

**THE RIGHT TO PRIVACY IN RELATION TO THE MASS MEDIA:
AN ANALYSIS OF THE MALAYSIAN POSITION**

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**The students/authors confirm that the work submitted is their own and that appropriate credit has
been given where reference has been made to the work of others.**

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ABSTRACT

The right of privacy has been the subject of dispute for centuries. However there was little attempt made by the legislative body to clearly define the right of privacy, especially in cases relating to the mass media. Whenever an issue touches on the media's invasion of personal privacy, the aggrieved parties have to resort to the common law tort of defamation, or any existing and enforceable written law such as the Data Protection Act, the Penal Code or any other statutes which are barely relates to the case in question. For example, the recent Data Protection Act 2010 mainly focuses on a person's right to privacy in relation to his personal data from being misused by the authority. Thus, this research aims to identify the loopholes of the existing privacy law in Malaysia and recommend the appropriate measures to be taken to protect the rights of a person to privacy.

Throughout the research, we look into all approaches in relation to the protection of privacy that are practised in the United Kingdom, the United States of America, as well as several other countries and how it is applied in dealing with cases relating to breach of privacy. We also found that various approaches practised by some countries are quite different from the practise in Malaysia. Hence, we believe that there is a very large room for improvement in the privacy law pertaining to the mass media in Malaysia.

Based on the research conducted, it is concluded that the rights to privacy should be legally recognized in Malaysia. In order for this recognition to be officialised, specific steps should be taken to enact a law governing the right of privacy. This law should be enforced by the executive, and upheld by the judiciary body to ensure that a person's right to privacy is upheld. It is hoped that by conducting this research, we can bring about a better and more effective protection in safeguarding one's privacy.

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CHAPTER ONE: INTRODUCTION

1.0 Research Title

The Right to Privacy in Relation to the Mass Media: An Analysis of the Malaysian Position.

1.1 Background

Richard Avedon, a prominent fashion photographer once said “All photos are accurate but none of them is the truth”.¹ The simplest method of capturing and developing memorable moments into physical form has developed into a competition of publicity; every publisher is exploring all possible methods to entice the reader’s attention including soliciting images which are inappropriate for publication. When questioned, the media responded by saying that it is entitled to protection under the principle and freedom of expression, that is, freedom of the press although protection is not absolute.

Freedom of the press was first enunciated in the United Kingdom after years of struggle by publishers. The appearance of unauthorized publication resulted in the Royal Proclamation (1534), requiring a prepublication licensing before any materials was printed. Stronger restrictive measures were taken by the later Tudor and Stuart monarchs, and censorship came to be applied more to political criticism than religious heresy. John Milton, in his brilliant pamphlet, *Areopagitica* (1644), attacked the licensing law and called on Parliament to suppress offensive publications after their appearance if necessary and not before publication, allowing in-depth debate by the public.² Milton's objections to prior restraint eventually became a cornerstone of press freedom, but it was not until 1695 that the licensing and censorship laws were abolished.³

¹ Karney, Robyn, *A Star Danced: The Life of Audrey Hepburn*, Bloomsbury, London, 1993.

² Starr, Paul, *The Creation of the Media: Political Origins of Modern Communications*. New York. Basic Books, 2004.

³ Ibid.