



**UNIVERSITI PUTRA MALAYSIA**

**FREEDOM OF EXPRESSION IN CYBERSPACE:  
A STUDY ON THE ACCEPTANCE OF APPLYING CYBER  
LAWS IN THE MSC FLAGSHIP APPLICATIONS BY  
LAW AND COMMUNICATION PROFESSIONALS**

**ADAM MOHAMED AHMED ABDEL-HAMEED**

**FBMK 2000 13**

**FREEDOM OF EXPRESSION IN CYBERSPACE: A STUDY ON THE  
ACCEPTANCE OF APPLYING CYBER LAWS IN THE MSC FLAGSHIP  
APPLICATIONS BY LAW AND COMMUNICATION PROFESSIONALS**

**ADAM MOHAMED AHMED ABDEL-HAMEED**

**DOCTOR OF PHILOSOPHY  
UNIVERSITI PUTRA MALAYSIA  
2000**



**FREEDOM OF EXPRESSION IN CYBERSPACE: A STUDY ON THE  
ACCEPTANCE OF APPLYING CYBER LAWS IN THE MSC FLAGSHIP  
APPLICATIONS BY LAW AND COMMUNICATION PROFESSIONALS**

**By**

**ADAM MOHAMED AHMED ABDEL-HAMEED**

**Thesis Submitted in Fulfilment of the Requirements for the  
Degree of Doctor of Philosophy in the  
Faculty of Modern Languages and Communication  
Universiti Putra Malaysia**

**July 2000**



To my parents, as they cherished me in childhood;  
To Fatima, my wife who has been giving an overwhelming parenthood  
warmth to our children and  
To Sali and Ghassan, a joy of an eye.



Abstract of thesis presented to the Senate of Universiti Putra Malaysia in fulfilment of the requirements for the degree of Doctor of Philosophy.

**FREEDOM OF EXPRESSION IN CYBERSPACE: A STUDY ON THE ACCEPTANCE OF APPLYING CYBER LAWS IN THE MSC FLAGSHIP APPLICATIONS BY LAW AND COMMUNICATION PROFESSIONALS**

By

**ADAM MOHAMED AHMED ABDEL-HAMEED**

**July 2000**

**Chairman: Associate Professor Md. Salleh Hassan, Ph.D.**

**Faculty: Modern Languages and Communication**

This study deals with the acceptance of applying cyber laws in the MSC flagship applications by law and communication professionals. It aims at assessing whether the provision of freedom of expression in the Multimedia Super Corridor (MSC) facilitates its flagship applications, determining the extent to which it should be exercised in light of the right to reputation, the right to privacy and the right to decency, comparing the views of the targeted professionals regarding the study issues as well as determining the relationships between selected demographic characteristics and freedom of expression for the facilitation of MSC, freedom of expression and the right to reputation, freedom of expression and the right to privacy and freedom of expression and the right to decency.



Data for the study was collected through a self-administered questionnaire developed by the researcher distributed to respondents consisted of law and communication professionals in the Klang Valley area of Malaysia. Two hundred and forty professionals answered the questionnaire. Data collection was conducted during August and September 1999.

It is revealed that freedom of expression is favoured for the facilitation of the flagship applications of the MSC, where the responses were very high in this respect. On the other hand, respondents showed concern about other rights. They showed concern about their right to reputation not to be defamed, their right to privacy not to be invaded and their right to decent materials not to be deprived from. Thus they favoured the balancing approach that should be made by the law. As such, the researcher recommended that there should be official efforts toward the awareness of law and communication professionals of the MSC and its applications and objectives. Also, he recommended that the current cyber laws should be amended so as the users will be secured of their reputation, the privacy of the information they provide in the implementation of a certain flagship application and the decency. In addition, he recommended that future formulation of the law should consult those with expertise.

Abstrak tesis yang dikemukakan kepada Senat Universiti Putra Malaysia sebagai memenuhi keperluan untuk ijazah Doktor Falsafah.

