

**A STUDY ON 'PERSONAL DATA PROTECTION ACT 2010'
IN GOVERNING TRANSBORDER DATA FLOW IN
MALAYSIA**

By

Muhammad Zaidi bin Izman Murugan (2010616532)
Nik Mohd Izzat bin Nik Ahmad Azman (2010889614)
Mohamad Hafizzuddin bin Mohd Azmin (2010440652)

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

**Universiti Teknologi MARA
Faculty of Law**

December 2012

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where references 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 Associate Professor of Law Siti Hajar Mohd Yasin. Her continuous guidance and untiring effort in assisting us has made this research reality. Our heartfelt appreciation also goes to our beloved families, especially our parents, brothers and sisters for their never ending support and timeless love thorough out the course of completing this research. We would also like to give a special thanks to our group members for making this research a reality. All of your guidance and love will always be remembered and cherish as the pillar of our strength in achieving our dream. We hope that this research will be useful to other researchers who have the intention to pursue their research in this area and any other research which is connected in one way or another with our research.

ABSTRACT

This research mainly focuses on the Personal Data Protection Act (PDPA) on how it works and how it is govern whether in national level or international level. The PDPA has been gazetted on the year 0f 2010 but still not coming into forced. Here, the effectiveness of the PDPA will be fully analysed whereby all the pros and cons will be stated. The series of literature are reviewed as we compared the PDPA of Malaysia with other countries for example China, Republic of Korea, India and United States of America. From the literature review also look on the international instrument that governs the personal data for instances European Directive, for Economic Co-operation and Development (OECD), the Asia-Pacific Economic Cooperation (APEC) and many more. Besides the literature review also proof that the PDPA of Malaysia is still not perfect and need to be improved as all of us are concerned that the personal data transfer are happened everyday and every second in the world. This research hopes to assist the government to make a better PDPA and also to help people to understand the important of PDPA.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Contents	iv

CHAPTER ONE: INTRODUCTION

1.0	Introduction	1
1.1	Background	1
1.2	Problem Statement	3
1.3	Conceptual Features	3
	1.3.1 Transborder Data Flow	3
	1.3.2 Governing	4
	1.3.3 Personal Data	4
	1.3.4 Data User	5
	1.3.5 Data Processor	5
	1.3.6 Data Subject	5
	1.3.7 Processing	5
1.4	Objective	5
1.5	Methodology	6
1.6	Limitation Research	6
1.7	Delimitation of the Research	7
1.8	Significance of the Research	7
1.9	Literature Review	8

CHAPTER TWO: INTERNATIONAL INSTRUMENTS

2.0	Introduction	14
2.1	OECD Guidelines 1980	14
	2.1.1 Early Establishment	14
	2.1.2 Principles	15
2.2	Council of Europe Convention 1981	17
	2.2.1 Principles	18
2.3	The European Directive 1995	19
	2.3.1 Introduction	19
	2.3.2 Principles	21
2.4	APEC Privacy Framework 2004	24
	2.4.1 Principles	24
2.5	Madrid Resolution 2009	26
	2.5.1 Principles	27

CHAPTER 1

INTRODUCTION

1.0 INTRODUCTION

Transborder data flow in this millennium era had become significant in every person life. It has become part of anything that a person done. This research is proposed because there is insufficient knowledge of a citizen on adequacy of protection regarding the matter in Malaysia. This proposal is divided into 11 sections. Firstly is this introduction. Secondly is the background where the definition and problem statement is discussed. Thirdly is research statement which followed with the objectives of the research. Fifth is the research methodology where a procedure to conduct the research is explain. Next is the scope of this research that listed the general view of the depth of the research. It is followed with limitation of the research that listed the probability of problem that may arise in conducting the research. At number eight, it is the significant of this research. Here, the advantage after conducting the research is listed. Next at number nine is the literature review where the summaries of sources are combining to discuss the topic and issues. Second last is the grant chart of the proposed flow of the research. Lastly at number eleven is the bibliography section where all the sources in conducting the proposal are listed. The chapters of this research consist of introduction, international instrument, transborder data flow, Personal Data Protection Act 2010, transborder data flow under Personal Data Protection Act, and adequacy.

1.1 BACKGROUND

The number of transborder civil and commercial matters involving personal data issues are increasing as globalisation and e-commerce continue to grow. As a result, the need for a consistent and predictable regime for the application of international data transfer rules is a recurrent issue at the domestic, regional and international