism, individualism, and an emphasis on equality of access, manifested themselves in Australia’s vigorous - and perhaps naive - pursuit in the negotiations of free and ‘fair’ trade.

Malaysia is not the only counterpart government with which Australian officials face difficulties reconciling two very different visible trade

\textsuperscript{1076} G. B. Powell, "The Chain of Responsiveness." 91; R. Mulgan, "How Much Responsiveness is Too Much or Too Little?," 348; ibid.
\textsuperscript{1077} R. F. Maria, "Personal Interview with Rebecca Fatima Sta Maria - 8 February".
regimes and less-visible cultural regimes. Examining the proposed Australia-China FTA, Yang Jiang has proposed that “difference in approaches to FTA negotiation and policy formulation between China and Australia is the major reason why the negotiation process has been slow and difficult.” Yang Jiang’s explanation of differences in approach suggests again that cultural difference is a key factor at play in negotiations for the Australia-China FTA. While this study is not looking at the proposed Australia-China FTA, the historically and culturally-responsive theory presented in this thesis could provide a new framework for consideration of why the Australian and Chinese governments continue to be unable to reach agreement on the FTA, despite high level political support from both sides.

**Differences in approach to government procurement**

Another stated challenge for the MAFTA negotiations was government procurement. In mid-July 2007, the Malaysian Minister for International Trade and Industry, Datuk Seri Rafidah Aziz disclosed that a core issue delaying the development of the FTA was Australia’s request for transparency in government procurement and differences in the modalities of the approach preferred by the two parties.1079

There are great differences between the domestic procurement policies of the respective countries. Government procurement policy in Malaysia is intensely political and is driven largely by Malaysia’s ethnic rebalancing objectives. Formulated in tandem with Malaysia’s nation-building policies, government procurement is often used as a policy tool for furthering Malaysia’s strategic policy priorities (promoting economic development while maintaining social stability).1080 For example, a distinguishing feature of the Malaysian Government’s procurement policy is the mandatory requirement for all government agencies to

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procure supplies and services from local sources with preferences for Bumiputera providers. If goods and services are not available locally, international tenders may be invited. In addition to these formal policies, there is “widespread practice” of direct negotiation for government contracts (rather than the open tender process practiced in Australia) and this has established, “a culture of patronage” (viewed through some ‘Western’ eyes as cronyism) between the government and Malay elites. However, from the government perspective, pro-Bumiputera procurement policies stimulate the development of Bumiputera-owned small and medium-sized enterprises and assist with the redistribution of wealth in Malaysia. The procurement policies reflect the Malaysian Government’s underlying desire to “maintain national unity through the... restructuring of the Malaysian society.” The perceived ‘cronyist’ Malaysian practices (as seen through ‘Western’ eyes) may be seen differently through Malaysian eyes as resonating with pre-colonial concepts of the ‘sultan as patron’.

The 1997 World Trade Organisation (WTO) Trade Policy Review’s report on Malaysia found that Malaysian Bumiputera companies receive a margin of preference of 2.5 to 10 per cent over a government reference price. All government supplies contracts with a value between MYR10,000 (AUD$3,000) and MYR100,000 (AUD$30,000), and works contracts up to MYR100,000 were reserved for Bumiputera suppliers. Moreover, at least 30 per cent of the annual value of government works contracts were set aside for Bumiputera contractors.

1086 C. McCrudden, "Using public procurement to achieve social outcomes," 261.
In contrast to this procurement regime, Australian government procurement guidelines demand “that open tender procurement processes are to be applied.” The Australian Government Commonwealth Procurement Rules establish the principles for the Government’s acquisition of property and services. The rules are based on the principles of: value for money; encouraging competition; efficient, effective, economical and ethical procurement; and accountability and transparency in Australian Government procurement activities. Value for money, particularly, is seen as the “core rule” and emphasises not only the price of goods and services but also requires the transparent exposure of the assessed value of the non-financial costs and benefits of alternative solutions.

Reflecting on the issue of government procurement, Australia’s lead MAFTA negotiator Mr Mugliston wrote:

Australia recognises that this is a sensitive issue as government procurement is used by Malaysia to further socio-economic policy objectives. It is also a sensitive issue for Australia. Neither country is a member of the WTO plurilateral Agreement on Government Procurement. Australia has however included government procurement provisions in other FTAs it has negotiated. In MAFTA, Australia is not seeking the complete removal of Malaysia’s preference system – Australia too has preferences for small and medium-sized enterprises and indigenous suppliers. We think there is considerable scope to negotiate provisions on government procurement that provide greater access and

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certainty for our exporters while still catering for sensitive
domestic policy concerns.\textsuperscript{1089}

It may be significant that Mr Mugliston himself was born in Malaysia and lived in Malaysia until he was almost 10 years old. In this way, Mr Mugliston has had first-hand experience of Malaysian government practices, including the Government’s ‘ethnic ideology’ and the sensitivity with which ethnic considerations, including government preferences, are treated.\textsuperscript{1090} Australia’s preferences for small and medium sized enterprises and Indigenous supplies are in practice, small, and Mr Mugliston’s earlier observation appears to be seeking to emphasise common ground between Australia and Malaysia, and therefore encourage Malaysia to at least commence discussions on government procurement processes. Interestingly, despite Mr Mugliston’s efforts to ‘bridge the divide’, Malaysian negotiator Ms Fatima identified “indigenous policy” as one of the main areas where Australian and Malaysian public policy differs.\textsuperscript{1091}

During a personal interview, Mr Mugliston expressed how difficult it was to negotiate on government procurement issues, describing government procurement as, at times, an “untouchable” topic. While Mr Mugliston reflected that Australia pushed hard on this issue, his Malaysian counterparts remained staunchly unwilling to engage, with informal discussions on procurement often “very awkward and uncomfortable”.\textsuperscript{1092} Australia’s frustration with Malaysia’s position on government procurement was reflected in its Updates on Negotiations which used increasingly strong language to describe “disappointment” that Malaysia “is not willing to engage on” government procurement.\textsuperscript{1093}

\begin{thebibliography}{9}
\bibitem{1089} M. Mugliston, “Market Access Opportunities under the Malaysia-Australia Free Trade Agreement,” in \textit{8th Malaysia-Australia Joint Business Conference} (Kuala Lumpur: Department of Foreign Affairs and Trade, 2006).
\bibitem{1090} ———, ”Personal Interview with Michael Mugliston - 22 April”.
\bibitem{1091} R. F. Maria, “Personal Interview with Rebecca Fatima Sta Maria - 8 February”.
\bibitem{1092} M. Mugliston, ”Personal Interview with Michael Mugliston - 22 April”.
\end{thebibliography}
As it turned out, the final MAFTA agreement does not include any substantive provisions on government procurement.\textsuperscript{1094}

The Malaysian team were equally unhappy with Australia’s strong negotiation stance on government procurement. For example, then Malaysian International Trade and Industry Minister, Datuk Seri Rafidah Aziz expressed disapproval of Australia “asking for more than we can offer”. In pointed remarks addressed at Australian negotiators, Rafidah said “they are making requests which in WTO, not only Malaysia but several other countries are not willing to look at at this point of time.”\textsuperscript{1095}

Economics alone cannot explain the Malaysian Government’s position on government procurement. Government purchases of goods and services typically account for about 10 per cent of a country’s GDP.\textsuperscript{1096} Using an economic-only model, it should therefore follow that the Malaysian Government would prefer open government procurement processes to enable ‘value for money’ purchases. However, non-purist economists such as Holtz and Jeanrenaud have recognised that favouring domestic firms in government procurement is not solely about financial gain. These scholars argue government procurement is a useful tool to foster small business, address unemployment, target disadvantaged socio-economic groups, and promote growth in new technologies.\textsuperscript{1097}

In Australian eyes, Malaysia’s pro-\textit{Bumiputra} policies do not just represent lost revenue. Rather these policies appear to “do violence to the egalitarian aspirations that are so deeply embedded in Australian

\textsuperscript{1095} “FTA With Australia Not Moving As Fast It Should Be, Says Rafidah”. 2007.
\textsuperscript{1096} R. P. McAfee and J. McMillan, "Government procurement and international trade." 291.
In pushing for open government procurement processes, Australia was pressing Malaysia to move away from its accepted pro-*Bumiputera* trade regime, and towards a regime more reflective of Australia’s ‘open’ and ‘egalitarian’ processes. Australia’s pressures appear to have insufficient regard to Malaysia’s unique history of migration, pluralism, and pervasive ethnic-based ideologies which - in Malaysian Government reasoning - demand protectionism and intervention to protect *Bumiputera* interests and maintain social stability. These naive attitudes resonate with FitzGerald’s observation about the failure of Australian governments and the elites to understand and be open to “alternative Asian views”.

