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

Mode of Assessment: Final Exam - 100% (Open Book) [16 November 2011]
SYLLABUS & READING LIST

PRESIGNED 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 these four books will be reproduced. They are, however, readily available at the Law Library.

PART I: THE SINGAPORE LEGAL SYSTEM

TOPICAL READINGS

Week 1

Sources Of Law


SYLLABUS & READING LIST

Week 2

Institutions


Week 3

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

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

The Legislature

* Tan & Thio, pp 299 (Introduction), 305–311; 323–324 (Nominated MP); 324–331 (Right to Vote).
Week 6

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 in an Emergency (Tan & Thio, 338)

   * Teh Cheng Poh v Public Prosecutor (Tan & Thio, 390)

   * Lee Mau Seng v Minister for Home Affairs, Singapore & Anor (Tan & Thio, 396)


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

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
   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)
   IC Golaknath v State of Punjab AIR 1967 SC 1643 (Tan & Thio, 562)
   * Public Prosecutor v Dato’ Yap Peng [1987] 2 MLJ 311 (Tan & Thio, 564)

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

Fundamental Liberties I – Protection Of Life & Liberty (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)

* 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)

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

* 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)
SYLLABUS & READING LIST

4. Nature & Quantum of Punishment


5. 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)

6. Preventive Detention

Articles 149, 151

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

Criminal Law (Temporary Provisions) Act (Cap 67)

* 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)

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

* 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 9

Fundamental Liberties II – Protection Against Retrospective Criminal Laws & Equality

1. Retrospective Criminal Law & Punishment

Article 11

Fan Yew Teng v PP [1975] 2 MLJ 235 (Tan & Thio, 856)

Teh Cheng Poh v PP [1979] 2 MLJ 238 (Tan & Thio, 856)

Sau Soo Kim v PP [1975] 2 MLJ 134 (Tan & Thio, 858)

Jamali bin Adnan v PP [1986] 1 MLJ 163 (Tan & Thio, 860)

Mohamed Yusoff bin Samadi v AG [1975] 1 MLJ 1 (Tan & Thio, 862)

PP v Musa [1970] 1 MLJ 101 (Tan & Thio, 864)

Yeap Hock Seng v Minister for Home Affairs, Malaysia & Ors [1975] 2 MLJ 279 (Tan & Thio, 864)

Nadarajan v Timbalan Menteri Hal Ehwal Dalam Negeri Malaysia [1994] 2 MLJ 657 (Tan & Thio, 865)

Harry Lee Wee v Law Society of Singapore [1985] 1 MLJ 1 (Tan & Thio, 867)

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)

* Malaysian Bar v Government of Malaysia [1987] 2 MLJ 165 (Tan & Thio, 912)

* 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
**SYLLABUS & READING LIST**


**Week 10**

**Fundamental Liberties III – Freedom of Speech, Assembly, Association & Religion**

**1. Constitutional Limits on Free Speech – Political 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)
3. Freedom of Religion

Articles 15, 16, 150(5)(b)(iii), 221, 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 Atiqlrahman bin Ishak v Fatimah bte Sihi [2006] 4 MLJ 605 (Tan & Thio, 1313)