

Blog as a medium of expression towards democratic culture in Malaysia

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Abstract

This paper emphasizes on the use of blogs as a medium to freedom of expression in Malaysia. Blogs have experienced through the 12th Election results in year 2008 that shows an important impact on the development in Malaysia. This is seen through the occurrence of a significant shift in terms of the government's perception of bloggers and blogs in Malaysia. Blogs have then become an influential medium of a news reporting after an average community rejects the mainstream media which often shows favor to the government. It is acknowledged by the former Prime Minister Mahathir Mohamed who started blogging over the disappointment of not getting access to the mainstream media (Chang et al., 2009). In any country where the media is not independent, blogs will act as an important medium in disseminating information to the public (Tang, 2006). The question is, and then what is the true freedom of expression that exists among social media practitioners, especially bloggers in Malaysia as stated in the Federal Constitution of Malaysia? Why are there a number of acts that restrict this freedom? The first ever defamation suit was made by the New Straits Times Press (NSTP) on Jeff Ooi through his Screenshots blog and also Ahirudin Atan through his Rocky Bru blog in 2007. To what extent is freedom of expression practiced in Malaysia today? This paper addresses to answer this question through a qualitative study and the results of this study where the authors expect that freedom of expression in this country is not absolute.

Key Words: *Blog, freedom of expression, democratic culture.*

1. Introduction

Malaysia is a democratic, multifaceted country made up of different races, cultures and religions. Its existence begins from the spirit of cooperativeness to benefit all the different communities, cultures and religions in a national-state political paradigm framework. Malaysia practices Parliamentary democracy with Constitutional Monarchy and His Royal Highness is the paramount Ruler that supports the sovereignty of law. The Federal Constitution Article 44 guarantees that the rights of the people are protected.

In this system, the Federal legislative power is vested in the Federal Parliament. In a democratic system, freedom of expression is an important aspect that must be practiced,

even to the extent of it being an identity of a democratic country. Malaysia recognizes freedom of expression as stated in the Federal Constitution Article 10 which gives rights and freedom to the people to speak and express themselves, gather peaceably without arms, and form associations. This provision was made as the fundamental in justifying this country as a democratic country that does not suppress the freedom of expression. Nevertheless, the government has its own special version related to the said matter and they are of the opinion that freedom of expression that is given is limited and it contradicts with the United Nations declaration namely the provision in the Universal Declaration of Human Rights that was approved by the United Nations on 10 December 1948.

For example, Article 19 of the Universal Declaration of Human Rights states that every individual has the right to freedom of expression and speech. But, Article 29(2) of the same Declaration states that in implementing all the rights and freedom, each individual is subjected to certain restrictions determined by specific laws. This opinion is held by the government to justify that freedom of expression in the country is on the right path and is in accordance with international rules.

2. Malaysia vs Democracy

Though the government claims that Malaysia is a democratic country, there are opposing views that Malaysia is not a fully democratic country as it does not practice a pure democratic system, based on meaning and the democratic concepts raised by scholars in the field. Many political analysts such as Case (1993) and Zakaria Ahmad (1989) posit that Malaysia does not practice pure democracy based on several factors. Some political science scholars identify it as "Quasi Democracy" or "Pseudo Democracy" based on several vindictive laws that are still enforced amidst periodic elections and celebrated democratic institutions that are not fully functional. Mujibu (2009) states that Malaysian democracy is a form of camouflage democracy because the practice of democracy in Malaysia is different from the original theory. Other scholars such as Von Vorys (1975), Jesudason (1995) and Crouch (1996) hold different views and are of the opinion that Malaysia practices consensus democracy, static democracy or limited democracy.

For a country to be called a democratic country, it has to meet the seven key features namely: existence of freedom of expression, freedom and quality of the press, free and fair elections to occur at regular intervals, freedom to form organizations and associations, the majority rules, the minority rights are respected and the existence of a judiciary system that is always free and neutral (Zaini Othman, 2006). In contrast to his view in 2009, Mujibu et al., (2010) is of the opinion that in the present Malaysian context, Malaysia is deemed as a democratic country because it possesses all the theoretical and philosophical elements. On another note he also questions the practical aspects of it.

