

CONTEMPORARY ISSUES IN PUBLIC LAW LITIGATION



09 January 2019 (Wednesday)

**NUS Law (Bukit Timah Campus)
Block B Level 3, Seminar Room SR3**

Convenors: Kevin Tan / Swati Jhaveri

ABOUT THE CONFERENCE

This conference brings together academics and practitioners to discuss contemporary issues in public law litigation. This is an under-explored area in Singapore public law and one that is ripe for discussion. The amount of public law litigation has grown in recent years and applicants have sought to bring a broad range of issues before the courts. These cases have highlighted a number of questions that the speakers at the Conference will address: access to courts (threshold for leave; requirements for standing; the role of ouster clauses in legislation); the suitability of existing court processes to manage this stream of litigation; substantive doctrine used by the courts to assess these claims (the scope of judicial review; the range of grounds of judicial review; constitutional rationales for judicial review); the use of public law doctrine in new and evolving contexts; and discussions of strategies in public law litigation.

REGISTRATION

This event is complimentary but seats are limited. Kindly register at <https://nus.edu/2rn70Li> or scan the QR code.

Closing Date: 27 Dec 2018 (Thu)



Public CPD Points: 5
Practice Area: Others
Training Level: General

For any enquiries, e-mail us at rescle@nus.edu.sg or contact Ms Alexandra Chan at Tel: +65 6516 7499

PROGRAMME SCHEDULE

8.30 AM – 9.00 AM	: Registration
9.00 AM – 9.10 AM	: Welcome Address
Kevin Tan and Swati Jhaveri (NUS Law)	
9.10 AM – 10.20 AM	: Panel 1 – Mapping Public Law – Theories and Doctrine
Chairperson: Thio Li-ann (NUS Law)	
The Theoretical Foundations of Judicial Review: Unpacking The Ultra Vires Debate Through a Legal Theoretical Perspective and Examining Its Implications for Singapore Kenny Chng (SMU Law)	
Mapping Grounds of Judicial Review in Administrative Law: Translating Doctrine to Practice Swati Jhaveri (NUS Law)	
Q&A	
10.20 AM – 10.50 AM	: Refreshment Break
10.50 AM – 12.20 PM	: Panel 2 – Access to Public Law Litigation
Chairperson: Eugene Tan (SMU Law)	
The Ouster of Ouster Clauses: The Ins and Outs of the Principles Regulating the Scope of Judicial Review in Singapore Thio Li-ann (NUS Law)	
A Place to Stand to Move the Earth: Standing and the Rule of Law Jack Tsen-Ta Lee (Singapore Academy of Law)	
The Law on Standing in Singapore: Time to Take a Back Seat? Benjamin Joshua Ong (SMU Law)	
Q&A	
Group Photo	
12.20 PM – 1.30 PM	: Lunch
1.30 PM – 3.00 PM	: Panel 3 – Procedural Issues in Public Law Litigation
Chairperson: Benjamin Joshua Ong (SMU Law)	
Procedural Innovations and Substantive Justice in Public Law Litigation Aurill Kam (Legal Clinic LLC)	
Costs in Constitutional Adjudication: Patterns and Problems Kevin Tan (NUS Law)	
The Role of Judicial Oversight in the Criminal Investigation and Trial Process N Sreenivasan (Straits Law LLC)	
Q&A	