Amy Chua has examined the issue of government concessions in states where indigenous majorities (i.e. Malaysian-*Bumiputera*) are economically dwarfed by “market dominant minorities” (i.e. Chinese-Malaysians). Chua argues that in these states, the market-dominant minority often holds spectacular economic wealth while ‘democracy’ accords formidable political power to the impoverished majority. Chua argues that in these societies, any attempt at ‘open’ or liberal fiscal policies, such as reductions in pro-minority concessions, “becomes an engine of potentially catastrophic ethno-nationalism, pitting a frustrated ‘indigenous’ majority, easily aroused by opportunistic vote-seeking politicians, against a resented, wealthy ethnic minority.” For Chua, where “free market democracy is pursued in the presence of a market dominant minority, the almost invariable result is backlash.” With Malaysia already having experienced racial riots which appear to fit with Chua’s explanation, the racially-anxious Malaysian Government is not willing to commit to financial gains through open government procurement processes in FTAs at the risk of “invariable backlash” from its indigenous *Bumiputera* majority.

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1098 A. Milner, “Mahathir, Australia and the Rescue of the Malays”. 141.
1100 Ibid. 10.
Different value systems, particularly Australian government attitudes towards egalitarianism and equality of opportunity, and perceptions about Malay “psychological feudalism” again appear to resonate with Australian and Malaysian attitudes to government procurement. As already noted, chapters three, four and five discussed Australian attitudes towards government including an emphasis on egalitarianism and inclusiveness and the need for detachment between government officials and non-elected elites such as business leaders. These values appear to underpin modern day Australian government procurement processes which focus on transparency of the processes of government purchasing expenditure, including ‘value for money’. The underlying assumption in these types of policies is that the government should be able to demonstrate efficient and effective use of public funds to an already sceptical Australian public. In the Malaysian case, earlier chapters emphasised the feudal patron-client nature of traditional Malay polities and genuine fears about Malay marginalisation in Malaysia’s more recent history. Persistent feudal attitudes, such as the need for the ruler to protect and be seen to protect the interest of nobles and other subjects, and anti-migrant (non-Malay) sentiment, appear to have manifested themselves in Malaysian approaches to government procurement targeted towards Bumiputera suppliers.

Differences in approach to dispute settlement mechanisms

Agreeing on dispute settlement mechanisms has also been difficult, and both sides accepted this as a challenging area. To establish a final method of dealing with disputes, state-to-state dispute settlement mechanisms are included in all FTAs. In the standard WTO format, disputes can be brought for decision before an independent panel known as the dispute settlement body. Under WTO dispute settlement body procedures, consultations and panel proceedings are confidential, opinions expressed by panellists remain anonymous, and parties are bound to respect the confidentiality of any document so marked. Individuals who are not parties to a dispute are excluded from panel
The WTO’s ‘closed’ dispute settlement mechanism was settled through painstaking global negotiations with many countries who share less ‘liberal’ and ‘transparent’ values than Australia. To cater to the preferences of more liberal countries, like Australia and the United States, WTO trade rules also accept and allow for open dispute settlement mechanisms.

To align with the Australian Government’s preference for domestic policy formulation processes which are transparent, accountable, and inclusive (see chapters four and five), it appears that Australia would be likely to favour open dispute settlement mechanisms. The Australia-United States Free Trade Agreement (AUSFTA), for example, goes beyond the WTO norms by allowing public access to the dispute settlement proceedings as well as NGO involvement in, and access to, the dispute settlement mechanism. All written and oral submissions to the AUSFTA dispute settlement panel are made public within ten days of submission. This approach has been described as aligning with the United States - and Australia’s - active international promotion of democracy, transparency and accountability.  

Nevertheless, in FTAs with countries known for having less open regimes, the Australian Government has been willing to accept closed dispute settlement mechanisms. Examples of closed dispute settlement FTAs with regional countries are the AANZFTA, the Singapore-Australia FTA (SAFTA) and the Thailand-Australia Free Trade Agreement (TAFTA). The dispute settlement mechanisms in these agreements closely resembles the language of the WTO trade rules (and appears to align with conflict averse ‘ASEAN regional values’), with the text explicitly stating that dispute settlement proceedings are to remain confidential.

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1102 Ibid. 493-94.
1103 Ibid. 494. Department of Foreign Affairs and Trade, "Agreement Establishing the ASEAN–Australia–New Zealand Free Trade Area (AANZFTA),” 2009.
With the SAFTA, the TAFTA and the AANZFTA all using closed dispute mechanisms, it seems likely that Australia would have been willing to accept either an open or a closed dispute settlement mechanism in the MAFTA. However, Australia seems to have adopted a much stronger position on dispute settlement mechanisms in the MAFTA case. At the November 2005 meetings, lengthy discussions on dispute settlement mechanisms helped to “narrow the gap between our two positions”, but no conclusions were formally agreed.\(^{1104}\)

The final MAFTA does include closed dispute settlement mechanisms (Chapter 20, Article 12.6) and judging by international standards, the fairly restrictive dispute settlement mechanism suggests that Malaysia negotiated strongly for a more controlled dispute settlement process.

Challenges in reaching agreement on dispute settlement mechanisms may again be underpinned by cultural and historical factors. This thesis has shown how Australian government processes tend to focus on promoting transparency and accountability, based on an underlying societal scepticism about government. For example, chapters three and five emphasised the importance of ‘open’ government processes, as evidenced by Australia’s highly consultative policy formulation process, its freedom of information legislation, less restrictive media environment, and overall stronger governance emphasis on transparency. These chapters also emphasised that, by fostering a culture which values individualism, the Government has built a society where it is expected and accepted that “good citizens scrutinise government action”.\(^{1105}\) The historical embedded cultural value of relatively more scepticism about government appears to have been


manifested in the Australian Government’s preference for open dispute settlement mechanisms in the MAFTA.

In contrast, Malaysian government processes have tended to be less open, with chapters three, four and five stressing the dominance of the central government, the dominance of UMNO as a Malay political party, and the overarching dominance of the Prime Minister. The analysis in these chapters also highlighted the Malaysian Government’s pervasive ‘ethnic ideology’ and its fear of ethnic instability. Driven by this historical fear, the Malaysian Government has placed relatively stronger restrictions on society – such as the Internal Security Act, the Official Secrets Act, the Seditions Act, and other forms of censorship – which have resulted in less transparent governance. These arguments built on the analysis in chapter two, which stressed how the Malaysian Government maintains tight control over public debate in Malaysian society as it fears social instability will result in loss of legitimacy and state collapse.1106

At a more general level, Malaysian and Australian negotiators have both observed differences in the counterpart’s open/closed style of negotiations. Ms Fatima observed that Australia has “so much clarity and transparency that it makes life easy for the negotiators”. Ms Fatima also reflected that “in the FTA discussions, it is sometimes hard to get clarity [from the Malaysian side]”.1107 Australian officials agree with Ms Fatima’s observation, stressing that Australia generally pressed harder for clear agendas, timeframes and decision points, while Malaysian counterparts were often less willing to talk formally or directly about ‘sensitive issues’. According to Mr Mugliston, these negotiation styles can be attributed to a range of differences, including “historical, cultural and environmental factors”.1108 Mr Mugliston’s observations sit squarely with observations about Malay diplomacy by

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1107 R. F. Maria, "Personal Interview with Rebecca Fatima Sta Maria - 8 February".
1108 M. Mugliston, "Personal Interview with Michael Mugliston - 22 April".

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anthropological scholars such as Cliff Goddard, who argues that Malays generally prefer not to speak openly about sensitive topics. Goddard quotes numerous common sayings that stress this point, for example: *Kalau cakap fikir lah sedikit dul*u (think before you speak); *jaga hati orang* (mind people feelings); *bertimbang rasa* (literally ‘weigh feelings’); and *jaga mulut* (literally ‘mind your mouth’). Other relevant sayings include: *cakap berlapis* (to speak in layers); *jaga diri* (look after yourself); and *kalau bercerita hati-hati* (be careful how you talk). In contrast, Australian - indeed ‘Western’ - negotiation styles are generally described as more direct and open. Common Australian sayings include: call a spade a spade; don’t beat around the bush; straight down the line; and who could forget the over quoted fair dinkum.

