

## **FREEDOM OF SPEECH AND EXPRESSION IN MALAYSIA: PROTECTION UNDER THE FEDERAL CONSTITUTION**

**Md. Tuhin Mia<sup>1</sup>, Md. Zahidul Islam<sup>\*2</sup> and Md. Norullah<sup>3</sup>**

### **ABSTRACT**

This study aims to understand the position of freedom of speech and expression and the right to freedom of speech in Malaysia stipulated in the Federal Constitution, the controversy over restrictions on freedom of speech, and the issues that hinder freedom of speech from being fully practised. Therefore, this study focuses on the extent of freedom of speech and expression under the Federal Constitution of Malaysia. This study employs qualitative analysis based on secondary data collection. The findings indicate that the Constitution does promote the right to freedom of speech and expression, and it is included in Article 10 of the Federal Constitution of Malaysia, which allows only its citizens to exercise. Freedom of speech and expression does not have any general structure and is notoriously known by others, such as national safety issues, public well-being, and good impulses. Nonetheless, this study lacks the analysis of present position of free speech and hate speech in Malaysia. However, the right to free speech is a fundamental part of human beings and in the establishment of a free society. This study emphasizes the importance of information in various platforms such as social media for citizens and the limitations of their freedom of speech and expressions.

**Keywords:** Freedom of Speech, Expression, Federal Constitution, Protection, Malaysia

### **INTRODUCTION**

Freedom of speech is the basic pillar of a system based on law of a free society. The government's strategy, needs and proposing selection measures are important to examine the expansion of a government. Although this is of great significance to good governance, freedom of speech is necessary for the progress of civilization in all areas of the human being. Freedom of speech is also a part of personal satisfaction (Faruqi, 2018). Benjamin Franklin rightly said that "Freedom of speech is the great bulwark of liberty; they prosper and die together: And it is the terror of traitors and oppressors, and a barrier against them. It produces excellent writers, and encourages men of fine genius" (Paulsen, 2019a).

Freedom of expression is a fundamental human right, which is the basis for any fair framework to work satisfactorily. In Malaysia, freedom of speech is a constitutional right guaranteed by Article 10 of the Federal Constitution and warns that this right can be restricted in a proportional manner to protect security, disclosure requirements or high quality, which is usually foreseeable in global human rights law (Alam, 2015). To add, freedom of speech is the foundation for a strong democracy (Paulsen, 2019). International human rights law ensures individuals rather

than reflections, such as nationality or national unity, racial or ethnic, religious or belief frameworks (Paulsen, 2019). This is not to say that freedom of speech and expression is not subject to any restrictions. According to national and international human rights law, the government has a promise to guarantee freedom of speech and expression, and can reasonably limit this privilege to prohibit prompt contempt, however, even this contempt may cause a vicious or illegal act. In most cases, subtle discussions about racial and religious issues have a place in open discussion, and anyone can say anything without being afraid of retaliation. Ideally, the dominant section will have the option to detect inflammatory or deceptive speech and refused.

Freedom of speech is seen as a freedom for individuals or parties to express their emotions (Davies, 1970). Nowadays, the facts of this matter are not convenient, because when there is a problem, the public will not hesitate to stand up before making a dispute or opinion. Islam has indeed promoted freedom of expression, and Article 10 of the Federal Constitution of Malaysia also regulates Islam to enable residents to conduct drills. Nevertheless, this freedom is not completely free, either in Islamic law or in Malaysian law, because there are some restrictions on specific issues that need to be adjusted (Khairuldin et al., 2017). People do have the right to speak and express opinions freely. It cannot be denied that freedom and expressiveness are one of the most important measures to build a free and just society. Sometimes freedom may lead to emergencies, such as the racial riot on May 13, 1969. Living in such a multi-ethnic society, every word must be treated with caution, otherwise it will annoy or offend others. Malaysians together should protect their ethnicity from apartheid. Without abusing the law, the government also undertakes important functions (Islam, 2019). Everyone has the same right to do whatever they want without violating the laws stipulated by the Federal Constitution to ensure mutual safety.

