

MALAYSIAN LEGAL SOURCES : PRINT

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ABSTRACT

Identifies and provides a brief description of the various print form of Malaysian legal sources which are available in the 1990's. Malayan Law Journal has been identified as the most prolific legal publisher in Malaysia It is suggested that the various Government bodies should actively publish since they are the sole producer of legal information.

Keywords: Malaysian legal sources; Legislation; Law reports; Digests; Legal indexes; Legal bibliographies; Legal directories; Legal dictionaries

INTRODUCTION

Law is dynamic because its requirements and forms change with changing times and environment. As a result, new laws are constantly being promulgated and existing ones amended to suit these changes. This is reflected in the publication of the various sources of law that have proliferated rather rapidly worldwide.

In Malaysia itself, there has been a marked increase in the publication of the various Malaysian legal sources. In 1988, Shaikha Zakaria had outlined, in considerable detail, the various Malaysian legal sources that were available towards the end of the 1980's. Since then, numerous persons, government as well as commercial publishers have produced and published numerous Malaysian legal sources. This article will, therefore, attempt to briefly itemised the various legal sources that are available in the 1990s.

Malaysian legal sources can be broadly classified into primary and secondary sources. All materials listing laws that are formulated (by those vested with law-making powers) are referred to as the primary sources of law. These include:

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- a. Legislation or materials that record the law made by the law-making authorities. In Malaysia, Chapter 1 of Part VI of the *Federal Constitution* provides for the power to legislate to Parliament at the Federal level, and to the State Legislative Assembly at the State level (Figure 1). However, the distribution of subject matter to be legislated between the Federal and State authorities are well defined in Article 74 of the *Federal Constitution*.

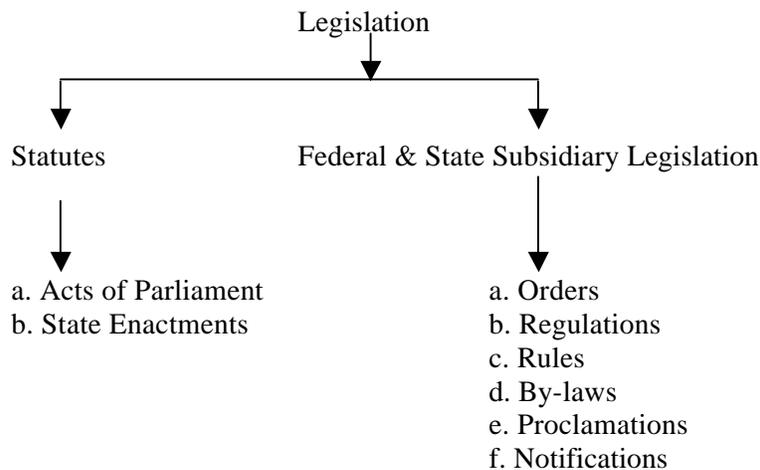


Figure 1: Malaysian Legislation

- b. Case law or law that is based entirely on judicial decisions. Access to case law is via the various law reports.

Secondary legal sources, on the other hand, consist mainly of preliminary research tools, which aid in the finding, evaluating and understanding of the various primary materials. These are the legal encyclopedias, case digests, citators, annotators, legal dictionaries, textbooks, as well as periodical articles. Description of these secondary sources follows.

CASE DIGESTS

Digests are informative abstracts or summaries of case law or legislation. A case digest, as the name suggests, provides the case law on a given topic in a highly compressed form as well as abstracts of the legal principles, which may be inferred

from the case. A case digest will include a summary of the bare facts and decisions of a case, plus a list of citations where the case has been reported in full. Cases are usually digested and arranged according to their subject matter. Order of presentation of the cases within each subject is normally chronological. However, it must be noted that digested cases, on their own are not adequate substitutes for the law reports. But digests may help in tracing the subsequent history of cases. Similarly, a legislation digest will outline the main points of an act or a statutory instrument.

Various case digests have been published to cater to the increasing number of reported cases as well as act as a tool for case searches. *Mallal's Current Law* superseded *Mallal's Monthly Digest*, which previously had superseded *Butterworth's Law Digest*. Walter Woon Cheong Ming and Teo Keang Sood edited and published the *Butterworths Law Digest Yearbook 1987-89*. It is a cumulative edition of all the digests that had appeared in the monthly issues of *Butterworth's Law Digest*, covering Malaysia, Singapore and Brunei case laws, as well as Malaysian and Singapore statute laws.

