

## BOOK REVIEW

*Criminal Law in Malaysia and Singapore* BY STANLEY YEO, NEIL MORGAN AND CHAN WING CHEONG [Singapore: LexisNexis, 2007. lxxvi + 930pp. Softcover: S\$ 299]

This is a book that will probably be greeted with both relief and jubilation by criminal law practitioners, academics, students and scholars on both sides of the causeway. It is a book that can truly be said to have been long overdue — for more than 18 years to be exact, since the publication in 1989 of that seminal work of the same name (with text and materials), by KL Koh, CMV Clarkson and NA Morgan. Judging from the 2004 reprint of that book (fondly referred to by students as the “red book”), there certainly was a need for a good text book on the criminal law of Malaysia and Singapore. Indeed, it is surprising that no such book was written earlier. As the authors point out in their preface, “criminal law has always been the mainstay of the law school curriculum” and there has certainly been no dearth of scholarship in criminal law in Malaysia and Singapore.

The long wait, however, has certainly been well worth it. The authors, all well known criminal law scholars, have obviously toiled long and hard to produce a very readable and comprehensive, if somewhat massive, account on all aspects of criminal liability under the Penal Codes of Malaysia and Singapore. What is most remarkable about the book is that it represents an almost complete commentary on the criminal law as provided in the Penal Codes. A useful analysis of the historical developments and theoretical perspectives of offences and defences in each chapter provides a better understanding of the provisions of the Codes. Where possible, the authors have also referred to other statutes which provide for similar offences, or extend those provided under the Penal Codes.

The 930 pages of the book contain 38 chapters, with a different principal author for each chapter of the book. The authors have done well to recognise that there can be no complete understanding of criminal liability without an appreciation of the history and structure of the Penal Codes, principles of interpretation of the Codes and the doctrine of binding precedent, which in turn requires knowledge of the hierarchy of the courts system. These have been dealt with in Chapter 1 of the book. This chapter also briefly examines the concept of crime from a jurisprudential view point. Again, Chapter 2 gives an equally clear and concise account of the criminal process (with the surprise omission of the trial process), a subject often ignored in criminal law commentaries. This is often considered procedural and evidentiary

law and out of place in a discussion of substantive criminal law. In dealing with these briefly in Chapter 2, the authors have quite rightly taken the view that a good understanding of the criminal process and basic evidentiary rules makes for a better grasp of the reported criminal law cases and principles of criminal liability. Chapter 2 also deals with the basic theories of punishment and sentencing options. For the sake of completeness, the authors should perhaps have included a comment on the dominant sentencing principles that have been upheld by the Malaysian and Singapore courts.

Chapters 3 to 7 deal with the physical elements of crimes, fault elements of crimes and causation. Chapters 8 to 10 deal with Homicide: Structure, Principles and Punishment, Culpable Homicide and Murder, and Other Homicide Offences and Homicide Law Reform. Chapters 11 and 12 discuss non-fatal offences against the person, and Chapters 13 to 15 examine property offences, including criminal misappropriation, cheating and criminal breach of trust, extortion, robbery and burglary. Students and practitioners will find these chapters particularly useful as these have been somewhat ignored in recent years by local writers of case books and materials, at least in Singapore.

Chapters 16 to 33 provide an overview of criminal defences under the Penal Code and the general and special defences of mistake, accident, consent, private defence, exceeding the right of private defence, duress, necessity, unsoundness of mind, intoxication, automatism, diminished responsibility, infancy, provocation, sudden fight, infanticide and slight harm and the relatively unknown offence of protection of public servants. These chapters are a revised version of the book *Criminal Defences in Malaysia and Singapore* written by Stanley Yeo in 2005.

Chapters 34 to 36 are devoted to an examination of the inchoate offences of abetment and criminal conspiracy and to joint liability and attempts. Chapter 37 contains a useful discussion of corporate criminal liability, an increasingly important topic in criminal law, especially in the consideration of corporate or white-collar crime. Although the authors make the point that the law in this regard “has closely followed the developments of English common law”, they have omitted to mention the latest developments in the United Kingdom leading to the enactment of the Corporate Manslaughter and Corporate Homicide Act.

Many of the chapters contain the authors’ views on law reforms and may be of particular interest to academics, scholars and legislators. In addition, there are general proposals for reform of the Penal Codes in the final Chapter 38. This is based on a lecture delivered by Stanley Yeo to the Singapore Academy of Law in April 2004. Yeo’s central thesis, which was equally controversial at the time it was first articulated, is that with the passage of time the Penal Code has ceased to be a “good code”. He, therefore, suggests that the best way to “significantly revitalize” the Code is to insert a General Part, in accordance with the re-codification efforts in Australia and Canada. The magnificence of the Penal Code is that it has stood the test of time in many countries for the last 150 years. This is because it is regarded as a remarkable codification of fundamental principles of criminal responsibility which are relevant in any age and at any time. Around it has grown a body of case law, which has over the years helped to explain its provisions. To bring about major changes to the Code in the manner that Yeo suggests may lead to its ultimate destruction.

Finally, this is an admirable work and, as observed by the Honourable Chief Justice in his foreword to the book, “will stand out as the most authoritative work on the criminal law of Malaysia and Singapore for many years to come”.

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