## **MEANING OF FREEDOM OF SPEECH AND EXPRESSION**

Free speech is the freedom to express thoughts and speech freely, and hate speech is a statement that abuses this freedom to harm others or to cause violence (Buang, 2019). In short, freedom of speech means that anything that anyone wants to say. On the other hand, hate speech refers to what is offensive or harmful to a particular individual or a specific group of people. As an example, *the House of Lords declared in James v Commonwealth of Australia [1936] AC 578* that “free speech does not mean free speech: it means speech hedged in by all the laws against defamation, blasphemy, sedition and so forth. It means freedom governed by law”. Hashim stated that “the freedom of rights in the constitution is defined as a symbol of courage in voicing out ideas and it is parallel with democratic living” (Hasim, 2018). However, according to Mohd Sani, the issue of freedom of expression has provoked conflicts between ideologies and values among Malaysian citizens (Mohd Sani, 2002). Therefore, it enables people to start arguing about personal authority and credibility related to their ideas, and opinions.

### **Theoretical Meaning**

Freedom of speech and expression are considered as an important right. A person’s freedom of expression can be described as one of man’s most cherished freedoms. According to Masum, “freedom of speech is more important than democracy for democracy does not necessarily guarantee freedom of speech the first step to the creation or onset of a greater democracy and

equity is always the phenomenon of letting the people's voice be better hear this right, however, is subject to restrictions" (Masum, 2009).

Moreover, Gomez wrote that "it must be recognized that freedom of speech and expression is the most important fundamental right, all other rights are dependent on it. It also must be recognized that there must be some restriction to that freedom to maintain public order" (Venugopal & Hassan, 2012).

### **Constitutional Meaning**

In the Malaysian context, the Federal Constitution refers to free speech as "freedom of speech and expression" stated in Article 10 which guarantees categorically in Clause 1(a) that "every citizen has the right to freedom of speech and expression". Freedom of expression for Malaysian citizens only is not absolute, as freedom is subject to certain restrictions under the same Article in paragraphs (2), (3) and (4).

The Federal Constitution declares in Article 4(1) that "this constitution is the supreme law of the Federation and any law passed after Merdeka (Independence) Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void." The second part of the Federal Constitution deals with fundamental freedoms. Section 2 of the Malaysian Human Rights Commission Act 1999 clearly states that the term "human rights" refers to the fundamental freedoms set out in Part II of the Federal Constitution (Venugopal & Hassan, 2012). Therefore, both regulations recognize the importance of rights explicitly defined in this part of the Federal Constitution, including the "right to freedom of speech and expression" (Bari, 2004). Article 10(1)(a) of the Constitution grants each citizen the right to 'speech and expression'. The use of the word 'expression' extends the scope of rights, covering word of mouth, signs, symbols, gestures, art, music, sculpture, photographs, films, videotapes, cartoons, computer art, architecture, print media and web presentation (Faruqi, 2018). Even a speech such as commenting the way anyone dresses can be seen as part of freedom of expression. Since no rights are absolute, the Constitution allows for many of the allowed restrictions.

Freedom of speech does not mean free from consequences. If one thing can be determined immediately, it is that freedom of speech is indeed a constitutional right under Article 10 of the Federal Constitution, but it has certain limitations. Article 10 of the Federal Constitution contains Freedom of Speech, Assembly and Association. In addition to the exceptions in Article 10, it can be said that this freedom does not extend beyond the scope of legal, moral and social influence. Moreover, the guarantee of the core freedom of Malaysians in the Federal Constitution cannot be accidentally deleted as stated in Article 10 (Islam, 2019). It allows individuals to openly express an opinion on any issue without worrying about the outcome. Obviously, the basic freedoms granted by the Federal Constitution are balanced in order to control and protect the multi-ethnic society.

### **POSITION OF FREEDOM OF SPEECH AND EXPRESSION UNDER THE FEDERAL CONSTITUTION OF MALAYSIA**

Unfortunately, Malaysia has not ratified most of the international treaties and conventions on freedom of expression, media and information. However, if necessary, this situation must be

