

Ministerial responsibility in malaysia



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When talking about parliament, we will imagine the debate between MSP regarding political issues as this situation is shown by the media but they are not aware of the real functions of parliament that is to enact law and they don't even make their own research about the parliament. This research is focusing on the public's awareness of the structures and functions of the Malaysian parliament. This research will attempt to distinguish the awareness of the parliamentary issues between Arts and Sciences programme students. Malaysia practices Parliamentary Democracy and Constitutional Monarchy. The Parliamentary system is the system where the representative of each respective area discusses among them regarding any current issues that arise in Malaysia. Parliament of Malaysia consists of 292 members.

Malaysia has three branches of power which are executive, legislative and Judiciary and parliament is under the legislative branch that acts as legislature which enacts laws. The comparison between the Malaysian Parliament and other nations is that the proceeding process in our parliament still in normal condition which can be classified as safe compared to others like Taiwan where the proceeding in their parliament has to be postponed because of fighting between the two parties in the parliament hall. Same goes to Ukraine when both parties fight among them and as a result debates and discussions cannot be continued and public matters cannot be deliberated on.

In Romania their situation goes a little bit worse than others not because of the parties fight but because of the suicide attempt in their parliament hall. As an introduction, this research will focus on observing the knowledge between

arts programs and sciences programs students. The verdict for this project is the arts program students are more concerned about the parliamentary system in Malaysia marred to sciences program students. Although the objective of this research is to distinguish the knowledge of the arts students and sciences students regarding the Malaysian Parliament, but it also to provide extra knowledge to certain students who have no idea regarding the parliamentary system in Malaysia. On the other hand, it also enhances the students' patriotism and also builds a new generation with a good knowledge of Malaysian parliament that will hopefully lead to producing good future leaders.

Article Summary

- The Doctrine of Ministerial Responsibility in Malaysia: Theory and Practice in a New Regime of Parliamentary Accountability

There are some Members of Parliament (MSP) accountable as minister in Malaysia Cabinet; so, these people have two separate tasks; there is, first, the individual responsibility towards his people that he represented, and second, the collective responsibility in the government. Nevertheless, it is clear that their act is highly influenced by their political background and political parties in making decision; for example, during debating and voting process in order to pass a new bill or taxes.

So the study of the accountability of Minister which is also MM is vital in order to tell the citizen the power that he/she has when sit in both position. Individual ministerial responsibility states that a Minister is responsible for every action of his department. It would thus appear that 'responsible' in this context has a rather strong meaning than in the context of collective

responsibility. In that context, it amounts to little more than an obligation than to defend and support government policy. On the other hand, reference also should be made to the two types of responsibility in example individual responsibility for policy and administration and individual responsibility or personal conduct.

The division is necessary while faced with question such as: should Minister resign simply because 'something went wrong in their department? Or should the Minister quit on the basis of personal behavior like a sex scandal? As we can see the scenario in Malaysia in the case of Dato Seri Anwar Ibrahim Bad Jai quits as a Minister due to her MFC scandals (bribery) which involved her family and herself. Is her decision to leave his position is relevant? In my opinion, her decision is significant because a Minister shall be responsible for her personal conduct such as sincerely and honesty. Secondly, Collective ministerial responsibility emphasizes on the unanimity of government and its responsibility to parliament.

The convention requires that all ministers be jointly responsible as a team to parliament; individual ministers may not in public express views that contradict a government policy; and should be no criticisms from the decisions in public; thus convention requires that all Ministers are bound by the decisions that are taken or recommended in Cabinet and that Cabinet discussions must remain. Hence, whatever the origin of the doctrine of ministerial responsibility, the doctrine has been incorporated into the Constitution.

In conclusion, we can point out that there is vagueness on occasion as to the distinction between the two types of accountability which are both closely related and also complementary to one another. This in return has made it really difficult to address or deal with the issue of effectiveness of ministerial responsibility.