This subject has become a big question mark to everyone. Generally, citizens of the country as well as those who reside overseas are questioning how far freedom of expression is practised in this country. In reference to the Federal Constitution Rule 10 (freedom of speech, assemble and forming associations), it does not clearly define the rights of freedom of expression but mentions that every citizen is entitled to freedom of speech and expression. The Clause states; Rule 10 (1) subject to Clause (2), (3) and (4); (a) every citizen has the right to freedom of speech and expression; (b) all citizens have the right to assemble peaceably and without arms; and (c) all citizens have the right to form associations.

Additionally Rule 10, Clause (2, 3 and 4) provides that freedom of speech and expression is still restricted to a certain extent with the interest to protect federal security or part of it, to protect the good rapport with other countries, public safety and sovereignty of the Parliament or any Legislative Assembly from any actions that defame the court or any libel and slander or seditious acts that can affect the Malaysian constitutional system and the peace and harmony of the country.

In contrast to Clause 19 of the United Nations Declaration of Human Rights Act (UN) everybody has the right to freedom of speech and expression; this right includes freedom in presenting one's own views without any restriction in

finding, accepting and spreading views through the media. Likewise the First Amendment to the United States Constitution prohibits the making of any law impeding the freedom of speech, infringing on the freedom of the press, interfering with the right to peaceably assemble or prohibiting the petitioning for a governmental redress of grievances.

In the United Kingdom (UK), the approach is quite different as Britain does not have a written constitution. Therefore there is no official definition on the rights to freedom of speech. The House of Lords which is the highest Legislative Assembly provided a statement that freedom itself is a vague and inconsistent concept depending on the contexts and situation. For example; the freedom of speech, to fall in love, to eat and to be involved in trade and commerce carries different meanings. Freedom of speech is not absolute. Freedom of speech does not include libel and slander, offending other religions, sedition and others. This means that freedom of speech is restricted by law.

Chamil Wariya (2012) says that if we look at democracy through the western liberal perspective then freedom of speech is deemed very important to protect individual freedom, to seek the truth, a direct involvement in the process of political democracy, to monitor the accountability of the authorities and encourage individual development and achievement. Nevertheless, democracy in Malaysia is different from the western liberal democracy as it is based on tradition for institutions, legislatives, executives as well as the judiciary.

In his blog Hewitt (2005) mentioned that reformation of information is changing the world today. The presence of blogosphere has diminished the monopoly of traditional media and given individuals the power of marketing ideas. The democracy of information is occurring in Malaysia and is empowering the minds of the Malaysians. The irony is that freedom of speech is never absolute in any country in the world although there are countries that claim they allow total freedom of speech.

It is generally believed that most Malaysian bloggers prefer to voice their dissatisfaction towards their leaders, spread libel and slander or shams to create controversies on current issues. However, such perceptions are not true because bloggers have their own code of ethics and each blogger has his own style and writing technique. Chamil Wariya (2008) states that blogs actually mirrors the bloggers personalities if their writings are constructive, attractive and ethical. Such blogs will definitely attract visitors.

3. Freedom of Press in Malaysia

As a democratic country, Malaysia has given freedom to the press to report but is subjected to the Federal constitution. Such freedom of Press is not absolute because every article to be published must not infringe or touch on multiracial sensitivities. Any publication that could cause harm to individuals or affect the country must be totally avoided. However some media analysts find that Malaysia lacks control over the media. Nevertheless some of them believe that this country does not practice freedom of the press where the opposition parties are concerned.

In their study entitled "*Kebebasan Komunikasi Media Mengikut Perspektif Islam*" Aminudin Basir et. al., (2009), they state that in the current scenario a lot of information is disseminated freely and openly through the communication media. Such practice sometimes affects the credibility and dignity of certain groups and individuals. Therefore, it is a challenge for journalists to ensure that news or articles published are true, just and valid. Any printing and publication must go through the editors and be thoroughly edited.

In his article, Ku Seman Ku Hussain (2012) states that society has the right to receive accurate information about their leaders and matters that touch social and political issues. For example, information about social unrest or intolerable attitude of some leaders can give a direct or indirect impact on society. However, certain issues are sometimes given too much attention and coverage by the media to the extent that it leads to boredom or dissatisfaction among the people and other national issues are sidelined. Therefore the existence of new

media like blogosphere plays an important role in giving a good balance to democratic ruling.