As already argued, the cultural practices and values in existence prior to the implantation of the Westminster system could provide some background for the ‘closed’ dispute settlement mechanisms advocated by Malaysia in the MAFTA. Pre-colonial Malaya featured a “big man” system where the *raja* was “set apart from the rest of the community” and, based on strict hierarchical arrangements, members of the *rakyat* did not critique the *raja*, nor did the *raja* admit to policy failures. This was a system based on personalised relationships to the *raja* and by strong ‘faith’ in the ruler’s mandate. Particularly important in these early polities was the value of *nama* (literally name, but interpreted as ‘face’). Early Europeans exposed to Malay culture noted an emphasis on restraint, cordiality, and sensitivity. Malays were described as courteous and charming. These early Europeans observed that Malay culture placed great importance upon proper conduct (*patut*) and society made strong distinctions between behaviour which was *halus* (refined) as opposed to that which

was *kasar* (crass or coarse).¹¹¹⁴ Challenges to the ruler’s judgment or authority - particularly a public challenge - would have been highly unusual and likely frowned on in such a society.

Linking these *kerajaan* practices to modern Malaysia, Kessler has observed the importance of “followership” in modern Malay culture. As already discussed, followership encompasses “a culture of deference” and “something that is so pervasive and fundamental” to Malay society that it creates “immediate political significance”.¹¹¹⁵ Kessler’s observations also resonate with other scholars, such as Alatas, who observes a persistent “feudal mentality” in modern Malaysian society.¹¹¹⁶

Kessler’s and Alatas’ observations shed some light on modern Malaysia’s preference for ‘closed’, non-transparent and ‘non-critical’ policy formulation processes. Indeed, closed dispute settlement mechanisms appear to accord with earlier Malay cultural traditions such as deference and respect for the ruler. The influence of these underlying values appears to have impacted on the process of developing the MAFTA, and likely resulted in the Malaysian Government’s strong preference for closed MAFTA dispute settlement mechanisms.

**Conclusion: Common goals are not enough**

Australia and Malaysia share the same strategic policy priorities: sustained economic growth and social stability. In agreeing to commence MAFTA negotiations, both Malaysia and Australia saw the prospective direct economic benefits and, in Malaysia’s case, how these economic benefits would ultimately contribute to achieving its other strategic policy priority of social stability.

In studying international economic negotiations scholars Kremenyuk and Sjostedt have spoken out against the expectation that economic issues are “handled in a special and exceptionally rational way”. They argue that, in practice, international economic relations are “far more conflictual and complex” and cannot be separated from national cultural and historical experiences.\footnote{V. A. Kremeniūk and G. Sjöstedt, \textit{International economic negotiation: models versus reality} (Cheltenham: Edward Elgar Pub, 2000).i-xi.}

In the MAFTA case, despite the common economic goals, specific agreement proved difficult to reach. Difficulties arose, particularly in formulating an agreed position on tariff levels and trade barriers, government procurement and dispute settlement mechanisms. These areas are sensitive for both governments and, as Kremenyuk and Sjostedt have argued, they represent areas where the different country-specific cultural and historical experiences have shaped each country’s local policy formulation processes.

The difficulty was not just in lack of knowledge about each other’s processes - although this was in itself a challenge - but the differences in policy drivers between Australia and Malaysia appear to have been poorly understood. Indeed, in discussing the MAFTA process Mr Wong from the Malaysian Institute of Strategic and International Studies observed “Australia fully understands Malaysian process, we have been working for so long together. But Australia just can’t come to the same conclusions.”\footnote{S. C. M. Wong, "Personal Interview with Steven Wong - 11 February," (Kuala Lumpur: 2008).} Mr Wong’s comments suggest an underlying, exogenously driven difference between Australian and Malaysian processes.

Differences in policy formulation processes are underpinned by historical experiences and cultural influences. In Australia, domestic policy formulation processes have been influenced by notions of egalitarianism, individualism, and scepticism about government
leadership and the political elites. Australia’s trade policy formulation processes now place more value on ‘free trade’, and open procurement and dispute settlement mechanisms. In Malaysia, current trade practices are more restrictive and utilise government procurement to achieve specific government economic and ethnic goals. These practices reflect Malaysia’s historical struggles to manage ethnic tensions, and resonate with earlier pre-colonial hierarchical, patronage-based practices in which the ruler ‘provided’ for ruling elites and Malay vassals. Present day Malaysian policy formulation processes continue to maintain a clear line between ruler and ruled, and accepting the potency of earlier modes of practice may at least partially explain why the Malaysian Government would wish to avoid opportunities for a ‘loss of face’ through Western-style open dispute settlement mechanisms.

It is particularly significant that, prior to commencing the MAFTA negotiations, both governments specifically identified how the proposed MAFTA would contribute directly to achieving shared strategic policy priorities, most visibly, sustained economic development. Moreover, the announcement to commence MAFTA negotiations was made following a meeting between prime ministers. The involvement of the heads of government of both countries suggests clear direction was given to negotiators that successful conclusions of the MAFTA was to be policy formulation priority.

Despite this clear mandate, negotiators were unable to make progress on the MAFTA, with key issues such as trade barriers, procurement and dispute settlement continually impeding agreement. In discussing these issues, former International Trade and Industry Minister, Tan Sri Muhyiddin Yassin stressed to the ‘Western’ community generally “in Malaysia there are policies that they [negotiating countries] need to follow and understand, like policies to protect national interest, on the roles of government-linked companies and Bumiputera policy.” On some sensitive (ethnic) issues, Muhyiddin affirmed strongly that

A longstanding Malaysian FTA negotiator and Malay-Malaysian Ms Rohana Abdul Malek from the International Affairs Division of the Malaysian Attorney General’s Department has expressed views similar to Mr Muhyiddin’s.

In deciding the content of the FTA, issues that consist of highly sensitive and sensitive issues are often proven to be difficult to be negotiated, decided and agreed upon... It may well be that in some cases agreement to complete negotiations on a given issue is in the end not possible.\footnote{R. A. Malek, "Second Annual Event of the Attorney General’s Chambers of Brunei Darussalam, Malaysia and Singapore". 9.}

Ms Malek’s comments show the Malaysian Government is willing to forgo potential economic gains presented by an FTA if the agreement risks dismantling pro-\textit{Bumiputera} policies or undoing Malaysia’s ‘ethnic ideology’. Her comments reinforce earlier analysis that, despite a clear mandate from the highest level of government and agreed assumptions that the MAFTA would contribute to both governments’ overarching strategic policy priorities, agreement at a practical level was significantly delayed due to the unplanned-for influence of historical and cultural factors. In Malaysia, such influences include: an historical trajectory of ethnic tensions, and associated affirmative action policies; and persistent \textit{kerajaan} ideologies which emphasise hierarchy, patronage and \textit{nama} (face). In Australia, such influences include egalitarianism, liberalism, individualism and scepticism about government leadership and the political elites. Both Australian and Malaysian influences on the policy formulation process are grounded heavily in ‘values’, ‘culture’
and historical experiences. As such is it is unlikely that the potency of these influences on policy formulation will fade in the near future.

The key message, that the Australian and Malaysian governments need to better consider underlying culture, values and historical experiences when they work together is not at all new. Twenty years ago prominent Malaysian scholar Clive Kessler observed that when Australia and Malaysia work together:

Each side, possibly, needs to remind itself of the cultural limits of its own culture-specific assumptions and to be ever aware of the great possibilities of misunderstanding and also of giving offence that may follow from any insufficiently considered extension of those assumptions to the interpretation of behaviour, or the attribution of meaning, beyond the immediate context and broader cultural world in which they are grounded.\textsuperscript{1121}

Given the recent experience with the MAFTA, Kessler’s observation seems just as applicable today.

The implications of this analysis are quite significant; sharing broad strategic policy priorities is not enough to ensure successful bilateral cooperation. Cultural factors and historical experiences, which until now have been less recognised, are a powerful influence over the policy formulation processes of each country. As long as domestic country-specific influences impact on policy formulation, Australia and Malaysia will continue to face difficulties agreeing on bilateral policy.

The same is likely to apply in Australia’s efforts to collaborate bilaterally with any other Asian country. Given the importance of ‘culture and history’ to Australia’s relationships with Asia, Jupp has proposed that Australians “may need to transform their identities and cultures” to

\textsuperscript{1121} C. S. Kessler, "Negotiating cultural difference: on seeking, not always successfully, to share the world with others - or, in defence of “Embassy”,” \textit{Asian Studies Review} 15, no. 2 (1991). 73.
further cooperation. An alternate view is that further engagement with Asia will create a sharper sense of self in Australia and help to “undermine the assumption – so central to Australian political culture – that Australians see the world as it is and not through the veil of culture.”

This thesis has shown how a historically and culturally-responsive policy assessment could be undertaken before any future attempt at bilateral policy formulation. A historically and culturally-responsive policy formulation assessment would illuminate from the outset the differences in the respective countries’ policy formulation processes as well as shedding light on underlying historical experiences and cultural influences which bear upon each country’s decision makers.