The fourth edition of *Mallal's Digest of Malaysian and Singapore Case Law 1808 to 1988* was published in 1990. Initially, this publication was seen by many as an effort made by the publisher to bring together, in a digest form, practically all the reported cases which have been decided by the superior courts of Malaysia and Singapore, as well as appeals made to the Privy Council from 1808 to 1988. Arrangement of digest is alphabetical by title within a subject. Each digest provides a statement of the effect of each case and facts. Annotations are included to help users understand the history of the case, its development or governing legislation. There is ample cross-referencing and a subject list, as well as a table of cases to further ease case searching. Comprising 12 volumes, it is updated via *Mallal's Digest Supplements* and the contents of each volume are kept current by the issuance of updates (reissues). Reissues have been published in 1994, 1996, 1997, 1998 and 1999. The 2 - volume *Mallal' Digest: Consolidated Subject Index: 1808 – 1996* and the 4 - volume *Mallal's Digest: Consolidated Table of Cases: 1808 – 1991* are search tools which were published to further aid in the usage of the *Digest*.

Mallal's Digest: Case and Legislation Citator 1932 to 1991 was subsequently published as a case finding tool. It is now replaced by *Mallal's Digest: Legislation Citator 1932 to 1997*. Apart from providing the judicial history of cases, the former, a case citator, also serves as an index to cases which have been reported or judicially considered, and can be used to find a digest of a case, trace its history, or find out where it has been reported. A legislation citator, on the other hand, basically provides

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details of the main amendments to a particular statute or statutory instrument and also indicates whether any sections have been judicially considered. The latter covers a longer time period and covers Malaysia, Singapore as well as twenty other jurisdictions (including all the ASEAN countries), and numerous international conventions.

Apart from the commercial publishers, efforts were also made by the relevant government bodies to publish legal sources, although the number is very small. The Law Library Committee of the Faculty of Law, University of Malaya, made a conscious effort to increase the number of available legal publications by producing and publishing the *Digest of Recent Malaysian Judgments* in 1984. The digest provides users of the Law Library with information on the latest judgments of the High Court, Federal Court and the Privy Council, and is arranged alphabetically by subject. Under each subject, brief notes on the subject matter of the case and the judge's name, are provided. Only one issue was compiled as it was meant for internal circulation..

LAW REPORTS

In the common law system, law reports form one of the two principle sources of law, the other being statutes. A law report would normally contain the facts, issues, decisions and the legal principles of cases. It can be either general or specialized in nature. The general series of law reports would generally cover all courts and subjects. Specialists' reports, on the other hand, cover a limited jurisdiction or area of law, and thus, are more extensive, subject wise, than the former.

The *Malayan Law Journal* or *MLJ*, which was first published in 1932, has remained the leading law report for Malaysian and Singapore cases. It is published monthly with an annual cumulative publication. In 1932, the annual publication was published in a single-volume. However, the 1999 annual publication is now a six-volume work. In order to assist users in wading through this massive pool of legal information, the publishers have published various searching tools, in the form of indexes. These are the *General Index and Table of Cases Reported [1932]-[1988]*, *Consolidated Subject Index, General Index and Table of Cases Reported [1932]-[1991]*, *Consolidated Tables 1992-1994*, and *Consolidated Tables: 1995-1996*. Different time periods are covered and all of them serve to minimize and help to speed up the case searching process. *MLJ* not only covers case reports, but also includes legal articles as well as provides information which are relevant to the legal profession.

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Apart from the above, the Librarian at the Attorney General's Chambers has compiled the *List of MLJ Cases 1960-1986*. It is simply a chronological list of all cases reported in *MLJ* for the stated time period. This is an in-house publication, used as a reference guide for the officers in the Attorney-General's Chambers.

In view of the increasing number of cases which need to be reported in both Malaysia and Singapore, the publishers of the *MLJ* make a conscious decision to publish the cases from these two countries in two different publications. The Malaysian cases continue to be reported in *MLJ* and commencing from 1992, all Singapore cases were reported in the *Singapore Law Reports* or *SLR*. The contents format is similar to *MLJ* and efforts have been undertaken by the publisher to publish retrospective issues for 1965 to 1991. It is accompanied by the *Singapore Law Reports: Consolidated Index and Tables: 1965 – 1996*. As with *MLJ*, *SLR*'s 1992 annual publication consists of two volumes, whilst its 1999 publication consists of four volumes.

