

## **MEASURING THE RELATIONSHIP BETWEEN LEGAL, POLITICAL ENVIRONMENT AND FREEDOM OF INFORMATION IN MALAYSIAN PRINT MEDIA**

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### **ABSTRACT**

Previous studies only focused on the media policies and regulations. There is no specific research that has been done to track the freedom of information in print media in Malaysia. This study traces the freedom of information in the print media by exploring and analyzing the relationship between legal environment and political environment and freedom of information. A survey research was conducted to obtain data to determine the level and to analyze the legal and political environment in relation to freedom of information. Descriptive and inferential statistics were used to analyze the data. The study found that the legal and political environment have significant relationship with freedom of information in print media in Malaysia.

**Keywords:** Freedom of Information, Journalism, Press Freedom, Legal environment, Political environment.

### **INTRODUCTION**

It is a fundamental axiom of democracy that citizens must have information and knowledge. People must be informed if they are to play an active role in the life of their country. Free and responsible media are critical sources of information for citizens who want to choose the best leaders for their country and make sound decisions about the issues in their nation and in their communities. The information the media provide is just as critical for intelligence, economic and personal decisions as for good political choices.

Media freedom is a dynamic concept. A media which is able to operate without undue restrictions and interference would be in a position to disseminate information of public interest with greater efficiency. A free media is an integral part of democracy and democracy is about human rights. Human rights advocates have argued that by exposing human rights abuses and giving voice to marginalized parts of the community, the media can at its best encourage the proper application of justice and stimulate debates (Amnesty International as cited by Jeniffer et al. 2014). When we

discuss press or media freedom we need to consider not only the right of the press to publish but also the right of readers to receive the information which they need in order to function effectively as citizens of a democratic society, a right which places certain obligations on the press (Norris 2011). A free media functions as a reliable information resource to citizens by providing open access to facts and debate regarding social, political, and economic issues (Schudson 2003). Research has found that media plays an especially important role in facilitating citizen knowledge and engagement in fledgling democracies (e.g., Mattes & Bratton, 2007; Schmitt-Beck & Voltmer 2007). Thus, within emerging democracies, a free media is a key factor shaping the citizen knowledge, perceptions, and behaviors that are the basic foundations for citizen demand for democracy.

A free print media is also entrusted with the role of performing a watchdog function over government officials and the bureaucratic process, acting as an accountability institution for the public (Siegel, Weinstein, & Halperin 2004). This media watchdog role leads to greater political stability and less violence, increases the independence of the judicial system and government efficiency because elected leaders are held accountable to their constituents, and decreases political corruption (Chowdhury 2004). In this sense, a free press is a resource for citizens to evaluate the supply of democracy within their country as well as form opinions about how satisfied they are with how their government operates (Mattes & Bratton 2007; Schmitt-Beck & Voltmer 2007).

It is pivotal in today's societies, that access to information is central to the decision making process by citizens and consumers alike. Whether it is politics or economy, the availability of information is a crucial determinant. This study traces the freedom of information in the print media by exploring and analyzing the relationship between legal environment, political environment and freedom of information.

## **FREEDOM OF INFORMATION**

Freedom of information is now considered as a human right. The right to know which means the right of access to official documents increases accountability on the part of governments. Callamard (2005) observed importantly the right to access information held by public and private authorities by stating that it places a duty on these bodies both to disseminate information of key public importance and to respond to requests for access to publicly held information. These views reinforce international as well as national provisions in advocating for free expression and the right to public information held by government.

Lipinski and Britz (2001) discussed access to information as a critical need in an information age. They observed that where all rights were fixed by law, access to information must be a critical need and should be guaranteed for every citizen. They suggested that any right of control over information, adopted as an incentive to encourage creation and distribution of intellectual property, should be subservient to an overriding need to ensure access to the information.

Freedom of expression and freedom of information are viewed as serving three important considerations. According to Sejersted (2005) the considerations are normally the truth, democracy and the free formation of opinion. In article 10 of the European Convention on Human Rights there is a paragraph stating that restrictions on freedom of expression must be shown to be "necessary in a

democratic society”. Note that the expressions themselves need not be “necessary in a democratic society”. It is the restrictions that shall be necessary. The burden of proof is on the necessity of the restrictions. Consideration for truth is considered important as it is by means shared knowledge, i.e. by “examining matters, obtaining relevant information and listening to the arguments of the various parties, we are able to acquire more well founded opinions”.(ibid p.302) The other two grounds are closely associated with the truth ground. Open and free debates are essential components of Democracy. In an open society, the social authorities must be able to substantiate their actions and be accountable to the public. This is central to the free formation of opinion.