This chapter has argued strongly that policy makers in Australia and Malaysia were understandably focused on the economic benefits of an FTA, but gave less attention to the less visible historical and cultural influences which eventually became inhibitors to the negotiation processes. Indeed, developing an MAFTA did appear too easy – two countries, same region, already strong economic ties, same strategic policy priorities, similar migration histories, both speak English, shared experiences of British colonisation, inherited Westminster-based architectures of government, and so the list goes on. But when confronted with such a positive list of unifying factors, it appears that policy makers may have underestimated the underlying differences in the two counties’ approaches to meeting their strategic policy priorities, and thereby underestimated the challenges in working together towards an agreed trade policy position.

Nevertheless, while underlying cultural and historical differences did significantly delay the process of developing the MAFTA, they did not

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1123 A. Milner and M. Quilty, “Introduction”. 8-12.
prevent it. Under strong leadership direction, the negotiations were able eventually to be concluded. If policy makers had given more consideration to cultural differences prior to commencing negotiation, it is possible, even probable, that the negotiations would have been concluded in a much more timely and amicable fashion. The lesson to be learned then, is that historical and cultural differences are not an insurmountable barrier to cooperation, but need to be considered and addressed from the outset as part of the policy planning process. As this thesis has demonstrated, the use of a historically and culturally-responsive policy formulation model could provide the framework for such a pre-negotiation analysis.

Australia does not need to transform its identity and culture to cooperate with Asia as Jupp has proposed. Rather, Australia needs to reflect on, and explicitly acknowledge, its own unique historical experiences and cultural values. Once Australia has developed this ‘realistic’ knowledge of itself, Australian officials will then be able to learn about the disparate historical experiences and cultural values of their Asian partners, and implement a process which provides for non-traditional (cultural and historical) influences in policy formulation. Bilateral policies formulated through such a historically and culturally-responsive process could be expected to have a shorter gestation and a longer life.
CHAPTER 7. CONCLUSIONS
The policy formulation process as a comparative policy analysis model

In 1951 the American political scientist Harold Lasswell called for the establishment of a “policy science”. Policy science would be applied, interdisciplinary and ‘rational’. It would bring the social sciences to bear on the problems faced by government, so that these could be addressed in an impartial, scientific and effective way.¹¹²⁴ Policy science would require the application of rationality to governmental processes. It was argued that, much like the policy cycle model utilised in this thesis, social scientists should apply themselves to orderly processes of clarifying goals, defining problems, identifying options, selecting strategies to address problems, and assessing achievements.¹¹²⁵

Today, the dominant paradigm in policy formulation literature continues to be based on assumptions about an orderly process of problem solving: there are actors called governments, they confront problems logically and make rational choices, which are then enforced with the coercive power of the state. This defines the ‘normal expectation’ of government.¹¹²⁶ For example, this thesis has drawn heavily on the work of Bridgman and Davis, who present policy formulation as a cycle - a process of stages. The cyclical process is ‘rational’, based on ‘judgement’, and has clear links to achieving a defined objective. If the objective is not met a new, rational, cyclical process is commenced.¹¹²⁷

However, some scholars¹¹²⁸ - myself included - have recognised that the real world of government is less orderly than the idealised rational

¹¹²⁵ D. A. Stone, Policy paradox and political reason. (Glenview: Scott, Foresman and Co, 1988).
¹¹²⁸ See for example: M. Edwards, "Social Science Research and Public Policy: Narrowing the divide," Australian Journal of Public Administration 64, no. 1 (2005); C.
model and does not always allow for the careful, sequential process described by scholars such as Bridgman and Davis. Rather, these scholars contend that other frameworks and influences - such as the role of history, customs, or values, or partisan struggle for benefit, or dominant groups or even ‘ethnicity’- are crucial for a ‘real’ understanding of the processes of government.1129 For example, over three decades ago Scharpf observed that policy formulation involved a “plurality” of actors, not only policy makers, each with their own interests, goals and strategies. He stressed that each of these actors had the potential to have a distinct influence on policy.1130 More recently Everett has argued that the dominant ‘rational’ policy formulation model ignores the complex, value-laden nature of the policy formulation process, as well as the primary role of political power in determining the direction of public policy.1131

Accepting the influences of ‘other’ frameworks on policy formulation processes draws the study of public administration closer to theories being developed in other disciplines. For example, Shamsul has described the competing “nations-of-intent” which bore upon Malaysia’s independence and which continue to influence Malaysian government.1132 He observes how the conflicting ideological views and future visions of various groups in Malaysian society compete directly with the Malaysian government’s “authority-defined social reality’ which is Bumiputera-dominated”.1133 Shamsul’s model can readily be applied to the study of policy formulation as his model is more responsive to the many ‘real’ pressures which bear upon policy formulation processes and shape their outputs and outcomes.

Scholars who are sceptical of the ‘rational’ policy making model\(^\text{1134}\) have argued that the dominant rational policy formulation model does not assist policy practitioners in their day-to-day policy formulation processes and some critics, such as Yanow, have gone as far as to describe models such as the policy cycle as a “policy myth”.\(^\text{1135}\) More generally, the continuing acceptance of the dominant rational policy formulation model has led to discourse on the “disconnect” between policy theory and the actual practice of policy formulation.\(^\text{1136}\) This in turn has resulted in calls for a model of public policy formulation which connects with the lived experiences of policy makers.\(^\text{1137}\)

‘Real-world’ policy formulation environments are full of complexities, ambiguities and nuances, usually involving a diverse range of players coming from different perspectives and spawning a host of unexpected pulls and pushes on the process. It is very unlikely that such circumstances would permit anything approaching classical rationality in the decision making process.\(^\text{1138}\) Indeed, Bridgman and Davis themselves admit that the policy cycle cannot capture the full ebb and flow of a sophisticated policy debate, nor does it accommodate fully the value-laden world of politics. They note “the world does not always allow for the careful, sequential policy cycle described in the following pages” and later suggest the model of authorised instrumental choice is a “deceptively simple formula”.\(^\text{1139}\) Such self-admissions of the shortcomings inherent in the policy cycle model further undermine the credibility of rational choice policy formulation models.

The puzzle then, is why ‘rational’ policy formulation models, such as that presented by Bridgman and Davis, have retained their dominance in the literature in the face of critique and criticism for their simplistic and incomplete representations of how policy really works. Mirroring Lasswell’s 1950s call, Hill and Hupe suggest that rational policy formulation remains “the only vehicle available to modern societies” for scientifically and methodically understanding government.1140

This thesis has proposed that taking account of the full range of influences on policy formulation processes and the results of these processes (outputs and outcomes) is fundamental to understanding government. While many scholars have tried to describe the singular model of ‘policy formulation’ in terms of ‘steps’ and rationally-based sequential processes, this thesis has argued that the ‘scholarly net’ must be cast more widely. While the ‘steps’ in policy formulation are important, other mediums – such as the architecture of government, the administrative system, and governance arrangements – interact and intersect with the policy process. These mediums show there is not one, singular policy formulation process, but rather a fluid, interconnecting set of policy formulation processes. A study of this wider interpretation of policy formulation processes enables scholars to grasp an holistic picture of ‘policy’ and ‘government’ and therefore better account for an external influences - such as historical experiences and cultural values - which until now have been too often neglected in the ‘accepted’ models of policy formulation (for example the Bridgman and Davis model).

It is here that the thesis argument moves beyond the dominant ‘rational’ policy formulation model, suggesting that while the Bridgman and Davis policy cycle may capture some of the salient features of policy making, and while it does provide rigour and systematicity to analysis of the process, it does not capture the full range of influences shaping and inspiring policy formulation in any country, and as such does not

adequately capture policy formulation as a means for really understanding a country’s government.

Underpinning government is “a complex web of shared understandings and incentives and constraints, linked to the authority of government in a variety of ways.” As such, Colebatch argues that policy formulation and government must be analysed within the context of the “historical trajectory of the political process” and with consideration of the “institutional dimension” through which it takes place.

In comparing the West and Southeast Asia, Colebatch has stressed that “policy” has become a central concept in most explanations of government, yet the practices and the understandings about government which are to be found in the Western societies where the term originated are very different from those to be found in the Southeast Asian region. Colebatch specifically refers to differences in government processes, stressing “there are clearly cultural factors at play, though these are rarely explored.” Colebatch explicitly encourages cross-cultural studies of policy formulation. He emphasises that in the study of policy and government “it is appropriate to ask questions about the social context”. Colebatch concludes:

We know very little about how the idea of policy is used in the governing of Southeast Asia. Certainly, it has been adopted as part of the Western-derived package of governmental institutions, but this does not mean that it will be used in the same way as the West (and in any case, as we have seen, there are wide variations in policy practice among Western countries).
‘Policy practice’ appears very similar to policy formulation processes, understood in this thesis to mean the way in which policies are conceived, developed and implemented, and Colebatch’s observations suggest more studies like this one are required.

