

One Country, Two Jurisdictions: Comparing Language Policy and Practice in East and West Malaysian Law

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The two halves of Malaysia offer an interesting example of similar common law jurisdictions operating in different languages, inviting exploration into how language choice affects professional practice. In political union since 1963, the Bornean states of Sabah and Sarawak (East Malaysia) and the Peninsula of Malaya (West Malaysia) retain distinct policies for language and law. Since the 1960s Malay has steadily displaced English in West Malaysian education, government and law. In larger but less populous East Malaysia, Malay is also indispensable in education and as a lingua franca among diverse communities, yet English continues to be used in state legislatures and is the only official language of law.

East and West maintain parallel judicial systems under an overarching Federal Court. Lacking a local qualifying institution, East Malaysians study for the bar in West Malaysia (or overseas) and have standing in the courts there, but West Malaysians have no automatic right to appear in East Malaysia. Whereas East Malaysian courts operate overwhelmingly in English, the lower courts of West Malaysia operate mainly in Malay, with English still prevalent in many higher court proceedings. This study set out to investigate the roles of language in legal practice by comparing communication preferences in the East and West. Observations conducted in several courtrooms have been augmented by interviews with lawyers and law students. While the complexity of law makes it difficult to attribute contrastive legal practices directly to contrastive language policies, initial findings suggest that contrastive policies for the courts, as well as distinct sociolinguistic contexts beyond the courts, have an important influence on the way lawyers perform.