**KEBEBASAN BERSUARA DALAM RUANG SIBER: SATU KAJIAN KE  
ATAS PENERIMAAN TERHADAP PENGGUNAAN UNDANG-UNDANG  
SIBER DI APLIKASI TUNJANG MSC OLEH PENGAMAL  
PERUNDANGAN DAN KOMUNIKASI**

Oleh

**ADAM MOHAMED AHMED ABDEL-HAMEED**

**Julai 2000**

**Pengerusi: Profesor Madya Md. Salleh Hassan, Ph.D.**

**Fakulti: Bahasa Moden dan Komunikasi**

Kajian ini adalah berkaitan dengan penerimaan undang-undang siber di MSC oleh pengamal undang-undang dan komunikasi. Ia adalah untuk menilai sama ada peruntukan kebebasan bersuara dalam Koridor Raya Multi Media (MSC) memudahkan usaha aplikasi MSC, di samping mengenalpasti sejauh manakah ia perlu dipraktikkan dalam konteks menjaga nama baik, hak individu dan hak terhadap tatasusila. Kajian ini juga adalah untuk membandingkan pandangan pengamal-pengamal sasaran dan mengenalpasti perhubungan di antara ciri-ciri demografik terpilih responden dengan kebebasan bersuara dalam mengembangkan fungsi MSC; kebebasan bersuara dan hak reputasi yang sebenar;

kebebasan bersuara dan hak individu, serta kebebasan bersuara dan hak terhadap tatasusila.

Data kajian diperolehi melalui pengedaran soal selidik kepada responden yang terdiri daripada pengamal undang-undang dan komunikasi di sekitar Lembah Klang di Malaysia. Seramai dua ratus empat puluh orang responden dipilih untuk menjawab soal selidik yang dibentuk oleh pengkaji. Data telah diperolehi pada bulan Ogos dan September 1999. Kebebasan bersuara mendapat tindak balas yang tinggi dan didapati ia menjadi pilihan terhadap memudahkan usaha mencapai status MSC. Dalam pada itu, responden juga didapati sebagai prihatin terhadap kebebasan menjaga reputasi daripada dicemari, hak individu daripada dicabuli dan hak terhadap pemilikan harta benda. Mereka memilih pendekatan seimbang dalam perundangan. Pengkaji mencadangkan akan keperluan terhadap penyediaan kebebasan berucap dalam MSC selaras setiap aplikasi MSC. Pengkaji juga mencadangkan perlu ada satu usaha yang merangkumi kawalan terhadap kebebasan bersuara untuk menjaga reputasi, hak-hak individu atau tatasusila demi kesejahteraan matlamat MSC. Ini akan lebih menjamin penjagaan reputasi dan hak-hak individu daripada didedahkan kepada bahan-bahan pornografi yang tidak bermoral.



## ACKNOWLEDGEMENTS

The researcher would like to express his gratefulness to those without whose guidance and/or assistance this thesis would not have seen the day light. First and foremost, Assoc. Prof. Dr. Md. Salleh Hj. Hassan is thanked for bearing the burden of the chairman of the supervisory committee and for devoting his time and patience despite his responsibilities as the Head of Communication Department and then as the Deputy Dean of the Faculty. He has been a simple-hearted man and a professional supervisor I ever experienced.

Assoc. Prof. Dr. Musa Abu Hassan and Dr. Ezhar Tamam are thanked as co-supervisors for their critical guidance which enlightened the way of the study. Prof. Syed Arabi Idid is also thanked as an external examiner for his critical reading of the thesis. Thanks also due to Dr. Narimah Ismail for her informal guidance. Lastly, no way but to thank in a general statement all the friends who have been giving hand during the preparation of the thesis.



I certify that an Examination Committee met on 11<sup>th</sup> July 2000 to conduct the final examination of Adam Mohamed Ahmed Abdel-Hameed on his Doctor of Philosophy thesis entitled "Freedom of Expression in Cyberspace: A Study on the Acceptance of Applying Cyber Laws in the MSC Flagship Applications by Law and Communication Professionals" in accordance with Universiti Pertanian Malaysia (Higher Degree) Act 1980 and Universiti Pertanian Malaysia (Higher Degree) Regulations 1981. The Committee recommends that the candidate be awarded the relevant degree. Members of the Examination Committee are as follows:

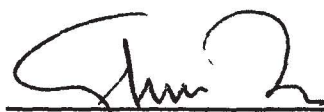
Narimah Ismail , Ph.D  
Faculty of Modern Languages and Communication  
Universiti Putra Malaysia  
(Chair-person)

Md. Salleh Hassan, Ph.D  
Associate Professor,  
Faculty of Modern Languages and Communication  
Universiti Putra Malaysia  
(Member)

Musa Abu Hassan, Ph.D  
Associate Professor,  
Faculty of Modern Languages and Communication  
Universiti Putra Malaysia  
(Member)

Ezhar Tamam, Ph.D  
Faculty of Modern Languages and Communication  
Universiti Putra Malaysia  
(Member)

Syed Arabi Iddid, Ph.D  
Professor,  
Faculty of Islamic Revealed Knowledge and Human Sciences  
International Islamic University of Malaysia  
(Independent Examiner)



MOHD. GHAZALI MOHAYIDIN, Ph.D,  
Professor/Deputy Dean of Graduate School,  
Universiti Putra Malaysia

**25 SEP 2000**

This thesis submitted to the Senate of Universiti Putra Malaysia and was accepted as fulfilment of the requirements for the degree of Doctor of Philosophy.