This thesis has examined how historical experiences, societal values and culture have influenced, and continue to influence, the respective policy formulation processes of Australia and Malaysia. Through this comparative analysis, it has highlighted the incompleteness of the dominant ‘rational’ policy formulation model and demonstrated that ‘culture matters’.

**Influences on policy formulation processes**

Australia and Malaysia share many government similarities. Both countries underwent a period of British rule prior to the establishment of self-government. From these experiences, both governments are now constitutional monarchies based on Westminster traditions. Both governments also incorporate ‘standard’ Westminster characteristics such as bicameralism, separation of powers, structured processes for making laws, and an executive body (the Cabinet) which forms the apex of decision making. Both Australia and Malaysia also have non-Westminster ‘Western’ features such as a written constitution and a federal system.

Influenced by the British, both countries have established superficially similar governance arrangements. These include a specialist public service designed to advise the government of the day and implement its decisions and general ‘Western’ procedures for governing such as structured policy formulation processes and mechanisms for promoting ‘good governance’.

Australia and Malaysia also share highest level strategic policy priorities. Both governments’ specific policy outputs and broader policy outcomes seek to contribute to the promotion of sustained economic development and social stability. The Malaysian Government sees
economic development as contributing to inter-ethnic social stability, while the Australian Government views social stability as a pre-condition for economic development.

Another less-recognised similarity is the historical experience of migration. As shown in chapter two, both countries have large proportions of their population identified by government as migrants or descendants of migrants. Almost half (44 per cent) of Australians were either born overseas or have at least one overseas-born parent.\textsuperscript{1145} In Malaysia, at least 33 per cent of the population is categorised as non-\textit{Bumiputera}, meaning that they were initially of migrant decent.\textsuperscript{1146} Moreover, this figure does not capture the large percentage of Malays and other indigenous groups who originally migrated from elsewhere within the Malayo-Indonesian archipelago, and who today fall into the modern \textit{Bumiputera} ethnic classification. In the policy formulation space, Australia’s and Malaysia’s migration experiences (like many countries in the region) has resulted in both governments needing to manage ‘ethnicity’ issues, including the policy challenges in balancing the interests, attitudes and culture of their newer migrant populations against longer standing attitudes and attributes of the longer residents.\textsuperscript{1147}

Yet despite these similarities it is difficult to confuse Malaysia with Australia. This is captured in Geertz’s observation that people from different cultures “indeed do things differently”.\textsuperscript{1148} Perhaps partially explaining this difference in approach, the thesis has identified some enduring domestic factors which influence policy formulation in the respective countries.

\textsuperscript{1146} Department of Statistics, "Population and Housing Census, Malaysia 2010". 2011.
\textsuperscript{1148} C. Geertz, \textit{After the Fact: Two Countries. Four Decades, One Anthropologist}, Harvard University Press (Cambridge1995). 44.
In Australia, individualism, liberalism, egalitarianism and scepticism about government leadership and the political elites have been identified as key factors. Several of these factors have been described by Milner in his analysis of Australia in an Asian context as Australia’s “liberal ideological package”.\textsuperscript{1149} In Malaysia, key local factors have included an historical respect for rulers, a pattern of hierarchical or ‘patron-client’-like relationships, acceptance of close linkages between government and the economic and social elites, and emphasis on ceremony and symbolism in government. More recently, the searing historical experience of the 1969 racial riots continues to loom over the Malaysian approach to policy formulation.

Such cultural and historical influences are likely to have led to steady divergence over time in the design of each country’s policy formulation processes (and therefore, in most cases, their outcomes and outputs). Larmour has noted, that ‘Western’ institutions which have been transplanted into non-Western countries were adapted – that is, they were not simple replicas of foreign practices, but took on a distinct local character.\textsuperscript{1150} Other scholars have shown that local features of government have emerged through an ongoing process of government reform - not only at the time of the initial adoption of the architecture of government - and that this evolutionary process is influenced by patterns of social practice which reflect existing practices and organisational forms, and also shared understandings and values of local peoples.\textsuperscript{1151}

This thesis, also, has observed how each aspect of government - for example the architecture of government, the structure of the public service and the policy formulation process - has drawn upon, and continues to resonate with, earlier cultural norms and values of the respective societies. The evolution of governance practices in these a

\textsuperscript{1149} A. Milner and M. Quilty, "Introduction". 10.
\textsuperscript{1150} P. Larmour, “Policy Transfer and Reversal: Customary Land Registration from Africa to Melanesia,” \textit{Public Administration and Development} 26, no. 2 (2002).
\textsuperscript{1151} H. K. Colebatch, “Western Answers and Southeast Asian Questions: Applying the Concept of Policy.” 182.
areas has reinforced the importance of culture and history in the overall policy formulation process. For example, Australia’s less hierarchical policy formulation processes resonate with Australia’s egalitarian values, which in turn could be linked to Australia’s settler history and general rejection of the class distinctions which were common in Britain in the colonial period. Similarly, Malaysia’s more hierarchical policy formulation processes resonate with historical Malay values of respect for leaders, and this also could be linked to the attitudes and ‘big-man’ centred practices of the traditional kerajaan polity.

The socially-constructed character of government institutions and processes has long been recognised as a challenge. Early colonial powers found that institutions, such as parliaments or political parties or trade unions, did not function in their colonies and ex-colonies in the way they were ‘supposed to’. Even when strong efforts were made to mirror the functionality of institutions ‘at home’, adopted institutions somehow continued to operate in a manner unique to local circumstances. Later, development assistance agencies found that credit unions, or marketing cooperatives, or even business owners, did not operate as expected. Most recently, scholars have been observing how regional blocs also, function most successfully when they fit with prior local norms or are localised to better align with prior beliefs and institutions.\textsuperscript{1152}

Despite these localisation studies, Colebatch stresses what is still missing is analysis of how these localisations affect the overall “governmental process”. Proposing a cultural explanation, he emphasises the “map of government” in Southeast Asia looks different from that in the West and calls for socio-political investigation of how ‘policy theory’ can be applied in Southeast Asian contexts. He stresses

the analysis needs to capture the different real world pressures and experiences faced by Southeast Asian governments.\textsuperscript{1153}

This thesis responds directly to Colebatch’s call. It identifies some domestic cultural and historical influences on the policy formulation process, and links these to the historical experiences and evolution of government in Australia and Malaysia. Like Colebatch, the thesis concludes that culture does matter and that more attention and further analysis need to be given to the role of different cultures as factors affecting the processes of governments around the world.

This thesis also builds on the work of Colebatch. It presents a new model for ‘historically and culturally-responsive’ analyses of policy formulation processes. The model has been used in this thesis for a comparative analysis of policy formulation processes in Australia and Malaysia. In this Australia-Malaysia context, the model has demonstrated how policy formulation processes and their associated policy outputs and policy outcomes are influenced by historical experiences and cultural values which existed in the respective countries prior to adopting their current Westminster-based architectures of government. The thesis has also applied the historically and culturally-responsive policy formulation model in a ‘practical’ case study of the bilateral Malaysia-Australia Free Trade Agreement (MAFTA) policy formulation process. Similar results were found – culture does matter.

Many scholars have noted the challenges in analysing culture.\textsuperscript{1154} Harrison and Huntington argue that there has been a “censorship of cultural explanations”. They propose that employing the term ‘culture’

\textsuperscript{1153} H. K. Colebatch, "Western Answers and Southeast Asian Questions: Applying the Concept of Policy." 182.

as an analytical tool risks inviting criticism for being too essentialist, lacking empirical evidence, or seeking a ‘last resort’ explanation. Yet these attitudes have arguably built up due to constant ‘misuse’ of culture in academic work. According to Thompson et al. there are three typical misuses of the concept of culture. First, culture is invoked as an “uncaused cause”. For example it is often observed that X acted in such a fashion ‘because of culture’. But what caused the culture to be like that? Second, culture is invoked as “an explanation of the last resort”. Having exhausted other more favoured explanations for a phenomenon, scholars often employ culture as a kind of residual category. Third, culture is invoked as a “veto on comparison” suggesting you cannot compare country X with country Y because each can only be understood in its own terms.