It should be noted here that not all cases are reported. The selection of cases to be reported is undertaken by the editor, who selects the cases, bearing in mind that the cases selected, are those that have been decided by the superior courts. It is in these courts that the more important legal questions and principles are decided. Only cases which raise or introduce a significant point of law or materially modify an existing principle of law or settle a doubtful question of law or cases illustrating new applications of accepted principles, are reported.

With the advent and introduction of CD-ROM databases, *MLJ* experimented with the production of their sole law report on CD. In 1997, a CD-ROM full-text version of the *MLJ*, known as *MLJ on CD* was issued. Subsequently in 1999, the *Malaysia and Singapore Case Law Library* replaced *MLJ on CD*. The 1999 CD is updated quarterly, runs on the Folio Views software and consists of 2 databases namely, the *Malaysian Case Law Library* and the *Singapore Case Law Library*. The 1997 CD consists of reported cases published in *MLJ* from 1932 – 1999, articles published in *MLJ* from 1990 – 1999, full reports of 3200 unreported cases, and digests for 7,200 Malaysian cases, which were not reported in *MLJ*. The latter consists of reported Singapore cases published in the *MLJ* and *SLR* from 1932–1999, and digests for 7,200 Singapore cases which were not reported in *MLJ* and *SLR*.

Two other publishing houses have also begun publishing their own law reports. In 1981, a publishing house bearing the same name as its publication, published the *Malaysian Current Law Journal*. Now commonly known as *Current Law Journal* or *CLJ*, this publication, unlike *MLJ*, is not accompanied by any separate cumulative indexes. The indexes are incorporated in the bound annual edition – subject index of

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reported judgments, index of cases reported by the various courts (Federal Court, Court of Appeal, High Court), and index of cases by legislation, judicially considered.

Following the *MLJ*'s footsteps, the *Malaysian Current Law Journal* launched their website in 1998. Known as *CLJ Legal Network*, it can be accessed online via the Internet at <http://www.cljlaw.com>. Five databases, namely case law, legislation, forms, articles, and practice notes, are maintained, and access is only on a subscription basis. It not only provides access to materials published in the print version of the *Malaysian Current Law Journal*, but also provides access to cases not previously published in the said law report. It contain judgments as far back as 1894. It also maintains another website, *L.e.g.a.l. C.h.e.c.k* at <http://www.legalchk.com> to provide for access to records of bankruptcy notices, liquidation notices, notices of substituted service of summons and judgment index.

In 1992, the Central Law Book Corporation started publishing the *All Malaysia Reports: the Weekly Law Report on Malaysian Cases* or *AMR*. As with *CLJ*, this publication has no separate cumulative indexes. The various indexes are included in the bound annual volumes – table of articles, table of cases reported, table of cases judicially considered, table of legislation judicially considered, subject index and reister of terminology.

Other publishers have undertaken the task of publishing the more specialized law reports such as *Industrial Law Reports*, *Supreme Court Reports*, *Laporan Mahkamah Agung*, *Asia-Pacific Construction Law Reports*, and *Mallal's Criminal Practice Bulletin*. Visu Sinnadurai edited the *Privy Council Cases: Malaysia, Singapore, Brunei 1875 – 1990*, which comprises five volumes of compilation of cases from the Judicial Committee of the Privy Council of Great Britain. Linda Ang Poh Geok and John R. Gurusamy from the Industrial Court produced the *Citations of Industrial Court 1965 - July 1976*. In 1994, Maimoonah Hamid compiled and edited the *Company Law Case Citator: 1932 –1994*. Chew Kherk Ying and Ang Kwee Tiang edited the *Asia Intellectual Property Reports* which contains reports of judgments on intellectual property matters from Singapore, Malaysia, Hong Kong, Thailand and the Philippines. As the names suggest, these reports cover specific subject areas or jurisdictions within the legal discipline.

