

CORPORATE LAW REFORM AND 'RULE OF LAW' ISSUES IN MALAYSIA

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By

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The OECD White Paper on Corporate Governance (2003) highlighted a number of measures that all Asian governments should introduce or consider strengthening as a matter of priority. The Paper pointed to the need to address such matters as disclosure and transparency, director self-dealing, strengthening regulatory capacity and enhancing the fiduciary duties of directors. Significantly, however, the White Paper also referred generally to a number of features of the Asian business landscape that are pertinent to the process of legal and regulatory change. The historical, cultural and social traditions of country, as well as the interplay between the political and legal systems all come to mind in this context.

Malaysia is presently undertaking a comprehensive corporate law program (CLRP) which promises to reinforce corporate governance measures applying to its listed sector. This paper examines the issue of corporate law reform in Malaysia in the context of weaknesses in the 'rule of law' which are evident in terms of public governance. It maps out the background and historical context in which the corporate law framework has developed and considers whether there are particular obstacles which might impede the implementation of the CLRP. This is an important question to consider, given that the CLRP promises to modernize the Companies Act, bringing it into line with the needs of a modern economy dealing with changes imposed by the globalisation of markets, new technology and other developments. Its core objective is to create a legal and regulatory structure that will facilitate business.

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