

# **SIMPLIFIED GUIDE**

## **TO THE**

# **MALAYSIAN FEDERAL CONSTITUTION**

**With Special Focus on Article 11**

**Freedom of Religion**

Based on the Official Federal Constitution (Reprint 2020)

Easy-to-Understand Summary for All Malaysians

## TABLE OF CONTENTS

1. Introduction
2. The Foundation of Malaysia
3. Fundamental Liberties
4. ARTICLE 11: Freedom of Religion (Detailed)
5. Citizenship
6. Government Structure
7. Elections and Democracy
8. Special Provisions
9. How the Constitution Can Be Changed

## **1. INTRODUCTION**

The Federal Constitution is Malaysia's supreme law, established on Merdeka Day (31 August 1957). It is the highest legal document in the country, and all other laws must comply with it. The Constitution defines how Malaysia is governed, protects the rights of citizens, and establishes the relationship between the federal government and state governments.

This guide presents the Constitution in plain language, with special emphasis on Article 11, which guarantees freedom of religion - one of the most important fundamental rights in our diverse nation.

## 2. THE FOUNDATION OF MALAYSIA

### Article 1: The Name and States of Malaysia

Malaysia consists of 13 states: Johor, Kedah, Kelantan, Malacca (Melaka), Negeri Sembilan, Pahang, Penang (Pulau Pinang), Perak, Perlis, Sabah, Sarawak, Selangor, and Terengganu. In addition, there are three Federal Territories: Kuala Lumpur, Labuan, and Putrajaya.

### Article 3: Islam as the Religion of the Federation

Islam is the religion of the Federation. However, this does not mean Malaysia is a theocratic Islamic state. Other religions may be practiced in peace and harmony throughout Malaysia. The Constitution protects religious freedom while recognizing Islam's special position.

**Important distinction:** While Islam is the official religion, Article 11 (detailed below) guarantees that every person has the right to profess and practice their own religion.

### Article 4: The Constitution is Supreme

The Constitution is the supreme law of Malaysia. Any law that conflicts with the Constitution is void to the extent of the inconsistency. This means no government, institution, or person is above the Constitution.

### **3. FUNDAMENTAL LIBERTIES (PART II OF THE CONSTITUTION)**

The Constitution guarantees several fundamental rights to all persons in Malaysia. These rights form the foundation of individual freedom and human dignity:

#### **Article 5: Liberty of the Person**

No one can be deprived of life or personal liberty except according to law. If arrested, you must be told why and allowed to consult a lawyer of your choice.

#### **Article 6: No Slavery or Forced Labour**

All forms of slavery and involuntary servitude are prohibited. Compulsory national service and certain court-ordered community service are exceptions.

#### **Article 7: Protection Against Retrospective Laws**

You cannot be punished for an act that was not a crime when you did it. You also cannot be tried twice for the same offense.

#### **Article 8: Equality Before the Law**

All persons are equal before the law. No discrimination based on religion, race, descent, place of birth, or gender is allowed. Special provisions exist for the protection of Malays and natives of Sabah and Sarawak.

#### **Article 9: Freedom of Movement**

Citizens can move freely throughout Malaysia and live anywhere in the country. No citizen can be banished from Malaysia or prevented from returning.

#### **Article 10: Freedom of Speech, Assembly and Association**

Citizens have the right to freedom of speech and expression, peaceful assembly, and forming associations. Parliament may impose restrictions in the interest of security, public order, or morality.

## 4. ARTICLE 11: FREEDOM OF RELIGION

### (COMPREHENSIVE EXPLANATION)

Article 11 is one of the most important provisions in the Malaysian Constitution. It guarantees religious freedom while balancing the special position of Islam. This article has been subject to several amendments and legal interpretations over the years.

#### Article 11(1): The Right to Profess, Practice and Propagate

**Official Text:** "Every person has the right to profess and practise his religion and, subject to Clause (4), to propagate it."

##### What this means:

- **Every person** means citizens and non-citizens alike. This right is not limited to Malaysians.
- **Profess** means you can believe in and declare your faith in any religion.
- **Practice** means you can worship, observe religious rituals, follow religious customs, and live according to your religious principles.
- **Propagate** means you can spread or promote your religious beliefs to others. However, this right is subject to Clause (4), which allows restrictions on propagating to Muslims.

