CONSTITUTIONAL LAW AND HUMAN RIGHTS IN MALAYSIA
Selected Issues

KHAIRIL AZMIN MOKHTAR

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KHAIRIL AZMIN MOKHTAR

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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.¹ 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.² 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-