Information gathering by journalists is a vital component of freedom of information. Without access to information, journalists are engaged primarily in presenting opinions. While openness in the statement of opinions is an important element of a democratic society, it is insufficient for its development and maintenance. An informed citizenry depends on journalists' ability to have access to sources. Without this kind of journalistic effectiveness, a society can have free and independent media, but their utility in advancing democratic institution building is severely limited (Peter & Monroe 2002).

An essential condition of effective and professional journalism is journalists' ability to gather information held in tangible files, often dusty and hard to find, that are held by or controlled by public authorities. An enabling legal environment will include legal guarantees for the conduct of this gathering activity. Such guarantees are often found in generally applicable legislation that recognizes the rights of public access to documents. Although these laws often do not expressly cite the rights of journalists, naturally news media representatives share the rights of access with the general public (ibid).

The structure and operations of print media in a nation very much reflects on the political culture of that nation. Going by this, nations which thrive on a rule which conforms less to democratic principles of governance exhibit more control on the operations of the media , namely in relation to information on the proprietary of the ruling regime’s leadership as compared with countries professing democracy (Wejner 2013). An analysis of the structure and operations of the media systems in totalitarian or other forms of non-democratic states would invariably reveal either a same or a very similar pattern of control. The mass media in authoritarian and other non-liberal regimes are always influenced by their states so as to forge supportive sentiment. Such regimes use media not only to mobilize political support but also to shape people’s attitudes toward the government (Zhu et al. 2012). Unfortunately, however, all the democratic countries in the world cannot claim to have a pattern of structure which have conferred on their mass media either a same or similar right or freedom.

## **A FREE MEDIA**

A press independent of state censorship, which fearlessly exposes corruption, abuses of power and incompetence in public office provides a historic bulwark against tyranny; a press that provides its audience with important stories, enabling their participation in democratic self-government. Thus the

term 'press freedom' is a strongly resonant concept, closely tied to the notion of historic liberties and the free society they have produced.

Government control of the flow of media-provided information reaching the citizens has been shown to be detrimental for the development of an economy. A country with significant state control over the media provides additional temptation to politicians to abuse their power. Coyne and Leeson (2004) also argue that a free media can contribute to successful adoption of policies aimed at economic progress. Further, Leeson (2009) shows that economies with greater government control of the media have citizens who are politically ignorant. A free media acts as a watchdog of the government, increases citizen knowledge, and improves various development indicators.

In order to formulate an acceptable working definition of media freedom, the criteria that enables news media to act independently need to be identified and understood. Influential organizations like the United Nations, the World Bank and human rights groups have always argued that media freedom instills responsibility on the government and makes them cater effectively to the needs of the citizen. One view of the relationship between government and media is that one of "mutual exploitation", where both seek to exploit the other to maximize self-interest and the public gets the byproduct of the process (O' Heffernen, p.244). More recently it has been argued that over reliance of journalist on sources, economic pressure and greater autonomy in framing of news have prevented the media serving as an effective watchdog. (Bennet, Lawrence & Livingston 2007). The concept of press freedom encapsulates two core components: the absence of governmental or non-governmental restraint on the media, and the presence of conditions for enabling the dissemination of diverse ideas and opinions to large audiences (McQuail 2008; Price 2004; McQuail 2003). Press freedom represents and stands for media independence as a norm of a sound society. Press freedom is essential to democracy because a press with more freedom and independence responds to the citizens' right to know and contributes to the maintenance of an accountable government (Gunther & Mughan 2000).

## **REGULATING FREE FLOW OF INFORMATION**

Freedom of information is synonymous with freedom of press and its importance cannot be underrated. It's a core component of journalism in a democracy: making sure the public gets the information that it has a right to know (Birkinshaw 2010). Information gathering by journalists is a vital component of freedom of information. Without access to information, journalists are engaged primarily in presenting opinions. While openness in the statement of opinions is an important element of a democratic society, it is insufficient for its development and maintenance. An informed citizenry depends on journalists' ability to have access to sources. Without this kind of journalistic effectiveness, a society can have free and independent media, but their utility in advancing democratic institution building is severely limited (Peter & Monroe 2002). An essential condition of effective and professional journalism is journalists' ability to gather information held in tangible files, often dusty and hard to find, that are held by or controlled by public authorities. An enabling legal environment will include legal guarantees for the conduct of this gathering activity. Such guarantees are often found in generally applicable legislation that recognizes the rights of public access to documents. Although these laws often do not expressly cite the rights of journalists, naturally news

media representatives share the rights of access with the general public (ibid). The fundamental characteristic of effective freedom of information legislation is an expressly articulated presumption of openness. The presumption of openness is grounded in the principle that information in the control of the public authorities is public unless it is covered by an exception expressly set forth in a legislative act. The principle therefore places the burden of justification for refusal to disclose on the public custodian (Stiglitz 2002).

