

**THE LAWS ON CONTEMPT OF COURT (EX-FACIE) AND FREEDOM  
OF SPEECH AND EXPRESSION IN MALAYSIA**

By

Aimi Syazwani Sarmin  
Izyan Darlina Dato' Balia Yusof

Submitted in Partial Fulfillment of the Requirements  
for the Bachelor in Legal Studies (Hons)

**Universiti Teknologi MARA  
Faculty of Law**

March 2005

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.

## ACKNOWLEDGEMENT

First and foremost, we would both like to take this opportunity to thank Allah s.w.t for blessing us with the strength and talent in accomplishing this project paper. Secondly, we would like to thank our beloved supervisor, Professor Madya Dr. Musrifah Sapardi Rustam for being a very wonderful supervisor, who has also been an inspiration to us. Without her constant supervision, guidance, helps, advices and patience, we will never be able to complete this project paper in due time. Also a million thanks to our parents and siblings, whom we appreciate more than words can express for their undying love, support, concern and for having confidence in us.

A special thanks to our most helpful colleagues, Ahmad Mahir Juhari, Azlea Aziah Azmi and Zetty Edlinna Mohd Nasir for sharing and providing us with the relevant information and materials and for a beautiful friendship that has formed between us. Not to forget our colleagues who have contributed and helped us along the way in one way or another.

Last but certainly not least, thank you to those who was involved directly or indirectly throughout the course of this project. Thank you very much.

11<sup>th</sup> March 2005

Aimi Syazwani Sarmin & Izyan Darlina Dato' Balia Yusof  
Bachelor of Legal Studies (Hons.)

## ABSTRACT

This project paper deals with the topic of The Freedom of Speech and Expression and the Laws of Contempt of Court in Malaysia, which specifically focused on one category of contempt of court that is *ex facie* contempt of court. We have decided to embark onto this particular topic because there is no proper and conclusive Act on this matter and because the scope of this offence is too wide and ambiguous which makes it difficult to determine the offender. Since the public is not aware of this offence, they may misuse the true meaning of 'freedom of speech and expression.' This project paper aims to educate and create awareness among the public on the seriousness of this offence and to restore the good name of the judiciary. Therefore, we felt that it is high time for Malaysia to have its own Act on contempt of court. The current position of this law is scattered and we have gathered all the scattered laws in one chapter.

This research is a doctrinal or library based research. We have referred to various legislations, books, journal articles and other related materials. However, an interview was also held which has made clear about the position of the proposed bill by the Bar Council on this matter. With this project paper, we hoped that the necessary actions would be taken as soon as possible for Malaysia to have its own Contempt of Court Act. We also hoped that our research will help the readers to understand the nature of this offence.

## TABLE OF CONTENTS

	Page
Acknowledgement	ii
Abstract	iii
Dedications	iv
Table of Contents	v
List of Statutes	viii
List of Cases Cited	ix
List of Appendices	x
INTRODUCTION	1
CHAPTER 1 – FREEDOM OF SPEECH AND EXPRESSION: ITS LIMITATION BY THE LAWS ON CONTEMPT OF COURT	
1.0 Introduction	6
1.1 Limitation to Freedom of Speech and Expression	7
CHAPTER 2 – DEFINITIONS AND TYPES OF CONTEMPT OF COURT	
2.0 Introduction	10
2.1 Definitions of Contempt of Court	10
2.2 Types of Contempt of Court	12

2.2.1 Criminal Contempt	13
2.2.2 Civil Contempt	14
2.2.3 In-Facie and Ex-Facie Contempt of Court	15

### CHAPTER 3 – SCATTERED LAW ON CONTEMPT OF COURT IN MALAYSIA

3.0	Introduction	17
3.1	Scattered Law on Contempt of Court	17
	3.2.1 Federal Constitution	18
	3.2.2 Civil Law Act	18
	3.2.3 Rules of High Court 1980	19
	3.2.4 Court of Judicature Act 1964	21
	3.2.5 Subordinate Court Act 1949	21
	3.2.6 Penal Code (Act 574)	22
	3.2.7 Subordinate Court Rules 1980	23
3.2	Contempt of Court Act of Other Countries	25

### CHAPTER 4 - DIFFERENCES BETWEEN IN FACIE AND EX FACIE CONTEMPT OF COURT

4.0	Introduction	28
4.1	Differences Between In Facie and Ex Facie Contempt of Court	28
	4.2.1 Case Law	28
4.2	Categories of Ex Facie Contempt of Court	30