changed, with reservations in areas where the so-called “universal standards” conflict with deep rigorous, good and standard quality (Faruqi, 2018). For example, constitutional freedom is not absolute. According to Article 9 of the Federal Constitution (freedom of movement), a person enjoys the constitutional right to go anywhere freely, but if a stranger enters a house and says he is protected according to Article 9, what is the right to enjoy? So, in a similar vein, anyone is free to write or share anything on the internet, but it also means that he is fully responsible for the resulting impact. There are two forms of these consequences - criminal charges, such as Section 499 of the Criminal Code, and / or the civil action against him for his position. It is not just people who post posts or writings, but people who share these issues too. For example, if 500 people share a post that proves to be false or embarrassing, then all 500 individuals, including the writer, may find themselves facing the authorities and/or litigation. Although this is discussed in more detail in many articles on this topic, it is best to generalize them as shared or made (UiHua, 2017): a) false or misleading statements; b) defamatory statements; and c) threat or harassment statements. So how would one exercise freedom, share and express thoughts without getting into trouble? The Communications and Multimedia Content Forum of Malaysia (CMCF's) recommendation is – self-discipline.

Legal researchers have suggested that freedom of expression, freedom of association and assembly are effectively compressed by the official and administrative authorities of the government compared to other important freedoms set out in Part-II of the Constitution. A large part of these freedoms, such as unfettered, double danger and so on did not suffer from a significant distinction from the provisions of Article 10, paragraph 2, 3 and 4. Instead, they are incapable of ensuring the rights, the right to article 10 depends on the rejection of the above provisions.

By opposing the Federal Constitution, Malaysians do enjoy the privileges and the ability to speak and express freely as expressed in Article 10. All in all, Article 10 only addresses the standards, criteria and limitations of Malaysians in terms of ability to speak freely, assembly and association. As residents, people reserve the option of stating whatever they want. They also reserved the choice of calmness and alliance. Nevertheless, the Constitution clearly stated in Article 10, paragraph 2 (a) (b) (c), that Parliament may choose to impose restrictions on it. In any case, the freedom is only qualified in terms of public safety, public requirements, ethics or deep qualities, as described in Article 10(2). Some issues include the status of public language, the rare rights of Malays, the status of Islam as a public religion and other issues that should not be addressed, as stated in the Federal Constitution. This means that people reserve the privilege to state any content they like without violating the guidelines or undermining the guidelines of the public, or even causing any public problems or disorder. In general, the ability to speak and express freely in Malaysia is not comprehensive (Islam, 2020).

The Malaysian Human Rights Commission (Suhakam) pointed out that Article 233 of the Communications and Multimedia Act (CMA) and related laws, such as the Sedition Act of 1948, the Peaceful Assembly Act of 2012, and section 504 and 505 of the Penal Code is being used to control, threaten, and curtail expression and free speech (Malay Mail, 2020). Suhakam is concerned about the continued use of prohibitive laws, which do not comply with the basic freedom standards of perceptual opportunities set forth in Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 10 of the Federal Constitution of Malaysia. Suhakam would like to remind the government that in accordance with Article 10 of the Federal Constitution of Malaysia, the government has the obligation and responsibility to ensure that individuals have the

right to speak freely. This article ensures that Malaysian residents have the right to free speech, assembly opportunities and association to point out what the country should have.

## **PROTECTION OF FREEDOM OF SPEECH AND EXPRESSION IN MALAYSIA**

The Federal Constitution of Malaysia is considered the main law of Malaysia. It is truly shaped according to the Constitution of the Federation of Malaya. The Federal Constitution of Malaya is the formulation of the Federal Constitution of Malaysia today. It was drafted by the Reid Commission headed by Lord William Reid with the purpose of formulating a constitution for the formation of a fully self-supervised and autonomous Malayan Federation. Furthermore, the development of Malay nationalism has contributed selective ideas to the development of the Malayan state. These ideas may lead to the establishment of a very unique legislature compared to the Western country model. The Malaysian government constitution does not give the central freedom - an absolute freedom to serve like the British constitution (Islam, 2019). This is largely the result of the resistance of the multi-ethnic society and the socialists of the era. In order to maintain public demands, the given freedom is limited. However, there are several freedoms for citizens in terms of speech and expression provided by the Federal Constitutional of Malaysia which are discussed below.