This thesis argues that culture can and indeed, should be employed as an explicit analytical tool. Observing that culture is ‘difficult to analyse’ should not prevent scholars from attempting to investigate and explore the relationships between culture and its environment. Yet this thesis agrees that culture alone is not a sufficient explanation for differences in modern policy formulation processes. The thesis has shown that culture is not static. It is continually reshaped and remade over time. Present day ‘active’ cultures emerge from history’s processes, and the two intertwined variables - history and culture - must each be studied accordingly. The thesis therefore provides a culturally and historically-responsive model to compare and contrast policy formulation processes and to provide insight into how differences in policy formulation processes should be appropriately considered, not ignored.

**Impediments to bilateral cooperation**

Chapter six of this thesis provided a ‘practitioner’s example’ of how domestic historical experiences and cultural influences are shaping policy formulation processes in a way that impedes bilateral cooperation.

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1156 M. Thompson, M. Verweij, and R. Ellis, "Why and how culture matters". 32.
on issues such as trade. Examining the challenges faced in the MAFTA policy formulation process demonstrates that underlying cultural differences do create impediments to this bilateral (government-to-government) policy formulation process. Despite personal involvement from each country’s prime minister and other senior ministers and even while both countries accepted that the MAFTA could contribute significantly to achieving shared strategic policy priorities, these underlying ‘cultural’ impediments still created challenges for negotiations for seven long years. Difficulties arose in three example policy areas, specifically tariff levels and non-tariff trade barriers, government procurement and dispute settlement mechanisms. Each of these policy areas was complicated by domestic ‘sensitivities’ resulting from a culture based on different values and historical experiences. Such ‘sensitive policy areas’ quickly became hostage to localised policy formulation processes shaped by country-specific culture and historical experiences and significant delays in the negotiations resulted. The MAFTA case study is an example of how more ‘culturally-responsive’ preparations for the negotiation process might have enabled these unanticipated issues to be identified early in the policy formulation process and dealt with more quickly.

In Australia, it was argued, underlying social values such as egalitarianism, individualism, and scepticism about government leadership and the political elites created domestic policy formulation processes which value free trade, open procurement and transparent dispute settlement mechanisms. In Malaysia, cultural and historical experiences dating from pre-colonial feudal based polities created domestic policy formulation processes which ‘provide for’ ruling elites and Malay subjects and do not detract from the symbolic status of the government. These values were amplified by the historical experience of British-sponsored emigration of Chinese and Indians, the resultant marginalisation of the Malay indigenous peoples, and associated government policy responses - such as the NEP - to rectify this marginalisation.
While chapter six focused on trade policy, attempts at bilateral cooperation in other subject areas using conventional policy formulation processes, would likely yield similar results. Domestic historical and cultural experiences have influenced the evolution of government policy formulation processes in Australia and Malaysia and, without a more culturally-responsive approach to policy formulation, it will continue to be difficult to work together bilaterally.

For example, in the policy area of border integrity, the 2011 proposal for a bilateral arrangement on transfer and resettlement (known in Australia as the ‘Malaysia Solution’) continues to reflect the Australian and Malaysian governments’ disregard for cultural influences in the policy process. Under the arrangement, 800 irregular maritime arrivals who came to Australia after the date of effect of the arrangement would have been transferred to Malaysia for refugee status determination. In return, Australia agreed to resettle an additional 4,000 refugees from Malaysia over four years. The arrangement was announced jointly by both prime ministers on 7 May 2011. However, at that time the relevant policy instrument (a Memorandum of Understanding (MoU) on the arrangement) had not yet been completed by the respective government officials and as such no transfers were able to be effected. The MoU was subsequently signed on 25 July 2011.

However, prior to the governments being able to effect the first transfer, the High Court of Australia intervened with permanent injunctions preventing the removal of asylum seekers to Malaysia. The ruling found the arrangement breached Section 198a of the Migration Act (1958). This Section’s provisions mean that a country receiving asylum seekers from Australia has to be legally bound to provide access for asylum seekers to effective asylum determination procedures and to provide

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protection for asylum seekers.\textsuperscript{1158} The High Court decision led to criticisms that the government (particularly the Australian Government) had failed to do its “homework”.\textsuperscript{1159} In late 2011 and again in 2012 the Australian Government sought to amend \textit{The Migration Act}. However, the amendments were not passed in the Australian Upper House.

This most recent example of the challenges in bilateral Australia-Malaysia cooperation highlights some of the themes in this thesis. First, Australian policy formulation usually goes through an extended process of pre-implementation public consultation. This consultation did not occur. Second, the recent process appeared to have insufficient regard for Australia’s more clearly defined separation of powers in the architecture of government, and the High Court’s unexpected injunction appeared to find the government with no ‘plan B’. And third, the process appeared to disregard the more independent ‘review’ functions of the Australian Upper House. Indeed, in this case, the Australian Government’s policy formulation process seems to have been more in the style of Malaysia’s (highly centralised, driven by the Prime Minster, and with a clear political imperative). This ‘more Malaysian’ style of policy formulation did not work well in Australia. Therefore, in this case, the failed ‘Malaysia Solution’ suggests that the Australian and Malaysian governments needed to give more thought to Australia’s unique policy formulation processes.

Many scholars have theorised about the importance of cultural and historical understanding for successful international cooperation.\textsuperscript{1160}

\begin{flushleft}
These theories are directly applicable to the practical pursuit of international government-to-government (officials-level) cooperation. The underlying assumption is that any society is “inevitably dictated by its historical legacy and cultural heritage” and that, despite globalisation and often deep bilateral interaction, “cultures, philosophies, and value systems require a long period of time not only to form and accumulate but also to change, evolve, and develop.”

Given this underlying role of cultural and historical experience, these scholars argue it is easier to negotiate - indeed to succeed in negotiations - when each negotiating party (each group of public servants) has a solid understanding of their counterparts’ corresponding culture, values and history. Shamsul points to an interesting opportunity to ‘systematise’ such knowledge and understanding in his description of “bureaucratisation of knowledge” (the way in which social science knowledge is acquired, accumulated, and disseminated in accordance with the needs of political uses – in this case government officials). This thesis, also, has argued that culture, values and history can create considerable difficulties for officials charged with formulating cooperation arrangements. As shown by the MAFTA case study, a lack of both governments’ knowledge about - and sensitivity to - local historical experiences and cultural influences of the counterpart society, government and public service resulted in significantly delayed negotiations and a delayed benefit for both countries.

**Implications of this study**

This study has a number of implications. First, analysis of the policy formulation process has been shown to be a useful means for

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identifying the domestic historical and cultural influences on overall government activity. These cultural factors and historical experiences have frequently been downplayed in the literature as ‘essentialist’, ‘unconvincing’, or intractable. The policy formulation process eventually cuts across all areas of government and this enables any study focusing on the policy formulation process to cast light on the full range of government activities. This breadth of issues potentially encompassed in a policy formulation process study gives this model significant advantage over other models of analysis, provided the model used captures the full range of influences shaping government and policy.

Second, the comparative policy formulation process model provides scholars or policy practitioners with a systematic method for identifying the ways in which culture and historical experiences may influence government policy formulation processes, and often the individual policy outputs and outcomes which result from the process. Identification of the influences also enables scholars or policy practitioners to better analyse and prepare for bilateral (government-to-government) policy formulation. By identifying the influencing factors during the policy planning stage, analysts can make informed decisions about the likely course of negotiations and possibly find alternative policy solutions for key issues or, at the very least, not waste time on those issues where agreement is never likely to be reached. For example, it is probable that the MAFTA negotiations would have been much quicker had Australian and Malaysian policy makers recognised from the start of the process that there were areas which would present a sharp challenge because both countries would be reluctant to compromise. Early recognition would have enabled policy makers to propose solutions more ‘culturally responsive’ to the respective sensitivities of both parties.

Third, and perhaps most importantly, the historically and culturally aware comparative policy formulation model developed in this thesis
has the potential to be applied to any two governments. This study has focused on Australia and Malaysia, yet the methodology for comparing governments should, in principle, be applicable to any bilateral relationship. Every society will have unique cultural and historical influences which have moulded, or which are moulding its government, its government processes and thus its government decisions. As such, scholars or practitioners need only to isolate these influences to identify probable impediments to any cooperative efforts.

Finally, the comparative policy formulation model suggests that public services around the world need to be giving greater attention to fostering cultural and historical understanding of their partner governments. In its recent submission to the Australia in the Asian Century White Paper the Myer Foundation wrote “a blind person may be delighted by the assistance supplied by a guide dog; but how much better if he or she can see? For economic and trade relationships, for political and strategic partnerships, and for general social interaction - Asian cultural literacy is, in every case, critical.”

