Deliberative Democracy : A Malaysian Perspective*

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Abstract

This paper discusses briefly first the theory of deliberative democracy as an important aspect of the democratic system of governance which encourages citizens to participate in decision-making process by thinking and debating critically on issues that are political and of public interest especially with regard to policies that impact their daily lives and their future. This paper then analyses this theory from the Malaysian political perspective. Malaysia has different approaches toward implementing deliberative democracy. This is because of the nature of society and political circumstances of the country. While Malaysia rejects liberal democracy but it embraces elite deliberation which believes that democracy should be applied responsibly without jeopardising racial and religious harmony which calls for limiting certain democratic practices, such as freedom of speech and that of the press.

Key words: Malaysia, deliberative democracy, corruption, Islam

Introduction

Supporters of democracy eager to see more public participation in the processes of decision-making have further reformed this idea of representative democracy. They have studied about the effectiveness of democratic system and have come up with the idea that deliberative democracy should be incorporated into the democratic system. Deliberative democracy, public deliberation or participatory democracy, has been described as a nascent social movement, a response to the perceived inadequacies of representative democracy (Levine, 2003). It has been argued that an ideal concept of democracy implies "a complex body of enforceable rights and opportunities: to participate in electing representatives; to freedom of expression, inquiry, discussion, and deliberation in the widest sense; to form associations with others for inquiry and political action; rights and opportunities to citizenship; and more" (Dahl 2000: 38).

While deliberative democracy can enhance the democratic system in the context of Malaysian politics, the spirit of democracy is rather slow in flourishing because of the many considerations that need to be endured; For instance, there is the argument that since Malaysia is a multiracial society, Malaysian democracy must reflect the make up of Malaysian society which places utmost importance in political stability and racial harmony. Despite these constraints Malaysia still practises deliberative democracy,

however the practice is only within the circle of ruling Barisan Nasional (BN). Such deliberation is called "elite deliberation".

Theory Of Deliberative Democracy

According to Yusef Waghid (2002: 189), the notion of democracy accentuates three inter-related aspects central to an understanding of democracy: democracy as a system, democracy as a sphere for debate, and democracy as a set of meanings. The first two depictions can be linked to two broad conceptions of democracy. First, democracy as a representative system of political decision-making and, second, democracy as a sphere for social and political life in which people enjoy equal opportunities and are engaged in self- development, self-fulfilment and self-determination (Carr and Hartnett, 1996: 40). In this regard, a representative democracy maximises citizens' opportunities for self-determination, hence *"they must live in association with others ... (which) necessarily requires that they must sometimes obey collective decisions that are binding on all members of the association"* (Dahl, 2000: 89).

According to P. Levine (2003), democracy requires deliberation for three reasons:

1. To enable citizens to discuss public issues and form opinions;

2. To give democratic leaders much better insight into public issues than elections are able to do;

3. To enable people to justify their views so we can sort out the better from the worse.

Deliberative democracy simply refers to *"a conception of democratic government that secures a central place for reasoned discussion (rational deliberation) in political life"* (Cooke, 2000: 947). For Amy Gutman and Dennis Thompson (1990: 1), deliberative democratic theory offers *"a conception of democracy that secures a central place for moral discussion in political life"*. They argue that the promise of a deliberative democratic theory lies in a concern for *"finding terms of cooperation that each citizen can accept"* for the reason that contemporary societies are driven by deep conflict and moral disagreement (Gutman and Thompson, 1990: 26). James Bohman (1996: 4), another defender of deliberative democracy, posits that democracy in some form implies public deliberation; that is, *"the deliberation of citizens is necessary if decisions are not to be merely imposed upon them ... consent, is after all, the main feature of democracy"*. In other words, political decision-making is legitimate insofar as policies are produced in *"a process of public discussion and debate in which citizens and their representatives, going beyond mere selfinterest and limited points of view, reflect on the general interest or on their common good"*.

Among the number of definitions on deliberation and deliberative democracy, the Deliberative Democracy Consortium (2003) has one of the most practical versions: Deliberation is an approach to decision-making in which citizens consider relevant facts

from multiple points of view, converse with one another to think critically about options before them and enlarge their perspectives, opinions and understandings. Deliberative democracy strengthens citizen voices in governance by including people of all races, classes, ages and geographies in deliberations that directly affect public decisions. As a result of citizens influence, they can see the result of their influence on the policy and resource decisions that impact their daily lives and their future (Deliberative Democracy Consortium, 2003).

