

Free Access to Japanese and Asian Law – The  
Launch of AsianLII in Japan

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## Abstract

The Asian Legal Information Institute (AsianLII - <http://www.asianlii.org>) is a non-profit and free access website for legal information from 28 countries and territories in Asia, from Mongolia in the north to Timor-Leste in the South, and from Japan in the east to Afghanistan in the west. After about six months development, AsianLII's Australian launch was in December 2006 and was thereafter launched in the Philippines in Manilla in January 2007.

This paper gives a brief outline of the challenges involved in developing AsianLII and the facilities it provides, and then outlines a demonstration of how it can be used for both comparative law research across all Asian countries and for research concerning the law of one country (Japan is used as the example). The proposed future development of AsianLII is outlined, particularly in relation to multi-lingual resources and its role in assisting the development of new free access Legal Information Institutes in Asia. The paper was given at the Japanese launch of AsianLII in August 2007 at Meiji University, Tokyo.

## Free access to Japanese and Asian law – The launch of AsianLII in Japan

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*This presentation was delivered on the launch of the Asian Legal Information Institute ([AsianLII](#)) in Japan on 4 August 2007, at Meiji University, Kanda, Tokyo. AsianLII in Japan was launched jointly by Mr Allan McKinnon, Minister and Deputy Head of Mission of the Australian Embassy in Japan, and by Mr Kunihiko Shinoda, Director (APEC & FTA), Trade Policy Bureau Ministry of Economy, Trade and Industry (METI).<sup>\*</sup> A [translation of this presentation in Japanese](#), but without the demonstration details, is available on AsianLII.*

### Introduction to AsianLII

The Asian Legal Information Institute (AsianLII - [www.asianlii.org](http://www.asianlii.org) - pronounced ‘Asian-lee’), is a non-profit and free access website for legal information from 28 countries and territories in Asia, from Mongolia in the north to Timor-Leste in the South, and from Japan in the east to Afghanistan in the west. AsianLII is being developed by the Australasian Legal Information Institute (AustLII), a joint facility of the Law Faculties at the University of Technology, Sydney (UTS) and the University of New South Wales (UNSW), in cooperation with partner institutions in Asian countries, regional supporting organisations, and with other legal information institutes (LIIs) belonging to the Free Access to Law Movement.

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<sup>\*</sup> **Acknowledgments** The presentation commenced with thanks to a number of people and organisations who made the launch possible: To the Information Network Law Association for hosting this event, and our Chair, Professor Makoto Ibusuki of Ritsumeikan University, Head of Section for Legal Informatics in the Association; To Meiji University and particularly Professor Takato Natsui, for generously providing these facilities for the launch.; To a number of Australian organisations for their financial support for AsianLII, particularly to AusAID for funding the inclusion in AsianLII of databases from eight developing countries in Asia, and AustLII’s work in those countries; and to the Australian Attorney-General’s Department and the Australian Research Council for supporting AsianLII’s overall development. Deputy Head of Mission at the Australian Embassy, Mr Allan McKinnon, represents the Australian support for this development.; To the Ministry of Economy, Trade and Industry for its support for the development of comparative law resources across APEC countries, including through APEC’s Strengthening Economic Legal Infrastructure (SELI) group. Mr Kunihiko Shinoda, Chair of the SELI group, and METI’s Director of the APEC & FTA Trade Policy Bureau, will jointly launch AsianLII in acknowledgment of that support.; Finally, to my colleagues in Sydney at AustLII, particularly Executive Director Philip Chung and our principal AsianLII project officer, Kieran Hackshall, for the development and maintenance of AsianLII and all its databases; and our Co-Director, Professor Andrew Mowbray, for development of AustLII’s search engine used by AsianLII.

After about six months development, AsianLII's Australian launch was on in December 2006. The Philippines launch of AsianLII was in Manila on 10 January 2007, was by the Chief Justice of the Philippines and the Australian Ambassador. This launch in Japan is therefore the third in countries with which AsianLII has a significant involvement.

Six months after its Australian launch AsianLII includes 161 databases from 27 of the 28 Asian countries, because nothing is available from Myanmar, not even a constitution. So far the databases include over 15,000 pieces of legislation from twenty countries, over 178,000 cases from twenty countries, law reform reports from seven countries, and four law journals are searchable. All databases can be searched simultaneously (eg from the front page of AsianLII), or searches can be limited to one country's databases or other combinations. Search results can be ordered by relevance, by date, or by database, or by country.