### **Freedom of Assembly**

Article 10(1) of the Malaysian Federal Constitution grants Malaysian citizens freedom of speech, the rights of peaceful assembly and the rights of association. Nonetheless, these freedoms and rights are not the highest, since Article 10, paragraph 2, 3 and 4, permits the Parliament to impose restrictions on different states, with reasonable care of national security and affection. In Malaysia, freedom of assembly is the right choice for the Federal Constitutional guarantees. All residents retain the rights of calmly gathering without weapons. However, the rights of peaceful assembly is not absolute. According to the Federal Constitution, the privilege of enjoying peaceful assembly may be restricted by parliament. The Parliament may authorize to consider basic or actual compulsory incarceration laws with reasonable care of national security or disclosure requirements.

In any case, regardless of the type of confinement imposed by the Parliament, it must be commensurate with the reasons for the enforcement of the restrictions under any circumstances (Johan, 2016). In recent years, Malaysia's freedom of assembly has made amazing progress. Obviously, experts are more willing to encourage quiet assembly than ever before, despite the fact that there is ample room for improvement. Citizens must be allowed to calmly express what they need for a particular reason without being restricted, provocative or intimidating. However, the Peaceful Assembly Act 2012 is the main law governing peaceful assembly in Malaysia. First of all, it must be borne in mind that the law only promotes peaceful gatherings without weapons, not violent protests, riots, and so on. Therefore, if an activist threatens a protester's threat to a person or property, then it is not a peaceful assembly and should be considered a crime under the Criminal Code (Johan, 2016).

### **Freedom of Association**

Article 10(1)(c) of the Federal Constitution of Malaysia guarantees freedom of association, but only to the limits imposed by any federal law on the grounds of national security, public order or morality. Moreover, since freedom of association is stipulated in Article 10(1)(c) of the Federal Constitution of Malaysia, as long as it does not threaten the peace and security of association, it is not the right of association for all and any Malaysian (Islam, 2019). The Malaysian government has been opened to the recommendations of the Sanctions Act, and the proposed law will be in conflict with the important association rights cherished in Article 10, paragraph 1(c) of the Federal Constitution. For the proposed sanction prohibiting the collection of the law, the Election Commission believes that, to date, all residents have been guaranteed the freedom of association. This is in accordance with Article 10, paragraph 1(c), arranged to the Federal Constitution, which clarifies the main right of Malaysians to organize freedom of association. This major freedom was maintained in the case of the Kelantan State Assembly v Nordin Salleh in the Supreme Court (now the federal court) in 1992, whose standard is still legal (Rashid, 2018).

### **Freedom of Religion**

Social sensitivity, especially ethnicity and religious belief, is the fundamental deterrent force for the use of strict freedom in Malaysia. Being extra careful is not to infringe on the strict sensitivity of different parties. Considering that Islam is the state religion, people should be careful not to spread comment that are embarrassing, proposing or other forms of the neglects to religion or its followers. In this way, the government has always adhered to strict expressions to ensure ethnic agreements in a multiracial, multicultural society in Malaysia. This protection is guaranteed in the Constitution and can actually be found on specific issues, such as strict expression in the press, strict stance, trust committee and clothing standards. It must also be noted that the concept of religious freedom in Malaysia is completely different from the concept of religious freedom in the West. It is necessary to first understand Article 3(1) of the Constitution and to pay attention to the starting point imagined by its ancestors. It states that Islam will be a federal religion, but different religions may be exercised harmoniously and pleasantly in the Federation. The Constitution envisages the establishment of Islamic law to meet the needs of Muslim individual law, but it is clear that Islamic law does not become the supreme law (Sani & Shah, 2020). Scholars like Ahmad Ibrahim also observed that the intention in making Islam the state religion of the Federation was primarily for ceremonial purposes while Shad Faruqi strained that,

“the implication of Islam as religion of the Federation is that Islamic education and way of life can be promoted for Muslims. Islamic institutions can be established. Islamic courts can be set up, Muslims can be subjected to *Syariah* laws in certain areas provided by the Constitution” (Faruqi, 2006).

In addition, freedom of religion applies only to those indispensable practices and rituals (Masum, 2009). Religious freedom is subject to several important restrictions. An obvious example is Article 11(5), which respects public order, public health or morality. As a result, any religious act that violates the general laws relating to these reasons cannot be sustained under the provisions of Article 11. Shad Faruqi added that the purpose of the restrictions is to protect Muslims from well-organized and well-supported international missions, which is even more interesting to maintain

public order and social harmony, not religious priority. However, as stated in article 3(1), the exercise of religious freedom must be carried out in peace and harmony. Therefore, the provision does not support any approach that contradicts peace and harmony. For Muslim citizens, due to Schedule 9 of the Constitution, there may be further restrictions on religious freedom. This gives the state legislature enactment of laws to punish Muslims for crimes, including violations of Islamic teachings such as adultery, betrayal, gambling, and drinking (Masum, 2009).

