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BIBLIOMETRIC: JURIMETRICS TO DETERMINE REFERENCES ON LEGAL CASES IN MALAYSIA

Adi Aizat Yajid

Universiti Malaysia Kelantan, Pengkalan Chepa, Malaysia
adiaizat@umk.edu.my

Abdul Khabir Rahmat¹, Ahmad Ridhuan Abdullah², Nur Syafiqah A. Samad², Norzalizah Bahari², Siti Fariha Muhamad²

¹Universiti Teknologi MARA, Shah Alam, Malaysia

²Universiti Malaysia Kelantan, Pengkalan Chepa, Malaysia

abdulkhabir@uitm.edu.my, ridhuan.a@umk.edu.my, nursyafiqah.as@umk.edu.my,
norzalizah.b@umk.edu.my, fariha@umk.edu.my

Highlights: Jurimetrics, a social science method that attempts to measure those aspects of justice, which is empirical in nature. It applies the quantitative measures to law, including statistical data. Although it is yet to be used widely, but it is recognised for its importance to the field. Using bibliometric analysis as part of jurimetrics, it able to provide statistical data, which could assist legal field, including education aspect, to understand and decide a more accurate references on a given case, through analysis of collections of documented court cases.

Key words: *Bibliometric analysis, Jurimetrics, Legal studies, Judicial precedent, Stare decisis*

Introduction

Similar to other fields, references are vital in every aspect of the legal discipline, be it for the purpose of enforcement, decision of the courts, or even in the education branch of it. Court cases, statutes, academic writings and other legal documents are documented to be used as future references, among others, for the developments of the said body of knowledge. Throughout the years, the creativity of human has pushed law discipline to become more creative in the context of, but not limited to, enforcement and analysis. Such pressure has made legal field to look into various other discipline for assistance, thus employing various non-doctrinal legal studies, including statistical analysis on legal matters. The value of references has become more important as consistency over decision of law is very much sort after, all the time.

Content

Statistical analysis in legal field, especially on the documents, even though is not something which is new, but is hardly used. With numerous decisions of the courts take place every single day, add on with the creativity of offenses committed by various parties, the developments of legal knowledge are a must. With its strong origin of subjectivity, assistance from quantitative measure and studies could not be denied, if consistency and accuracy of decision want to be achieved. With numerous available writings and research on law, measuring output of such documents able to provide legal field, not only statistical analysis, but beyond that as per suggested through bibliometric analysis.

Statistical data and analysis in legal field is yet to be used widely in Malaysia, even though the benefits could be very clear, for example to determine whether the reference case used is the one that is being considered as the leading case, based on the number of times its being referred to. The subjectivity of such move, due to the discretion power granted to the judges, makes references to cases rather vast in terms of its grasp. By having limited quantitative legal data and analysis on the usage of reference cases in courts' decisions, it is a set of challenge for the law as to match leading cases and current scenario, which might not be the concerns through previous instances. Whether unavailability of statistical data upholds judges' discretionary power or vice versa, dependency over statistical data become more relevant and needed in numerous fields, including legal field. The usage of bibliometric able to offer legal fraternity a more consistent practices as what should be referred to, what are the common practices and indirectly, it able to ensure the precision over legal practices, throughout the legal field. Although critics on decision through popularism might be rose as to such move, but, the usage of bibliometric able to provide stability in terms of references applied and referred to for future cases and legal issues, ensuring the principle of judicial precedent and stare decisis, among others, could be uphold in a more precise manner.

With legal studies focus more on doctrinal legal studies, which emphasize on leaning heavily only on legal documents qualitative analysis to solve legal matters, emphasize on non-doctrinal legal studies is yet to take place in Malaysia. It leaves a gap on studies that able to gain data based on quantitative approach. This particular gap, that being left behind by the qualitative-driven doctrinal studies, is an area that is no less important to the discipline. With analysis on legal references and documents able to provide information with regards to the pattern of reference by practitioners, most referred references to render them to be leading case or references, at the very least, this should be the next move for legal discipline, as they able to make legal education more accurate to the real practice.

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Research Management Innovation Centre
16300 Bachok, Kelantan Malaysia
Nombor telefon : 09-7797780
Email : rmic@umk.edu.my
Website : <http://rmic.umk.edu.my>