Most databases are in English as yet, but there are substantial databases in Bahasa Indonesian and in Portuguese. The search software used by AsianLII, and the hypertext mark-up software used to create its databases from text files, were developed by AustLII. Work is underway to develop the software further to enable searching and linking of data in Asian languages.

AsianLII also includes a catalog of law web sites for each of the 28 countries, and a 'Law on Google' facility, for each country, so as to provide more comprehensive research.

This is a very brief summary. In the launch materials there is a detailed paper we presented at the ASLI Conference in Jakarta in May<sup>1</sup>.

## **Background – Free access to law and legal information institutes**

The *Legal Information Institute* started at Cornell University Law School in 1992 with databases primarily of US federal law was the first significant source of free access law on the Internet, and it coined the name 'Legal Information Institute'.

The *Australasian Legal Information Institute* (AustLII) was started by UNSW and UTS Law Schools in 1995, borrowing the 'LII' part of its name from Cornell, as others have done since. AustLII was the first 'LII' to attempt to build a comprehensive national free access system, and by 1999 it included the key legislation and cases from all nine Australian jurisdictions.

From 1999 AustLII started to use its search engine (Sino) and other software to assist organisations in other countries to establish LIIs with similar functionality. This has resulted in very similar and consistent facilities using AustLII's software being started with its assistance in the UK and Ireland (BAILII - 2000), the Pacific Island countries

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<sup>1</sup> ['Challenges in improving access to Asian laws: the Asian Legal Information Institute \(AsianLII\)'](#) [2007] UNSWLRS 42 (on bepress), *Proceedings of the 4th Asian Law Institute Conference - Voices from Asia for a Just and Equitable World*, Jakarta, May 2007; a revised and expanded version is in publication in the *Australian Journal of Asian Law*

(PacLII – 2001), Hong Kong (2002), southern and eastern Africa (SAFLII – 2003), New Zealand (NZLII - 2004) and Cyprus (Cylaw – 2004). AustLII also developed the Commonwealth Legal Information Institute (CommonLII) in 2005, covering all 52 common law countries and territories.

Independently of AustLII, the LexUM team at the University of Montreal developed CanLII from 2000, Droit Francophone for all French-speaking countries from 2003) and Juri Burkina (from 2003).

All of these institutions joined together in 2002 to establish the Free Access to Law Movement. On their behalf, AustLII operates the World Legal Information Institute (WorldLII) which provides access to the 860 databases from all of these LIIs, and some other free access providers.

Until now, only two jurisdictions in Asia were included in LIIs – Hong Kong in HKLII, and Papua New Guinea in PacLII. AsianLII therefore extends the databases provided by the Free Access to Law movement (and searchable via WorldLII) to a further 25 countries or jurisdictions not previously included. This brings the total coverage to 123, almost half of the countries or territories in the world with separate legal systems.

### **Challenges in developing an Asian law portal**

Although these are matters that we discuss at more length in academic papers, it is worth noting a few of the questions that had to be answered before we tried to develop an comparative legal research facility for 28 Asian countries.

The underlying problem, of course, is that Asia is a region with many different legal systems, as well as one of linguistic and cultural diversity. The traditional historical influences on its legal systems differ widely because of its huge geographical spread, and the influences of colonial legal systems are equally diverse.

Despite this apparently unpromising start to the prospect of an Asia-wide legal information system, there are nevertheless sufficient common factors to make such an enterprise worthwhile, if daunting. They can be summed up as trends toward hybridization (perhaps even convergence), the value of transparency, and the value of the rule of law.

The first factor indicating feasibility is that the differences may be reducing. Is a convergence of Asian and Western legal systems occurring? While this is contentious, many authors do see such a trend. It is at least clear that in many Asian countries there is increasing hybridization of the influences and models that are used to reform particular aspects of their legal systems. Instead of a consistent adoption and development of models from one particular tradition such as the civil law, English common law or US common law, there is increasing borrowing from a variety of traditions depending on which models are seen as more internationally successful, particularly in advancing economic development. This process has been accelerated a great deal by the practices of international aid organizations in funding legal reform projects involving international experts over the last 45 years. The ever-increasing number of international agreements requiring local laws to be made consistent with an international standard, and the pressures from regional organizations such as APEC, SAARC and ASEAN for regional harmonisation of some laws increases the trend. To the extent that hybridization or

convergence is occurring, it makes the facilitation of comparative law research within Asian legal system more valuable.