The model of deliberative democracy must first be differentiated with the other model of democracy called aggregative democracy. Colin Farrelly (2004: 137-156) says that the aggregative model of democracy is the popular show of hands understanding of democracy that we often invoke when trying to resolve disagreements. According to the aggregative model of democracy, citizens participate in the decision-making process primarily by making their preferences known through voting. Deliberative democrats reject this narrow conception of participation that conceives voting as the primary political act. On the other hand, deliberative democrats argue that to fully participate in the decision-making process, one must participate in authentic deliberation and not simply express one's preferences. Such deliberation requires that parties abandon the strategic behaviour characteristic of the aggregative model of democracy and strive instead to reach a consensus among free and equal participants. To participate in this discursive practice is very different from participating in the decision-making process of the aggregative model of democracy. Deliberative democrats characterise participation in the democratic process as a transformative process. Through the process of public discussion with a plurality of different opinions, people often gain new information, learn different experiences of their collective problems, find that their own initial opinions are founded on prejudice or ignorance, or that they have misunderstood their own interests with others (Young, 2000: 26).

The more expansive conception of democratic participation that deliberative democrats endorse thus lies in with the criterion of gaining enlightened understanding. A process of aggregating existing preferences precludes enlightened understanding as there is no attempt to understand, let alone accommodate, the concerns of one's fellow citizens.

However, deliberative democrats believe that their vision of democracy fosters enlightened understanding among citizens because it embodies the principle of reciprocity (Gutmann and Thompson, 1996). Elaborating on the principle, Gutmann and Thompson argue that reciprocity entails mutual respect. Mutual respect is a form of agreeing to disagree. It consists in an excellence of character that permits democracy to flourish in the face of fundamental moral disagreement. This is a distinctively deliberative kind of character. It is the character of individuals who are morally committed, self-reflective about their commitments, discerning of the difference between respectable and merely tolerable differences of opinion, and open to the possibility of changing their minds or modifying their positions at some time in the future if they confront unanswerable objections to their present point of view (Gutmann and Thompson, 1996: 79-80). By engaging in deliberation with those we disagree with we are

expressing a willingness to listen to others, to take their concerns seriously and to find some common ground so that a just compromise can be achieved. Gutmann and Thompson consider a number of contentious policy issues, ranging from abortion and trade policy to welfare policy, to illustrate how the deliberative process fosters enlightened understanding and moral accommodation. However, mutual respect does not mean that we must always accept the claims of those we disagree with, but it does require that we listen to . their concerns and that we justify our decisions by appealing to reasons we genuinely believe all reasonable persons could accept.

Malaysian Democracy With Elite Deliberation

Malaysia has a unique approach toward implementing deliberative democracy. This is due to political circumstances surrounding Malaysia where political leaders have to giveresponses on critical views on Malaysia to implement liberal democracy. Malaysia believes that democracy should be applied responsibly without jeopardising racial harmony which means certain democratic practices, such as freedom of speech, assembly and the press, should be limited for that purpose.

Former Prime Minister of Malaysia, Mahathir Mohamad, once made a speech, explaining that:

> *Another lesson of history may be lost, a lesson that can teach not only Malaysians but others as well about the conduct of Government, the behaviour of politicians, and the· discipline required in a democracy in order to prevent multi-ethnic, multi-religious, multi-lingual and multi-cultural country from going up in flames and destroying itself. Instead we are seeing today an attempt by foreigners ... to abet inter-racial and inter-religious violence in Malaysia as they do for other countries. They advocate democracy as an end in itself. If the democracy leads to violence and destruction of an otherwise stable and prosperous society, it does not matter. The· most important thing is that it is all in the name of democracy ... Fanatical belief in the system and ideology leads to crimes being committed in their names. Yet the system or ideology is upheld for its own sake ... It is not the good results which democracy is supposed to bring about that is important. It is democracy and everything done in the name of democracy that is important. And so we see countries becoming anarchic and unable to develop because democracy in many instances undermined the ability of Government to maintain law and order and to develop the country (Mahathir, 2000: 1-5).*