This shows that new media enables certain news to be swiftly disseminated and made readily accessible to society. However, there is negative impact of such borderless information dissemination that questions the credibility of the news published. The validity of any information that appears in blogs is questionable because anyone can be a journalist and write on certain issues without getting the information and facts from credible sources. On a positive note, the new media enables news to be sent swiftly at a minimal cost to the readers for instance, online news such as myMetro, Sinar Harian online, Berita Harian online and others. Thus the introduction of the new media brings new challenges to printed and electronic journalists in producing quality and interesting news. To illustrate, in the case of 'fidlot' involving a prominent local politician Shahrizat Jalil, online journalists were able to publish news on it much faster than the printed journalists. Currently, with the click of a mouse society nowadays can obtain certain news or issues faster than before. Local and international news could be known to society just by surfing the internet. The new media is seen to be less controlled compared to the the printed and government controlled media. However, the new media still needs to be monitored so as not to produce controversial issues that may cause concerns for national security.

Realising the gravity of the situation, the government urge bloggers to always be ethical and responsible and call on the main stream media to help keep an eye on the validity of the information provided through the Internet (Georg, 2007). Bloggers have greater freedom compared to media journalists because they are not bound by the code of ethics. Will bloggers understand the meaning of manners and ethics in their writings? For those who have a background as a journalist might take these things seriously but for those who are not from the journalism world may not consider ethics as their priority. Thus the value of responsible writing is of paramount importance.

4. Blogs as a medium for freedom of speech

In any country where there is no freedom of the press or the media and they only focus on one party or group, blogs or the new media will act as an important medium in disseminating information to the public and allow the rest of the world to look at what is actually occurring in the country (Tang, 2006). Due to this, blogs have played an important role in disseminating information to the public.

In his study, George (2007) found that there are more than 10,000 blogs based in Malaysia and Jeff Ooi is one of the most influential bloggers (Screenshots, <http://www.jeffooi.com/>). Other bloggers that stand out include A. Kadir Jasin (The Scribe, <http://kadirjasin.blogspot.com/>), Ahirudin Attan (Rocky's Bru, www.rockybru.com.my), and Tun Dr. Mahathir Mohamad (<http://chedet.cc/>) and opposition party leader, Lim Kit Siang (<http://blog.limkitsiang.com/>) (George, 2007). The large number of blogs shows that this medium of communication could be a platform for bloggers to channel their views.

A blog is a website which covers a series of articles displayed according to the latest sequence (Ekdale, Namkoong, Fung & Permuter, 2010). Blogs contain text, media, images and data arranged according to chronological order. Some blogs have links to other websites and advertisements (Dearstynne 2005, Quible, 2005). Gillmor (2004) explains that blogs are online journals consisting of links and displayed in reversed chronological order. Nardi et al. (2004) states that blogs are a series of archives in the Internet that are characterised by simple texts inserted in reversed chronological order and generally contains links in other websites recommended by the writers.

Since the Malaysian government practiced an open policy in the mid 1990s with the addition of no censorship in the internet as stated in the Communication and Multimedia Act 1998, there has been a wind of change in the way information is disseminated through the internet (Baharuddin et. al, 2008). It could be seen that in the 10th and 11th elections many alternative websites mushroomed including the short text messaging (SMS), while in the 12th election in 2008 blogs played a major role in disseminating information to the public.

It was obvious that blogs had a significant impact on society as the main stream media was outdone by the new media which brought about the downfall of Barisan National (BN) at the elections. The then Prime Minister, Datuk Seri Abdullah Ahmad Badawi admitted the mistake of campaigning through the internet which was fully utilised by the opposition throughout the campaign period to win the hearts of Malaysians particularly the young generation (Chamil Wariya, 2008).

Though bloggers have the freedom of speech and expression, they are restrained by various laws or acts. Abdul Latif Ahmad et al., (2011) states that Malaysian blogs are held by various rules and regulations such as the Internal Security Act (ISA 1960) that was abolished and replaced by the Security Offences Act (special measures) 2012 or SOSMA, Official Secrets Act 1972 (Amendment 1986), Sedition Act 1957, Copyright Act (Amendment 1977) 1987, Cyber Laws of Malaysia, Communication and Multimedia Act 1998 and Printing and Publication Act (1984) that could influence the freedom of speech in the democratic system.