Increased transparency of legal systems is often required for accession to the World Trade Organisation, and may even include a requirement that laws be available in other than national languages. For example China specifically agreed to translate into one of the WTO languages and make publicly available all WTO-related laws. A system like AsianLII enhances transparency to the outside world.

Complementing this, the increased transparency of a country's legal system to its own citizens supports the rule of law. In various countries across Asia there is still a tension between the rule of law and rule by law. In this conflict any increase in transparency of a country's laws to its own citizens falls clearly on the side of supporting the rule of law: it both informs citizens of the laws they are subject to, and of the precise rules by which government agencies and other powerful institutions are also subject to those laws.

Obtaining sufficient data to build the first version of AsianLII has been easier than expected. A clear majority of the 28 Asian countries exempt from copyright protection legal materials. Half of the 28 do so, not only in the original language, but also in translation provided there are various 'official' connections. Asian copyright laws have therefore facilitated the development of AsianLII, at least to the extent that legislation and other legal documents are available on government websites. The longer-term expansion of content, particularly if it is to be sustainable, requires ongoing relationships to be developed with data providers in all countries, and this is being done in many countries in the region.

Finally, a reason for going ahead (though without any guarantee of success), is that no-one had previously built, or even attempted to build, a comparative law research facility in any language or languages for more than a handful of Asian countries. The details are in our ASLI paper, but we can summarise by saying that neither governments, regional organisations, academic research centres or even commercial legal publishers have developed very substantial systems including the primary legal materials of multiple Asian countries. The commercial publishers' systems cover at best five Asian jurisdictions out of 28.

So, we concluded it was do-able, it would be valuable, and no-one had done it.

## **Demonstration of AsianLII**

I would like to do 3 or 4 searches to demonstrate the features of AsianLII.

First I will demonstrate a comparative law search across all 160 databases on AsianLII.

Let us take as a research task the question of which Asian countries have implemented laws concerning electronic signatures – also sometimes referred to as 'digital signatures' or 'public key infrastructure'.

I could start with a simple search on AsianLII's front page for

“electronic signature”



This produces 70 results, and on the first page we can already see legislation from Korea, Taiwan, Vietnam, Japan, Singapore and Hong Kong, plus some articles from law journals.

If we want to improve this search we would add alternative terms such as:

or digital signature or public key or encrypt\*

We now have 221 results, three times as many, and they include the relevant APEC Guidelines, and legislation from the Peoples' Republic of China, from India and from the Philippines.

Item 6 from India is interesting. If we go to this Act we can use the 'Noteup' button to find if there are any cases that have considered the Act. There are two.

We can also use 'By Database' to see which countries the 221 results come from. They come from 35 databases in 13 countries.

If we sort by date we find quite a few recent cases from 2005 and 2006, from Singapore, India, South Korea and the Philippines dealing with these issues.

We believe there is no other research facility in existence that will let you do this type of comparative research on Asian law.

Next I will demonstrate the ways in which you can search for law from only one country: we will use Japan as our example, so as to also demonstrate the Japanese law research resources on AsianLII. First, we go to the 'Japan' page in the list of 28 countries.

I start with a simple search for the phrase "personal information" to find materials on privacy law. Nineteen items are found, including

- (No 1) the 2003 Act on this subject – one of the 79 laws so far available from the 'Translations of Laws and Regulations' project;
- (No 2) a law journal article on the Act;
- (Nos. 3-6) various Japanese Supreme Court summaries in English

Another 10 similar items then follow.

Now let us do a **slightly more complex search**. I will first go back to the Japan page.

Methods of alternative dispute resolution are important, particular to investors and other foreign parties interested in Japanese law. A search for all forms of alternative dispute resolution would be something like:

arbitrat\* or mediat\* or alternative dispute resolution or ADR

The asterisk (\*) is used to truncate words to their stems.

We find 65 items. The one ranked first, as most relevant to the search, is a WTO Arbitrators decision concerning dumping, on a complaint by Japan against the USA. Next

are two journal articles about mediation and arbitration in Japan. Next is the 2004 'Act on Promotion of Use of Alternative Dispute Resolution', followed in item 6 by the 2006 Ordinance on its enforcement. Items 5 and 7 are two Supreme Court decision on the taking effect of arbitration decisions, and on bribes in mediation procedures. And so on.

I will look at item 15, the Labor Union Act. If I click on the 'Noteup' button, it tells me there is one Supreme Court case in the databases that has considered this Act. If I go to that case, I also find a hypertext link that takes me to the Labor Union Act. There are now such hypertext links automatically provided between all the Japanese legislation and cases on AsianLII.