3.00 PM – 3.20 PM	: Refreshment Break
3.20 PM – 4.50 PM	: Panel 4 – Frontiers in the Use of Administrative Law
<p>Chairperson: Swati Jhaveri (NUS Law)</p> <p>Towards a Digital Government: Reflections on Automated Decision-Making and the Principles of Administrative Justice Choon Kuen Hui (Attorney-General’s Chambers, AGC Academy) (with Makoto Hong, Attorney-General’s Chambers)</p> <p>Embracing Public Law Litigation: Shield or Sword in the Use of Administrative Law by Corporate Entities in Singapore? Eugene Tan (SMU Law)</p> <p>The Application of Administrative Law Principles in Contract Law: The Case for Convergence Calvin Liang (Essex Court Chambers Duxton)</p> <p>Q&A</p>	
4.50 PM – 6.20 PM	: Panel 5 – Strategies in Public Law Litigation
<p>Chairperson: Kevin Tan (NUS Law)</p> <p>Access to Justice in Public Law Litigation: The Role of Lawyers Peter Low (Peter Low & Choo LLC)</p> <p>Strategies in Public Law Litigation Remy Choo (Peter Low & Choo LLC)</p> <p>Litigation Strategy in Criminal and Public Law Advocacy Amidst Changing Judicial Philosophy Eugene Thuraisingam (Eugene Thuraisingam LLC)</p> <p>Q&A</p>	
6.20 PM – 6.40 PM	: Closing Address
<p>Kevin Tan and Swati Jhaveri (NUS Law)</p>	
6.40 PM	: End of Conference



Public CPD Points: 5
Practice Area: Others
Training Level: General

Participants who wish to obtain CPD Points are reminded that they must comply strictly with the Attendance Policy set out in the CPD Guidelines. For this activity, this includes signing in on arrival and signing out at the conclusion of the activity in the manner required by the organiser, and not being absent from the entire activity for more than 15 minutes. Participants who do not comply with the Attendance Policy will not be able to obtain CPD Points for attending the activity. Please refer to <http://www.sileCPDcentre.sg> for more information.

Biography of Speakers

	<p>Kenny Chng Wei Yao is an Assistant Professor of Law at the Singapore Management University (“SMU”). His main areas of interest are in Legal Theory, Public Law, the Conflict of Laws, and Contract Law. Kenny pursued his undergraduate legal education at the SMU School of Law. In 2012, Kenny graduated from SMU with an LL.B. (summa cum laude). In July 2016, Kenny was appointed as a Lecturer of Law in SMU and was awarded the MOE-START Overseas Postgraduate Scholarship. Under this scholarship, he pursued LL.M. studies at Harvard Law School, graduating in 2018. At Harvard, he received the Dean’s Scholar Prize for Public Law Workshop as the top student for the course. Kenny has published in leading international and local academic journals in his areas of interest. Going forward, he intends to pursue a research agenda focusing on the intersection of legal theory and public law. Kenny has taught both Contract Law and Business Law at SMU. In recognition of his excellence in teaching, he was awarded the Dean’s Teaching Excellence Award AY16/17.</p>
	<p>Remy Choo is a trial and appellate advocate who regularly appears at all levels of the Singapore Courts, including the Court of Appeal. Remy was the first Singaporean lawyer to be named the International Bar Association’s Outstanding Young Lawyer of the Year in 2016, an award that recognizes “excellence in work and achievements and a commitment to professional and ethical standards”. Asian Legal Business’ 2017 “40 Lawyers Under 40” rankings cites him as a “litigation expert”. Remy has acted in cases involving novel points of law across several practice areas, including <i>AG v Ting Choon Meng</i> [2017] SGCA 6 on statutory interpretation, <i>Lim Meng Suang v. Attorney-General</i> [2015] 1 SLR 26 on Article 12 of the Constitution, <i>Chong Chin Fook v Solomon Alliance Management Pte Ltd</i> [2017] SGCA 5 on derivative actions and <i>Jardine Lloyd Thompson v. Howden Insurance Brokers</i> [2015] SGHC 202 on springboard injunctions. He has also represented individuals charged under the Sedition Act, Contempt of Court and criminal defamation and speaks internationally on constitutional law in Singapore. Remy is actively involved in the Singapore Law Society and serves as the Co-Chair of the Young Lawyers’ Committee.</p>
	<p>Hui Choon Kuen is presently the Deputy Chief Counsel (Advisory) of the Civil Division, Attorney-General’s Chambers (AGC) and the Dean of the AGC Academy. Prior to his current appointments, he has served in a wide range of Government legal positions, including Director (Legal) of the Ministry of Defence and the Ministry of Manpower, Deputy Chief Prosecutor, AGC, District Judge of the then- Subordinate Courts and Assistant Registrar of the Supreme Court.</p> <p>Co-author</p> <p>Makoto Hong is a State Counsel at the Legislation Division, Attorney-General’s Chambers (AGC) and an Associate Fellow of the AGC Academy. He also serves as an adjunct faculty member at the SMU School of Law and has published in the area of public law.</p>



