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ENHANCING ISLAMIC JOURNALISTIC ETHICAL CONDUCT THROUGH PRESS COUNCIL

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Abstract

The recent power shift in Malaysia comes with a bundle of promises including the vow to establish a regulatory Council to govern the press industry. The proposal however, has been resurfacing now and then even since 1973. Regardless, little is known as to what extent such establishment of a Press Council would have in any role in regards to protecting or enhancing Islamic journalistic ethics in Malaysia. It is well known that the Islamic values of journalism and the western standard of press ethical conducts are often viewed as in conflict between one and another. With the rise of convergence of multi-medium of media technologies of which are mainly dominated by the west, Islamic press ethics seems to be increasingly disregarded, unobserved, and forgotten compared to its western counterpart. This would, in our local Malaysian context, dilute Islamic values in our society in the long run, as press and media are agents that shape the integrity of a community. Thus, the main purpose of this research is to identify the gaps between the western and Islamic journalistic ethics where it is possible to harmonize both. The recent proposal to establish a Press Council in Malaysia is viewed as an opportunity for us to recommend any improvement that can be made to the proposed Malaysian Press Council in its framework in terms of Islamic perspective. The paper adopts the method of textual analysis of the legislation and considers the secondary data on the working of the councils in various countries.

Keywords: Constitutional law, freedom of press, human rights, media council, Press ethics, press council

1. Introduction

The Code of Journalism Ethics is designed to provide ground rules for press ethical conduct. Accordingly, it brings for an accepted set of values to be practice by the journalists in conducting their daily trade (Cohen-Almagor, 2014). Safar Hashim and Murad Merican opined that the Code of ethics is a set of principles of professional conducts, adopted and controlled by the press itself (Hasim & Merican, 2002). The press ethical code would also play a role in mitigating reliance on law to enforce press ethics, of which usually results in excessive restrictions towards the freedom of press. On the other hand, the absence of a regulation to enforce ethical conduct may result in the press being in excess. Even though it is noticeable that there are many Code of Ethics that exist in Malaysia, there is still no single codification and enforcement of the Code since there is no dedicated regulatory body over the Press has been established, which in our case; a Press Council. Additionally, the recent initiative by the government to establish a Malaysian Media Council should serve as a golden opportunity for us to not only have a unified and codified Press Code of Ethics enforced, but would also be a favourable circumstance for the country to implement a Shariah-compliant press ethical code. Therefore, this research will look into the differences and compatibility between Islamic and Western version, and what is the best way to enforce it.

2. Problem Statement

Despite Islam being the religion of the Federation as written in Article 3 of the Federal Constitution, the implementation of Islamic norms and ethics is still at the minimum in general, including the Islamic journalistic norms. Regardless, there are still many debating on whether Islamic journalistic norms are compatible with the western journalistic values which are widely practiced. In the meantime, the lack of enforcement of the proper journalistic ethical code of conduct to the press practitioners may lead to its lack of practical compliance.

3. Research Questions

Accordingly, the researchers identify there are several research questions in this paper:
- Whether Islamic journalistic ethical code is compatible with the contemporary press practice in Malaysia?
- Whether it is possible for the proposed Press Council to adopt Shariah-compliant journalistic code as their Code of ethics?

4. Purpose of the Study

The main purpose of this research is, to identify the gaps between the western and Islamic journalistic ethics and to show that both could in fact be harmonized between each another. The recent proposal to establish a Press/Media Council in Malaysia is viewed as an opportunity for us to suggest, and to recommend any improvement that can be made to the proposed Malaysian Press Council in its framework in terms of Islamic perspective.

5. Research Methods

This paper adopts qualitative method as it provides a better comprehension into the essence of the Islamic ethical code of conduct. In pursuance to that, semi-structured interviews were conducted involving several stakeholders of the related field. Furthermore, this paper will largely employ the doctrinal-based approach in collecting research data. The library-based research will be carried out extensively as part of finding relevant primary sources; such as case laws, legal provisions, Quranic texts, hadiths and other relevant primary data materials. In addition to that, we will also conduct data collection on secondary sources by using library-based and online research (Thornhill et al., 2013).

6. Findings

Accordingly, there are several findings to this research;

6.1. The Western and Islamic ethical norms of Press

The western jurisprudence put a high regard on the right to freedom of expression, where it is regarded as a core right in a democracy (Van Vollenhoven, 2015).The universal western ethical norms should at least be comprised of the following characters; 1) Truthfulness, 2) Objectivity, 3)Privacy and 4) Avoidance of harm (Arshad & Ashraf, 2014). Milton 1644 in (Somaini & Pollicino, 2020), emphasized that freedom of expression as a pre requisite for the already discovered truth and for undiscovered truth to be discover. He discouraged censorships as it would be a discouragement of learning (Erdos, 2020). As truth is the main object of the norms of the press, therefore truth should cover a wider scope as accountability where it must be extended to honesty, reliability and fairness. Thus, to report 'truth' alone does not suffice, but the report should as well be accurate (Cohen-Almagor, 2014).