Take for instance the convention that a Minister who is seriously criticized in Parliament must resign, has not taken hold because the government usually rallies behind a Minister who is being criticized in Parliament. On such an occasion, collective responsibility seems to defeat the notion of individual responsibility. The convention of collective responsibility thus becomes important in achieving party solidarity but it tends to prevent the full operation of the convention of individual responsibility. To sum up, every single matter that concluded in the parliament is always been effected by party's constitutions and policies, thus the opposition can do nothing if they have different agenda and opinion to be arise and pass.

Parliamentary Privilege and Its Practice in Malaysia:

An Overview Parliamentary privilege is to provide the necessary remarks in which Parliament in its corporate capacity and its members as individuals can fulfill their responsibilities to the citizens whom they represent and not to protect individual Member of Parliament (MSP). Under the Malaysian Federal Constitution, there are certain articles that mention about parliamentary privileges. For example, art 63 which states that the validity of any proceedings in Parliament shall not be questioned by court. 5 Apart from art 63, art 72 can also be referred to in which it provides the same validity of proceedings in the Legislative Assembly. Despite, as parliamentary privilege

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does not mean to protect individual MSP, art 63(4) is an exception. To implement Justice, these privileges shall not apply to any person charged with an offence.

One of the privileges of Houses of Parliament is right to regulate its own internal proceedings/immunity from Judicial proceeding. Article 63(1) of Federal Constitution together with art 63(2) provides that the court cannot interfere any proceedings in Parliament as well as not liable to any proceedings regarding anything said or any vote given by Members of Parliament . Another privilege is decision as to disqualification. In this particular item, as refer to art 53(1) of the Federal Constitution states that if a member of a Parliament is disqualified, the decision shall be taken as final. There is no need for the Parliament to bring the case to the court as they have their own power.

Next is freedom of speech and debate. In the article, it is said that, " its essence is that no penal or coercive action should be taken against members for what is said or done in Parliament". 6 The protection applies to activities taken in course of or in connection with parliamentary proceedings. It must also be noted that this privilege is not personal in nature. Lastly is the freedom from arrest. In United Kingdom, this privilege does exist, but in Malaysia, no distinction in nature of the offence whether it is civil or criminal. If means rear, or the intention to commit the crime is there, no person shall be protected under this such privilege.

Although these privileges are considered necessary for the proper functioning of Parliament and for the full execution of its powers, it is

undeniable fact that the practice of parliamentary privilege in Malaysia faces a lot of challenges due to the fact that by asserting special owners and immunities for Parliament as a whole. And for its Members individually, Parliament throws around itself a cloak of protection which provides rights and immunities not accorded to individual citizens. In other words, when certain class of individuals are given special benefits as opposed to other class or classes of people. Issues of violations of rights and discrimination are bound to arise. This is particularly the case of Malaysia where there is a written constitution and fundamental rights are given pride place at the same time. Hence, the following are some of the challenges facing the operation of parliamentary privileges in Malaysia.

Conclusively, this research helps people to know about the operation of parliamentary privileges among members of Parliament in Malaysia but it might be limited knowledge to certain people only. Thus, it is much safer if the researcher is asking the basic question about the membership. The Legislative Jurisdiction of the Federal Parliament in Matters Involving Islamic Law In this article, the writer discusses about the capacity of the federal parliament to enact laws where such laws encompass Islamic laws is with the state legislature and not with the federal parliament. There was a dispute arose when the federal parliament passed the system of Islamic banking and financial institutions which automatically shake the authority of the state legislature that has full authority to enact Islamic laws.