*Kamis Awang*

---

KAMIS AWANG, Ph.D,  
Associate Professor  
Dean of Graduate School,  
Universiti Putra Malaysia

Date: 11 NOV 2000

## DECLARATION

I hereby declare that the thesis is based on my original work except for quotations and citations which have been duly acknowledged. I also declare that it has not been previously or concurrently submitted for any other degree at UPM or other institutions.



---

Adam Mohamed Ahmed Abdel-Hameed  
Date 11 July 2000

## TABLE OF CONTENTS

<b>DEDICATION</b> .....	ii
<b>ABSTRACT</b> .....	iii
<b>ABSTRAK</b> .....	v
<b>ACKNOWLEDGMENTS</b> .....	vii
<b>APPROVAL SHEETS</b> .....	viii
<b>DECLARATION FORM</b> .....	x
<b>LIST OF TABLES</b> .....	xiv
<b>LIST OF FIGURES</b> .....	xvi
<b>LIST OF ABBREVIATIONS</b> .....	xvii
 <b>CHAPTER</b>	
<b>I</b>	
<b>INTRODUCTION</b> .....	1
Background to the Study.....	2
Early Experiences.....	2
The Cyberspace Era.....	6
The Malaysian Experience.....	10
The Malaysian Cyber Laws.....	15
Problem Statement.....	26
The study objectives.....	29
Significance of the Study.....	30
Summary .....	31
<b>II</b>	
<b>LITERATURE REVIEW</b> .....	32
Freedom of Expression .....	35
The Rationale of Freedom of Expression.....	35
The Extent of Freedom of Expression .....	39
Expression in Cyberspace .....	56
The Right to Reputation .....	62
General Rules .....	63
Defamation in Cyberspace .....	65
The Right to Privacy .....	69
The Concept of Privacy.....	70
Privacy in Cyberspace .....	73
The Right to Decent Materials.....	79
Definitions .....	80
Indecency in Cyberspace .....	84
Factors Affecting the Perception of Respondents.....	88
Conceptual Framework.....	91
Summary .....	93



<b>III</b>	<b>METHODOLOGY .....</b>	<b>95</b>
	The Study Respondents .....	96
	Sampling Frame and Procedures .....	97
	Development and Description of Instrument .....	97
	Section A .....	100
	Section B .....	102
	Section C .....	105
	Section D .....	106
	Section E .....	108
	Data Collection Procedures .....	110
	Data Analysis Procedures .....	111
	Summary .....	114
<b>IV</b>	<b>RESULTS AND DISCUSSION.....</b>	<b>116</b>
	Results of the Demographic Characteristics .....	116
	Age .....	117
	Gender .....	117
	Race .....	118
	Marital Status .....	118
	Level of Education .....	119
	Length of Job Practice .....	120
	Type of Employer.....	120
	Involvement in Political Party .....	121
	Kind of Involvement .....	122
	Involvement in NGOs .....	122
	Usage of the Internet .....	123
	Knowledge of the MSC and its applications .....	125
	Facilitation of MSC Flagship Applications.....	125
	Freedom of Expression and Reputation .....	129
	Freedom of Expression and Privacy .....	135
	Freedom of Expression and Decency .....	140
	Relationships between Selected Demographic.....	145
	Characteristics and the Dependent Variables	
	Discussion .....	152
	Summary .....	159
<b>V</b>	<b>SUMMARY, CONCLUSIONS AND .....</b>	<b>161</b>
	<b>RECOMMENDATIONS</b>	
	Summary of Findings.....	163
	Conclusions .....	168
	Recommendations .....	171
	Suggestions for Further Research.....	172



<b>REFERENCES.....</b>	<b>174</b>
<b>APPENDIX.....</b>	<b>184</b>
<b>BIODATA OF AUTHOR.....</b>	<b>196</b>