Swati Jhaveri joined NUS Law in August 2012. She teaches the Law of Torts and Constitutional & Administrative Law. She previously taught at the Chinese University of Hong Kong (CUHK) Faculty of Law. Her areas of research are comparative constitutional and administrative law, with a focus on the latter. She has published in these areas in *Public Law*, the *Tort Law Review*, *Singapore Journal of Legal Studies*, *Asian Journal of Comparative Law*, *Federal Law Review* and the *International Journal of Constitutional Law*. She obtained her Bachelor of Arts in Jurisprudence (First Class Honours) and Bachelor of Civil Law (Distinction) from the University of Oxford. She previously practiced law at Allen & Overy, specialising in international commercial arbitration. She is a Solicitor of the High Court of the Hong Kong SAR and England & Wales and is a Member of the Chartered Institute of Arbitrators. She was awarded the Faculty and University's Annual Teaching Excellence Awards for three consecutive years and has been placed on the University Honour Roll for Teaching Excellence.



Aurill Kam is a senior litigator with significant private practice and public sector experience. She has acted in a wide range of complex civil commercial, regulatory enforcement, investigative and public law matters. She has also argued cases involving significant questions of law at both first instance and appellate stages. Aurill started her litigation practice with Rajah & Tann in 1992, made partner in 1996 and headed its Banking & Financial Services Litigation Practice from 1999 to 2002. She was headhunted to join the Monetary Authority of Singapore in 2002 as MAS' first Director of Enforcement and later served as the Head of its Market & Business Conduct Department. Aurill returned to Rajah & Tann in 2007 to establish and co-lead its Appeals & Issues Practice until 2012. She spent a second stint in public service as Deputy Chief Counsel (Litigation) at the Attorney - General's Chambers (Civil Division) from 2012 to September 2017, where she had responsibilities for AGC's civil litigation function. Aurill returned to private practice in February 2018 as Director with Legal Clinic LLC.



Jack Tsen-Ta Lee is the Deputy Research Director of the Singapore Academy of Law, supporting the Academy's Law Reform Committee. He graduated from the National University of Singapore in 1995 and qualified as an advocate and solicitor of the Supreme Court of Singapore the following year. After practising for about six years as a litigator with a Singapore law firm, he took up postgraduate studies at University College London on a British Chevening Scholarship and was conferred an LL.M. in 2003. Subsequently, he embarked on Ph.D. studies at the University of Birmingham in the United Kingdom, and successfully defended his thesis on the interpretation and construction of bills of rights in 2012. Jack was an Assistant Professor of Law with the School of Law, Singapore Management University, from 2008 to 2017, during which time he held a 2009–2010 Lee Foundation Fellowship for Research Excellence, and received the School of Law's Most Promising Teacher Award 2010–2011. He has research interests in constitutional and administrative law, media law, and heritage law. He is a member of the National Collection Advisory Panel of the National Heritage Board (since 2013); a member of the International Council on Monuments and Sites (ICOMOS) Singapore, and an expert member of the ICOMOS International Scientific Committee on Legal, Administrative and Financial Issues (ICLAFI) (since 2016); and President of the Singapore Heritage Society (since 2017).



Calvin Liang is a lawyer at Essex Court Chambers Duxton (Singapore Group Practice). His areas of expertise are commercial and white-collar criminal disputes, and regulatory matters. Before joining private practice, he was a Justices' Law Clerk and Assistant Registrar. As lead counsel, Calvin has obtained a search order for one of the world's largest ship owners, and defended a business owner in a corruption case involving novel points of law. In the latter case, the High Court commended his "detailed and well-researched submissions". He has also successfully acted in leading cases before the Court of Appeal on Mareva injunctions, forum non conveniens, shareholder's rights, and the doctrine of abuse of process. In the area of white-collar crime, Calvin has acted for the finance manager of a megachurch in one of Singapore's longest-running criminal breach of trust cases. Calvin has taught Constitutional and Administrative Law at the National University of Singapore and the Singapore Management University. An article he co-authored in this area was cited with approval by the Court of Appeal. He maintains a keen interest in this area.