It is obvious that Mahathir has his reservation on deliberative democracy. Sometimes things said or done in the name of democracy can have serious negative implication on society, more so in a multiracial society like Malaysia. Mahathir further claims that an excessive stress on liberal democracy and political rights is culturally inappropriate to countries organised in accordance with communitarian ideals of unity, harmony and

consensus (World Youth Foundation, 1999: 73). Mahathir's successor, Abdullah Ahmad Badawi, in his first speech to the Parliament on assuming his appointment as the Prime Minister in November 2003, expressed his conviction that democracy is the best system of governance, but:

> *Democracy does not mean absolute freedom. Issues that inflame religious, racial (ethnic), and cultural sentiments should not be sensationalised, while attempts to undermine national security must be dealt withfirmly.* (SUARAM, 2004: 21)

Abdullah has pledged to ensure ethnic harmony and stability will continuously exist in Malaysia and he must be credited for not only saying this but for practising what he had preached. It was Abdullah who initiated the concept of Islam Hadhari in urging Muslims to go back to the fundamentals as prescribed in the Quran and the Hadith which form the foundations of the Islamic civilisation·. At the same time, this concept also urges the Muslims and non-Muslims to work together peacefully as one community since their rights are protected by the state.

The success of Malaysia as a nation has depended on its political stability and racial harmony, which has encouraged the government to limit civil liberties such as freedom of speech. National unity, however, is an elusive concept. While racial and ethnic problemsprovide the breeding ground for sectional politics and conflict between groups, the politics of alliances or consociational politics has been implemented in uniting the society. Arend Lijphart (2000: 228) claims that consociational democracy is essentially an agreement between the leaders of each bloc in a divided society to share government, involving *"grand coalition, segmental autonomy, proportionality, and minority veto"*. Consociationalists rely totally on civilised leadership to end the contest over sovereignty by agreeing to share power.

Tun Abdul Razak, former Prime Minister, has described Malaysian democracy as *"a democracy which is suitable for a developing country with different communities"* (Norma, 1990: 30). It is a democracy that takes into account "Malaysian realities", Malay - nonMalay animosities, where democratic practices must not jeopardise the fragile stability, and political contestation is acceptable only as long as this condition is preserved. A powersharing arrangement has existed since Malayan independence; and although the BN coalition government is dominated by the United Malays National Organisations (UMNO), and Malaysia's Executive authority lies mainly with the Malay leadership. Other coalition partners, notably the non Malay parties Malaysian Chinese Associations (MCA) and Malaysian Indians Congress (MIC), participate in the Cabinet and enjoy a degree of influence over government policy. Indeed, political stability requires that Malays maintain political power in the country. The electoral system, the party system, the nature of political contestation and even the constitution have been changed several times to ensure that Malays retain political power. For instance, the first major move by Tun Razak as Director of the National Operations Council (NOC), the body set up after racial tension in 1969, was to return to the constitutional contract to

uphold and implement Malay political primacy more vigorously. In this way, he appeased the forces of Malay nationalism. At the same time to pacify to the non-Malays, he recognised their rights to citizenship and their participation in the economy and the administration, but warned that the "democratic excesses" had to be curbed. The non-Malays would no longer be allowed to challenge the constitutional contract. The Malays would be entitled to full government assistance to achieve economic and social integration. There would be no more attempts at "pluralism" and "balancing acts of compromise and accommodation", or as the Malay ultras had called it, "policies of give and take" to delay this course of action in the interests of social justice (Cheah, 2002: 126-127).

Furthermore, since UMNO has always represented Malay interests, this means that Malay political power has to be preserved under its leadership. However, it is not the case since the 12th General Election on 8 March 2008, which saw the ruling BN lose a two third majority in Parliament and become the opposition party in five states (Perak, Kelantan, Kedah, Perak and Selangor). Malaysians and Malays particularly do not see UMNO as solely representing Malay interests anymore. Instead there are other opposition parties such as the Islamic Party (Parti Islam SeMalaysia or PAS) and the People Justice Party (Parti Keadilan Rakyat or PKR) have become the alternatives to UMNO. Although there are difficulties in finding an undisputable conception of the common good in Malaysian society, because some minorities would probably not share the same dominant values embraced by the majority Malays, preservation of social order and racial harmony are indeed the core values and political aims to be achieved for the common good in Malaysia.