## LIST OF TABLES

Table 1	Age of Respondents.....	117
Table 2	Race of Respondents.....	118
Table 3	Respondents' Level of Education.....	119
Table 4	Respondents' Length of Job Practice.....	120
Table 5	Respondents' Type of Employer.....	121
Table 6	Respondents' Inv. In Political Party and NGOs.....	123
Table 7	Respondents' Place of Internet Usage.....	124
Table 8	Respondents' Frequency Usage of Internet.....	124
Table 9	Composite Score for Respondents' Views of Freedom of Expression for the Facilitation of MSC Flagship Applications	126
Table 10	Respondents' Agreement about Freedom of Expression for the Facilitation of the MSC Flagship Applications	128
Table 11	Composite Score for Respondents' Encountering the Spread of Defamation while Exercising Freedom of Expression in the MSC	131
Table 12	Composite Score for Respondents' Views on Balancing Freedom of Expression with the Right to Reputation in MSC.	132
Table 13	Rank Order of Respondents' Encountering Defamation Spread while Exercising Freedom of Expression in the MSC	133
Table 14	Rank Order of Respondents' Agreement on Making the Balance between Freedom of Expression and the Right to Reputation in the MCS	134
Table 15	Composite Score for Respondents' Encountering Privacy Invasion while Exercising Freedom of Expression in the MSC	136
Table 16	Composite Score for Respondents' views on Balancing Freedom of Expression with the Right to Privacy in MSC.	137
Table 17	Rank Order of Respondents' Encountering of Privacy Invasion wile Exercising Freedom of Expression in MSC	138
Table 18	Rank Order of Respondents' Agreement of Balancing Freedom of Expression and Privacy in MSC.	139
Table 19	Composite Score for Respondents' Encountering the Exposure to Indecent Materials while Exercising Freedom of Expression in MSC	141
Table 20	Composite Score for Respondents' Views on	142





	Balancing Freedom of Expression with the Right to Decency in MSC	
Table 21	Rank Order of Respondents' Encountering Exposure to Indecency While Exercising Freedom of Expression in MSC.	143
Table 22	Rank Order of Respondents' Agreement on Balancing Freedom of Expression and Decency in MSC	144
Table 23	Chi-square Test of Respondents' Gender and the Dependent Variables	145
Table 24	Chi-square Test of Respondents' Race and the Dependent Variables	146
Table 25	Chi-square Test of Respondents' Educational Level and the Dependent Variables	146
Table 26	Association of Respondents' Length of Job Practice and the Dependent Variables	147
Table 27	Chi-square Test of Respondents' Type of Employer and the Dependent Variables	148
Table 28	Chi-square Test of Respondents' Involvement in Political Party and the Dependent Variables	149
Table 29	Chi-square Test of Respondents' Involvement in NGOs and the Dependent Variables	149
Table 30	Chi-square Test of Respondents' Place of Usage of Internet and the Dependent Variables	150
Table 31	Association of Respondents' Frequency Usage of Internet and the Dependent Variables	151



## LIST OF FIGURES

Figure 1	Conceptual Framework of the Study .....	92
----------	---	----



## LIST OF ABBREVIATIONS

ANOVA	Analysis of variance
ARPA	Advanced Research Projects Agency
ARPANET	Advanced Research Projects Agency Net
ATM	Automated Teller Machine
BITNET	Because It's Time Network
cl.	Clause
CP	Communication practitioners
CS	Communication scholars
df.	Degree of freedom
E-commerce	Electronic Commerce
ECPA	United States Electronic Communication Privacy Act
E-government	Electronic government
E-mail	Electronic Mail
FBI	United States' Federal Bureau of Investigations
FRC	United States Federal Radio Commission
IBM	International Business Machine
IC	Identity Card
IDC	International Data Corporation
IP	Internet Protocol
ISP	Internet Service Provider
IT	Information Technology
KLCC	Kuala Lumpur City Centre
KLIA	Kuala Lumpur international Airport
LP	Law practitioners
LS	Law scholars
MDC	Multimedia Development Corporation
MILNET	United States Military Net
MS	Mean of squares
MSC	Multimedia Super Corridor
NGO	Non-governmental organisation
NSF	United States National Science Foundation
NSFNET	United States National Science Foundation Net
NSW	New South Wealth
NUJ	National Union of Journalists
R	Reversed
R&D	Research & Development
RM	Ringgit Malaysia
SPSS	Statistical Package for Social Science
SS	Sum of squares



Std. dev.	Standard deviation
TCP	Transmission Control Protocol
TV	Television
UIA	International Islamic University of Malaysia
UiTM	Mara University of Technology
UK	United Kingdom
UKM	National University of Malaysia
UM	University of Malaya
UPM	University Putra Malaysia
US	United States
USSR	Union of Soviet Socialist Republics
V-mail	Voice Mail
WCT	World Intellectual Property Organisation Copyright Treaty
WIPO	World Intellectual Property Organisation
WWW	World Wide Web



# CHAPTER I

## INTRODUCTION

This chapter presents information on the study background, the problem statement, the objectives of the study and the justification for it. The concept of freedom of expression, the right to reputation, the right to privacy and the right to decency will be discussed in more details later. As a starting point, freedom of expression is the freedom to speech and to the press. The right to reputation is the right to safeguard one's name of being defamed. The right to privacy is one's right to be let alone. Lastly, the right to decency is the right not to be exposed to indecent materials including obscenity and pornography.