Many legal systems impose some kind of standard on people who request access to documents, such as a requirement that they demonstrate that the requested information affects their rights and legal interests or that it is of a particular level of importance. The effectiveness of freedom of information legislation is significantly reduced if, instead of a presumption of openness, burdens are imposed on requesters (Walden 2000).

Universally, it is understood that freedom of speech and of the press are not absolute. All legal systems tolerate content regulation to some extent to advance certain state, collective, and individual interests. A good deal of such regulation takes place through the mechanism of direct regulation of content, affected through legislative, executive, and judicial acts (Peter & Monroe 2002). We will take a broad view of content regulation, which we perceive as any form of external intrusion into the professional activities of gathering, editing, and reporting public sector information and disseminating opinion on public matters. Again, an enabling environment is one in which this takes place according to the rule of law. Although rights of free expression are not absolute, an enabling environment is one in which the political culture recognizes the value of the free flow of information and ideas for democratic society.

## **HYPOTHESIS**

Based on the objectives and review of literature, the following hypotheses were formulated:

- Hypothesis 1:           There is a significant relationship between legal environment and freedom of information.
- Hypothesis 1a:           There is a significant relationship between legal awareness and freedom of information.
- Hypothesis 1b :           There is a significant relationship between role of state and freedom of information.
- Hypothesis 1c :           There is a significant relationship between rational legal authority and freedom of information.
- Hypothesis 2            There is a significant relationship between political environment and freedom of information.

- Hypothesis 2a        There is a significant relationship between political parallelism and freedom of information.
- Hypothesis 2b        There is a significant relationship between censorship and freedom of information
- Hypothesis 2c        There is a significant relationship between biasness and freedom of information
- Hypothesis 2d        There is a significant relationship between intimidation and freedom of information

## **METHOD**

A survey involving 100 (n=100) professional journalists working in Malaysia was conducted. However, an accurate listing of this population is not available and the total number of professional journalists working in the country is virtually unknown. This is the case, because there is no state agency that regulates or keeps track of the number of journalists working in each country and as a result, anyone can enter and exit the profession easily, regardless of their educational or professional qualifications.

There are approximately 1,400 working journalists registered with the National Union of Journalists in Malaysia (NUJ 2016). The sample frame for this study is a purposive sampling focusing on working journalists. Purposive sampling techniques have also been referred to as nonprobability sampling or purposeful sampling (Charles & Yu 2007). The sampling technique employed in this study is homogeneous sampling as the units of study in this research share common traits and characteristics of belonging to the journalism profession. The purpose of a homogeneous sample is to describe some particular subgroup in depth (Patton 2002).

The questionnaires were bilingual, being in Malay and English. The items included in the questionnaire are factual and the types of data collected include nominal, ordinal and interval or Likert scales which reflect categorical scales; nominal (gender and nationality), ordinal (educational qualifications, income) and Likert scales (lowest to highest) respectively. Data on the political environment measures media biasness, intimidation, biasness and political parallelism in print media operations. Legal environment has three dimensions viz. legal restrictions, role of the state and the rationality of legal authority.

A total of 9 Malaysian newspapers namely Utusan Malaysia, Berita Harian, Kosmo, Harian Metro, TheStar, Malay Mail, New Straits Times, Makkal Osai and Malaysian Nanban participated in this survey. The process of administering the questionnaires started from 28 June 2016 continued throughout till August 30 2016.

## ANALYSIS OF FINDINGS

The data collected was subjected to Descriptive and Correlation analysis using the Statistical Package for Social Sciences (SPSS Version 23). For the purposes of this study, the acceptable level for cut-off point is a mean score of 3.5. The computed mean and standard deviation scores are as below.

Table 1: Freedom of Information (Mean score and Standard Deviation)

	Mean Score	SD	Level
<b><u>Access to information</u></b>			
Getting information from government	3.9	1.5	Average
Not easy to get information which may embarrass the government	4.5	1.6	Average
Public officials are willing to talk	4.3	1.4	Average
Not difficult for me to access public officials	4.2	1.6	Average
Request for information under existing laws help me	4.4	1.5	Average
Cannot get information without Freedom of Information laws	4.4	1.4	Average
<b><u>Flow of Information</u></b>			
No hindrance to the flow of information to media	4.1	1.5	Average
No hindrance to the flow of information to the mass	4.6	1.5	Average
Freedom of information is sufficient for watchdog role	4.5	1.5	Average

N	Computed Mean	Computed SD
100	39.4	8.8

In consideration of the acceptable mean score set by the researcher at 3.5, all the items under access to information and flow of information have a score of more than 3.5 and above. This indicates that access to information and flow of information has become relevant to freedom of information.

