Singapore Legal System & Constitutional Law

4 Credits, Semester 1

Course Description:

Even though Singapore derived its legal system from the United Kingdom, many of its institutions, rules and practices have changed since it attained self-government in 1959. The legal system, once a mirror-image of the British system, has become much more autochthonous. Also, like almost all former British colonies, Singapore has a written constitution which, in the course of forty years, developed institutions and a jurisprudence quite unlike that of its parent. This course will guide lawyers qualified in the United Kingdom through the laws, institutions, concepts, practices and philosophy underlying the current legal and constitutional system.

Course Convenor: Professor (Adjunct) Kevin Tan

Co-teacher(s): NA

Module Codes:

Contact Hours: 8 x 3-hour weekly lecture [starting the week of 4 August 2014] and 4 ‘small group’ sessions.

Course Duration: 12 weeks (Recess: 22-26 Sep 2014)

Workload: 3 hours (Mondays 3.00 pm to 6.00 pm)

Mode of Assessment: Final Exam - 100% (Open Book) [Week of 10 November 2014]
SYLLABUS & READING LIST 2014

Prescribed Text/Casebook
- Kevin YL Tan & Thio Li-ann, *Constitutional Law in Malaysia & Singapore*, 3 ed (Singapore: LexisNexis, 2010) [Tan & Thio].

Recommended Reading:

For copyright reasons, no extracts or chapters from the above books will be reproduced. They are, however, readily available at the Law Library.

PART I: THE SINGAPORE LEGAL SYSTEM

TOPICAL READINGS

Week 1 (4 Aug 2014)

Sources Of Law


Week 2 (15 Aug 2014)

Institutions


Week 3 (18 Aug 2014)

Legal Education & Practice


PART II: CONSTITUTIONAL LAW

This part of the course is primarily concerned with basic constitutional principles and the Constitutional Law of Singapore. It deals with the constitutional history of Singapore, supremacy of the constitution, constitutional amendments, the executive, the legislature, and the judiciary, judicial remedies, fundamental rights, powers against subversion, and emergency powers.

TOPICAL READINGS

Week 4 (25 Aug 2014)

Constitutional Developments & The Written Constitution


Constitutional Interpretation

* Tan & Thio, pp 631–654; 665–689.

Chapter IV, Report of the Constitutional Commission 1954 (Rendel Commission)

Week 5 (1 Sep 2014)

The Legislature

* Tan & Thio, pp 299 (Introduction), 305–311; 323–324 (Nominated MP); 324–331 (Right to Vote); 359–360 (Presidential Council for Minority Rights)
* Vellama d/o Marie Muthu v AG [2012] 4 SLR 698; [2012] SGHC 155
Week 6 (8 Sep 2014)

The Executive

Constitution, Part V, Chapter 1 (President), Chapter 2 (Executive); Chapter VA (Council of Presidential Advisors

Presidential Elections Act (Cap 240A)

1. The Head of State’s Discretionary Powers

Discretionary Powers of the Head of State (Tan & Thio, 338)


2. The Elected President

* Tan & Thio, pp 420–426; 428–430.

* Constitutional Reference No 1 of 1995 [1995] 2 SLR 201 (Tan & Thio, 117)

* ‘I had a job to do’ says ex-President Ong, Asiaweek 10 March 2000 (Tan & Thio, 426).


Week 7 (15 Sep 2014)

The Judiciary


* Tan & Thio, 505–508.

* Liyanage v The Queen [1967] AC 259 (Tan & Thio, 508)

* Hinds v The Queen [1977] AC 195 (Tan & Thio, 512)


* Public Prosecutor v Dato’ Yap Peng [1987] 2 MLJ 311 (Tan & Thio, 522)
2. Jurisdiction of the Courts

Tan & Thio, 539–542.

3. Judicial Review

* Chan Sek Keong, ‘Judicial Review: From Angst to Empathy’ (2010) 22
  * Chan Sek Keong, ‘Judicial Review: From Angst to Empathy’ (2010) 22
  * Chan Sek Keong, ‘Judicial Review: From Angst to Empathy’ (2010) 22

  Singapore Academy of Law Journal 469.

  Marbury v Madison [1802] 1 Cranch 137 (Tan & Thio, 542)

  Dr Bonham's Case [1610] 8 Co Rep 18; [1938] LQR 543 (Tan & Thio, 544)

  Haw Tau Tau [1981] 2 MLJ 49 (Tan & Thio, 544)

4. Doctrine of Prospective Overruling

  Linkletter v Walker 381 US 618 (Tan & Thio 560)

  * Public Prosecutor v Dato’ Yap Peng [1987] 2 MLJ 311 (Tan & Thio, 564)

  * Public Prosecutor v Manogaran s/o R Rama [1997] 1 SLR 22 (Tan & Thio, 565)

5. Supervisory Jurisdiction

  * Abdul Wahab bin Sulaiman v Commandant, Tanglin Detention Barracks
    [1985] 1 MLJ 418 (Tan & Thio 547).

6. Judicial Independence

Tan & Thio, 573–577.


7. Contempt of Court

Week 8 (29 Sep 2014)

Constitutional Interpretation – Focus on Article 9

1. Introduction


2. ‘Life’ and ‘Liberty’

Tan & Thio, 735–737.