In addition to that, Arshad and Ashraf (2014) argues that news should also be objective. In fact, objectivity to the news is a compliment to the truth (Hafez, 2002). This is due to 'facts' in reporting should be separated from 'opinion' in order to maintain the integrity of the news. Reporting in general, have to be neutral. This is why Cohen-Almagor (2014) stressed that journalists have a duty to avoid all forms of conflict of interests (Cohen-Almagor, 2014). Apart from that, Western norms also emphasizes on the concept of privacy (Hafez, 2002). In regards to justifying privacy, Cohen-Almagor (2014) contends that human dignity and rights should be given a due respect, where privacy is part of it. Despite exception to privacy should be given on the ground of public interest (Cohen-Almagor, 2017a; Hafez, 2002), the researchers however, believes that it should be exercised at utmost care and caution. This is because the concept of public interest itself is inadequately defined (Varney & Feintuck, 2006), and its parameter is open to indefinite understandings. Furthermore, the Western press ethical norms also specially highlights on avoidance of harm. In this respect, Cohen-Almagor (2014) and Arshad and Ashraf (2014) stressed that reports should avoid, or at least minimize harm. Regardless, the concept of 'harm' itself is particularly vague and may be subjected to various interpretations. Mill for instance believes that the limitation to harm should only be justified as preventing harm to other people, and not to prevent self-

harm (Cohen-Almagor, 2017b; Husak, 2005). Regardless, to put into context, 'harm' may be extended to obscenity, vulgarity, and blasphemy (Akoje & Abd Rahim, 2014).

Despite Islam often being projected as repressive, backwards, and rigid by the western media (Alghamdi, 2015), Islam has in fact recognize the right to freedom of expression long before the enactments of the international legal instruments such as the UDHR and ICCPR (Samat Musa, 2018). In Islam, the concept of freedom of expression which is comprised of free press, is based mostly on high standard ethics and morality (Jallow, 2015). According to Jallow (2015), freedom of expression in Islam is much based on the ethical values that are set by the three important sources, which are divine revelation (Wahyu), the sayings of the Prophet Muhammad (PBUH) (Al-Hadith), and his actions (Sunnah). Freedom of expression or known as (ar-ra'y) in Arabic, is an "opinion on a matter which has not been regulated by the Quran and the Sunnah" (Kamali, 1998, p. 62). Furthermore, freedom of expression is not only recognized as a right, but it extends as an obligation to a Muslim (Islam & Norullah, 2020). Kamali (1994) also observes that freedom of expression can be considered as "an extension of the freedom of conscience and belief, which the Shariah has validated and uphold" (Kamali, 1994, p. 61). Riaz Ahmed Saeed (2013) classifies objectives of the freedom of expression and speech in Islam into three, where its main purpose is the discovery of the truth (al-Haq). This is because, through freedom of speech, it permits one to search for the truth which may bring a person to be closer to God (Saeed, 2013). Next, freedom of expression also upholds human honour and dignity (Saeed, 2013). In this respect, Kamali (1994), stated that "Freedom of expression also compliments human dignity, for the essence of character and personality is reflected in a person's opinion and judgment."(Saeed, 2013, p. 73) This demonstrates that Islam provides protection of civil liberties on the grounds to upheld human dignity (Saeed, 2016). Thus without free speech and press, the objective to guard human dignity is impossible. The concluding objective of free expression in Islam is the free speech itself is a fundamental right in Islam. This is observe by Kamali (1994) where according to him the right is safeguarded under the Sharia law (Islam & Norullah, 2020). However, it should be noted that Islam gives the right of freedom of thought and expression to all citizens of the Islamic State on the condition that it should be used for the propagation of virtue and truth and not for spreading evil and wickedness (Kamali, 2014). Additionally, freedom of speech and expression also aimed to 1) Uphold truth and justice, 2) Rejecting cruelty and imperfection, 3) Not forcing others to accept a particular point of view, 4) Respect of the rights of individuals, and 5) Convey significance to the general public (Mohd et al., 2016). The Cairo Declaration of Human Rights (CDHR), which is the leading Human Rights apparatus for the Muslim world. The recognition towards the protection of such right is expressly stated in the Article 22 of the CDHR, where everyone should be able to freely express their opinion as long as it is not in contrary to the principles of Shariah (Saeed, 2016).

