

Editorial for (December 2023 Issue)

Malaysia practices federalism, consisting of Peninsular Malaysia and East Malaysia (Borneo), and is characterized by its diverse cultures and varied legal traditions. This issue features three papers that explore significant legal aspects in Malaysia: Constitutional law, Criminal law, and Contract law.

The first paper critically examines the implementation of provisions in the Federal Constitution related to the exclusive allocation of special revenues or resources to the Borneo States, with a particular focus on the two-fifths (40%) Special Grant to Sabah under Article 112C and Part IV of the Tenth Schedule of the Federal Constitution. Any disputes concerning the review of the 40% Special Grant or the determination of revenue for its calculation must be resolved in strict compliance with the Federal Constitution. Additionally, redress may be sought through various avenues, such as the appointment of an independent assessor, public litigation in courts of law, or political negotiations based on mutual consensus.

The second paper explores the rationale and consequences of imposing natural life imprisonment as an alternative to the death penalty in exceptional cases where the death penalty is not mandatory. It argues that a natural life sentence contradicts human rights, fails to serve the public interest, violates the freedom and dignity of prisoners, and falls short of achieving penological goals. The paper advocates for the abolition of natural life sentences worldwide, proposing parole as an alternative to uphold human dignity and protect the social and human rights of prisoners.

The third paper seeks to complement existing legal literature and stimulate discussion on the general duty of good faith in contract law. Like England and Singapore, Malaysia does not recognize a general duty of good faith in contracts. Instead, the law has developed on a piecemeal basis through implied contractual terms. This approach is more likely to respect the parties' intentions than imposing a general overriding duty of good faith, as it upholds the freedom of contract. Nonetheless, if the parties wish to impose a duty of good faith, they should explicitly include it in the contract to avoid ambiguity.

Lastly, I extend my gratitude to our readers, authors, and the editorial board and staff for their unwavering support and dedication in bringing another issue of JMCL to fruition.

Dr. Su Wai Mon
Managing Editor