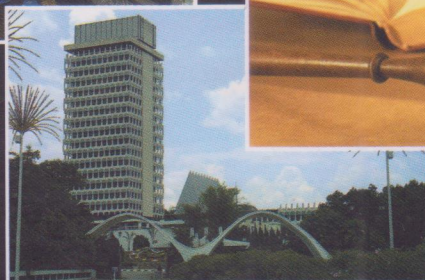
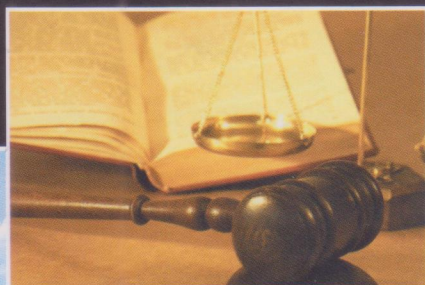
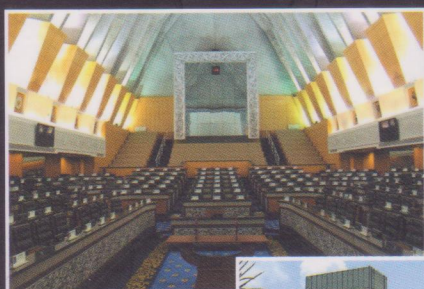


Constitutional Law and Human Rights in Malaysia

Topical Issues and Perspectives

Editor

Khairil Azmin Mokhtar



SWEET & MAXWELL ASIA

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Chapter Twenty Five

Right to Privacy: Development, Cases and Commentaries

Sonny Zulhuda

25.1 INTRODUCTION

As the writing of this present chapter commences, the issue of privacy in Malaysia is getting increasingly heard and debated.¹ Meanwhile, the Parliament has passed two important legislations dealing with the protection of personal information in commercial transactions, arguably seeking to protect the privacy of individuals in relation to their personal data.² Suspiciously an unknown concept, the right to privacy now receives appreciation and meets more demand for it to be recognised and protected as a right on its own. The fact that Malaysia embraces digital environment, electronic commerce and electronic government does not help because the increasing use of converging information technology has allowed the disclosure and transmission of private information about individuals. In short, the right (if any) to keep oneself to oneself, to tell other people that certain things are none of their business, is under technological threat.³

This chapter looks at the basic of the issue; namely the nature of right to privacy and how Malaysian law – especially the Malaysian court – treats it, having to consider the position in other legal systems of particular relevance, namely in the common law of the United States and the United Kingdom, where the modern concept of right to privacy could trace its origin. Nevertheless, discussion on the Islamic perspective is also provided here to offer a significant perspective of which direction Malaysian law should be heading in dealing with the issue of privacy.

1 In a span of few weeks between July and August 2011, the Kuala Lumpur High Court had delivered two strikingly different decisions in two civil cases concerning an alleged breach of data privacy. In both cases, the same defendant had, without plaintiffs' consent, kept personal financial information about the plaintiffs and disclosed it to third parties under a credit reporting business. See, *Shafie Abdul Rahman lwn CTOS Sdn Bhd* [2011] 9 CLJ 439 and *Mohd Zaid bin Johan lwn CTOS Sdn Bhd* [2012] 8 MLJ 51.

2 See, the Personal Data Protection Act 2010 (Act 709) and Credit Reporting Agencies Act 2010 (Act 710).

3 Abu Bakar Munir and Siti Hajar Mohd Yasin, *Personal data protection in Malaysia: Law and practice* (Petaling Jaya: Sweet & Maxwell Asia, 2010), p 1.