Consociationalism, consensual decision-making and respect for authority are important factors that maintain political stability and power sharing between races in Malaysia. It would appear that consensus-building is grounded in Malay and Confucian values. Both highlight the authority of a ruler while noting that this authority is dependent upon a just and fair treatment of his citizens in consultation with local elites. Thus, the building of consensus and respect for the masses remain essential elements in present Malaysian politics - the *"Barisan (BN) way"* (Collins, 1998: 261-279). William Case (1995: 104) writes, *"even as UMNO proclaims before the Malay ... its defence of their birthright, it tries to persuade the Chinese and Indians that it responsibly checks Malay chauvinism. The institutional basis for striking this balance - redressing Malay grievances while at some level respecting non-Malay identities and property rights - is, of course the consultative Barisan way"*. However, this consociational solution cannot be deliberative, save on the thinnest notion of what deliberation might entail, and severe restrictions on who can deliberate (blocleaders only) (Dryzek, 2003: 15).

Furthermore, through consultation and consensus at the elite level, the political bargain that was effectively struck is that Malays must continue to be politically dominant. This is an acknowledgement of certain realities within Malaysian politics. It was also part of the bargain that, a lesson learned from the bitter experience of the 13 May 1969 race riotsthat the economic position of the Malays be improved. In fact, stability also requires

that non-Malay interests are not ignored as well. The strategy chosen by the leadership has been consensus politics, where a single umbrella-like movement seek to draw together all parties and interests, thereby phasing out combative opposition. Through the BN, consensus politics of this sort which is neither a communist-style one-party state nor the regular changing of the party in government of liberal democracy, the role of the opposition is pushed to the periphery. As Diane K. Mauzy (1983: 4) notes, "although Malaysia has many of the outward signs and some of the substance of democracy, to make the system of conflict regulation and elite accommodation viable there has also been substantial regulation of political competition and controls over popular participation, especially since 1969". Whilst this system of grand coalition is contrary to the strict principles of competition implied by democracy, the ruling elites see it differently. Abdullah has revealed that:

> *All have the right to speak, even if the issue involves matters related to specific races or specific religions. In the BN style, we are confident that we can discuss all issues, even if they involved sensitive topics, in a wise manner and come to a consensus. The key to this is that we must engage in discussion in an attitude of moderation (New Sunday Times, 2004: 1).*

Deputy Prime Minister, Najib Razak explains that *"We remain as one nation not because of the need to meet the constitutional requirements, but because we are able to reach political consensus under the BN"* (New Straits Times, 2008: 4). The BN made decisions on the basis of mutual agreement, not majorities where the small parties had the same rights and voice as the big parties in the BN. The traditional UMNO led BN coalition has continued with the understanding that each and every political party in this coalition will represent the interest of their racial group within the government. It is no mere coincidence that political parties of such varying complexions have found common ground in a philosophy based on the belief that the problems of Malaysian society can never be solved if sections of the polity are in perpetual conflict with one another. The BN also expresses a commitment to the politics of consultation and consensus, the politics of good-will and cooperation. Although channels of public debate and discussion in the media relating to any sensitive political issue were closed except in the Dewan Rakyat during Mahathir's leadership, the current Prime Minister Abdullah has given some leeway to the media to cover critical views and dissent to the government.

However, Abdullah still encourages the media to practise self-censorship to avoid coverage on racial and sensitive issues in order to ensure racial harmony in Malaysia. Therefore, the existence of many repressive laws on the media such as the Sedition Act and Printing Presses and Publications Act seems justifiable for the government to protect racial harmony. However, many have questioned the need to maintain those repressive laws. The opposition parties and civil societies criticise the repressive laws as they have been used to restrict political freedom and freedom of speech. Besides, all mainstream media are controlled directly by the government such as RTM or by companies that have close link with the BN's top leadership such as Utusan Malaysia, New Straits Times, TV3 and NTV7 which make them favourable to the ruling BN. Many opposition party

members and civil society activists, who oppose to the government, turn to the Internet, through blogs and online news portal, in channelling their views and dissent to the government. This is good for democracy and public deliberation in Malaysia because the Internet has been able to provide debate on many issues concerning public interest since the mainstream media limit such debate. This was obvious during the 2008 general election when the Internet was able to provide alternative views of the opposition after the mainstream media dominated by the government, lost its credibility as they were bias in their reporting.

