

**Title** : Is The Malaysian Government Being Less Democratic for its  
Restriction on Political Speech?

**Author(s)** : Anastacia binti Ezral

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# **IS THE MALAYSIAN GOVERNMENT BEING LESS DEMOCRATIC FOR ITS RESTRICTION ON POLITICAL SPEECH?**

**By: Anastacia binti Ezral**

## **INTRODUCTION**

Freedom of Speech is defined as ones' power or the right to express opinions without censorship, restraint, or legal penalty. There's a silver lining between free speech and hate speech in which people often fail to distinguish one from the other resulting in provocation in interracial and interreligious tensions. Article 10 (1)(a) of the Federal Constitution pertaining Freedom of Speech, Assembly, and Association states that "Every citizen has the right to freedom of speech and expression", and the fact that every Malaysian citizen is entitled to it serves as evidence of the governments' acknowledgment on the importance of this form of Human Right. However, certain groups in the civil society are being liberal in this matter, claiming that the rights to free speech are not being enforced appropriately to individuals of the society because of the boundaries set by the government which has put limitations to their ability to free speech, thus, making them easy prey for the demagogue or a manipulative government. This issue arises every time a political event takes place in which opposing parties were unable to practice political speech freely due to boundaries said earlier, hence arises a question as to is the Malaysian government being less democratic for its restrictions on political speech since free speech is considered to be fundamental in a democracy. I disagree with the above statement regarding the Malaysian government being less democratic with several supporting shreds of evidence.

Firstly, referring to political speech among university students in both public and private institutions. I chose to address this particular group in the civil society mainly because there have been major changes made in the legislation by the previous government, *Pakatan Harapan*, who have won the majority votes in the 14<sup>th</sup> General Election in which their policies strive to internalize and carry out political agendas by mobilizing the citizen's power from various races, religions, and cultures as one force. One of the policies made by the said government is to amend the *University and University Colleges Act 1971 (UUCA)* which is the main legislation that governs public universities in Malaysia. A statement was published by the former Minister of Education, YB Dr. Maszlee Malik in 2018, announcing the approval from the House of Representatives to amend the said Act, allowing the abolishment of Section 15(2)(c) which restricts university

students to involve in political activities in the campus. The said policy is a strategy made to create an auspicious climate guaranteeing academic freedom and university autonomy thus increasing the quality of education comparable with developing countries. Not only that, but the previous government had also established *UNDI 18* which enables citizens age 18 and above to vote via automatic registration which permits high school graduates and university students to practice political speech publicly. Although some might say that lowering the voting age from 21 to 18 years old is a major game-changer, others might say that it is a long-overdue institutional catch up for Malaysia to mature especially with the influx of numbers of young, swing voters with no political allegiance but reasonably exposed through social media and are easily influenced by radical politics or voluntary voting.

Next, I would like to spiel to another stakeholder group which is the media. There have been several legislations regulating the press in Malaysia both traditional and online publications. One of them being the *Printing Presses and Publications Act 1984 (PPPA)*; regulating the use of publications such as written or printed documents, newspapers and audio recordings. This Act required all newspapers and printing presses to own a publishing permit and violation of the licensing requirement is a criminal offense in which can result in imprisonment for up to three years or a fine up to RM20,000.00 or both and the absolute discretion given to ministers under the PPPA allows abuse of power in a sense that ministers can revoke a press or publication license if the news published is considered as “malicious”. Although licensing and permit requirement is not entitled to new media, Section 8A of the Act which criminalizes publications of false news applies to it. However, there has also been amendments made to the Act in 2012 specifically to Section 3(3); allowing challenges to the minister’s decision in Court and to Section 12 which states that, “Permits issued under this Act shall remain valid for as long as it is not revoked”, which abolishes the requirement for annual applications. This shows that the Government is being democratic towards freedom of the press. There was also an issue in 1996 where the director of an organization working for women and migrant workers’ rights, *Tenaganita*, Irene Fernandez, went on trial under this Act for “maliciously publishing false news” (Article 8A (2)). Bans on the publications of “false news” was enforced in which various international bodies, including the United Nation (UN) Human Rights Committee, considered as breaching the guarantee of freedom of expression that Irene’s report was protected by. A few years later, the *Malaysian Communications and Multimedia Commission Act 1998 (MCMC)* was enacted to provide the Malaysian Communications and

Multimedia Commission with powers to supervise and regulate communications and multimedia activities in Malaysia. One of their policy of establishment is to ensure information security and network reliability and integrity which serves as a platform for citizens to file an online complaint on irresponsible publications, including publications of “false news”.

Lastly, I would like to bring forth the non-governmental agencies (NGOs) as the third stakeholder group. The reason behind it is the *Internal Security Act 1960* which was enacted as a settlement to end the state of emergency caused by the communist insurgency. Its main objective is to eliminate the subversive threat and to extinguish terrorism. One provision that denotes restriction of the people’s freedom of expression and press is Section 8(1) which authorizes the Home Minister to detain or restrict a party that exposes the threat of any prejudicial manner to the security of Malaysia for a period not exceeding two years. not only that, this Act authorizes any police officer not below the rank of Inspector to enter any premise without a warrant and arrest a party without providing them with rationales of their arrestment. This, however, received strong opposition from non-governmental organizations uniting under one organization, the *Gerakan Mansuhkan ISA (GMI)* with its memberships consisting of several other NGOs such as *Aliran Kesedaran Negara (ALIRAN)*, *All Women’s Action Society (AWAM)* and 31 others all demanding that the detainees be released and the abolishment of ISA. The ISA was replaced and repealed by the *Security Offences (Special Measures) Act 2012 (SOSMA)* in which one of its provisions is that a person arrested under this Act shall be informed of the grounds of their arrest immediately and no person shall be arrested and detained under this section solely for their political belief or activity. This shows that the Malaysian government is being democratic and encouraging free speech specifically ones on politics.

## **CONCLUSION**

In conclusion, after further research on rights to free speech for all three stakeholder groups, I stand by my opinion that I strongly disagree with the thesis statement, IS THE MALAYSIAN GOVERNMENT BEING LESS DEMOCRATIC FOR ITS RESTRICTION ON POLITICAL SPEECH because free speech is one of the Human Rights every person is entitled to and suppressing said rights will only desist a country from being comparable to other developing countries. It is also provable that the democratic coverages are broader since the 14<sup>th</sup> General Election that served as the Government’s incentive to include the civilians in political speech.