INTRODUCTION

This chapter offers insights into the law of higher education in Malaysia as it is applied in both private and public universities. As of April 2012, there are twenty public universities in Malaysia, thirty-three private universities and university colleges, and four branch campuses of international universities (Ministry of Higher Education, 2012). More than 900,000 students are enrolled in various programs at these institutions of higher learning. Further, more than 20,000 lecturers serve at these institutions.

There has been a tremendous increase in the number of students at the undergraduate level in Malaysia. In 1970, there were fewer than ten public universities in the country. The increase in the number of public universities and undergraduate students is a result of a policy designed to increase access to higher education while engaging in democratization, marketization, and internationalization.

The government of Malaysia has pursued a policy of internationalization of higher education that has allowed the private sector to establish universities. Another measure affords foreign universities the opportunity to establish branch campuses in the country. The expansion of local and foreign private universities is in line with the aim of making Malaysia an international hub for higher education. Foreign universities that have set up branch campuses include Monash University of Australia and Nottingham University of the United Kingdom. As a result, there has been a significant increase in the number of foreign students, particularly in the private universities.

The law on higher education has two distinct features. Public universities are governed by a set of laws that differ from private universities. Traditionally, academic and non-academic staff members in the public universities are considered to be public or government civil servants. Although public universities are public statutory organizations, the staff falls within the purview of the government regulations and orders. On the other hand, academic staff in the private universities is governed by the common law of contract and administrative law. Against this backdrop, the remainder of this chapter reviews the sources of higher education law in Malaysia, institutional issues, the rights of students and staff, and briefly considers an emerging issue before concluding.