Table 2: Legal environment (Mean score and Standard Deviation)

	Mean Score	SD	Level
<b>Legal awareness</b>			
great caution not to be sued	5.6	1.4	High
Cautious of the sedition Act	5.5	1.4	High
Verify all information involving government agencies.	5.9	1.0	High
Verify all information involving political figures	5.6	1.3	High
N	Computed Mean	Computed SD	
<b>100</b>	<b>22.7</b>	<b>4.5</b>	

**Role of state**

Concerned that information may be classified as secret	3.7	1.2	Average
Government approval to run my own press.	4.6	1.5	Average
Policies of the State support freedom of press	5.1	1.4	High
N	Computed Mean	Computed SD	
100	13.35	2.5	

**Rational Legal Authority**

Print media in my country performs the watchdog role	5.0	1.4	High
Courts generally favor journalists in legal proceedings	4.2	1.8	Average
Rights as a journalist are protected under the Constitution.	5.1	1.1	High
Courts will uphold justice when it involves cases of freedom of expression	5.1	1.1	High
The courts in my country are independent	4.9	1.6	Average

N	Computed Mean	Computed SD
100	24.4	5.1

Table 2 indicates all the items under legal environment has a score of more than 3.5 and above especially legal awareness which returned high mean scores for all the items. This indicates that legal awareness, role of state and rational legal authority is relevant to freedom of information.

Table 3: Political environment (Mean score and Standard Deviation)

	Mean Score	SD	Level
<b><u>Political Parallelism</u></b>			
Strong connections to a political party	4.9	1.6	Average
Prominent coverage to the policies of the political party it has connections	4.9	1.3	Average
Newspaper is dominated by political news	4.1	1.8	Average
Newspaper is dominated by social news	4.7	1.2	Average
N	Computed Mean	Computed SD	

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100	18.8	4.5
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**Censorship**

Practice self-censorship	4.8	1.4	Average
Instructions from government to censor news.	4.5	1.6	Average

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N	Computed	Computed
Mean		SD
/		
100	9.3	2.4

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**Biasness**

Stories for publication is free from political considerations.	3.9	1.3	Average
News gathering is free From political considerations.	4.4	1.4	Average
More coverage of the good things (positive) for the ruling party	5.4	1.2	High
More coverage of the good things for the opposition parties	3.7	1.5	Average
Equal coverage of the good things for the ruling and opposition	3.9	1.1	Average
Reporters have an obligation to respect the government	5.1	1.3	High

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Reporters have an

obligation  
not to embarrass the  
government 5.0 1.3 High

N	Computed Mean	Computed SD
100	31.7	5.4

**Intimidation**

Afraid to pursue stories that  
portray politicians in a negative  
light 4.0 1.7 Average

Fear for my safety discourages  
me from pursuing stories 3.8 1.9 Average

Fear for my safety discourages  
me from pursuing stories that may  
embarrass the government. 3.6 1.7 Average

N	Computed Mean	Computed Sd
100	11.5	4.8

Table 3 shows that political parallelism, biasness, censorship and intimidation under political environment has all returned a mean score exceeding the cut-off point of 3.5 indicating the relevance of political environment to freedom of information.

Table 4: Correlation Analysis between Freedom of Information and Predictor Variables (Political environment, Legal environment)

	Freedom of information	
	r	p
Legal Environment	.037	.002
Political Environment	.322	.001

N=100

\* Correlation is significant at the 0.05 level (1 tailed)

Table 4 shows the correlation analysis that was used to test hypothesis 1, while Table 5 shows the correlation analysis that was used to test hypothesis 1a, 1b and 1c. Table 4 shows a significant positive relationship which is weak between freedom of information (DV) and legal environment (IV) which is significant. Hypothesis 1 can be accepted. Table 5 shows there exists a weak positive relationship which is not significant between freedom of information and legal awareness. As a result hypothesis 1a is rejected. Table 5 also indicates that there exists a positive relationship between freedom of information and both role of state and rational legal authority and significant. Therefore hypothesis 1b and 1c is accepted.