The Myer Foundation’s comments are supported by numerous scholars. Milner has emphasised “cultural issues can be seen time and again to influence all aspects of Australian relations with the different countries of the region.” Sheridan too, has stressed that ‘cultural difference’ can and indeed does pose a significant barrier to Australia’s cooperation with the region. FitzGerald has lamented that Australia’s bilateral relationships - such as that with Malaysia - lack “intellectual engagement”. In 2010, Lindsey described Australia’s relationship with Asia as a “gap of popular misunderstanding” and, in the

1164 A. Milner and M. Quilty, Australia in Asia: Communities of Thought. 5.
1165 G. Sheridan, Living With Dragons: Australia confronts its Asian destiny. 149.
1166 S. FitzGerald, Is Australia an Asian country? 2.
strongest wording yet, Dick has described Australia’s approach to the region as “fundamentally unsound”, “out of sync’ with Asia”, “narrow, ill-informed and insensitive”. Australia’s seems to be ‘missing it’ with its ‘cultural’ engagement with Asia.

Policy formulation processes are unique to each country, but in the modern globalised world, policy formulation will ultimately require cooperation from partner governments. In working with partner governments, public servants will need to be more realistic in the application of ‘logic’ and ‘rational choice’ in policy formulation. Government decisions may be based on ‘logic’ and ‘judgement’, but they are based on the assumed logic and judgement of that country, that society. This may not be the logic applied by policy makers in other countries. Drawing on the Myer Foundation’s metaphor, policy makers can no longer afford to be led ‘blind’ by their guide dogs in struggling to make bilateral policy formulation seem ‘logical’. Policy makers need to ‘see’ that, in policy formulation processes, history and culture do matter.

## ANNEX A. GLOSSARY

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td><strong>Adat</strong></td>
<td>The set of cultural norms, values, customs and laws traditionally practiced by the Malay ethnic group.</td>
</tr>
<tr>
<td><strong>Australian Labor Party (ALP)</strong></td>
<td>The centre-left political party currently in power in Australia. The party is generally seen to stand against the only other major Australian political party (the conservative Liberal Party).</td>
</tr>
<tr>
<td><strong>Barisan Nasional (BN)</strong></td>
<td>The leading political coalition in Malaysia. The vast majority of <em>Barisan Nasional</em>’s seats are held by its three largest religion and race-based political parties - UMNO, the Malaysian Chinese Association, and the Malaysian Indian Congress (MIC). <em>Barisan Nasional</em>’s is usually translated into English as the National Front.</td>
</tr>
<tr>
<td><strong>Bersih</strong></td>
<td>A current Malaysian political movement which seeks to promote free and fair elections. Literally ‘clean’.</td>
</tr>
<tr>
<td><strong>Bumiputra</strong></td>
<td>A Malay term referring to the native peoples of Malaysia, including the Malays and other indigenous groups from East Malaysia. Literally ‘sons of the soil’.</td>
</tr>
<tr>
<td><strong>The Coalition</strong></td>
<td>The centre-right political alliance between the Liberal Party of Australia and the National Party of Australia.</td>
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<tr>
<td><strong>Frank and fearless</strong></td>
<td>An Australian political term meaning that public servants are objective, candid and non-partisan in their advice to ministers.</td>
</tr>
<tr>
<td><strong>Kerajaan</strong></td>
<td>The traditional hierarchical polity which existed in Malaya prior to the arrival of the British. With the adoption of Islam in the fifteenth and sixteenth centuries, many <em>kerajaans</em> became sultanates as their ‘raja’s’ (kings) converted to Islam. Literally ‘the state of having a king’.</td>
</tr>
<tr>
<td><strong>Ketuanan Melayu</strong></td>
<td>A Malaysian political concept emphasizing Malay pre-eminence. Usually translated as ‘Malay Supremacy’.</td>
</tr>
<tr>
<td><strong>Liberal Party of Australia</strong></td>
<td>A centre-right political party which competes with the centre-left Australian Labor Party for political office. The Liberal party has traditionally been the leading and largest political party in ‘the Coalition’. When elected to power, the Liberal leader usually becomes the Prime Minister.</td>
</tr>
<tr>
<td><strong>National Party of Australia</strong></td>
<td>A conservative Australian political party traditionally seen to represent the interests of graziers, farmers and rural voters generally. The National Party has traditionally been the minor party in a political alliance with the Liberal Party of Australia. When elected to power as part of ‘the Coalition’, the leader of the National Party usually becomes the Deputy Prime Minister.</td>
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<tr>
<td>Term</td>
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<tr>
<td><em>Raja</em></td>
<td>Traditional Malay term for king. Malay <em>rajas</em> ruled independent <em>kerajaan</em> polities in the pre-colonial era. Many <em>rajas</em> adopted the title of Sultan after the arrival of Islam in the fifteenth and sixteenth centuries.</td>
</tr>
<tr>
<td><em>Rakyat</em></td>
<td>Malay term meaning ‘the people’. Commonly used to refer to the common people of Malaysia.</td>
</tr>
<tr>
<td><em>Reformasi</em></td>
<td>A political movement of the late 1990s which called for reform of Malaysian government. The movement was led by former Deputy Prime Minister, Mr Anwar Ibrahim. Literally ‘reformation’.</td>
</tr>
<tr>
<td><em>Rukun Negara</em></td>
<td>The Malaysian ‘national credo’ adopted in 1970. The credo promotes belief in God, loyalty to the King and country, upholding the constitution, sovereignty of the law and good behaviour and morality. <em>Rukun Negara</em> is sometimes written as <em>Rukunegara</em>.</td>
</tr>
<tr>
<td><strong>United Malays National Organisation (UMNO)</strong></td>
<td>The leading and largest Malaysian political party in the <em>Barisan Nasional</em>’s coalition. UMNO is generally seen to represent the interest of Malay-Malaysians. The leader of UMNO is usually the Prime Minister of Malaysia. UMNO has held power in coalition with other parties since independence.</td>
</tr>
<tr>
<td><em>Yang di-Pertuan Agong</em></td>
<td>The Supreme Head of State in Malaysia, and usually translated as ‘the King’. The <em>Yang di-Pertuan Agong</em> is elected every five years from the Malay Sultans in accordance with a rotating succession system determined by the Conference of Rulers. Literally ‘He who is made Lord’.</td>
</tr>
<tr>
<td><em>Yang di-Pertua Negeri</em></td>
<td>The title given to the heads of state in Sabah and Sarawak. The position is also known as Governor.</td>
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</table>
ANNEX B. LIST OF INTERVIEWEES

Australian Interviewees
Ms Lynelle Briggs, Commissioner, Australian Public Service Commission
Mr Stephen Broadbent, Director, South ASEAN, South East Asian Branch, International Policy Division, Department of Defence
Mr Bill Campbell, First Assistant Secretary, Attorney Generals Department
Mr Blair Comley PSM, Deputy Secretary, Department Climate Change
Ms Robyn McKay, Deputy Secretary, Department of Families, Housing, Community Services and Indigenous Affairs
Mr Michael Mugliston PSM, Special Negotiator, Free Trade Agreement Division, Department of Foreign Affairs and Trade
Mr Andrew Metcalfe AO, Secretary, Department of Immigration and Citizenship
Mr Paul Morris, Executive Manager, Department of Agriculture, Forestry and Fisheries
Dr Ian Watt AO, Secretary, Department of Finance and Deregulation

Malaysian Interviewees
Anonymous A
Anonymous B
Tan Sri Hasmy Agam, Executive Chairman, Institute of Diplomacy and Foreign Relations
Dr Sharifah Mariam Alabashi, Deputy Director, International Institute of Public Policy and Management, University of Malaya
Datuk Paddy Bowie, Consultant, Paddy Schubert Consulting
Mr James Crown, Chief Executive Officer, Knowledge Consulting Group
Ms Norani Ibrahim, Director, International Cooperation Section, Economic Planning Unit, Prime Minister's Department
Azmi Khalid, Senior Analyst, International Institute of Public Policy and Management, University of Malaya
Mr Lim Seng Gim, Director, Macro Section, Economic and International Division, Ministry of Finance
Mr Jason Loh, Researcher, International Institute of Public Policy and Management
Datuk Dr Rebecca Fatima Sta Maria, Deputy Secretary General (Trade), Ministry of International Trade and Industry
Dr Ragayah Haji Mat Zin, Professor, Institute of Malaysian and International Studies, National University of Malaysia
His Excellency Dato’ Hussin Nayan, Director General, Southeast Asian Regional Centre for Counter Terrorism

Dr Mavis Puthucheary, Associate Senior Fellow, Institute of Malaysian and International Studies, National University of Malaysia

Mr S Vicknesan, News Editor, Malaysiakini

Mr Steven Wong, Assistant Director-General, Institute of Strategic and International Studies Malaysia

Dr Shakila Yacob, Deputy Director, International Institute of Public Policy and Management, University of Malaya

Mr Richard Yeoh, Executive Director, Transparency International Malaysia

Ms Tricia Yeoh, Senior Research Analyst, Centre For Public Policy Studies, Asian Strategy and Leadership Institute
ANNEX C. INTERVIEW QUESTIONS

1. Name and official designation

On Australian/Malaysian Public Policy

2. Looking at the list below, identify the top three priorities for a policy maker from your country when making policy?
   a) defence and national security
   b) trade and economic growth
   c) immigration
   d) national identity
   e) indigenous affairs
   f) counter terrorism
   g) drug policy
   h) arts and culture
   i) education
   j) international aid
   k) health and quarantine
   l) other (please give details)

Can you identify what may be the lowest priority? Or the three lower priorities?