### **Academic Freedom**

Academic freedom depends on the power of fair organization (Azhari, 2017). This line of inquiry is appropriate Malaysia whether it has solid organizations such as free media, autonomous law enforcement and implementation offices to ensure that the residents of the country are the most important? Without a privileged political culture, pursuing academic freedom will be an enormous test. It is very important to change the perspective of academic freedom when it is highly probable that Malaysian universities will use excellent methods to write scripts, fight despicably and create basic reasoning and innovation. In the dilemma of Malaysian university benchmarks, academic estimates of self-rule, freedom of speech and honesty are largely ignored. Although Malaysia has globalized its teaching framework, the inadequate social standards are still burdening it, and these standards are shifting the development of advanced educational institutions to their greatest potential. In a wider society, if there is no academic freedom, how can freedom exist in other parts of the country? (Hunter, 2015). This is a problem that plagues the country's ability to progress today. The absence of academic freedom can undermine the country's insights, as seen in the relative decline of Malaysia's neighbours in the last decade.

It must be emphasized that research work has an indispensable influence on the thinking and truth transactions of general public and Malaysia should follow these ideas to speak out on the issue of squeezing, such as decontamination and government distrust (Men, 2016). After the entry into force of the Malaysian Federal Constitution in August 1957, it has granted the rights of freedom of speech, assembly and association, which was obtained under Article 10 of the Federal Constitution, or rather, experts may wish to accept this. There is no doubt that the right to study by everyone and anyone, the right to state their ideas and dissent, is crucial to the counteraction of democracy and state oppression. However, the government is seeking new changes and has only recently succeeded in launching the 2015-2025 Malaysia Education Blueprint. In any case, what is clearly missing from these proposed changes is the gradual academic freedom. In Malaysia, academic freedom of speech is surprisingly low. This idea is divided into two parts and the first is about institutional freedom (Hunter, 2015). In this case, the university should be fully responsible as the university introduce new projects and courses. The subsequent angle is a single academic freedom in which people are free to express what scholars think is right, the freedom to express problems in open areas, the freedom to connect with others, and embracing integrity.

### **Freedom of Information**

Freedom of information or the right to know can be defined as the right of people to obtain information owned by government agencies and public institutions, and this right is accompanied by the freedom of thought, the freedom to seek, receive and impart information (Lor & Britz, 2007). The second appendix on the definition of "accessibility" is clearly controversial. Therefore, complete freedom is an illusion, so the privilege of granting individuals access to government data

is not possible without the necessary restrictions. In any case, the scope of the obstacle must be properly determined, not only as legally written in the resolution, but also reasonably and truly appointed. To quote John Locke's notion on natural law and the government, he uttered that "the government is justified to put limits on personal rights for the good of mankind" (Koetsier, 2004). Freedom of information is a powerful tool for solving these power problems, because when the information is released, the public can review the good and the bad, and the ruling person is forced to perform his duties seriously and honestly (Birkinshaw, 1997). Regarding information freedom in Malaysia, the Constitution and any national law do not provide statutory rights to obtain government data. Article 10, paragraph 1, of the Federal Constitution only stipulates that every resident has the privilege of freedom of speech and expression. Such an arrangement makes the scope of freedom rights more closely aligned with Malaysian residents while avoiding the privileges of people in remote areas. More importantly, Article 10, paragraph 1, is only formally considered freedom of speech and expression, not information freedom. However, two speculations can be drawn from the constitution that does not participate in the freedom of information (Ikhsan, 2014): (a) Freedom of information is an important part of freedom of speech and expression. Without sufficient data access, citizens will not be able to successfully exercise their right to freedom of expression and freedom of expression. (b) The supreme constitution is not eye-catching for freedom of information. From now on, it is not mandatory for Government to pass a law granting such privileges to residents.

