

## Editorial Note

*As the new Dean at the Faculty of Law, Universiti Malaya I am grateful to the editors of the Journal for this opportunity to write the Editorial.*

This issue of the JMCL touches on three discrete and distinct areas – the implications for competition law in Malaysia with the increasing use of algorithm decision making systems, the argument for the introduction of a single High Court for Malaysia and the notion of *jihad* in Islamic law and Islam. They are however characteristically concerned with the intersections between tradition and modernity.

There are two articles which particularly focus on Malaysia and how the Malaysian legal system could and should respond to the emerging and continuing challenges, constraints and opportunities. Malaysia is a legal system framed not only by its history and traditions, but also modernity. The article on algorithms and competition makes the case for revision and reform in Malaysia – it draws on how other competition regulators, such as those in the US and EU, respond to decisions taken by self-executing algorithmic systems. Principles of competition law concern in the main consistency in decision making whilst ensuring that society benefits from positive economic efficiencies. How the new technology achieves that poses a palpable challenge for regulators, the Malaysia competition authority not being in a different position. Crucially too, the article attempts to show that the lesson to be drawn from other jurisdictions is that there needs to be consistency between regulation and policy. The latter, it might be opined, is to be shaped by Malaysia's past interactions with the principles of *her* competition law and *her* perceptions of the economic interest of the country.

Closely allied to that paradigm of seeking out consistency and efficiencies, the article on the Malaysian High Court goes some way to press for a workable fusing of the current High Court of Malaya and High Court of Borneo. It is argued by the authors that safeguarding provisions could be incorporated into the Federal Constitution to provide for the right balance of efficiencies in the administration of justice and the need to preserve the East-West balance of power in Malaysia. An interesting aspect of the argument deserving further research and exploration is qualitative (and possibly quantitative) evidence showing that actual better efficiencies could be gained through a joinder of the two courts. The now fairly long history of the two courts in administering justice in Malaysia should be ripe enough for deeper analysis, following on from the tantalising suggestion made by the authors.

The final piece whilst not about domestic law or indeed, Malaysian law, places a concept in Islamic thinking, the notion of *jihad*, against the modern international law system. It is of course an important evaluation given Malaysia's Islamic roots and its

place in the modern multilateral rule based system of international law. The work offers a clarification of the notion of *jihad* in Islam and Islamic jurisprudence. There has been a certain disquiet amongst Muslim scholars, including those in Malaysia, that the legitimate concept of self defence embedded in *jihad* is frequently lost in a western dictated discourse. Here too the approach, premised on historical Islamic sources, seeks to demonstrate the full breadth of the theories of *jihad*. It goes on however to engage with modernity – at least the modern international law concept of self-defence. It reasons that the notion is indeed consistent with Islam which connotes an ideology of peace.

It might thus be said that these three pieces show quite starkly the spirit of this journal – the law and legal norms relevant to Malaysia are seen necessarily through comparative and internationalist lenses.

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