We can also sort the results By Date to show that the most recent item is the 2006 'Ordinance for Enforcement of the Act on Promotion of Use of Alternative Dispute Resolution'.

We can also show the results By Database, and then focus on just the 18 laws that deal with ADR, sorting them by date if we wish.

These searches demonstrate a key element of AsianLII's approach: by allowing one search over all of the available legislation, case law, law journal articles, and other content, we are able to make more sense of each type of content, and to make our research more efficient.

We also wherever possible have hypertext links to Acts and to cases, from other documents referring to them. These are being developed for our Japanese databases.

Finally, let me demonstrate 3 other ways in which AsianLII assists in finding materials on Japanese law from anywhere on the Internet.

(i) First, we can go to the Catalog of Japanese websites, and we find a category for 'Alternative Dispute Resolution' which provides links to useful sites, including the 'Japan Commercial Arbitration Association', and a translation of an Arbitration Law of 1890.

Our Catalog content has been greatly assisted by both our Chair, Professor Ibusuki, and our host here at Meiji, Professor Natsui, who were pioneers in developing their own catalogs of Japanese law on the Internet. We are very grateful for their assistance.

(ii) Second, we can use our previous search terms to do a 'Websearch' of many of these sites listed in the Catalog. Individual pages from many of the sites we just saw are then found.

(iii) Third, I choose 'Law on Google' and send the same search to it. AsianLII converts the search into the proper search language for Google, and limits the results to legal materials from Japan. The titles of the search results in this case show that it is very effective in so doing.

This demonstrates the main aim of the AsianLII country pages: to be, as far as possible, a 'one stop shop' for extensive legal research concerning that country, using as many different research techniques as possible.

There is much more that could be demonstrated, but this is all that time allows.

### **Future developments**

The future development of AsianLII will have three main elements: (i) continuous expansion of its English language databases; (ii) addition of content in Asian languages for browsing and searching; and (iii) increasing decentralisation of control of the content of AsianLII through the development of independent legal information institutes in various Asian countries.

English is an official language, used for legislation and court decisions, in more countries in Asia than any other language. Also, Asian legislation and case summaries are more often translated into English than any other language. Our initial aim is to include in AsianLII as much legal information as possible in the English language, so as to provide a common language platform for comparative legal research. By the end of 2007 we expect to have completed the inclusion of a basic set of legislation – often mainly commercial legislation – from all 28 countries, plus more extensive English databases wherever possible. Case law, treaties, law reform reports and law journals are already included. This diversity of content is essential to AsianLII as it allows the hypertext linking between different types of documents that is distinctive of AustLII's approach.

Second, we are now starting to add to AsianLII legal materials in the languages of countries/economies other than English. Databases in Bahasa Indonesian (10) and Portuguese (2) have been added, and are searchable. The Supreme People's Court of Vietnam Benchbook is on AsianLII in English and Vietnamese. Databases of legislation in Japanese, Vietnamese, Thai, and Cambodian are now being added, with, wherever possible, hypertext links between these Acts and their English language translations. The interface to AsianLII also needs to accommodate languages other than English. This can be automated once a short standard set of terms is translated, and is therefore sustainable. To start with, these databases will only be browsable.

AustLII's search engine is also now being developed to allow it to search data in any language, including Asian scripts which currently use ASCII-based double-byte character encodings. However, the legal texts concerned will first have to be converted into Unicode encodings, unless they are available in Unicode already. The 2007 priorities for the development of this Asian language search capacity are Vietnamese and Chinese.

Third, in order to make this technical and content development sustainable, we place a high priority on developing working relationships with institutions in Asian countries, and encouraging them to develop their own free access provision of national legal resources. We assist them technically to do so to international best practice, including by provision of AustLII's search engine where desired. The aim is for the country's materials continuing to be available to regional and international networks, but supplied with both quality and quantity improved. It removes the need for these resources to be maintained centrally by AustLII, creates an increasingly valuable network, and makes it sustainable. The more decentralised AsianLII becomes, the more sustainable it will be. While the data aggregation on which AsianLII is based has been assisted by the copyright laws of the region and by a centralised approach, the sustainability of AsianLII depends on partnerships and decentralisation. At present only the Hong Kong and Papua New Guinea data in AsianLII is maintained independently of AustLII. We expect that at least

the Philippines and Thai data in AsianLII will also be maintained by independent local services by early 2008.

The long-term future of AsianLII is as a decentralised network of independent national providers of free access legal information in both the original language of the legal documents, plus English translations where available.

