AN ACCUSED person’s right to a lawyer in Singapore has come under fire by a law professor, arguing that it is relatively weaker than internationally-accepted standards.

National University of Singapore law don Ho Fook-Lai also believes there is yet to be a convincing explanation on how allowing a detained suspect to consult a lawyer would hinder a police probe.

He raised this as a special issue of the Singapore Academy of Law Journal earlier this month on constitutionalism and criminal justice, underscoring the shortcomings of the suspect’s access to counsel in recent times.

In a landmark High Court judge Choo Hock-Teck ruled, in the case of alleged computer hacker James Raj Arokiasamy, that police would have to show how allowing detained persons to consult counsel would affect police investigations.

While Justice Choo has become acerbic in the case as James Raj was given access to counsel last month before Justice Choo’s reserved judgment was issued.

At issue is how soon an accused should be allowed to consult his lawyer for advice.

In an article, Professor Ho pointed out that in the United States, Europe and Britain, the suspect has a right to the advice of his lawyer before arrest.

He also cited the ruling by Britain’s Supreme Court in a 2010 case, where the accused’s right to legal advice was breached. The court said it did not matter that a range of safeguards had existed. The rationale was that the range of safeguards simply could not substitute for the nature of a right to legal advice.

“Since the provision is starkly different, we should reflect on the relative strengths of Singapore’s and the UK’s systems,” Professor Ho wrote.

While the Singapore Constitution provides for the right of access to counsel, “this right has, in practice, been given the backseat in determination of rights as one might have hoped from the judiciary.”

Prof Ho noted that the High Court here has done a great deal of real-timeJustification for the restriction of a detained person’s right to legal access.

The judge explained that it is to give the accused access to legal advice immediately upon arrest; neither do they need to do this by taking statements from him. The constitutional requirement is satisfied as long as he has been given access to a lawyer within a reasonable time.

This can take up to 19 days in the case of a convicted killer Leong Swee Choo in 2006. But Prof Ho pointed out that while the typical general explanation by police is that allowing counsel access while the “surrounding circumstances” are still “in a state of police investigation”, there “is no convincing explanation why this is so.”

He pointed that in Leong’s case, “highly respected, professional and experienced” defence counsel Stephen Tan said it was “impossible to advise the client” to even give unqualified confidentiality and meet Leong in the presence of police officers.

The professor said allowing this would affect investigations, said Prof Ho. He argued that it was misleading to say the “unlawful or improper impediment of police investigation”.

While noting that calls for change made over the years, both in Parliament and Parliament, have met with little success so far, the door to reform is “apparently not closed”. He pointed out that Law Minister K Shanmugam in his position last year that the position is “not static”.

The position may be tweaked with Justice Choo’s ruling last week on access to counsel for suspects. Criminal lawyer Lim Suhaeadien said: “The door to reform is not completely closed.”