CONTENT REGULATION IN MALAYSIA: ENFORCING THE LAWS GOVERNING ONLINE OBSCENE MATERIALS

By

'ADIL SAFWAN BIN AHMAD SHAFFIE (2009953537)

'ATIF HILMI BIN ABDULLAH (2009792067)

MUHAMMAD ZULFIKRI BIN MOHAMED NASIR (2009881178)

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

UNIVERSITY TEKNOLOGI MARA FACULTY OF LAW

JUNE 2012

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

In the name of Allah s.w.t, the Benefit, the Merciful

First and foremost, our deepest gratitude goes to our ever supportive Dr.Hartini binti Saripan. Her continuous guidance and untiring effort in assisting us has made this research a reality. Our heartfelt appreciation also goes to our beloved families, especially our parents, brothers and sisters for their never ending support and timeless love throughout the course of completing this research. We would also like to give a special thanks to our two respondents for making this research a reality. All of your guidance and love will always be remembered and cherished as the pillar of our strength in achieving our dreams. We hope that this research will be useful to other researchers who have the intention to pursue their research in this area or any other research which is connected in one way or another with our proposal.

ABSTRACT

This research mainly focuses on the issue of content regulation and the use of the enforcement of the laws in governing online obscene materials in Malaysia. This research deals with the issue of the enforcement of both the traditional and specific laws in curbing online obscene materials. The traditional law include the Penal Code whereas the specific laws and guidelines are the Communications and Multimedia Act 1998, the Malaysian Communications and Multimedia Content Code. The series of literature are reviewed as we compare the laws in Malaysia with the laws in other countries including the United Kingdom and China. From the literature review as well as the background of this research, it is evident that the question of content regulations in Malaysia is the issue which has become a national agenda. The number of obscene contents on the internet had been increasing in a catastrophic rate. The challenges and the problems of implementing and enforcing the content regulations are demonstrated in regulating in this research. This study hopes to assist the policy maker in improving the level of enforcement of content regulation in regulating obscene materials on the Internet in Malaysia.

TABLE OF CONTENTS

Abstr	owledge act of Con		i ii iii		
СНА	PTER C	ONE: INTRODUCTION			
1.0	Introd	uction	1		
1.1	Background				
1.2					
1.3	Research Objectives				
1.4	Scope				
1.5	Research Methodology				
1.6	Limita		5 6		
1.7	Significance				
1.8					
1.9	Concl	usion	7		
СНА	PTER T	WO: CONCEPTS AND THEORIES OF RESEARCH			
2.0	Introd	duction	8		
2.1		lisation and the Rise of Network Society	8		
2.2		in the Risk Society	11		
		Risk of Online Obscene Materials	12		
	2.2.2	Risk of Internet Insecurity	13		
2.3	Surve	illance as a Means of Content Regulation	13		
		The Use of Surveillance in Managing the Risks	14		
2.4	Conte	nt Regulation in Governing Online Obscene Materials	15		
	2.4.1	The Importance of Content Regulation	17		
2.5	•				
СНА	PTER T	HREE: CONTENT REGULATION IN MALAYSIA			
3.0	Introd	uction	20		
3.1		ground of the Laws in Malaysia	20		
5.1	3.1.1	Communications and Multimedia Act 1998	20		
	3.1.2		20		
	5.1.2	Act 1998	22		
	3.1.3	Computer Crimes Act 1998	23		
	3.1.4	Penal Code	24		
3.2	Legal Issues				
	3.2.1	Definitional Issue	24		
	3.2.2	Sufficiency of Enforcement Authority	27		
	3.2.3		29		
	3.2.4	Invasion of Privacy	32		
3.3	Concl	usion	34		

CHAPTER FOUR: CONTENT REGULATION IN THE UNITED KINGDOM AND CHINA

4.0	Introd	duction ground of the Laws in the United Kingdom and China		
4.1	Background of the Laws in the United Kingdom and China			
	4.11	Obscene Publications Act 1959	35	
	4.1.2	Indecent Displays (Control) Act 1981	36	
	4.1.3	Telecommunications Act 1984	37	
	4.1.4	Protection of Children Act 1978	37	
	4.1.5	Criminal Justice and Public Order Act 1994	38	
	4.1.6	Temporary Regulation for the Management of Computer		
		Information Network Internet Connection	39	
	4.1.7	Computer Information Network and Internet Security		
		Protection and Management Regulations (1997 Regulations)	40	
4.2	Legal Issues			
	4.2.1	Definitional Issue	41	
	4.2.2	Sufficiency of Enforcement Authority	44	
	4.2.3	Procedure in Governing Internet Censorship	46	
	4.2.4	Invasion of Privacy	49	
4.3	Concl	usion	50	
СНА	PTER F	IVE: RESEARCH FINDINGS		
5.0	Introd	uction	52	
5.1	Gover	nance of Internet in Malaysia	52	
		Use of Traditional Laws in Governing Internet Contents	53	
		Use of Specific Laws in Governing Internet Contents	54	
5.2		ods of Regulating Online Obscene Materials	54	
	5.2.1	Blocking the Content	55	
	5.2.2	Taking down the Content	56	
		Self-Regulation	57	
5.3	Challe	Challenges in Enforcing Content Regulation		
	5.3.1	Jurisdictional Issue	58	
	5.3.2	Evidential Issue	59	
	5.3.3	Party to Sue	60	
	5.3.4	Privacy Issue	61	
	5.3.5	Procedural Issue	62	
5.4	Concl	usion	64	
СНА	PTER S	IX: RECOMMENDATIONS AND CONCLUSIONS		
6.0	Introd	uction	65	
6.1	Suggestions and Recommendations			
	6.1.1		65 65	
	6.1.2	Implementation Self-Regulation	66	
		6.1.2.1 Education and Awareness	66	
	6.1.3	Enhancement of Technical Aspects	67	