Article 73 defines the Jurisdictional scope of the laws made by parliament and the legislature, with the federal laws having application over the whole or any part of the Federation and, where appropriate, outside it and States

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laws having authority only in the whole or any part of the State. 9 Thus, the power of the parliament is higher than the state legislative but in this case, it involve the Islamic laws which infuse the writer which types of legislature need to get involve either the parliament or the state legislature. In Federal Constitution, there are several articles that related with this case which explained in detail the role of the legislature. In Article 77 the legislature of a state shall have power to make laws with respect to any matter not enumerated in any of the Lists set out in the Ninth Schedule, not being a matter in respect which parliament has power to make laws. 0 Then the Article 75 explained if any State law is inconsistent with a federal law, the federal law shall prevail and the state law shall, to the extent of the inconsistency, be void. As to solve this case, the Judge refers to the Article 74 of Federal Constitution that consist the three lists. List I is the Federal List, List II is the State List and List III is the Concurrent List. For this case, it involve the Federal List and the State List as both lists need to be understand in detailed in order to distinguish their roles and importantly to solve this case. In Federal List, it has been stated that banking is within their role and in State List only stated that it govern only personal and family law matters of Muslims.

In conclusion, the authority of the parliament in Islamic banking has been proved as matters such as banking (including Islamic banking), insurance (including tactful) and companies are in the Federal list and therefore the Federal Parliament has the Jurisdiction to enact laws to govern this matters. Parliament has the authority under the constitution to enact Islamic law in respect of all matters (including Islamic law and tactful) save those matters

reserved for the States in List II. The matters covered by List II are only those that relate to Islamic personal law. This case increase our knowledge on the function and the structure of the Parliamentary system in Malaysia as for this case it gives clear view to us about the different of legislative jurisdiction between Parliament and State Legislative. Lastly, it help us to understand in deep regarding the advantages and disadvantages of the Parliament in Malaysia which in normal situation as to compare with others like Romania, Taiwan and Ukraine that within critical situation.

Research Outcomes/Analysis Background

This research was conducted according to stream which was between Science students and Art students in CIFS III-KM. The purpose why we carried out this research is to distinguish the general knowledge between these two groups in the field of Parliamentary System in Malaysia. We had distributed 25 survey forms for each programmer. In order to ease our research we divided the questions into 3 types, which were Definition I. E. A Bill is a draft law, Functions 'e the function of Parliament is to enact law, and Membership of Parliament I. E. A member of Dean Engage is a Senator.

Figure 1 : Graph on Analysis on the awareness of Parliamentary issues according to stream based on Definition questions. This type of questions covered he term that used in Parliament such as Bill. Basically, only the art students know about this question because they learnt this in class. While the science students may know this if they read papers and magazines. Based on the data above, 18 students from Art programmer tend to answer correctly whereas only 12 students from Science program know the right answer. It is clearly that 72% of art students answer it right. On the other

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hand, only 48% get the right answer while majority (58%) of them failed this question.

In the nut shell, Science students do not concern and do not even know about our fundamental Parliamentary System. In an article from thetas, it said that " Malaysian tend to read less as they grow older, according to Malaysian National Library director-general Dates Raisin ABA Baker . " 12 Besides that, the second Deputy Speaker of Ghana Parliament, Proof. Aaron Michael Quays, has called on students in the country to inculcate the habit of reading themselves, to improve on their knowledge base. According to Proof. Quays, it was only through reading that one could acquire knowledge, in order to be part of the changing world. 13 From the two sources, it is proven that the awareness of Malaysian about

Parliament is low because reading is the key to knowledge but as Malaysian grow older, they tend to read less. It can also be assumed that if they did not learn it in class, they have no effort to read it and to search about it by themselves. Figure 2 : Graph on Analysis on the awareness of Parliamentary issues according to stream on Function questions. Another type of question which is the functions of Malaysian Parliament, most students from both groups know more about this topic. It can be seen that the number of students that concern and aware more about the functions is higher than other topic of questions. They might aware more due to the exposition of media.

