

# CONSTITUTIONAL LAW AND HUMAN RIGHTS IN MALAYSIA

Selected Issues



KHAIRIL AZMIN MOKHTAR

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**EDITOR  
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**HUM Press**

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## Table of Contents

Preface	i
Table of contents	v
Table of Cases	x
Table of Statutes	xiv
CHAPTER 1	
<b>The Civil Service and The Doctrine of Holding Office at Pleasure</b> <i>Nik Mohd Kamal</i>	<i>1</i>
CHAPTER 2	
<b>Crown Privilege Under The Common Law and The Evidence Act</b> <i>Mohd. Akram Bin Shair Mohamed</i>	<i>25</i>
CHAPTER 3	
<b>The Role of Judicial Review in Malaysia as a tool of Check and Balance under The Doctorine of Seperation of Powers</b> <i>Khairil Azmin and Siti Aliza Binti Alias</i>	<i>45</i>
CHAPTER 4	
<b>The Accountability and Integrity of the Judiciary</b> <i>Faridah Jalil</i>	<i>71</i>
CHAPTER 5	
<b>Contempt of Court and a Chilling Effect on Freedom of Speech and Expression: Rethinking the Malaysian Courts' Attitude in Striking a Balance</b> <i>Shukriah Mohd Sheriff</i>	<i>99</i>
CHAPTER 6	
<b>The Price of Access to Justice: Adversial Costs in Public Interest Litigation</b> <i>Abu Haniffa Mohamed Abdullah</i>	<i>123</i>
CHAPTER 7	
<b>Functions and Privileges of the Malaysian Parliament: An Overview</b> <i>Khairil Azmin Mokhtar</i>	<i>143</i>

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CHAPTER 8	
<b>The Election Commission: History and Functions</b>	
<i>Tengku Mohar Mokhtar</i>	169
CHAPTER 9	
<b>Elected Members and the Right to Change Party</b>	
<i>Muhd Umar Abd Razak</i>	193
CHAPTER 10	
<b>The Status, Scope and Application of Islamic Law in the Federal Framework and the Legal System of Malaysia and Nigeria</b>	
<i>Khairil Azmin Bin Mokhtar and Mr Abdulmumini A. Oba</i>	213
CHAPTER 11	
<b>The General Principles of Good Governance in Public Administration in Malaysia: A Judicial Approach</b>	
<i>Ibrahim Ismail</i>	239
CHAPTER 12	
<b>The Malaysian Constitution, Political Party and Party System</b>	
<i>Wahabuddin Ra'ees</i>	260
CHAPTER 13	
<b>Living in Limbo: Constitutional and Legal Issues of Unregistered Birth</b>	
<i>Nor Hafzah Binti Mohd Badrol Afandi</i>	277
CHAPTER 14	
<b>Establishing an Effective Coordination Mechanism between Federal and State for Promoting Good Governance and Achieving Sustainable Land Administration for Malaysia</b>	
<i>Ainul Jaria Maidin</i>	293
CHAPTER 15	
<b>Right to Development as a Human Right: A Challenge to Malaysia</b>	
<i>Salawati Mat Basir</i>	333

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<b>CHAPTER 16</b>	
<b>The Rights of the Orang Asli under the Federal Constitution of Malaysia</b>	
<i>Hamimah Hamzah and Hunud Abia Kadouf</i>	355
<b>CHAPTER 17</b>	
<b>The Rights to Health: Guidance from International Human Rights Law and Experience from Other Countries</b>	
<i>Husna Fauzi</i>	377
<b>CHAPTER 18</b>	
<b>Rights of Persons with Disabilities - The ‘Almost forgotten’ Protection under the Malaysian Federal Constitution</b>	
<i>Ikmal Hisham Md. Teh</i>	413
<b>CHAPTER 19</b>	
<b>Basic Principles and Constitutional Legal Framework of Freedom of Information</b>	
<i>Juriah</i>	441
<b>CHAPTER 20</b>	
<b>Right to Privacy in Malaysia: Development, Cases and Commentaries</b>	
<i>Sonny Zulhuda</i>	459
<b>CHAPTER 21</b>	
<b>Eliminating Slavery and Combating Human Trafficking in Malaysia: The Relevant Constitutional Provisions and Domestic and International Laws</b>	
<i>Khairil Azmin Mokhtar</i>	487
<b>CHAPTER 22</b>	
<b>Gender Equality under Article 8 of the Federal Constitution: Beatrice A/P at Fernandez V Sistem Penerbangan Malaysia Revisited</b>	
<i>Siti Aliza Binti Alias</i>	511

## CHAPTER FIVE

### **Contempt of Court and a Chilling Effect on Freedom of Speech and Expression: Rethinking the Malaysian Courts' Attitude in Striking a Balance**

*Shukriah Mohd Sheriff*

#### **Introduction**

Freedom of speech and expression is often viewed as one of the most important attributes of democracy, as through it, ideas are articulated and arguments are advanced.<sup>1</sup> In Malaysia, this right is guaranteed under Article 10 of the Federal Constitution. Be that as it may, this right is not absolute. Freedom of speech and expression as enshrined in Article 10 (1) is expressly qualified from the outset. Article 10 (1) states:

Subject to Clauses (2), (3) and (4):

Subject to Clauses (2), (3) and (4):

- (a) every citizen has the right to freedom of speech and expression;
- (b) all citizens have the right to assemble peaceably and without arms;
- (c) all citizens have the right to form associations.

The right conferred by Article 10 (1) (a) is made expressly subject to various limiting constitutional provisions that can be imposed by Parliament.<sup>2</sup> One of the restrictions as set in Article 10 (2) (a) of the Constitution is contempt of court. Article 10 (2) (a) reads:

Parliament may by law impose-