##### Important Clarifications:

The right to propagate is not absolute. State law (and federal law in the Federal Territories) can control or restrict the propagation of any religious doctrine among Muslims. This means:

- You are free to share your religion with non-Muslims
- States can enact laws that restrict or prohibit the propagation of non-Islamic religions to Muslims
- Many states have enacted such laws under their State Islamic Administration Enactments

#### Article 11(2): No Compulsory Religious Taxation

**Official Text:** "No person shall be compelled to pay any tax the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own."

##### What this means:

You cannot be forced to pay taxes that specifically support a religion you don't follow. For example:

- Non-Muslims cannot be compelled to pay Islamic religious taxes (zakat, fitrah, etc.)
- Muslims cannot be forced to pay taxes specifically allocated for non-Islamic religious purposes
- This does not prevent general taxation that may indirectly benefit religious institutions

## Article 11(3): Rights of Religious Groups

**Official Text:** "Every religious group has the right— (a) to manage its own religious affairs; (b) to establish and maintain institutions for religious or charitable purposes; and (c) to acquire and own property and hold and administer it in accordance with law."

### What this means:

**(a) Manage own religious affairs:** Religious communities can organize themselves, appoint religious leaders, conduct worship services, and make decisions about their internal religious matters without government interference.

**(b) Establish institutions:** Religious groups can build and operate:

- Places of worship (mosques, temples, churches, gurdwaras, etc.)
- Religious schools and educational institutions
- Charitable organizations and welfare bodies
- Religious hospitals, orphanages, and community centers

**(c) Own and manage property:** Religious organizations can buy land, own buildings, and manage their assets according to law. This includes religious endowments (wakaf for Muslims, etc.).

## Article 11(4): State Control Over Propagation to Muslims

**Official Text:** "State law and in respect of the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, federal law may control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam."

### What this means:

This is a crucial provision that was added by constitutional amendment in 1971 (Act A30). It allows:

- **State governments** to make laws controlling or restricting the propagation of non-Islamic religions to Muslims within their states
- **Federal government** to make similar laws for the Federal Territories (Kuala Lumpur, Labuan, Putrajaya)

### How states use this power:

Most states have enacted laws under their State Islamic Administration Enactments that:

- Prohibit or criminalize attempts to convert Muslims to other religions
- Restrict the distribution of non-Islamic religious materials to Muslims
- Regulate religious gatherings where Muslims might be exposed to other faiths
- Create offenses for those who try to persuade Muslims to leave Islam

**Important note:** These restrictions only apply to propagation to *Muslims*. The freedom to propagate your religion to non-Muslims remains protected under Article 11(1).

### Article 11(5): General Law Still Applies

**Official Text:** "This Article does not authorize any act contrary to any general law relating to public order, public health or morality."

### What this means:

Religious freedom is not absolute. You cannot use religion as an excuse to:

- Break laws designed to maintain public order (e.g., rioting, violent protests)
- Violate public health regulations (e.g., refusing medical treatment for children)
- Engage in acts considered immoral by general law (e.g., certain harmful practices)

Religious practices must be exercised within the bounds of generally applicable laws that serve legitimate public interests.

## PRACTICAL IMPLICATIONS OF ARTICLE 11

### What you CAN do:

- ✓ Practice any religion you choose

- ✓ Build places of worship (subject to local authority approval)
- ✓ Conduct religious ceremonies and festivals
- ✓ Wear religious attire (hijab, turban, cross, etc.)
- ✓ Establish religious schools and institutions
- ✓ Publish and distribute religious materials to your own community
- ✓ Share your faith with non-Muslims
- ✓ Leave Islam if you are a non-Muslim who converted

### **What you CANNOT do:**

- ✗ Propagate non-Islamic religions to Muslims (in most states)
- ✗ Use religious freedom as an excuse to break general laws
- ✗ Force others to adopt your religion
- ✗ Disturb public order or health in the name of religion
- ✗ Practice religious rituals that harm others

## **SPECIAL CASES AND IMPORTANT NOTES**

### **Muslims and Religious Freedom:**

For Muslims in Malaysia, the situation is more complex:

