

# **ANALYSING THE RESTRICTIONS ON FREEDOM OF SPEECH IN MALAYSIA**

**MUHAMMAD HARIZ BIN ABD MUTALIB**

**AZIF HAKIEMI BIN ABDULLAH**

**MOHAMAD HUSAINI BIN SHAHARUDDIN**

**UNIVERSITI TEKNOLOGI MARA**

**2014**

## **ABSTRACT**

This work involves the critiques and also to analyze the principle of law of freedom of speech and the restrictions imposed on this right. In Malaysia, the law which governs the fundamental right of freedom of speech is by the virtue of Article 10 of the Federal Constitution of Malaysia. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by the public authorities regardless frontiers. In simpler words, this right also includes the right to express one's ideas and opinions freely through speech, writing, and other forms of communication but without deliberately causing harm to others' character or reputation by false or misleading statements. Freedom of press is also a part of freedom of expression. However, to balance with the national security issues, Parliament has entrenched some restrictions on this particular liberty by introducing various laws which limit this right to certain extent. Therefore, this study will focus into the relevancy and rationale of those restrictions so that it could be improve for the benefit of the nation.

# TABLE OF CONTENTS

<i>Chapter</i>		<i>Page</i>
	<i>Acknowledgement</i>	i
	<i>Abstract</i>	ii
	<i>Table of contents</i>	iii
<b>1</b>	<b>CHAPTER 1: RESEARCH PROPOSAL</b>	
1.1	Introduction	1
1.2	Background of research	1
1.3	Problem statement	2
1.4	Research questions	4
1.5	Research objectives	4
1.6	Research methodology	4
1.7	Scope of the research	5
1.8	Limitation of the research	6
1.9	Significance of the research	7
1.10	Literature review	8
<b>2</b>	<b>CHAPTER 2: CONCEPTUAL AND THEORETICAL FRAMEWORK</b>	
2.1	Conceptual framework	15
2.1.1	The historical background of freedom of speech in Malaysia	15
2.1.2	The definition of freedom of speech under	

	the Federal Constitution	16
2.1.3	The extent of freedom of speech under the Federal Constitution	17
2.1.4	Political expression	19
2.2	Theoretical framework	21
3	<b>CHAPTER 3: LEGAL CHAPTER</b>	
3.1	Analysis on Malaysian cases	23
3.2	Comparison between Malaysia and the United States	28
3.3	Conclusion	35
4	<b>CHAPTER 4: RESEARCH FINDINGS</b>	
4.1	Analysis the restrictions on freedom of speech in Malaysia	36
4.2	Data analysis	41
5	<b>CHAPTER 5: RECOMMENDATIONS AND CONCLUSION</b>	
5.1	Recommendations	48
5.2	Conclusion	51
	<i>Appendices</i>	52
	<i>Bibliography</i>	55

# **CHAPTER 1 : RESEARCH PROPOSAL**

## **1.1 INTRODUCTION**

The freedom of speech is the freedom to speak without censorship and/or limitation. The synonymous term freedom of expression is used to indicate not only freedom of verbal speech but any act of seeking, receiving and imparting information or ideas, regardless of the medium used. The right to free speech is one of the most precious rights an individual has as a citizen of any country. The right gives people the opportunity to speak their mind and give their opinions on what they think should happen. These rights have been questioned and exercised throughout history, and have produced extremely positive things in a lot of cases. The questioning of these rights is not secluded to one era of time. They have been questioned many different times, in many different ways. In modern time, people are always protesting something. Citizens of Malaysian have their right to freedom of speech and expression entrenched in Article 10 of the Federal Constitution<sup>1</sup>. Nevertheless, such freedom, is restricted in interest of national security, public order or morality<sup>2</sup>.

## **1.2 BACKGROUND OF RESEARCH**

Federal Constitution is the supreme law of the Federation.<sup>3</sup> It is the 'mother' of law of our multi-racial country, Malaysia. It acts as a guideline to the lawmakers to create or propose other specific laws to regulate the harmonious condition for the citizens throughout the nation. Hence, the authors will critically discuss freedom of speech, specifically on the restrictions, supported by case laws, opinions and recommendations by expert analyst in this particular area alongside a brief comparison with the United States.

Moving on to the article itself, this article laid down some provisions regarding freedom of speech, assembly and association. There are three limbs of this provision. It contains general

---

<sup>1</sup> 1957. The Constitution is divided into 15 Parts and 13 Schedules. There are 230 articles in the 15 parts, including those that have been repealed.

<sup>2</sup> Article 10(2)(a) of the Federal Constitution.

<sup>3</sup> Article 4(1) of the Federal Constitution.