

FUNDAMENTAL LIBERTIES IN RELATION TO
EMERGENCY AND SECURITY LAWS IN
MALAYSIA.

BY

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CHAPTER I

INTRODUCTION

A. OBJECTIVE OF THE STUDY.

The topic is not a new area in the law of Constitution. Various writers have discussed thoroughly the concept of fundamental liberties, from theoretical to practical aspects, but an intimate discussion in relation specifically to the Emergency and Security laws have been left to criticism and still hanging in a loop area. To enhance this, the writer is interested to advance the development of the law in the country.

The writer intends to analyse the use of the general phrase 'fundamental right' in part B of Chapter One. To consider when such a use is appropriate and how it may be justified in serious discourse about the nature and content of legal systems.

In Chapter Two, the writer deals with the general concept of the Constitution of Malaysia. The idea of fundamental rights was interpreted in various articles of the Constitution and was specifically enacted under part II of the Constitution, comprising article 5 to Article 13. The writer feels that there is a need to have an overall picture of the Constitution before one starts to deal in depth with the concept of fundamental liberties.

The writer, further goes to discuss the concept in the light of the Constitution and to put, a fruitful approach to the concept by laying down the general history of the concept and also general provisions of the concept in the Constitution Cases endorsing judicial review of Constitutional matters and arguments cited on the relevant provisions. This is to phrase the idea that the human rights are constitutionally protected rights and they have been written into the Constitution to emphasize their importance, as being in the Constitution they are more difficult to abridge than rights protected by ordinary law. These rights are mainly to secure legal justice.¹

Coming to a more extensive part of the paper, the writer proposes to discuss in detail the Emergency and Security laws in Malaysia with specific reference made to the Internal Security Act 1960 and other legislation relating to Emergency laws. The relationship between will be discussed in Chapter Five of the paper. The objective of this discussion, is to determine whether the question of conflict of laws arises and to what extent does the Federal Constitution prevail over the Emergency Legislations.

1. Tun Mohd. Suffian L.J. (as he then was): Regional Seminar on Human rights and Development, in Rural Areas in SEA in Penang, Nov 30' 1984.