Table 5: Correlation Analysis between Freedom of Information and legal awareness, role of state, rational legal authority, political parallelism, censorship, biasness, intimidation and culture

	Freedom of information	
	r	p
Legal awareness	.055	.585
Role of State	.421	.000
Rational Legal Authority	.421	.000
Political Parallelism	.205	.041

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Censorship	.394	.000
Biasness	.060	.551
Intimidation	.253	.011

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N=100

\* Correlation is significant at the 0.05 level (1 tailed)

## DISCUSSION

The study found that there is a significant correlation, albeit being low, between the legal environment in which the Malaysian print media operates and freedom of information. Dwelling into the dimensions, there seems to be strong agreement among journalists that they are cautious of the laws and the practice of verifying information before publication especially when it involves government agencies and government officials. Investigation into role of state revealed strong belief among journalists that the policies of the State support freedom of press while retaining slight concern that information they gather may be classified as secret.

Investigations under rational legal authority showed that journalists in Malaysia generally believed that the courts are independent and that their rights are protected under the Constitution. Their perception that courts will uphold justice in cases of dispute involving freedom of expression led them also to confidently believe that print media in Malaysia performed the watch dog role.

In testing hypothesis 1, 1a, 1b and 1c for Malaysia, a low correlation between legal environment and freedom of information was discovered. Hypothesis 1a which tested the strength of the correlation between legal awareness among journalists and FOI revealed a correlation which, however was not significant.. In other words legal awareness do not significantly influence FOI. In testing the strength of the correlation between freedom of information and the role of the State in hypothesis 1b, a moderate correlation is detected. For the strength of correlation between rational legal authority and FOI, which was tested under hypothesis 1c, a moderate correlation was reported.

In regards to political environment, the results indicate that journalists in Malaysia have generally accepted that their press is strongly connected to a political party and the press gives that party prominent coverage . They concede that they receive instructions from the government to censor news. The results also revealed that print media journalists in Malaysia strongly agree that the press gives more coverage to the good things the ruling party does as compared to the opposition parties. Reporters demonstrated strong believe that they have an obligation to respect the government and not to cause embarrassment to it indicating biasness practiced in favor of the ruling government.

Hypothesis 2 which tested the strength of correlation between political environment and freedom of information, revealed a moderate correlation. On the strength of political parallelism, tested under hypothesis 2a, low correlation indicating a weak relationship between political parallelism and FOI

was revealed. There is a positive correlation between censorship and freedom of information, tested under hypothesis 2a indicating a moderate uphill linear relationship. However, in testing hypothesis 2c, a positive correlation which is not significant was reported indicating that biasness does not influence FOI. As for intimidation, tested under hypothesis 2d, moderate correlation was revealed.

There is a corresponding relationship between political environment and legal framework in which the print media operates. Legislation is an essential way of conducting politics. Democratic political activity depends on the representative legislature being able to make formally binding decisions that are implemented to ensure that political decisions are stabilized (Magnussian & Banasiak, 2013). Thus a political climate which stifles the media is also given effect through legislation. In Malaysia news that can put the ruling government in a bad light, mostly do not get published. In other cases the news is framed to paint a positive picture of the government. The powers given to the Minister to suspend or revoke newspapers' publishing permit is the main reason why the mainstream press are susceptible to covert pressure from the Executive. Censorship is a common feature in the mainstream media even though such measures are futile in face of online news. The political environment is repressive, hindering the flow of information, but does not place the safety and well-being of journalist in jeopardy. Here, there is a practice of preferential access to media making it common for opposition parties to be mightily disadvantaged (Ganev 2001). In reality, it would only be appropriate to attribute the repressive political climate to print media since internet communication remains unstifled. Nevertheless these hurdles seem to be outweighed by journalists' consideration that the policies of the government of the day supports freedom of press and the courts will protect the rights of journalists in cases of dispute thus allowing the media to effectively perform their watchdog role.

## CONCLUSION

This study employed Hallin and Mancini's theory of Three Models of Media and Politics which creates categories of model based on freedom of information. This theory which has been used to study the nature of media systems in Western Europe and North America is departure from the classical division of media according the Libertarian theory, Social Responsibility and the Authoritarian theories which has been debunked as not appropriate for analyzing the relationship of media with law and politics in non-western societies. In other words, this approach implies taking the characteristics of the western media political systems as particular or even exceptional cases rather than a universal norm.

The findings from this study help develop a portrait of perception of Malaysian journalists. The results are of great value to journalists, media scholars, media practitioners who can use the findings to better identify the factors that influence the freedom of information in their respective media. Academic research on the future of media freedom can be done using multiple different analytical frames to yield more specific results. Media practitioners are also given an insight to make appropriate comparisons on the unique factors that makes their media different from others.

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