Freedom of information is an essential part of building an important participatory democracy. Accordingly, Malaysia cannot maintain a strategic distance from the fact that freedom of information is definitely an overall phenomenon. In any case, Malaysian constitution and laws tell nothing about the kind of freedom of information system that fulfils its own (Ikhsan, 2014). Therefore, all constitutional and statutory restrictions on freedom of speech also apply to freedom of information, which cannot be ignored. According to the Constitution itself, Article 10(2) provides that for national security and relations with other countries, Parliament may enact laws to restrict freedom of expression to protect freedom of expression, maintain public order or morality, and safeguard parliamentary privileges to limit freedom of speech, as well as other legislative assemblies, or courts contempt, defame or incite any crime. Article 10(4), imposes further restrictions on the right to freedom of expression, including matters relating to citizenship, national language, Yang di-Pertuan Agong and ruler sovereignty. In addition to articles 149 and 150 dealing with emergency powers and safety regulations, it can also be invoked to limit freedom of expression. All in all, the freedom of speech in the Constitution enjoys the status of residual freedom, but it is still subject to the comprehensive restrictions imposed by the Constitution (Ikhsan, 2014). Although the Federal Constitution does not express recognition of freedom of information, there are other laws that substantially affect citizens' rights to obtain government information.

Freedom of press and media are also included in information freedom under the freedom of expression. Free and independent media contribute to the realization and enjoyment of the right to freedom of opinion and expression. These two principles are essential for a fully functioning democracy and for laying the foundations for the ultimate support for Malaysia to achieve its major commitment to comprehensive institutional reform (Bernama, 2019). In the past year, Malaysia has encountered more free and increasingly autonomous media (Bernama, 2019). Obviously, traditional media and electronic media have shown more prominent objectivity and prejudice in



their display. At present, various news sources are expanding the scope of the report, only detailing the positive part of the government to include the same concerns and difficulties faced by the country.

### **Freedom of Press**

In the cause of advance proposition, the extraordinary influence of web-based life shows another test in freedom of expression and freedom of the press. In many parts of the world, it has seen revolting remarks and the expansion of brutality. The rise and far-reaching use of web-based life has made it necessary for the government to find an appropriate parity institution to control the freedom of expression while ensuring the freedom of speech (Priesner, 2019). In the past year, Malaysia has encountered more free and increasingly autonomous media (Priesner, 2019). Obviously, traditional media and electronic media have shown more prominent objectivity and prejudice in their display. At present, various news sources are expanding the scope of the report, only detailing the positive part of the government to include the same concerns and difficulties faced by the country.

Free and independent media contribute to the realization and enjoyment of the right to freedom of opinion and expression. These two principles are essential for a fully functioning democracy and for laying the foundations for the ultimate support for Malaysia to achieve its major commitment to comprehensive institutional reform (Bernama, 2019). In this regard, the United Nations welcomes the steps taken by the Government of Malaysia to review relevant laws, including the 1948 Incite Act, the 1984 Printing and Publishing Act, the 1972 Official Secrets Act and the 2002 Film Censorship Act. The Government's commitment to reforming section 233 of the Communications and Multimedia Act of 1998 is encouraging. When the government agreed to abolish several legislations to curb media freedom, such as the Printing and Publishing Act, the Inciting Rebellion Act, and amendments to the Communications and Multimedia Act, it is felt.

Alive freedom of the press is the foundation of any advanced society, because it enables to share and develop insights, engage in important discussions on open concerns and consider people with significant influence. Freedom of speech, especially freedom of the press, must include privileges to express the same disagreements or test opinions as the standard story. These awards are awarded by journalists, but are obtained by peoples, residents and individuals around the world who retain the opportunity to be educated and participate in an open life. Southeast Asia has never been hailed as a pioneer in global press freedom and for Reporters Without Borders (RSF). In 2019 Press Freedom Index, it has flashed in Malaysia's rankings. The RSF list scores and ranks among 180 countries based on media autonomy, diversity, the nature of authoritative systems, the commonality of self-control, and the well-being of writers (Paulsen, 2019a).