* Government of Malaysia v Low Wai Kong [1979] 2 MLJ 29 (Tan & Thio 737)

* Tan Tek Seng v Suruhanjaya Perkhidmatan Pendidikan [1996] 1 MLJ 261 (Tan & Thio 743)

3. ‘In accordance with “Law”’

* Arumugam Pillai v Govt of Malaysia [1975] 2 MLJ 29 (Tan & Thio 747)

* Jabar v PP [1995] 1 SLR 617 (Tan & Thio, 755)

* Ong Ah Chuan v PP [1981] 1 MLJ 64 (Tan & Thio 748)

* Haw Tua Tau v PP [1981] 2 MLJ 49 (Tan & Thio 752)

* PP v Mazlan [1993] 1 SLR 512 (Tan & Thio, 754)

* PP v Nguyen Tuong Van [2004] 2 SLR 328 (HC) (Tan & Thio, 763)

* Nguyen Tuong Van v PP [2005] 1 SLR 103 (CA) (Tan & Thio, 764)

Week 9 (6 Oct 2014)

Seminar 1: Protection Of Life & Liberty (Article 9)

1. Nature & Quantum of Punishment


2. Right to Counsel

Tan & Thio, 814–816.

* Jasbir Singh v PP [1994] 2 SLR 18 (Tan & Thio, 820)
* Balasundaram v PP [1996] 2 SLR 331 (HC) (Tan & Thio, 826)
* Tan Chor Jin v PP [2008] 4 SLR 306 (Tan & Thio, 828)
* Rajeevan Edakalavan v PP [1998] 1 SLR 815 (Tan & Thio, 834)

3. Preventive Detention

Articles 149, 151

Internal Security Act (Cap 143) – focus on ss 8–13 & 74.

Criminal Law (Temporary Provisions) Act (Cap 67)

* Chng Suan Tze v Minister for Home Affairs [1989] 1 MLJ 69 (Tan & Thio, 228)

* Karam Singh v MHED [1969] 2 MLJ 129 (Tan & Thio, 193)

* Lee Mau Seng v Minister for Home Affairs, Singapore & Anor [1971] 2 MLJ 137 (Tan & Thio, 396)

* Teo Soh Lung v Minister for Home Affairs & Ors [1989] 2 MLJ 449 (HC) (Tan & Thio, 256)

* Teo Soh Lung v The Minister for Home Affairs [1990] 2 MLJ 129 (CA) (Tan & Thio, 259)

* Re Tan Boon Liat [1977] 2 MLJ 108 (Tan & Thio, 248)
Week 10 (13 Oct 2014)

Seminar 2: Equality & Equal Protection of the Law

Articles 12 & 16
Tan & Thio, 871–892.

* Datuk Haji bin Harun Idris v PP [1977] 2 MLJ 155 (Tan & Thio, 895)
* Taw Cheng Kong v PP [1998] 1 SLR 943 (HC) (Tan & Thio, 924)
* PP v Taw Cheng Kong [1998] 2 SLR 328 (CA) (Tan & Thio, 929)
Mohamed Emran bin Mohamed Ali v PP [2008] 4 SLR 411 (Tan & Thio, 934)
* Eng Foong Ho & Ors v AG [2008] 3 SLR 437 (Tan & Thio, 937)
* Eng Foong Ho v AG [2009] 2 SLR 542 (Tan & Thio, 940)
* Yong Vui Kong v PP & Anor Matter [2010] 3 SLR 489; [2010] SGCA 20
* Lim Meng Suang & Anor v AG [2013] SGHC 73


Week 11 (20 Oct 2014)

Seminar 3: Constitutional Limits on Free Speech

Article 14

Public Entertainments and Meetings Act (Cap 257)
Films Act (Cap 107) – ss 33 & 35.
Defamation Act (Cap 75)

* Chee Siok Chin v Minister for Home Affairs [2005] 1 SLR 582 (Tan & Thio, 991)

* Chee Soon Juan v PP [2003] 2 SLR 445 (Tan & Thio, 1000)

* JB Jeyaretnam v Lee Kuan Yew [1992] 2 SLR 310 (Tan & Thio, 1001, 1052)

* PP v Koh Seng Huat Benjamin [2005] SGDC 272 (Tan & Thio, 1027)

* PP v Ong Kian Cheong & Anor [2009] SGDC 163 (Tan & Thio, 1028)

* Lee Hsien Loong v Singapore Democratic Party & Ors [2009] 1 SLR 642 (Tan & Thio, 1063, 1069)

* Review Publishing Co Ltd v Lee Hsien Loong [2010] 1 SLR 52 (Tan & Thio, 1080)

Ng Chye Huay v PP [2006] 1 SLR 157 (Tan & Thio, 1139)

PP v Chong Kai Xiong & Ors, Unreported District Court decision (Tan & Thio, 1143)

Week 12 (27 Oct 2014)

Seminar 4: Freedom of Religion

Articles 15, 16, 150(5)(b)(iii), 22I, 152, 153.

Maintenance of Religious Harmony Act (Cap 167A)

Administration of Muslim Law Act (Cap 3)

Wee Chong Jin Commission Report – para 38

Tan & Thio, 1197–1210


* Colin Chan v PP [1994] 3 SLR 662 (Tan & Thio, 1323)

* Colin Chan v MITA [1995] 3 SLR 644 (HC) (Tan & Thio, 1330)

* Colin Chan v MITA [1996] 1 SLR 609 (CA) (Tan & Thio, 1331)
* Nappalli Peter Williams v ITE [1999] 2 SLR 569 (CA) (Tan & Thio, 1252)

* Adelaide Company of Jehovah’s Witnesses [1943] 67 CLR 116 (Tan & Thio, 1332)

* Meor Atiqulrahman bin Ishak v Fatimah bte Sihi [2006] 4 MLJ 605 (Tan & Thio, 1313)

**Reading Week: 3 to 7 November 2014**

**Examination: Week of 10 November 2014**