



# KWA GEOK CHOO DISTINGUISHED VISITOR LECTURE

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## THE FUTURE OF THE SEPARATION OF POWERS

By  
**PROFESSOR MARK TUSHNET, HARVARD LAW SCHOOL**  
CHAIRPERSON: MR V K RAJAH, SC



**THURSDAY, 20 SEPTEMBER 2018**

**6:45PM TO 8:00PM**

**AUDITORIUM, NUS LAW (BUKIT TIMAH CAMPUS)**

### ABSTRACT

This lecture focuses on a fourth branch of government, consisting of a group of institutions whose function, as described in the Constitution of South Africa, is the protection of constitutional democracy. Among these institutions are electoral commissions, anti-corruption agencies, and constitutional courts. As a shorthand, I call these institutions IPDs. The lecture begins by describing how the fourth branch fits into the overall scheme of separation of powers. By contrasting institutions for protecting democracy with the administrative bureaucracy, it then analyzes the branch's emergence as a separate branch of government. What institutions are plausible candidates for inclusion in the fourth branch? Are central banks and environmental protection agencies such candidates? The lecture then describes the characteristics of the institutions within the fourth branch, focusing on questions of institutional design such as specialization, qualifications for appointment, appointment mechanisms, and tenure, and concludes with some speculations about the future of the fourth branch.

### SPEAKER

Mark Tushnet is William Nelson Cromwell Professor of Law at Harvard Law School. He received his undergraduate degree magna cum laude from Harvard College in 1967 and a J.D. and M.A. in history from Yale University in 1971. He clerked for Judge George Edwards and Justice Thurgood Marshall before beginning to teach at the University of Wisconsin Law School in 1973. In 1981, he moved to the Georgetown University Law Center and in 2006 to Harvard Law School. He has been a visiting professor at the University of Texas, University of Southern California, University of Chicago, Columbia University, New York University, and Harvard law schools.

Professor Tushnet is the co-author of four casebooks, including the most widely used casebook on constitutional law, *Constitutional Law* (with Stone, Seidman, and Sunstein). He has written more than a dozen books, including a two-volume work on the life of Justice Thurgood Marshall, *A Court Divided: The Rehnquist Court and the Future of Constitutional Law*, *Weak Courts, Strong Rights: Judicial Review and Social Welfare Rights in Comparative Constitutional Law*, and *Why the Constitution Matters*, and edited eight others. He has received fellowships from the Rockefeller Humanities Program, the Woodrow Wilson International Center for Scholars, and the John Simon Guggenheim Memorial Foundation, and has written numerous articles on constitutional law and legal history. He was President of the Association of American Law Schools in 2003. In 2002, he was elected a fellow of the American Academy of Arts and Sciences.

Please register at

<https://mysurvey.nus.edu.sg/EFM/se/543BE5C27F6E342C>

Closing Date for Registration: 14 September 2018 (Friday)

For enquiries, please contact Ms Poova at 6516 3644 or clemail@nus.edu.sg

### Programme

05:45pm to 06:45pm	Registration
06:45pm to 07:45pm	Distinguished Lecture
07:45pm to 08:00pm	Q&A Session
08:00pm	Dinner Reception

### Registration Fees

Category	Fees
Public	S\$74.90
NUS Law Staff and Students	Complimentary

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**Practice Area: Government**  
**Training Level: Foundation**

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