LEGAL PERIODICALS

Articles in periodicals form an important source of research materials for legal practitioners and researchers. As with law reports, legal periodicals can either be general or specialized in nature. Towards the end of the 1980's and well into the

1990's, numerous legal periodicals were published by the various commercial publishers as well as the various institutions of higher education. Among these are the *Malaysian Law News*, *IIU Law Journal* which was later superseded by *IIUM Law Journal*, *Kanun: Jurnal Undang-Undang Malaysia*, *Malaysian Tax Cases*, *Supreme Court Journal*, *Business Law Journal*, *Jurnal Syariah*, *Monograf Syariah*, *IKIM Law Journal: Jurnal Undang-Undang*, *Journal of Crime*, and *Jurnal Undang-Undang dan Masyarakat: Malaysian Journal of Law and Society*. Malaysiana articles could also be traced in several regional periodicals – *Asia Business Law Review*, *Asia Pacific Law Review* and *Asia Yearbook of International Law*. As with law reports, legal periodicals can either be general or specialized in nature.

INDEXES

a. Legal Periodicals Index

Indexes serve to aid retrieval and access to articles published in legal journals. Only two such indexes have been published apart from those referred to by Shaikha Zakaria (1988).

The University of Malaya's Law Library published the *Malaysiana Legal Periodicals Index* or *Indeks Majalah-Majalah Undang-Undang Malaysiana* in 1989. It is a bi-annual publication which lists all articles that are found in both local and international journal and pertaining to legal issues in Malaysia, Singapore and Brunei. The bibliographic information is arranged alphabetically by subject with an author index to assist in author-specific searches. However, it ceased publication in 1993 and a similar listing, known as *Latest Malaysiana Articles*, is available at the University of Malaya's Law Library web page at <http://www.umlib.um.edu.my>

Index to Legal Periodicals of Malaysia and Singapore: 1932 – 1995 is again published by the Malayan Law Journal. It is a very comprehensive index of all the legal periodicals which had been published in Malaysia and Singapore over the past 64 years. Arrangement is alphabetical, with ample cross-referencing of subject headings.

b. Case Index

Index to Malaysian and Singapore Cases (1932 – 1996) is an exhaustive compilation of complete citation of cases in Malaysia, Singapore and Brunei from 1932 to 1996 as reported in the *MLJ*. Arrangement is by alphabetical order of statutes by sections or

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subsidiary legislation by regulations, rules, etc. Cases can be searched under the relevant statutes or subsidiary legislation.

Commentaries and reviews on cases help to further aid users in understanding the judgements made in a case. Commentaries and reviews of Malaysian cases can be found in *Survey of Malaysian Law* and *Journal of Malaysian and Comparative Law* which are both annual publications of the Faculty of Law, University of Malaya. Similarly, *MLJ* and *CLJ* also contain case commentaries as well as case reviews.

c. Statute Index

The number of statutes produced by the law-making arm of the Federal and State governments increases considerably every year as can be seen from Table 1.

Table 1: Number of published Malaysian Federal Acts, amending Acts and subsidiary legislation

YEAR	ACTS	AMENDING ACTS	P.U. (A)	P.U. (B)
1990	31	45	481	794
1991	25	23	493	661
1992	21	28	588	762
1993	16	33	459	640
1994	18	34	568	623
1995	12	32	474	609
1996	14	38	439	580
1997	20	33	549	542
1998	16	38	503	551
1999	7	24	549	534
TOTAL	180	328	5103	6296

One would, therefore, require efficient searching tools in order to trace the statutes, either topically or by subject. Thus, index to statutes is seen as a necessary search tool. S. Sivaswamy compiled and published the *General Index of Acts, Enactments, Ordinances, etc.* This was followed by *The Federal Statute Law Referencer* and *The Index to State Laws*. In 1989, S.Sivaswamy and R. Ramaswamy combined these two indexes and published them as *The Federal Statute Law Referencer & Index To State Laws*. It was subsequently updated in 1991, 1993, 1995 and 1999 and the title of the index was once again changed to *Federal Statute Law Referencer: Index to Federal & State Laws*. The 1999 edition contains only the Federal and State principal laws with

the Federal laws being current as at 31 August 1999 and the State laws as at 30 June 1999. Included in the index is a chronological list of Federal laws, a chronological as well as an alphabetical list of amending Acts and Acts of temporary duration, an alphabetical index of the Federal laws and an alphabetical index of the State laws. A major component of the publication is the alphabetical index of the Federal and State laws. For the former, each entry consists of the English title of an Act, followed by the Malay title, the effective date and the long title of the Act. Each entry in the latter consists of the title of the law, followed by the name of the State(s) involved, and this is followed by the number and year of the relevant enactment or chapter or ordinance. There is adequate cross-referencing and accompanying notes throughout the index.