5. Controversy caused by BLOGS

There are some cases of bloggers who have been charged according to the earlier mentioned acts. On 7th February 2013, former ISA detainee Yazid Sufaat, Halimah Hussein and Muhammad Hilmi Hasim were the first case detained under SOSMA. Yazid faced the charge of encouraging violence by threatening the people in Syria, while Halimah and Muhammad Hilmi were charged with abetting him. The three of them were detained under Section 4 (1) of the Security Offences Act 2012 for promoting violence. Yazid Sufaat was the former ISA detainee detained in December 2001 and released in December 2008.

Blogger Yusuf Al Siddique Suratman or better known as Milo Suam was detained on 2nd May 2013 following an investigation about the publication of the two articles under the Official Secrets Act (OSA). The first article entitled; "*Maklumat Sulit: Pendatang asing bakal cetus huru hara di Sabah?*" is related to the police message regarding the invasion of terrorists in Lahad Datu on 6th March 2013. The case was investigated under Section 8 (1) of the Official Secrets Act 1972 because the published document was classified as an official secret. The second article that claims the police voted earlier than scheduled was investigated under the Election Act 1958, Communication and Multimedia Act 1998 and Section 505 of the Penal code for spreading false information.

A social media user, Mohamad Tasyriff Tajuddin in his facebook became the first journalist to be charged under the Communication and Media Act 1998. He was charged for posting threats in his facebook regarding the use of the word "Allah" in publications by the Catholic Church. His comments "*ke nak aku baling bom petrol di Sana plak*" was regarded as provocation with the intent of upsetting other facebook users on Sharul Maizam's facebook. Mohd Tasyriff was charged under Section 233 (1) (a) Communication and Multimedia Act 1998. If convicted, he will be fined RM50, 000.00 or face a maximum one year jail sentence or both.

The Malaysian Insider, an independent news portal was sued by a corporate figure, Tan Sri Tajuddin Ramli on 26th August 2011 for publishing an article entitled "MACC clears AG of graft allegation". The renowned corporate figure claimed the article published on 31st May 2012 is a slander against his good name. He also claimed that the news portal had repeatedly made defamatory statements in other articles despite an official request made via mail to put a stop to it. The repetitive actions of circulating slander attested the news portal of malicious intent. However, on 30th September 2011, both sides agreed to resolve the said case out of court after the news portal confessed that the article was not based on real facts. Open apologies were made by both sides and at the same time, articles that contained slander were withdrawn immediately and the Malaysian Insider promised not to repeat the offence in the future.

Apart from that, Malaysiakini.com through its editor-in-chief Steven Gan was sued by the former Sarawak Chief Minister, Tan Sri Abdul Taib Mahmud on 15th May 2007 for publishing 12 articles that contained defamatory statements. According to Tan Sri Taib

Mahmud, Malaysiakini has committed libel saying that he raised RM32 million from illegal logging and timber trade activities in Sarawak. Malaysiakini failed to annul the case but was instructed to pay the cost to Abdul Taib Mahmud for the offence they committed. However, the case was settled after Malaysiakini made an apology to the plaintiff and confessed that what was published was based on lies.

How far would local bloggers be responsible for what they published in their blogs? Some bloggers sometimes published articles that give a bad name to certain parties like the article written by Zainuddin Maidin. It gave the impression that pork is served on AirAsia and AirAsia X flights and these claims caused him dearly when the airfreight company sued him RM5 million for defamation. However, Zainuddin Maidin made an open apology in his blog to AirAsia group on 1st July 2013 and was released from legal action.

Two bloggers popularly known as 'Papagomo' or his real name Muhammad Azri Wan Deris' and 'Parpukari' or his real name Mohamad Salim Iskandar were prosecuted for making slanderous remarks in their respective blogs on a businessman, Abdul Razak Mohd Noorin in January 2013. Both defendants were prosecuted for calling him a thug and accusing him of committing fraud against the government as well as having conspired with the opposition and labelling him an ungrateful United Malays National Organisation (UMNO) member. The trial verdict on 'Papagomo' instructed the defendant to pay RM550,000 as compensation to the plaintiff on the defamation suit. This is hoped that it can be a lesson to bloggers not to simply feature articles that contain slander and libel by anonymous people.