3. Looking at the list below, what would you identify as your governments top three program goals? Why?
   a) Overcoming poverty
   b) General economic development
   c) Developing international status
   d) Developing a strong defence force
   e) Elimination of corruption
   f) Building domestic stability and cohesion
   g) Promoting environmental sustainability

4. What do you believe are the most important factors considered by a policy maker during the policy development process? Why?
   a) the desires of citizens and permanent residents
   b) the desires of other clients and stakeholders
   c) coordination between agencies
   d) economic opportunities for the government
   e) meeting central planning goals
   f) transparency
   g) election wins for the government of the day
   h) environmental sustainability
   i) other (please give details)

5. On a scale of 1-5, where 1 is not very important and 5 is extremely important, rate how important you believe these factors are in policy making:
   a) national cohesion
   b) economic growth
   c) economic stability
6. What do you think are the three key strengths of your government’s approach to public policy? Why?
   a) Policy development is not too centralized
   b) Australia is not too preoccupied with long-term future goals
   c) Australian policy makers are supported by relevant ICT systems and given appropriate training
   d) Religion is not important in Australian policy making
   e) Australia is focused on overcoming terrorism, via whatever means
   f) Australia is not overly concerned with domestic identity issues
   g) The Australian government is less involved in the domestic economy
   h) Australian policy makers have little power to shape judiciary decisions
   i) Australian policy makers are highly accountable to parliamentary committees
   j) Australian policy is developed with a bottom-up approach
   k) Australia has broad consistency in its program delivery for all ethnicities
   l) Australian focuses on process of service delivery, and also has the human capacity to delivery this
   m) Overall national security is always considered
   n) Other (please give details)

7. When developing policy, on a scale of 1-5, where 1 is not very important and 5 is extremely important, to what extent do these issues shape policy makers intentions?
   a) Budget constraints
   b) Environmental issues
   c) Lack of expertise and/or human capital
   d) Central agency directives
   e) The political realities of the country
   f) Ethnic considerations
   g) Program sustainability

8. If you could improve three things about the process of policy development in your country, what would they be?
9. On a scale of 1-5, where 1 is not very important and 5 is extremely important, how important do you believe are the following steps in the policy development process?
   a) Issue identification
   b) Policy analysis
   c) Identification of the policy instrument/s
   d) Consultation
   e) Internal coordination
   f) Implementation
   g) Evaluation

10. At what level do you believe public policy is developed in the Australian Public Service? Why do you think this is so?
   a) Very low level
   b) Middle level
   c) Senior level
   d) Developed by external bodies (e.g. APSC)

11. On a scale of 1-5, where 1 is don’t agree and 5 is absolutely agree, to what extent do you agree with the following statements. Why?
   a) My government has well planned policy goals
   b) My government puts the people first
   c) My government is racially impartial
   d) My government provides excellent services
   e) My government looks after the people
   f) My government understands the needs of the people
   g) My government is free of corruption

12. On a scale of 1-5, where 1 is don’t agree and 5 is absolutely agree, to what extent do you believe policy makers agree with the following statements:
   a) I’m a “family man”
   b) I want to make transparent policy
   c) I am frank and fearless
   d) I am apolitical

13. Since 1996, can you give an example of what you would consider a “tough policy decision” in your country? Why?

14. Since 1996, can you give an example of what you would consider an “easy policy decision” in your country? Why?

15. Since 1996, do you feel that there has been any change in your government’s approach to public policy making?

16. On a scale of 1-5, where 1 is not very important and 5 is extremely important, rate how important you believe these factors are in inspiring civilians to join the public service:
   a) Pay and conditions
   b) Ethnicity
   c) Status in society

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d) Family links/expectations
e) Desire to make a difference
f) Other benefits (give details)

17. What overall approach do you believe Australia takes in its policy making?

18. Are there any further comments you would like to make about the approach to policy making in your country?

**On Australia-Malaysia Policy Linkages**

19. Since 1996, what three events or issues involving Malaysia do you believe have had the most impact on Australia’s bilateral relationship with Malaysia? Why?
   a) The Asian Financial Crisis (1997)
   b) Malaysia’s veto of Australia joining the economic zone being created by ASEAN (2000)
   c) The Australia and Malaysia joint MoU on cooperation to combat international terrorism (2002)
   d) Australia’s participation in the East Asia summit for the first time (2005)
   e) The decision to begin negotiations on a bilateral Free Trade Agreement (2005)
   f) The first official visit to Australia by Prime Minister Abdullah (2005)
   g) New bilateral agreements on mutual assistance in criminal matters, and extradition (2006)
   h) Prime Minister Abdullah attending the APEC Leaders’ Meeting in Sydney (2007)

20. Since 1996, what three ongoing events involving Malaysia do you believe have had the most impact on Australia’s bilateral relationship with Malaysia? Why?
   a) The War in Iraq
   b) Developments relating to the Malaysia-Australia Joint Defence Program and the Five Power Defence Arrangements
   c) Increases in student exchanges between Australia and Malaysia
   d) Increasing numbers of Malaysian and Australian tourists in both countries
   e) Increasing animosity towards Muslims in Australia
   f) The decade of economic stability under the Australian Howard led liberal government

21. Looking at the below list of policy areas, do you know of any areas where Australian and Malaysian public policy differs? Have you had any encounters in these areas?
   a) defence and security
   b) trade
   c) immigration
   d) national identity
22. The following is a list of claimed differences between the Malaysian and Australian approaches to public policy. Of the 13, which three do you think are the most important?

<table>
<thead>
<tr>
<th>Malaysia</th>
<th>Australia</th>
</tr>
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<tbody>
<tr>
<td>a) Policy development is highly centralized</td>
<td>Policy development is less centralized</td>
</tr>
<tr>
<td>b) Malaysia has a strong focus on meeting development goals</td>
<td>Australia is less focused on long-term future goals</td>
</tr>
<tr>
<td>c) Malaysian policy makers have less access to ICT systems and are sometime lack appropriate training</td>
<td>Australian policy makers are supported by relevant ICT systems and given appropriate training</td>
</tr>
<tr>
<td>d) Religion is important in Malaysian policy making</td>
<td>Religion is not important in Australian policy making</td>
</tr>
<tr>
<td>e) Malaysia is focused on overcoming terrorism, via identifying the root causes of terrorism</td>
<td>Australia is focused on overcoming terrorism, via whatever means</td>
</tr>
<tr>
<td>f) Malaysia is highly concerned with domestic identity issues</td>
<td>Australia is less concerned with domestic identity issues</td>
</tr>
<tr>
<td>g) The Malaysian government is highly involved in the domestic economy</td>
<td>The Australian government is less involved in the domestic economy</td>
</tr>
<tr>
<td>h) Malaysian policy makers have some power to shape judiciary decisions</td>
<td>Australian policy makers have little power to shape judiciary decisions</td>
</tr>
<tr>
<td>i) Malaysian policy makers are less accountable to parliamentary committees</td>
<td>Australian policy makers are highly accountable to parliamentary committees</td>
</tr>
</tbody>
</table>
j) Malaysian policy is developed with a top-down approach
   Australian policy is developed with a bottom-up approach

k) Malaysia develops policy that is different for each of its three ethnic groups
   Australia has broad consistency in its program delivery for all ethnicities

l) Malaysia focuses on final delivery of service, but does not yet have the human capacity to deliver this
   Australian focuses on process of service delivery, and also has the human capacity to delivery this

m) other (please give details)

23. What overall approach do you believe Malaysia takes in its policy making?

24. How strong do you believe is the Australia-Malaysia bilateral relationship?
   a) Very strong
   b) Strong
   c) Moderate
   d) Weak
   e) Very weak

25. Do you have any suggestions for how Malaysia can better understand the Australian policy making approach?

26. Are there any further comments you would like to make about Malaysia’s approach to policy making, or the differences in approach to policy making between Australia and Malaysia?

27. Is there anything further you would like to add to this interview?
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