### **Background to the Study**

This section presents the early experiences of the problem, the cyberspace era, the Malaysian experience and the Malaysian cyber laws.

## Early Experiences

At the outset, it should be pointed out that the concern of freedom of expression is as old as the American Bill of Rights 1791. The First Amendment contained in the Bill of Rights provided the freedom of expression. It reads that "Congress shall make no law . . . abridging the freedom of speech or of the press".

By its imprecise wording, this statement raised many questions regarding its interpretation. These include do these words mean that the statement provides an absolute freedom to speech and to the press whatsoever, or should it be understood and interpreted in the light of other rights and/or freedoms stated by provisions included into the constitution itself?

In other words, to what extent should the freedom of speech and of the press provided by the constitution be exercised when other rights or freedoms are to be maintained at the same time. Thus, the understanding of this statement and the interpretation of its words posed practical problems especially when other rights or freedoms are being or seem to be in conflict with this freedom.

Likewise, in Malaysia, the Federal Constitution stated in paragraph (1) (a) of section 10 that “every citizen has the right to freedom of speech and expression” (The International Law Book Services, 1997). However, it didn't say that whether this provision guarantees an absolute freedom of expression or should it be understood and interpreted in the light of other civil rights necessary for the welfare of the citizens.

In practice, nowadays the issue of freedom of expression in Malaysia raises questions in several cases both in terms of reprisal by the government and the abuse by individuals. One of these is the case of the Canadian journalist, Murray Hiebert who was charged with the contempt of court and deprived of his passport as a condition of bail for writing an article in January 1997 about a legal dispute involving the son of a Court of Appeal judge (Addruse, 1999). In this case the government is blamed for the reprisal of freedom of expression.

In addition, the same can be said about the three years imprisonment sentence inflicted upon opposition parliamentarian Lim Guan Eng is one of the milestone cases raised in this respect. In this case, Lim had been sentenced for publicly criticising the government's handling of allegations of statutory rape against Rahim, former chief minister of

Malacca, in 1994 as well as printing a pamphlet allegedly containing libellous information about Rahim on the grounds that the Court of Appeal had interpreted the law in a manner that erodes freedom of expression in the country (Suaram, 1998; Lim, 1997d; Lim, 1997f).

Moreover, the dismissal of Chandra Muzaffar from University of Malaya is another case mentioned when the issue of reprisal of freedom of expression by the government is concerned. Muzaffar was said to be dismissed for exercising his freedom of expression for supporting former Deputy Prime Minister of Malaysia, Anwar Ibrahim and criticising the government's case against Anwar (Saunders, 1999).

Such cases and others were labelled within Malaysia and outside it as a violation of freedom of expression in the country. This subjected Malaysia to criticism and blaming of human rights organisations including Human Rights Watch, Amnesty International and Asian Human Rights Commission, to mention a few (Addruse, 1999; Amnesty International, 1998; Saunders, 1999; Suaram, 1998).

On the other hand, practical cases showed that freedom of expression could also be abused by the individuals. The Chow Kit incident



is worth mentioning in this respect. In this case four persons were tracked down and charged under section 505 (b) of the Penal Code in four magistrate's courts in Kuala Lumpur and Petaling Jaya for spreading rumours about alleged riots in the Ckow Kit area through e-mails (Abbas, Singh and Poosparajah, 1998; Emmanuel, 1998).

The same can also be emphasised and supported by the cases of the distribution of 11 pictures in a sexually explicit-position through e-mails by a tourism group KRU member and ELITE (Goh, 1999) and the banning of Malaysians users by US-based web-site DALnet for involvement in exchanging pornography (The Star, 1999).

Not only in Malaysia but also in its neighbouring countries the issue of freedom of expression reprisal and abuse can be found. For instance, in Singapore freedom of expression is on trial in the Singaporean Prime Minister Goh's case against opposition leader Joshua Jeyaretnam for calling him "anti-Christian and anti-Chauvinist" during a general election rally. Jeyaretnam's lawyer accused Goh for curtailing freedom of expression and adapt it only for his own purposes to stay in power and strife opposition (Winstanley-Torode, 2000).