Peter Low is the founder of Peter Low & Choo LLC. He first started his law career as State Counsel and Deputy Public Prosecutor before moving into private practice. Peter has approximately 40 years of experience handling complex civil, commercial, criminal and matrimonial litigation. Peter was also the President of the Law Society of Singapore in 1991 between 1993 to 1994. Peter is renowned locally and internationally as a human rights lawyer and fearless public interest litigator. Peter's expertise in public interest litigation dates back to the late 1980s, since the time of the so-called "Marxist Conspiracy". Apart from lawyering, Peter takes a keen interest in human rights advocacy. Peter is one of the founding members of MARUAH, Singapore's leading human rights NGO. Through MARUAH, Peter actively engages in forums and speaks on Rule of Law and human rights issues locally and in the region. Being at the forefront of law-making, Peter is regularly invited to share his views on novel points of law, as a panellist at academic conferences involving constitutional law, administrative law, defamation and contempt of court. Peter also believes in giving back to society and in sharing his knowledge with the legal community and the public alike. Peter is frequently invited to speak at workshops conducted by and for non-legally trained professionals. He is also often consulted by local and foreign media for his professional opinion on the legal aspects of current affairs as well as developments in the legal profession.



Benjamin Joshua Ong is an Assistant Professor of Law at the Singapore Management University. He graduated from the University of Oxford with the degrees of Bachelor of Arts (Jurisprudence) (First Class Honours) and Bachelor of Civil Law. In 2017, Benjamin was awarded the Singapore Teaching and Academic Research Talent (START) Early Career Award and called to the Singapore Bar. Benjamin is currently working on research into various foundational topics in Singaporean constitutional and administrative law, such as the nature of judicial review on substantive grounds.



N Sreenivasan SC is the Managing Partner of K&L Gates Straits Law. Sreeni's father was an interpreter in the High Court and at the Police Courts. Growing up on legal anecdotes, his inherently aggressive nature and a steadfast resolution to stand for what he believes in, made a career in the law inevitable. He is passionate in his client's cause, subject only to the advocate's overriding duty to the court. Sreeni enjoys trial work, in particular cross examination. He loves doing cases involving technical and accounting matters and expert evidence, where court craft can be enjoyed at its best. He has been very active as an advocacy trainer and has previously chaired the Advocacy Committee of the Law Society. Sreeni's ability as an advocate and his standing as a litigator saw him admitted to the ranks of Senior Counsel of the Supreme Court of Singapore in 2013. Sreeni is a Fellow of the Singapore Institute of Arbitrators and a Fellow of the Chartered Institute of Arbitrators. Sreeni has given expert evidence on Singapore law in overseas jurisdictions and has been recognised in international publications. Sreeni currently serves as a member of the board of the Singapore Business Federation Foundation and the Audit committee of the Singapore Red Cross. He was a member of the Steering Committee for Enhanced Criminal Legal Aid and a member of the Law Society's Pro Bono and Learning Services Management Committee.



Kevin YL Tan specializes in Constitutional and Administrative Law, International Law and International Human Rights. He graduated with an LLB (Hons) from the Faculty of Law at the National University of Singapore and holds an LLM and JSD from the Yale Law School. He currently holds Adjunct Professorships at the Faculty of Law, National University of Singapore (NUS) as well as at the S Rajaratnam School of International Studies, Nanyang Technological University (NTU) where he teaches constitutional law, international law and international human rights. He has published widely in his areas of specialization and has written and edited over 40 books on the law, history and politics of Singapore. Kevin has been on the editorial board of several leading legal journals. From 1998-2000, he was also Chief Editor of the Singapore Journal of International and Comparative Law and from 2000-2003 was the journal's Adjunct Editor. He was also Editor-in-Chief of the Asian Yearbook of International Law (2010-2018) and has, since 2016 been Executive Editor of the Asian Journal of Comparative Law (since 2016). He also serves on the Editorial Board member of the Korean Journal of International and Comparative Law (since 2013). Kevin also serves on the Board of Governors of the Human Rights Resource Centre (HRRC).