Blogger Taruna Aduka or Khairulnizam Abdul Ghani was charged under Section 233 (1)(A) Communication Act and Multimedia 1998, that if convicted could be fined not more than RM50 thousand or two years jail or both for posting a blog entry "Sultan of Johor is Dead, Bravo" that was regarded as an insult with the intention to harm The Sultanate of Johor and The People Institution on 22nd January 2010. After two years and four months trial, Seremban Session Court decided that Khairulnizam Abd Ghani was not guilty as charged.

Nevertheless, blogs could be misused as a medium to spread libel and slander and can incite suspicions among people. In the case of a blogger, Zabariah Mohd Yusof who was ordered by the High Court to pay RM400 thousand compensatory to the former Minister of Culture, Communication and Information, Datuk Seri Dr Rais Yatim for the seditious article in his blog 'Sharpshooterblogger.blogspot.com' entitled *Hei Pak Menteri...mana mahu lari....* (28th December 2010), the defendant refused to pay the amount prior to the trial on the grounds that the defendant would be accused of accepting a bribe from the plaintiff. The defendant stated that he will be fully responsible for the publication of the article. In his article, Zabariah Mohd Yusof claimed that Datuk Seri Dr Rais Yatim raped his Indonesian maid.

In another incident, the former Permaisuri Agong, Siti Aishah Abdul Rahman submitted a writ for an injunction on Syed Abdullah Hussien Al Attas or better known as 'Uncle Seekers' and his father, Syed Hussien Al Attas at the Temerloh High Court to prevent the disclosure or publication of confidential information on the treatments undergone by the former Permaisuri Agong either in the oral or written forms in blogs, press, books, magazines, websites or pamphlets. Nevertheless, both defendants disclosed all details to the press and in the 'Uncle Seekers' blog. Thus, both defendants were asked to pay general damages, exemplar damages and other costs by the court in December 2010.

Another controversial incident occurred in August 2004 when Jeff Ooi was indicted (NSTP) for spreading a series of defamation statements about Datuk Kalimullah Hassan and his three colleagues from the News Straits Times Press (NSTP) from 16th Feb until 4th December 2006 in his blog 'Screenshot'. NSTP stated that among the defamations made was the NSTP journalists would only report what delights the government because they are the major shareholder of the news agency. As a ripple effect of this court case, NSTP also filed a defamation suit against another blogger, Datuk Ahirudin Attan based on the same issue posted on his blog, 'Rocky Bru' in January 2007. Both bloggers however apologised and withdrew all accusations made on NSTP at the high court and

expressed regret for their thoughtless actions that caused inconveniences to various parties.

According to the Security Threat Report 2013 published by Sophos, a developer and vendor of security software and hardware, Malaysia is ranked the fifth most at risk among countries around the world with 17.44% of exposure to cyber attacks. This rate is based on the percentage of personal computers with malware attacks, either successful or failed within a period of three months.

An article by the New Sarawak Tribune (2013) stated that Dr Amirudin Abdul Wahab , CEO to Malaysia's Cyber Security, an agency under the Ministry of Science, Technology and Innovation that supports enforcement agencies with cyber forensic and analysis and acts as the adviser on cyber law to the government, reported that there was a total of 2,499 cases linked to cybercrimes reported in the first quarter of the year, of which 1,160 were fraud cases while 862 cases involved the infiltration of cyber users account. Bernama news also reported that cybercrimes had caused an estimation of USD 315 million of losses in the first half of 2012 based on the statistics released by the Malaysian police (29th August 2013). This means that the existence of rules to monitor and govern any information posted in blogs are necessary and should not be perceived a restriction to freedom of press.

6. Conclusion

It can be concluded that blogosphere in Malaysia has evolved since the year 2008 whereby media consumers use new media as an alternative to access information that is not obtainable in the main stream media. Blogs have been used as a means to disseminate swift and free information to the public. Nevertheless, freedom of the press in Malaysia is not absolute with the existence of the constitution to maintain peace and harmony in the country.

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