There is no doubt that Malaysia has taken a positive step towards an increasingly relaxed media situation, and Malaysia should be happy about it. In any case, after World Press Freedom Day, it should acknowledge the progress without giving up work that are yet to be completed. The basis of an automated media room, positive political movements and changes in attitudes should also be combined with legitimate changes (Paulsen, 2019a). The government has the opportunity to gain further development and be faithful to its expulsion laws, to strengthen freedom of expression and democratic obligations. Change will not happen by chance, but with all ASEAN countries still striving for freedom of the press, Malaysia must move on and help lead the trend.

## **RESTRICTIONS OF FREEDOM OF SPEECH AND EXPRESSION**

Freedom of speech is a personal expression strategy that expresses personal opinions. It is also the life of a free society (Masum, 2009a). In any case, rights are limited because the government has established Malaysian legal provisions (Khairuldin et al., 2017). In articles 10, 11, 149 and 150, there are 16 permissible restrictions on freedom of expression. There are 12 obstacles in Article 10: security, invitational relationships with different countries, open claims, moral qualities, parliamentary interests, contempt for the court, criticism and impact on crime (Faruqi, 2018). The parliament was approved to condemn any review of citizenship, the status of the Malay language, the rare circumstances of article 153 and the rights of the Malay rulers. Moreover, the Parliament has enacted around 35 resolutions based on its constitutional power, involving freedom of speech, freedom of the press and the right to assembly and association (this is an important means of freedom of speech). Regrettably, many of these laws contain all arrangements and give officials the power of straightforwardness and emotion. For example, the University and University College Act does not allow for political activity-based study without linking restrictions to public requests, and so on. The Official Secrets Act 1972 prohibits the reception, preservation and influx of all government data as a mysterious event, regardless of whether there is any connection between such arrangements and the reasons for disclosure or national security. The Printing Presses and Publishing Act 1984 conducted a thorough and prudent examination of the pastor to give, refuse, suspend and abandon the printing license.

According to the constitution, it is expected that individuals will be offered the opportunity to fulfill their obligations as Malaysians. Despite the arrangement of Article 10(1) of the Constitution after the demonstrations, it was opposed and asked the demonstrators not to speak too much and to make conclusions. Even in Article 10(4) of the Federal Constitution, the restrictions on individuals are stated, which states: “The disclosure of legal requirements for welfare, the federal government or any part of it, or if it is conditional enforcement of this behavior 2(a), Parliament may pass laws prohibiting any issue-related rights, norms, status, interests, swings related to the management of any other matter other than its laws and regulations.” In Part-III, the arrangements of Articles 152, 153 and 182 are reviewed for the legally determined usage (Khairuldin et al., 2017). It is also stated here that the freedom of assessment has been suspended in the Article 149 of the Federal Constitution. This clearly indicates inconsistencies in the Constitution, specifically in Articles 10(1), and 149.

Freedom of speech is a fundamental right recognized by all. However, Article 10 of the Malaysian Federal Constitution only provides this right to citizens. In fact, Article 10 does not cover non-citizens, even for those who have lived in Malaysia for a long time (such as “Malaysia My Second Hometown” or fondly known as MM2H). Malaysia is a country with a large number of non-citizens, such as MM2H participants and has long lived in Malaysia. They are not Malaysian citizens, so they are deprived of the right to freedom of expression, which is very important given the large number of MM2H people currently living in Malaysia. Although the Federal Constitution is described in Article 10 that freedom of speech applies only to citizens, this issue is precisely the legal gap in the Malaysian Federal Constitution for non-Malaysian citizens. The fundamental problem is that Malaysian law does not include non-citizens in the right to freedom of speech and expression and therefore lacks the right to freedom of Non-Malaysian citizen.

The Malaysian Human Rights Commission (Suhakam) hopes to pass clear laws against activists, legislators, writers and mutual freedom guarantees, and exchange their own interests in practical activities to express the police's intentions. Suhakam believes that “the enjoyment of freedom of expression should only be restricted as provided by the law to the extent necessary and proportionate to achieve legitimate aims such as national security and public order” (Malay Mail, 2020). The basic prohibition of political soundness, racial friendliness and economic prosperity cannot be used as a means to restrict any political competition and personal activation.