There is an element of deliberative democracy in decision-making process, but the process is only at the level of elite deliberation, not public deliberation. Teun Van Dijk (1993: 256) explains that elites are those who are in the position to control and manage the extent of discourse and communication. The elites have the power to control the extent and manner of communication in the media, such as in the press conferences and other forms in which they can limit questioning. He describes this as "discourse access". The wider the range of discourse genres, modes of communication and audience, the more social power and ability, which the elites have, in exercising control over groups and institutions. It has been argued that the slippage from a supposedly communitarian ideology into authoritarianism, happens when the holders of political power extend the monopoly of coercion, by virtue of their control of the state apparatus, into a monopoly definition of what constitutes the "collective" good (Chua, 2004: 101). In Malaysia, the majority of people do accept that the output of ideas and knowledge has to be in accordance with government goals, ostensibly to promote nation building and prosperity. The ruling elite hold a monopoly in defining which ideas serve the national interest· and which do not. Therefore, the socio-structural criteria, including patterns of patronage, are important in determining who contributes and how they contribute to public political discourses in Malaysia. Those who have the capacity to disseminate an idea are primarily those with formal or informal access to political elites. Those who do not, have little chance of participating in public political discourses (Derichs, 2004: 107 & 117).

Shad Faruqi (2004: 136), in acknowledging that Malaysia has achieved high levels of tolerance through the strict policy of prioritising national stability, has suggested that Malaysia is an excellent example of religious and cultural tolerance. Chinese and Indian immigrant communities were granted citizenship rights at the time of independence. They were allowed to preserve their culture, language and religion. Hate crimes against the minority groups as found in some Western countries are largely unknown. Instead Malaysia has created a melting pot, weaved in a rich cultural mosaic. This has resulted in the emergence of an extraordinarily multifaceted society with plural lifestyles. However, the government's lack of tolerance shown to the opposition make open and critical public deliberation difficult in Malaysia. Opposition activities apart from being curbed by restrictive laws, are also controlled by a complex web of institutional networks such as municipal councils, district offices, schools and state sponsored religious establishments. The preservation of inter racial harmony appears to be the legitimising factor that props up the argument supporting the ruling elite's domination of the government, proposing the idea that political organisations should consent to the larger programmatic mission of

the staterepresenting-the-nation (Nair, 1999: 92-93). Generally, the government, including the prime minister, has not set a high priority on free speech. Indeed, the government is of the view that opposition parties and human rights activists, often encouraged by foreign countries and organisations, are a hindrance to the country's economic development and jeopardise its stability (Milne and Mauzy, 1999: 105). Mahathir Mohamad (1982: 127), Malaysia's former prime minister, had argued that the activities of movements in civil society that tend to meddle in politics should be curbed as they clearly aim to weaken government authority and do not contribute to the public good. The government is of the opinion that opposition parties and non-governmental organisations (NGOs) should be closely monitored as they have the ability to influence public opinion, endanger public order and even obstruct well-planned, national development.

The direction of Malaysian politics is to a considerable extent determined by leaders of UMNO the most dominant Malay party. Although the existence of opposition parties, associations and cause oriented groups are permitted, their rights to political speech and their capacity to mobilise masses to impact on policy making have been minimised. The government has either sought to eliminate groups that serve as a mediator between individuals and the state or cut them off from competition for power, thus undermining the possibility of them influencing decision-making. Thus, deliberative democracy or public deliberation is not practised freely because there is no channel that allows ordinary people to participate in decision-making process which is extensively controlled by the government whose agenda is winning power forever. This situation has made political system in Malaysia less democratic and more autocratic.

Therefore, in the next sections, this article thoroughly discusses two issues which are extensively deliberated in public. First is the issue of good governance which involves corruption in government agencies. Second is the issue of religion, in particular about Islam, which links to the debates on blasphemy and freedom of religion.