Eugene K B Tan is associate professor of law at the School of Law, Singapore Management University. An advocate and solicitor of the Supreme Court of Singapore, Eugene is a graduate of the National University of Singapore, the London School of Economics and Political Science, and Stanford University where he was a Fulbright Fellow. His inter-disciplinary research interests include the mutual interaction of law and public policy, the regulation of ethnic conflict, and governance and public ethics. He has published in these areas in various edited volumes and internationally-refereed journals such as Asian Journal of Business Ethics, Australian Journal of Asian Law, The China Quarterly, Citizenship Studies, Ethnic and Racial Studies, Ethnopolitics, Hong Kong Law Journal, Israel Law Review, Journal of Asian Business, Law and Policy, Singapore Law Review, Singapore Year Book of International Law, Terrorism and Political Violence, Yonsei Law Journal, Journal of Church and State, and Singapore Journal of Legal Studies.



Thio Li-ann, Ph.D. (Cambridge); LL.M (Harvard); BA (Hons) (Oxford) is Provost Chair Professor at NUS Law Faculty where she teaches and has published widely in the fields of public international law, human rights law, constitutional and administrative law. She is a Barrister (Gray's Inn), was a Nominated Member of Parliament (2007-2009) and Senior Advisor to the Ministry of Foreign Affairs (2011-2017). She is currently Chief Editor, Singapore Journal of Legal Studies and Advisory Board Member of the Max Planck Encyclopaedia of Comparative Constitutional Law, University of Bologna Law Review, and City University of Hong Kong Law Review. She was formerly General Editor of the Asian Yearbook of International Law, Chief Editor, Singapore Journal of International & Comparative Law and Editor, International Journal of Constitutional Law. She is Editor (with Kevin YL Tan) of the Constitutionalism in Asia series (Hart Publishing) and is on the editorial board of the Journal of East Asia and International Law, National Taiwan University Law Review. She has taught courses at the law faculties of Hong Kong University and the University of Melbourne and has been ranked an NUS Excellent Teacher twice. A prolific scholar, she has published more than 100 law review articles/book chapters and several books. Her sole authored monographs include *Managing Babel: The International Legal Protection of Minorities in the Twentieth Century* (The Hague: Brill, 2005) and *A Treatise on Singapore Constitutional Law* (Singapore: Academy Publishing, 2012). She has also authored *Constitutionalism in Asia* (with Kevin YL Tan, Wen-Chen Chang, Juinn-rong Yeh, Oxford; Hart Publishing, 2014); *Constitutional Law in Malaysia and Singapore* (with Kevin YL Tan, LexisNexis, 2010) and *The Evolution of a Revolution: 40 Years of the Singapore Constitution* (Li-ann Thio & Kevin YL Tan eds, Routledge, 2009). In 2004, she received the NUS Young Researcher Award.



Eugene Thuraisingam studied at the Anglo-Chinese School. He read law at the National University of Singapore when he was placed on the final year Deans List with a good Second Upper Bachelor's Degree in Law. He commenced practice at Allen & Gledhill, a prestigious Singapore firm in June 2001 and quickly rose through the ranks to be made a partner of the firm in January 2007. He then joined Stamford Law Corporation, a leading Corporate Firm in 2009 as a Director and was one of the pioneers of its Dispute Resolution Department until he left to set up his own practice. He is known to be a fiery advocate with a penchant for fighting for justice. A "strong-willed and determined litigator" is how some clients describe him. Others praise his strategic approach to positioning a case for settlement, when the appropriate circumstances arise. Eugene has represented clients in the Court of Appeal of Singapore, the High Court of Singapore and at various Arbitration Tribunals where he has argued all manner of Criminal and Commercial Disputes. In 2018, Eugene was named a Leading Lawyer in Dispute Resolution & Litigation by Asialaw.

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