- Muslims are subject to both civil law and Islamic (Syariah) law
- Apostasy (leaving Islam) is an offense under many State Islamic Administration Enactments
- Muslims who wish to convert out of Islam must obtain permission from the Syariah Court
- This has been a subject of legal and constitutional debate in Malaysia

### **Children and Religion:**

- Parents generally have the right to determine their children's religion
- In cases where parents are of different religions, disputes may arise
- Courts have ruled differently in various cases, creating some legal uncertainty

### **Historical Development:**

Article 11 has been amended twice since independence:

- 1963: Clause (3) was added giving religious groups explicit rights to manage affairs and own property
- 1971: Clause (4) was added allowing states to restrict propagation to Muslims

These amendments reflect the evolving understanding of religious freedom in Malaysia's multi-religious context.

## **OTHER ARTICLES RELATED TO RELIGION**

### **Article 3: Islam as the Religion of the Federation**

As mentioned earlier, while Islam is the official religion, Article 11 ensures other religions can be practiced freely.

### **Article 8: Equality - No Religious Discrimination**

Article 8 prohibits discrimination based on religion in most areas of life, including employment, education, and public services.

### **Article 12: Religious Education**

Every religious group has the right to establish and maintain institutions for the education of children in its own religion. There shall be no discrimination based on religion in any law relating to such institutions.

## **5. CITIZENSHIP**

You are a Malaysian citizen if you were born in Malaysia after Independence (31 August 1957) and at least one parent is a citizen or permanent resident. Citizenship can also be obtained through registration or naturalization. Malaysia does not generally recognize dual citizenship.

## **6. GOVERNMENT STRUCTURE**

### **The Yang di-Pertuan Agong (King)**

The King is elected by the Conference of Rulers for five years. He acts on Cabinet advice in most matters but has discretionary powers in certain situations.

### **The Prime Minister and Cabinet**

The Prime Minister must command majority support in the Dewan Rakyat. The Cabinet is collectively responsible to Parliament.

### **Parliament**

Parliament consists of the Dewan Rakyat (222 elected members) and Dewan Negara (70 members). Laws must pass both houses and receive royal assent.

### **The Judiciary**

The Federal Court is the highest court. Judges are independent and can only be removed through special tribunal. Syariah Courts have jurisdiction over Islamic law matters for Muslims.

## **7. ELECTIONS AND DEMOCRACY**

Every Malaysian citizen aged 18 and above has the right to vote. The Election Commission independently conducts elections. Elections must be held at least every five years.

## **8. SPECIAL PROVISIONS**

### **Special Position of Malays and Natives**

The Constitution recognizes the special position of Malays and natives of Sabah and Sarawak. Reasonable quotas may be set for public service positions, scholarships, and business permits while safeguarding the legitimate interests of other communities.

### **National Language**

Bahasa Malaysia is the national language, but English may continue to be used for official purposes. No one can be prohibited from using or teaching any other language.

### **Federal and State Powers**

Powers are divided between federal and state governments through Federal, State, and Concurrent Lists. Federal List includes defense, internal security, and citizenship. State List includes Islamic law, land, and local government.

## 9. HOW THE CONSTITUTION CAN BE CHANGED

Constitutional amendments require a two-thirds majority in both houses of Parliament. Certain provisions affecting states, rulers' positions, citizenship, language, or special position of Malays require Conference of Rulers' consent.

**Note on Article 11:** Any amendment to Article 11 would require a two-thirds majority in Parliament. If the amendment affects the special position of Islam or other sensitive matters, it may also require consent from the Conference of Rulers.

## CONCLUSION

The Malaysian Federal Constitution creates a unique framework that balances the special position of Islam with the fundamental right to religious freedom. Article 11 is central to this framework, protecting the right of every person to profess, practice, and (with some restrictions) propagate their religion.

Understanding Article 11 is essential for all Malaysians, as it defines the boundaries of religious freedom in our multi-religious society. While tensions may arise in its interpretation and application, the article represents Malaysia's commitment to both religious freedom and social harmony.

This simplified guide aims to make the Constitution accessible to all Malaysians. For the complete and authoritative text, please refer to the official Federal Constitution published by the Attorney General's Chambers.

**DISCLAIMER:** This is an educational guide and should not be used as a substitute for legal advice. For legal matters, always consult the official Constitution and seek professional legal counsel.