The Malayan Law Journal compiled and published the *Index to Malaysian Statutes* to complement as well as supplement Sivaswamy and Ramaswamy's indexes. Being current as at 1st October 1996, it serves as a guide to the various Federal statutes. It consists of three main sections – the subject index, an alphabetical listing of the Federal statutes, and a chronological listing of the amending Acts. The subject index is a useful feature since it is alphabetically arranged by keywords. Each keyword is followed by references to the relevant legislation by sections, chapters or parts of an Act that covers a particular topic that is related to the keyword. Unfortunately, this publication has never been updated.

Since 1935, there had been no attempt to compile and publish any index to the numerous Federal and State subsidiary or delegated legislation. The overwhelming number of these subsidiary legislations makes searching difficult. S. Ramaswamy's awareness for the need for such an index led to his compilation of the following indexes : *Index to Federal Subsidiary Legislation [G.N./L.N. Series] 1946-1965*, *Index to Federal Subsidiary Legislation [P.U./P.U.(A) Series] 1966-1982*, *Index to Federal Subsidiary Legislation 1983-1993: An Index to P.U.(A) & Selected P.U.(B) Series* and *Index to Federal Subsidiary Legislation 1994-1996*. Between 1962-1982, a total of 7621 notifications were published under the P.U. and P.U.(A) series and the index for 1962–1982 consists of a chronological list and a subject index to these P.U. and P.U.(A). The 1983–1993 index consists of a chronological and subject index of all notifications published under the P.U.(A) series as well as a chronological and alphabetical list of selected notifications under the P.U.(B) series, namely appointment of dates of effect of Acts or amending Acts or other legislation, delegation under written law, notification having statutory effect, and by-laws. The 1994–1996 index is similar to the previous indexes with the inclusion of a chronological and alphabetical list of principal Acts enacted during that period as well as similar lists for amending Acts and Acts of temporary duration enacted during that period.

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The compilation and publication of these indexes by an individual is the first of its kind in Malaysia. It has helped in aiding searches for Federal subsidiary legislation. At the same time, S. Ramaswamy also compiled and published an index to State enactments and subsidiary legislation. Known as *Index to State Enactments and Subsidiary Legislation: 1986–1995*, it is a compilation of all the 804 State Enactments and 3530 subsidiary legislation of the eleven states in West Malaysia for the stipulated time span. The states of Sabah and Sarawak are not included because they publish their own indexes periodically. Although not as comprehensive as the Federal indexes, it is a useful search tool for the various state legislation. However, what sets this index apart is that it is bilingual – English and Malay. Part I consists of a chronological as well as an alphabetical list of State Enactments published during 1986–1995, both in Malay and English. Part II similarly consists of an English and Malay chronological list and a subject index of the State subsidiary legislation published during 1986–1995, an English and Malay chronological list of notifications, a Malay alphabetical list of notifications, and an English subject list of notifications.

The State-Attorney's Chambers in Kuching, Sarawak compiles the following statute indexes annually : *Index of Ordinances of Sarawak (including list of Federal Ordinances and Acts which are applicable to Sarawak)*, *Index to Part II of the Sarawak Government Gazette : Indexes of Subsidiary Legislation of the Laws of Sarawak*, *Index to Part IV of the Sarawak Government Gazette: Indexes of Sarawak Local Authorities Subsidiary Legislation*. Similarly, the State-Attorney's Chambers in Kota Kinabalu, Sabah compiles its four part *Index to Sabah Laws and Subsidiary Legislation* annually.

Apart from that, efforts are also being undertaken by the various Government departments and commercial publishers to compile and publish other similar statute indexes. These include the *Index to Federal Laws as at 12th July 1973* compiled by the Law Library of the Attorney-General's Chambers, *General Index of Acts, Enactments, Ordinances, etc. : (revised up 31st December, 1979)* and *Index to Federal Laws as at 31st July 1979*.

REFERENCE SOURCES

a. Bibliographies

In conjunction with the University of Malaya's Faculty of Law's twentieth anniversary, the staff of the University of Malaya's Law Library compiled *Legal Research of the Faculty of Law, University of Malaya (1972-1992): a bibliography*, in

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1992. It is a listing of all the publications written by the Faculty of Law's academic staff during their respective tenure at the Faculty. Arrangement is alphabetical by authors' names.

