

THE SINGAPORE LEGAL SYSTEM EDITED BY KEVIN YL TAN (2ND EDITION)
[Singapore: Singapore University Press 1999. xxx + 531 (including index)
Hardcover: [\$125] (inclusive of GST); Softcover: [\$75] (inclusive of GST)]

THE volume currently under review is the second edition of a book edited by Walter Woon ten years ago. In the preface to the first edition the then editor stated that the book was primarily conceived as a “teaching tool for the Singapore Legal System course taught by the Faculty of Law at the National University of Singapore”. He added that: “the book has also been written with a view to assisting other persons who may be interested in the legal system”. This implies that the book, or rather the various contributions thereto, were written with two quite distinct, and not always compatible, points of view. This dichotomy of view point is retained by the present editor. This raises the question of from which perspective should the reviewer approach his task. Now the suitability of the book as a teaching tool for the first year students in the Faculty of Law at the National University of Singapore depends entirely upon the curriculum of the course for which the book was written, and this can only adequately be assessed by somebody within the system. *Faute de mieux*, therefore, I approach this review from the perspective of an outsider.

This edition, like its predecessor, is a collection of chapters (fourteen in this edition) each written by a different contributor (although in this edition three of the contributors contribute two chapters each). This format has advantages and disadvantages. The advantage is that a greater degree of expertise can be brought to bear upon each topic. The disadvantages are inevitable variations in style and the possibility that some matters may, as it were, drop between the cracks, together with the possibility of overlapping. Lord Acton, writing in the Introduction to the Cambridge Modern History, expressed the hope that the reader would not know when one contributor laid down his pen and another picked it up. Lord Acton did not succeed in achieving this in the Cambridge Modern History and it may be doubted whether any editor of a collaborative work has ever achieved it. Skillful editing may reduce omissions and overlap, but differences in style remain intractable.

So far as this edition is concerned the editor seems to have successfully covered most of his bases, as it were. The only overlapping I detected was some slight overlap between the editor’s “Short Legal and Constitutional History of Singapore” and Walter Woon’s “Applicability of English Law in Singapore”. This, however, amounted to little more than the inevitable re-statement of facts to avoid cumbersome referencing to and fro from one chapter to another.

Turning to the individual chapters, two of the fourteen, namely the first and the last, need to be separated from the remaining twelve because, as the editor of the second edition explains, they were specially commissioned for this edition to enlarge the scope of the first edition: “by situating Singapore’s legal system within a much broader and wider framework”. He adds: “I hope these chapters will help readers appreciate the complexities of legal pluralism, legal culture and the impact of international legal developments on our municipal legal system”.

The remaining twelve chapters, in the order in which they appear, are “A Short Legal and Constitutional History of Singapore”, “The Constitutional Framework

of Powers”, “Parliament and the Making of Law in Singapore”, “Law and the Administrative State”, “The Applicability of English Law in Singapore”, “Jurisdiction of the Singapore Courts”, “The Doctrine of Judicial Precedent”, “Educating the Thinking Lawyer: The Past Present and Future of University Legal Education in Singapore”, “The Structure of the Legal Profession”, “Duties and Privileges of Advocates and Solicitors”, “The ADR Movement in Singapore” and “Provision of Legal Aid in Singapore”.

Every reviewer will have his own views as to the suitability of each chapter for inclusion and of regretability over the absence of others. My own choice for the nomination of the chapter I most missed would be a chapter on legal pluralism as a vital aspect of the Singapore legal system. It may, of course, be argued that since the enactment of the Women’s Charter and the Administration of Muslim Law Act the application of personal systems of law is of much diminished importance in Singapore and that in any case the matter is touched upon in Mr Bell’s first chapter – of which more anon. Nevertheless, the Administration of Muslim Law Act justifies treatment in its own right, as indeed does the fact that that Act, and its predecessors, to a large extent merely regulates a practice which the courts of the Straits Settlements had already established. That the common law, as administered in the Straits Settlements, and subsequently in Singapore, was itself capable of recognising and applying personal systems of law is surely worthy of note.

Of the twelve chapters themselves they are all lucid and, to the external reviewer, appear to be comprehensive accounts of their subjects. They are interesting and, to the reader who seeks an understanding of the structure of the Singapore legal system, informative. One very minor point: Is “The Applicability of English Law in Singapore” now an appropriate title for chapter 6? “The Influence of English Law” would perhaps be more appropriate, for since the passing of the Application of English Law Act, whatever the position may have been previously, it is surely no longer true to say that English law *applies* in Singapore. English law has had an influence on Singapore law, both historically through the operation of the doctrine of reception and on a continuing basis as the *fons et origo* of what Mr Bell (in chapter 1) would refer to the common law tradition, but it surely has no application as such in Singapore today.

Many readers will welcome the addition to this edition of a chapter on alternative dispute resolution. This subject has now become a significant aspect of most legal systems though still omitted from most overviews.

Turning to the first and last chapters specially commissioned for this edition with the object of situating Singapore’s legal system within a broader and wider framework, the first bears the rather quaint title of “The Singapore Legal System in Context – Wither the Concept of a National Legal System?” The first thing about this chapter which is puzzling is its position. Is a chapter in which Mr Bell struggles with the concept of a national legal system really suitable to open a book intended to expound the Singapore legal system? Would not Professor Tan’s chapter “A Short Legal and Constitutional History of Singapore” be more appropriate as an *apéritif*. This chapter also presents a problem in that Mr Bell makes such heavy weather – for his chapter is very erudite – over a number of largely sensible distinctions. Thus his discussion of the difference between a legal system and a legal tradition articulates a distinction which is useful for the analysis of many legal systems but which is especially relevant in the case of a legal system like that of Singapore with its history of reception and its experience of legal pluralism. He tries, however, to marry this distinction to his never very clearly defined concept of a national legal system, which at times seems to be related to a legal system as seen through the eyes of a positivist of one sort or another. The result is something of a *mésalliance*.

Mr Bell's problem is probably partly due to the fact that the chapter is too short to enable him fully to develop all of the many ideas he has tried to cram in. Nevertheless his conclusion is admirable. He writes: "It is important to know well one's own legal system but we in Singapore no longer can afford to stop at that – we depend too heavily on regional and international trade to remain unaware of the legal systems and cultures of our neighbours and trade partners". As a pragmatic plea for the study of Comparative Law this is fine, although it is difficult to see how it follows from the preceding argument, and it is, moreover, a curious conclusion to the opening chapter of a book devoted to an exposition of the Singapore legal system.

The final chapter "The Singapore Legal System and International Law" by Simon SC Tay is more conventional and is both informative and instructive. Mr Tay refers to, but does not elaborate upon, the concept of "Asian values". One may hope that in the next edition he will allow himself (or that his editor will allow him) to expand a little on this topic which is such a significant feature of the attitude of Singapore to human rights. Appended to the chapter is a valuable table of significant treaties to which the Republic of Singapore has acceded indicating the legislation, if any, by which the treaty to implemented.

The book is beautifully produced by the University Singapore Press, although it is worthy of note that, according to the imprint, the typography, layout, cover design and photograph were by the editor. Quite an achievement! I noticed only one misprint, towards the bottom of page 232 and a curious error in the Table of Statutes whereby two United Kingdom Orders in Council have been added at the end of the list of Malaysian legislation.

All in all this edition provides the outside reader with an excellent introduction to the Singapore legal system. If it is as successful as a teaching tool for first year students undertaking the Singapore Legal System course then they have been well served.

GW BARTHOLOMEW