Good Governance: Corruption

The issue of good governance especially in relation to the suppression of corruption in all level of society have been discussed extensively in daily life and well covered in media. In fact, the issues of cronyism, corruption, and nepotism were a turning point for the Reformasi (reform) movement started by the sacked and imprisoned former Deputy Prime Minister Anwar Ibrahim in 1998. Reformasi movement has made a comeback and had gained strength after Anwar was released from prison in 2005. The effect is that he has managed to unite three opposition parties, PAS, PKR and Democratic Action Party (DAP) under Pakatan Rakyat (People Alliance or PR) soon after the 12th General Election. With a landslide win in Permatang Pauh by-election on 26 August 2008, Anwar has now become the opposition leader in the Parliament campaigning for change especially through agendas of good governance and multiracial politics.

One of the stumbling blocks in the battle against corruption in Malaysia, however, is that the Anti-Corruption Agency (ACA) is hardly independent as it reports to the Prime Minister's Department (Netto, 2003: 1-2). It is thus difficult for it to investigate high-level corruption involving ministers and senior officials without clearance from the very top. In cases where investigations actually take place, the probes are likely to drag on for years, often with a finding of insufficient evidence. There have been numerous calls from the opposition and NGOs for the ACA to be converted into an independent commission, to be made accountable to an independent authority. The ruling-coalition parties have extensive business interests either directly or via proxies. Political patronage and privatisation have been abused to consolidate politically linked business people and firms. What is worse is that affirmative-action policies favouring the economically disadvantaged Malays and other indigenous groups have been abused to assist well-connected officials, ministers and business people. This would include the lack of open tenders for infrastructure projects and the special allocation of shares and licenses to those who are not exactly disadvantaged.

However, in April 2006, Abdullah announced the creation of an anti-corruption ombudsman, an office that will have the power to "investigate and punish", according to one government official. Abdullah has also issued new rules for government-controlled companies, to cut the number of approvals necessary for building permits and shorten the time taken to issue documents like passports and drivers' licenses (Fuller, 2006). Abdullah does mean business as shown by the fact that in the last three years there has been a record increase in the number of arrests made by the Anti Corruption Agency. From a total of 339 arrests in 2003, the number mounted to, 497 in 2004,485 in 2005 and 433 until October 2006. The number of successful convictions has also increased substantially. Further, the ACA was also beefed up, a National Integrity Institute was established, and a clear strategy to curb corruption is in place (Jawhar, 2007).

The public however has remained generally unconvinced despite this significant progress. Occasional reports of abuse of power and corruption and ineffectual enforcement have contributed to this sentiment. The 2006 Corruption Perception Index 2 released by Transparency International appeared to reinforce negative perceptions. Malaysia slipped five ranks in the global survey of 163 countries, from 39 in 2005 to 44 in 2006, though in terms of score there was hardly any difference (from 5.1 to 5.0). Clearly, the progress achieved on the anti-corruption front did not register on perceptions. Perhaps it was a failure to effectively communicate the positive news (Jawhar, 2007).

However, many accuse Malaysia's governing coalition, the BN, lives and breaths on patronage. Terence Gomez says that *"I think Abdullah is sincere when he says he wants to clean up the party, but this whole system of patronage and money politics is so deeply embedded in the party that it's very difficult for him to actually do it. There is a lot of resistance coming from the grassroots"* (Fuller, 2006). Lim Kit Siang, a long time opposition leader in the Malaysian Parliament, describes Malaysian-style corruption as a web of shell companies involved in government contracts whose ownership is unclear because no one can really put any fingers on who is really behind it alL For instance,

detailed insight into the system of Malaysian patronage came in January 2007 when Gopal Sri Ram, the Court of Appeal judge, described how in the 1990s, a company, Metro Juara, whose directors had close links to a finance minister, Daim Zainuddin, bought an indebted company that managed a highway toll. Under pressure from protesters, the government had removed an unpopular toll that was the main source of the income to the company, so the buyout did not seem to make financial sense. Gopal wrote in his judgment that Metro Juara received a bailout totalling RM756 million, or more than RM200 million at current exchange rates. The judge said that the only two shareholders of Metro Juata, Halim Saad and Anuar Othman, then took RM32.5 million from the company account as a sort of reimbursement for the deaL The judgement, which is being appealed, was surprising to many because of the high profile of men involved namely Daim, a former treasurer for the governing party and former Finance Minster, and his protege, Halim (Fuller, 2006).