In 1993, the University of Malaya's Law Library updated one of its previous publication. *Dissertation, Theses, and Project Papers in the University of Malaya Law Library* was updated up to 1992 by Rashidan Hakkam. This bibliography lists all the postgraduate theses and dissertations acquired by the Library as well as project papers submitted by the Faculty of Law students in partial fulfillment for the degree of Bachelor of Laws. About 800 entries can be found in this publication which covers a thirty-year time span. An author as well as a subject index are provided as a back-of-the-book index both to assist in author-specific and topical searching.

Apart from that, Rashidan Hakkam also compiled *Legal Malaysiana* from 1985 till 1991. This bibliography is a listing of academic exercises, monographs, articles and conference papers which deals with legal issues in Malaysia, Singapore and Brunei.

b. Dictionaries

Only two new dictionaries have been published whilst the third is a new edition of an existing publication. Dewan Bahasa dan Pustaka published the third and revised edition of *Istilah Undang-Undang: Bahasa Inggeris–Bahasa Malaysia, Bahasa Malaysia–Bahasa Inggeris*. About 3404 English terminologies are arranged alphabetically with its Malay equivalent in Part I, whilst in Part II, the reverse is given.

Bahagian Penyelidikan dan Sekretariat Bahasa Malaysia, Mahkamah Agung produced the *Daftar Istilah Undang-Undang: Bahasa Inggeris–Bahasa Malaysia*. It was jointly compiled by the Jawatankuasa Istilah Undang-Undang DBP and Jawatankuasa Istilah Jabatan Peguam Negara in answer to the government's call for the implementation of the use of the Malay language in the Malaysian courts. It was hoped that this dictionary would help in the coordination of the use of Malay legal terminologies in the courts. The terminologies found in this dictionary are the ones most suited for use at the time of its publication. The publisher has stated in their editorial that the dictionary would be updated regularly as and when new terminologies emerge. However, this is not being done. The English terms are arranged alphabetically with a corresponding Malay equivalent.

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Apart from that, Nasser Hamid, as Chief Editor, produced *Istilah Undang-Undang* with four other editors. It is the second edition of the same title that was published in 1995 by a different publisher but which was edited by Saleh Buang, Nasser Hamid and Maimoonah Hamid. The second edition covers more words, phrases or expressions.

Words and Phrases Judicially Defined was published by the Malayan Law Journal in 1990. It is a compilation of all the definition taken from judgements reported in *MLJ* from 1932 to 1988.

c. Directories

Numerous directories have been published by the Malaysian Bar Council or by commercial publishers. All these directories are professional directories that attempt to list the name and addresses of all legal practitioners in Malaysia, Singapore and Brunei. The Malaysian Bar Council published the first legal directory entitled *List of Advocates and Solicitors*. This directory was subsequently updated and published as *Legal Directory* in 1988 and 1996. It basically provides various lists, namely, members of the Bar Council, names of firms alphabetically arranged by towns, alphabetical list of names of advocates and solicitors, seniority list of advocates and solicitors, telephone numbers of all Malaysian courts, alphabetical list of names of notaries public, commissioner of oaths, syariah lawyers, and addresses of principal law societies and international bar associations alphabetically by country. Being a publication of the Malaysian Bar Council, it is the most comprehensive and authoritative Malaysian legal directory .

Towards the end of the 1980's, the *Advocates and Solicitors' Directory (Malaysia, Brunei and Singapore)* was published by the Malaysian Current Law Journal. Although not as comprehensive as the previous directory, it serves as an good alternative and consists only of alphabetical listings of advocates and solicitors as well as law firms in Malaysia, Singapore and Brunei.

CONCLUSION

The volume of Malaysian legal sources has increased tremendously over the last few years. This development is seen by many as a step in the right direction and is favoured by many legal practitioners as well as law librarians. It has not only increased the number of ways in which the various legal materials can be accessed but also cut short the amount of time searching through the various legal materials. Efforts should therefore be continued by the various government and professional

bodies as well as the commercial publishers, to further refine and increase the number of these reference tools. This is especially true for the various government bodies since they are the main producers for the various primary legal publications.

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