Why has Data Protection Law been delayed in Malaysia? Nothing to do with Islam and Who needs it anyway?
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Abstract
In 1998, the Malaysian government has explored with a legislative initiative by introducing a draft Data Protection Bill. This Bill never makes it to the Parliament due to heavy opposition from the industry. In a surprise move, the Malaysian government abandoned the EU approach for a more ‘industry friendly’ approach in the form of ‘safe harbor’. The exact nature of the proposed draft bill is yet to be seen as unlike its predecessor, the whole process of drafting is kept confidential.

This paper discusses the Malaysian initiative in introducing specific data protection laws in the last five years from the archived draft Personal Data Protection Bill. It is the hypothesis of this article that the lack of protection for data protection stems largely from the widespread lack of recognition of the right of privacy in general. With regards to data protection, for example, some views that the current sectoral approach to data protection is adequate in providing the minimum security needed in the industry. Others, however, view the sectoral approach is rather piecemeal and hardly sufficient to provide the required security. As to the general rights of privacy, the non recognition of a general right of privacy is hardly surprising. In a country where individual’s freedom of expression is not effectively guaranteed, the European style notion that an individual should be free from unnecessary intrusion and snooping from the states is a luxury. In a country that professes to adhere to Islamic teaching as its major religion, this proposition is entirely not acceptable. Leaving religious concerns aside, the truth many in the industry felt that a having a stringent data protection law would be detrimental to the overall industry’s needs and interests. Furthermore, other laws relevant to data privacy exist and they provide the minimum security required by the industry without unduly inhibiting their growth.