

MALAYSIAN MILITARY LAW. By MAJOR P. SUPPIAH (RTD). [Kuala Lumpur: Malaysian Law Publishers. 1984. 167 pp.]

This short book begins with a brief but useful summary of the formation and historical development of the Malaysian Armed Forces. This includes very brief references to the laws relating to the Army, Air Force, Navy and Auxiliary Forces up to the enactment of the Armed Forces Act 1972 which, including regulations and one amendment in 1978, now governs all military law in Malaysia. There is also mention of the relevant constitutional provisions.

However the book's organization quickly falters. Chapter 2 "Duties of Court" contains references to something called "R.P." which is not explained until Chapter 3. Here we are told that this abbreviation refers to the Armed Forces (Court-Martial) Rules of Procedure 1976 which "is hereafter referred to as "R.P." (p. 34). This lack of organization flaws what might otherwise be a useful, if very basic, summary of military law in Malaysia. Chapter 2 is a general "how to" chapter outlining the steps in procedure which apply to Courts-Martial. Although perhaps of value to officers who are required to act as members, prosecutors or defence counsel, this value is limited by the confusing lack of proper references.

This book as a whole appears to offer nothing more than a guide to inexperienced persons acting on Courts-Martials; i.e. a manual rather than a treatise on Malaysian military law. For example, in Chapter 4 "Notes for the Guidance of Defending Officers at a Court-Martial" under the subheading "Factors to be considered on advising the Accused on his Plea" (pp. 56-57) there is a very basic, simple explanation of defence counsel's duty in advising his client; what to do if he admits his guilt to counsel, when to plead guilty or not guilty, etc. This would undoubtedly be useful to an officer advising an accused person for the first time where the officer has little or no legal training. But as an insight into the operation of this area of the law, the book has little to offer. The lack of references is also a problem. In Chapter 7 the functions of the Judge-Advocate are described. However the lack of detail or referral to sources means that the usefulness of this chapter is very limited even to the layman. On page 82, the "legal experience" that a person appointed as Judge-Advocate must have is said to be undefined. The author then states that such a person "does not have to have the equivalent qualification of a Judge-Advocate-General." No reason is given for this statement and the reader is left wondering why.

The book might have usefully contained a more detailed summary of the 1972 Act and Rules of Procedure. For example, who or what constitutes a "Convening authority" (p. 9) or a "Convening officer" (p. 112) is never explained although on page 112 there is a reference to a section of the Act. This section could have been spelt out, if only in summary form. In fact, the book would have been improved greatly by being organized in the form of an annotated Act and Rules since no real analysis of military law is offered. If the more simple format of a "how to" layman's introductory military law manual is to be preferred, then a far simpler, step-by-step summary including a definition of terms (such as contained in a glossary) should have been adopted. At the very least, the Act and Rules should have been

appended at the end of the volume for easy reference by the reader. As it is, Chapters 11-31 provide a piecemeal enumeration of sections under the Act according to various headings, e.g. Chapter 12 "The Penal Provisions in the Act" and Chapter 13 "Definition Sections in the Act and the Armed Forces (Court-Martial) Rules of Procedure 1976" which does not itself contain any definitions.

Chapter 33 which describes the jurisdiction of the superior civil courts to review Courts-Martial is very interesting in the light of the recent Singapore High Court decision of *Abdul Wahab Sulaiman v. Commandant, Tanglin Detention Barracks* [1985] 1 M.L.J. 418 in which a decision of the Military Court of Appeal in Singapore was held not to be reviewable by the High Court. The Malaysian Act, according to the author, contains no right of appeal from a Court-Martial. However, the civil courts apparently have a right of judicial review by way of the prerogative orders over decisions made in excess of or without jurisdiction by a military court. This is quite different from the situation as it presently exists in Singapore. Although the author briefly analyses three reported cases dealing with orders of prohibition, a more detailed discussion of this area might have been useful. A very serious omission is the complete absence of any mention of *habeas corpus* as a remedy for illegal detention under military law in Malaysia. *Habeas corpus* is both a prerogative order and a fundamental right under the Federal Constitution, Art. 5(2). The Singapore case mentioned above refused an application for *habeas corpus*. Are there no cases dealing with *habeas corpus* as it applies to military law in Malaysia?

*Malaysian Military Law* would have been a more useful book if the audience it was written for had been more clearly delineated by the author. The Foreword by Tan Sri Haji Hamzah Bin Haji Abu Samah states that the book will be useful to officers who have to perform functions in Courts-Martial and all those who must sit for military law examinations. However, the poor organization, lack of clear references, lack of detail, omissions and absence of any analysis of the legislation detracts from the value this book will have for the inexperienced reader. For anyone with even a basic knowledge of military law, or law in general, this book provides little more than a not very clear summary of parts of the Act and the procedure involved in Courts-Martial.