Nonetheless, like its western counterpart, free expression and press in Islam is also subjected to several limitations. This is illustrated in Surah An-Nisa verse 148- 149 where the Shariah clearly prohibits illegal expression. Thus, it clearly shows that freedom of expression in Islam is closely attached with the question of morality and responsibilities. Further, there are many authorities from Quran and Hadith that prohibits illegal expression (Saad & Samat Musa, 2015) such as blasphemy, defamation , slander, apostasy, or sedition, are governed by Shariah laws which either comes under the purview of hudud,

qazaf, or ta'zir (Daud, 2019). Thus, Islam does not restricts freedom of press in general as long as it is being exercised within the parameter and objectives of Shariah. In fact, interview respondents of this research especially from the press industry concur that the Universal Journalistic Code of Conduct is already in conformity with the Islamic ethics and teachings, at least in principle. The Chief Executive Officer of the Malaysian Press Institute, Chamil Wariya (2019) and Grup Sinar Karangkraf's Editorial Advisor, Jalil Ali (2019) stressed that the concept of Tabayyun or verification for example, is already in practice since the days of Prophet Muhammad. This is consistent with the finding of a survey conducted on journalists of three major Muslim countries (Indonesia, Malaysia, and Pakistan) by Lawrence Pintak (2014), where he found that believe in Islamic norms had heavily influenced their observation on Universal Norms of Press Ethics (Pintak, 2014).

6.2. The Importance of Having a Journalists Code of Ethics and its Enforcer

The core of every Press or Media Councils is its Ethical Code of Conduct. According to Bertrand (2018), the concept of an ethical code to the press profession derives from the Latin word deontologia (Bertrand, 2018). The main objective of the Code is to inform the public on its profession; which includes its rules of conduct (Himelboim & Limor, 2008). This is crucial as the code would facilitate the press industry to enhance their public image by increasing its credibility and simultaneously protect its consumer, which further heightens their prestige and generates solidarity among the subscribers. Therefore, the code would furnish the sense of security, assurance and collective strengths within the profession as well as its stakeholders (Bertrand, 2018).

Regardless, in actual practice, the Codes are formulated much with intent to avoid an intervention or if it is already intervened, a further state intervention over the press. This is because, the Code would be a conciliation against a risk from the state to introduce a tighter control over the press, or in some cases the acquiescence to the Code can be a defense against a legal action by the State (Daud, 2019). Additionally, the Code serves as a protection to the press professionals against its own employer, or press owners. This is due to the fact that, provisions on such protection can also be inserted in the Code as well (Bertrand, 2018). Since the questions of 'ethics' depends on its political regime, stage of economic development, and culture of a nation, the Code adopted by one country or even at a miniscule level of an association might be different to each another. Despite its diversity, the Journalistic Code of Ethics is usually embodied by several similar fundamental clauses. In this respect, fundamental clauses can be generally divided into six categories, namely 1) According to the Nature of Rules, 2) According to Media Functions, 3) According to the Scope of the Rules, 4) According to the Category of Professionals, 5) According to the Type of Accountability, and 6) According to the Phase of Work (Bertrand, 2018). In Malaysia, there are already several versions of Journalists Code of Ethics in place that are enforceable to the press profession domestically. These Codes however are drafted and applicable only to the specific journalists associations, media companies or fraternities (Wariya, 2017a). Thus, as of today, there is no unified Code of Ethics that is applicable to all journalists in the country (Hasim & Merican, 2002).

Nevertheless, the existence of ethical codes alone is not sufficient in terms of ensuring compliance towards a moral code among its intended fraternities. Therefore, a certain Media Accountability System (MAS) should be in existence, in order to exert external moral pressure for the purpose to guarantee

acquiescence (Bertrand, 2018). Interestingly, Bertrand (2018) and Silva and Paulino (2007) credited that a Press Council could potentially be the most effective MAS as it often involved all stakeholders (Bertrand, 2018; Silva & Paulino, 2007).Generally, the Press Council comes in many forms and names. The function of a Press Council can be divided into four main functions which are; 1) to uphold press freedom, 2) to draft and () administer the Press Code of Ethics, 3) to be a redress mechanism, and finally 4) To enhance professionalism among the members of the industry (Wariya, 2017b). The Press Council may also function as a referral body in matters concerning media laws, as well as assuming a role as arbitrator in response to public grievances. The Press Council can be established through several methods; through self-regulation or consensus by the press industry (example; IPSO, United Kingdom), or through legislation (example: The Press Council of India). It should also be noted that some Press Council are also established through a government incentive, and serves as a state agency (Example: Pre 1999 Indonesian Dewan Pers) (Haron & Shuaib, 2016, 2018; Sufian Shuaib & Hakimi Haron, 2019).

7. Conclusion

Based on the findings above, it is noted that Islamic and Western Press Ethical norms are generally compatible in principle. This is because they both stress on similar values, for example to report the truth, the need of verification, to respect privacy, and others. In fact, most of our respondents from the press industry agrees that both norms are generally compatible with each another. Regardless, it should be noted that the objectives of both norms are different as Shariah Press Ethical norms stresses that it must be in compliance with the norms of Shariah, while the western version is more towards to the western philosophy of Human Rights. Apart from that, the researchers strongly suggest that there is a need for a unified version of a Journalists Code of Ethics to be formulated and enforced in Malaysia. The enforcement in our opinion can be executed by a dedicated Media Accountability System, of which in this respect a Media or a Press Council. It is also strongly recommended that the proposed unified Malaysian Journalistic Code of Ethics should be comprised of basic Shariah and Western journalistic norms, as well as the precepts of Rukunegara; which would solidify the local identity of this nation.

Acknowledgement

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