For example, in thetas online, there was a news about functions of Parliament which is to enact law, " PITUITARY: The Government will table the

International Transfer of Prisoners (TOP) bill 2012 when parliament reconvenes this Swept 24, in a bid to bring home Malaysian locked up abroad. " 14 According to the research, even though the number of the students that aware increased, Arts Students still conquer the topic. Based on the graph above, it shows that arts students know more about Malaysian Parliamentary system. The number of arts dents that have more knowledge about this topic is 19, 2 students more than sciences students which is 17 only. Figure 3 : Graph on Analysis on the awareness of Parliamentary issues according to stream on Membership of Parliament questions. In terms of question of membership of Parliament, one study has found that Arts students are more concern about this type of questions.

Based on the graph, it shows that among 25 students, 15 of them answer the questions correctly. In contrast, there are only 10 students of sciences programmer know about the membership of Parliamentary in Malaysia whereas 1 5 students do not concern very well about this tater. To be proven, different programmer have different awareness due to their subjects which are not related to this issue. In short, the topic on Membership of Parliament is rarely published in the media, this is the reason why less Sciences Students know about this. Media do play an important role in giving knowledge, especially with the topic that they do not learn in class.

In Nepal newspaper, The Rising Nepal, an author stated the role of media in his article, " It plays a deciding role in assessing the political performance of the parties and the government. " 15 Figure : Graph on Analysis on the awareness of Parliamentary issues according to stream. Overall, the graph illustrates the awareness of arts students pertaining to Parliamentary issues

is slightly higher than sciences students. Unfortunately, the number of the students who are concerned about this issue is not satisfying. From 50 students, only 9 arts students and 3 sciences students claim that they are aware about Parliamentary issues which is only 24% from students in CIFS III-KM. Our assumptions towards arts students especially Law students slumped when they themselves confess that they do not care much about this matter. In previous graphs, they answer it correctly because they learnt it in class. On the other hand, this type of question talked about awareness which is something they get outside classes and by their own effort. As we mentioned before, usually students in Malaysia read less. Consequently, they do not have any knowledge about it and this symptom will make them fail to think out of the box.

Limitation

The hindrances that we encountered while conducting our research can be observed in distributing our survey forms and the article summary. At first, it took many hours in finding the articles on given topics and after we found the articles, it was very difficult to understand what the articles were all about. Such matter would lead to problems when summarizing all three articles, because understanding was important in summarizing the articles. Based on an article by Sir Swami Administration's, said that "there is also an importance in developing our understanding, even if it seems somewhat esoteric and unnecessary compared to our normal practices. Because the truth is, unless we develop some understanding of what we're seeking, even if we discover it, we won't likely be able to recognize it." 16 Another limitation that emerged during our research was some students did not give full

cooperation while answering our survey. For example, some of them just filled out the answer without reading the question. Then, there were certain students who did know the answers, but they pretended like they knew it and answered wrongly. This might lead to some problems when making a conclusion. While conducting our research, the facilities in CIFS are considered as good. The process of finding the articles was easy although there were some limitations regarding the slow internet of Wi-Fi in III-KM. Next, the cooperation among members of the group was very indeed needed in giving idea to understand the articles very well. In our opinion, based on what had happened, group members should be more considerate and cooperative as we need each other in the future.

Conclusion

We certainly achieved our objective which is to differentiate the knowledge of arts students and sciences students regarding Parliamentary System in Malaysia. We also provide a few information about the Malaysian Parliament to those who have no idea about what is parliament during the survey process in order to create a new generation that have great concern about our own legal system. Although we have provide some knowledge to the students but we also gain a little bit knowledge urine this research process in detailed during the process of searching facts about the parliament of other nations. For instance, we learnt others name of parliament like in Afghanistan called Short, in Azerbaijan called Millie Majors and Croatia called Saber. Another example, we also have learnt the current situation of our own parliament and others which expose us to the new world of parliament that shows huge different as to compare with our parliament. For

recommendation, the university should provide specific subjects that compulsory to all students like history that enhance their basic knowledge of Malaysia. Apart from that, Malaysia's media should show more programs about Malaysia legal system to give an extra knowledge about politics in Malaysia to all Malaysian.