## **CONCLUSION**

Throughout history, discussions about freedom, especially freedom of expression, have encountered many difficulties; it has completed the pros and cons of human social order, and today these issues have become the focus of debate. Everyone should retain the privilege of speaking freely and express swiftly. This is the first step and goal of the general public and needs to achieve democracy and value. This means that individuals who are not free to speak and are prevented from speaking are required to enjoy this right. They should be able to choose to communicate without restrictions. In this case, the state must consider and give equal rights to listen to everyone in public. In this way, the state must give this right to everyone, not just the citizens. This means that all residents and non-residents must have equal rights to express their ideas among the public they live in. Since freedom can be applied to conflicts of interest or conflicts under any circumstances, it usually opposes far-reaching possibilities, which is definitely why there is no reasonable definition of freedom. To be honest, the Malaysian Federal Constitution only provides citizens with the privilege of freedom of expression, rather than non-residents. The rights of freedom of expression is a major requirement for everyone in a state. Therefore, it is the duty of the State to grant free conditions to resolve all individuals living in the common public. Furthermore, it shows that the privilege of depriving a minority violates Islamic norms. No one should endure or fear opposition or intimidation when practicing his rights to freedom of speech and freedom of expression. At the same time, the right to speak for freedom of speech should be limited only to the extent necessary and proportionate to satisfy true respect for the notoriety of others, and to guarantee public safety, public requirements, and deep public morality recognized by law. Having said that, freedom of speech has certain limitations. The obstacles set are expected to maintain national security to support and preserve the holiness of Islam. Uncommon requirements were implemented in the development of regulations. In any case, an assessment centered on Islamic freedom of thought should also be carried out to eliminate any prejudice, while at the same time it can re-establish personal certainty and respect for the legal framework.

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**AUTHOR AND CO-AUTHOR(S) INFORMATION****Manuscript's title:**

**Freedom of Speech and Expression in Malaysia: Protection under the Federal Constitution**

Please follow the indication of the corresponding author with (\*).

Co-author's name: Md. Tuhin Mia  
 Affiliation: PhD Candidate, Department of Civil Law, Ahmad Ibrahim Kulliyah Of Laws, International Islamic University Malaysia  
 Institution address: Jalan Gombak, 53100, Selangor, Malaysia  
 Email: [tuhin.mia@live.iium.edu.my](mailto:tuhin.mia@live.iium.edu.my)  
 Mobile: +601123809749  
 Research area: International Law, International Migration, Refugee Law, Human Rights, Labour Law and Industrial Relations  
 Orcid ID (If any): <https://orcid.org/0000-0002-8459-2933>

Author's name: Md. Zahidul Islam, PhD\* (Corresponding Author)  
 Email: [zahidul@iium.edu.my](mailto:zahidul@iium.edu.my)  
 Mobile: +601164586797  
 Affiliation: Assistant Professor, Ahmad Ibrahim Kulliyah Of Laws, International Islamic University Malaysia  
 Institution address: Jalan Gombak, 53100, Selangor, Malaysia.  
 Research area: Media and Communication Law, Human Rights, Constitutional law, Entertainment Law,  
 Orcid ID (If any): <https://orcid.org/0000-0002-8072-7896>

Co-author's name: Md. Norullah  
 Affiliation: Master of Comparative Laws, Ahmad Ibrahim Kulliyah Of Laws, International Islamic University Malaysia  
 Institution address: Jalan Gombak, 53100, Selangor, Malaysia.  
 Email: [norullah92@gmail.com](mailto:norullah92@gmail.com)  
 Mobile: +601111695018  
 Research area: International Law, Constitutional Law, Refugee Law, Human Rights, and Humanitarian Law

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<sup>1</sup>PhD Candidate, Department of Civil Law, Ahmad Ibrahim Kulliyah of Laws, International Islamic University Malaysia, Kuala Lumpur, Malaysia, Email: [tuhin.mia@live.iium.edu.my](mailto:tuhin.mia@live.iium.edu.my), Tel: +601123809749.

<sup>2</sup>Corresponding Author: Assistant Professor, Ahmad Ibrahim Kulliyah Of Laws, International Islamic University Malaysia, Email: [zahidul@iium.edu.my](mailto:zahidul@iium.edu.my), Tel: +601164586797

<sup>3</sup>Master of Comparative Laws, Ahmad Ibrahim Kulliyah Of Laws, International Islamic University Malaysia, Email: [norullah92@gmail.com](mailto:norullah92@gmail.com), Tel: +601111695018.