In addition, there are many criticisms from the public also about the misuse of the Official Secrets Act (OSA) 1972 by the government. The Act was intended to protect government secrets from falling into the hands of foreign agents or countries which might be detrimental to national security. The OSA was also seen to impose a wide. and largely unjustified restriction on the right to freedom of speech and on the examination and discussion of public issues by the political opposition. By curbing access to public information, the electorate's right to know was curtailed and the means to uphold public accountability weakened (Amnesty International, 1999). The 1986 amendment of the Act provoked sustained criticism from the Bar Council of Malaysia and the National Union of Journalists. Indeed, the objections expressed included the fear that the amendment would curb investigative journalism and also restrict the media's ability to probe alleged political or financial malpractices involving government officials. Furthermore, there is concern that the amendment would also restrict the ability of parliamentarians and of wider civil society to scrutinise and criticise policy (Amnesty International, 1999).

People generally agonise about the risk of suppression of information by the government, and are often rightly so. That is why freedom of information or people's right to know is needed. In any democratic state the government has to make information, including secret and confidential information, available to the people especially when it involves public interest and public policy. The most important thing is that implementing freedom of information can contribute to creating a transparent and accountable democratic government.

Therefore, in 2003, the SUHAKAM recommended the government to enact a Freedom of Information Act. Mehrun Siraj (2001: 4), the Malaysian Human Rights Commissioner, urged the government to enact a Freedom of Information Act and to repeal the OSA. She admits that although the OSA was intended to protect official secrets, the indiscriminate classifying of documents as secret has prevented the public from gaining access to materials such as draft Bills to be tabled before Parliament and the granting government contracts. The Malaysian Institute of Integrity (MIl) supports the SUHAKAM's initiative

because the enactment of a Freedom of Infomiation Act would bring about a sea of changes in the battle against corruption (Lim, 2004: I).

Issue Of Religion: Islam

There are always debates about the role of religion in the today's modern world and whether it responds to the issues pertaining to Islam and democracy, inter-faith dialogues, and war on terror led by the United States (US). Islam is always deliberated by Muslims and non-Muslims alike especially on its influence in any political decision-makings and in that sense Islam plays a significant role in Malaysia. Great care is also taken not to impinge on the religious sensitivities of various other groups. Given the fact that Islam is the official religion, care is taken not to publish articles that cast a slur, intended or otherwise, on the religion or its adherents. All media, including those operated by the opposition, follow this policy. Malays, by constitutional definition, are Muslims and no media can carry articles that question the faith or ridicule it (Moses, 2002: 102-107).

Religion is significant in determining the values that Malaysians hold.· Thus, Malaysian values are influenced much by the Islamic values that give greater importance to moral beliefs and human dignity. Attempts to disrupt religious harmony are severely dealt with in Malaysia. Unlike in England where blasphemy is an offence only against the Church of England, the Malaysian Penal Code in sections 295-298A, Offences Relating To Religion, punishes offences against all religions. Article 298A(1) states that whoever by words, either spoken or written, or by signs, or by visible representations, or by any act, activity or conduct, or by organising, promoting or arranging, or assisting in organising, promoting or arranging, any activity, or otherwise in any other manner:

(a)   causes, or attempt to cause, or is likely to cause disharmony, disunity, or feelings of enmity, hatred or ill-will; or

(b)   prejudices, or attempts to prejudice, or is likely to prejudice, the maintenance of harmony or unity,

Any individual or group, if found guilty under Article 298A(1), shall be punished with imprisonment for a term of not less than two years and not more than five years.

However, on 4 February 2002, the issue of blasphemy became a national issue when groups led by the Muslim Scholars Association of Malaysia (MSAM) submitted a memorandum to the Conference of Rulers urging them to take action against several individuals said to have insulted Islam in their writings. Those named in the memorandum included the Malaysian Human Rights Commissioner and the leader of a NOO Sisters in Islam Zainah Anwar, "Malaysiakini" and "New Straits Times" columnist Farish A. Noor, former "The Sun" columnist Akbar Ali, writer Kassim Ahmad, University of Malaya researcher Patricia Martinez, and lawyer Malik Imtiaz Sarwar. They were accused of blasphemy by insulting Islam, the Prophet, belittling verses in the Quran and Hadith, and questioning the intellectual role of Muslim religious scholars or

ulama. What began as a religious issue, however, turned into a sensational political theater when several UMNO members tried to respond to the issue and criticised MSAM because of its close links with the opposition party, *Parti Islam Semalaysia* (PAS, Islamic Party of Malaysia). For instance, Mustapa Muhamad, Executive Director of National Council of Economic Action, supported the writers and said "There is nothing wrong if their opinions do not go against the *aqidah* (faith) and Islam. Difference of opinion is normal in Islam". Furthermore, Zainuddin Maidin, at that time the Parliamentary Secretary to the Information Minister, said *"Their (the writers) writings can improve the image of Islam that has been damaged by the frozen-minded and fusty orthodox scholars. Their thoughts are respectable, through them people see the true Islam"* (MSAM, 2002: 42-43). The support from several UMNO members was a surprise, even to the secular-liberal NGOs themselves, because the ruling government, particularly during Mahathir leadership, had never shown much intention of allowing free speech, or any space for dissent. In this regard, the UMNO support was understandable because Mahathir himself has been the favourite target of the MSAM and other Islamic bodies' wrath. The PAS Selangor website, for example, has a section dedicated to a collection of speeches, utterances and remarks made by the prime minister and several other cabinet ministers considered to have menghina (insulted) Islam (Maznah, 2002: 6). Clearly, this issue has become an issue of political contestation between two strong Malay-based parties, UMNO and PAS. The MSAM's memorandum triggered a confrontation between Islamic NGOs, supported by PAS, and secular-liberal NGOs, supported by UMNO, on the issue of freedom of speech, especially in relation to Islam.

Furthermore, in February 2005 the Malaysian Bar Council convened a national conference to discuss a draft bill proposing the formation of a national inter-faith commission. Its primary function was to help the government make *"clear and coherent policies"* to *"allow for greater interfaith relationships as well as avoid conflicts arising out of misunderstandings"* (Yeoh, 2005: 629). Additionally, it was to be empowered to determine whether or not there had been any infringement of freedom of religion, conscience and thought within the context of the Universal Declaration of Human Rights and the Federal Constitution. A loose coalition of Muslim NGOs, called the Allied Coordinating Committee of Islamic NGOs (ACCIN), boycotted the conference, arguing that the inter-faith commission, if established, would usurp the functions of existing religious authorities. In particular, it characterised proposals brought by the Malaysian Consultative Council of Buddhism, Christianity, Hinduism and Sikhism (MCCBCHS) which allow Muslims the right to renounce Islam, to facilitate apostasy *(murtad)* through the civil courts and constitutional provisions, and to review religious enactments, as merely "self-serving to non-Muslims" and "anti-Islam". Subsequent to the conference, Prime Minister Abdullah announced that deliberations on the proposed formation of the inter-faith commission would be shelved for the time being because of the heated debates reported in the press. He opined that the statutory body, if willed into being, would be a setback to religious unity in the country. Instead, he suggested that more events promoting inter-religious dialogue be organised, and encouraged strengthen racial harmony through open houses during major festivals celebrated by the various races (Yeoh, 2005: 629-630).

Conclusion

In a well-established democratic system, political institutions such as parliament and political parties have functioned for the common good. In such a system, as mentioned earlier, deliberative democracy is required to support a more legitimate decision making and to give opportunities to people to discuss public issues and to form opinion. With deliberation, people are also able to find a better insight regarding controversial issues in society.

In restrictive democratic system like in Malaysia, there are reasons why deliberative democracy is not able to perform or be implemented well for the people. In a democracy, deliberate democracy takes place because many good governance issues such as realisation of democratic values, eradication of corruption, transparency in government and law enforcement have not been fully implemented by the government as promised. The government uses anti-corruption campaigns only to get support from the people, without making any real step to eradicate it. In addition to this, political institutions like parliament and political parties, which are supposed to push the government to work on that matter, do not function well. As newly reformed institutions, they sometimes have not functioned as expected bringing about democratisation and reformation of political life.

If Malaysia believes in a deliberative democratic system, there should be many healthy and rational dialogues between parties involved especially over controversial issues such as corruption and matters pertaining to the practice of Islam. Public deliberation and freedom of speech should not be sacrificed but all parties should show a sense of social responsibility in discussing such a controversial and sensitive matter rationally. Through dialogue and smart enforcement and implementation, issues can be resolved peacefully, disagreement can be avoided, and compromise can be achieved.

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