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REVIEW ESSAY

NEGOTIATING THE ANTINOMIES OF THE SINGAPORE CONSTITUTIONAL ORDER

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Li-ann Thio and Kevin Y.L. Tan, eds., *Evolution of a Revolution: Forty Years of the Singapore Constitution* (New York: Routledge-Cavendish, 2009. xxxi + 369 pp. Hardback: US$160) (Oxford, United Kingdom: Routledge-Cavendish, 2010. 408 pp. Paperback: S$42)

I. INTRODUCTION: THE ANTINOMIES OF THE SINGAPORE CONSTITUTIONAL ORDER

The curious case of the Singapore constitutional order continues to confound political and legal theorists alike. On paper, the constitutional framework appears straightforward enough. There is a written Constitution.[1] The *Constitution* provides that it is the "supreme law of the Republic of Singapore", and that any law enacted after its commencement which is inconsistent with the *Constitution* "shall, to the extent of the inconsistency, be void".[2] Part IV of the *Constitution*, entitled "Fundamental Liberties", may be approximated to a written bill of rights. Finally, the *Constitution* provides for the familiar three branches of government—the executive, the legislature and the judiciary—after the normal understanding of the theory of separation of powers.

However, the broad strokes of the tableau I have just sketched belie the complex antinomies that reside within the Singapore constitutional order. In the last year alone, several developments took place that would have challenged explanation on the basis of established constitutional theory. In early 2009, the government prepared to draw down on Singapore's past reserves for the first time ever, in response to the burgeoning financial crisis. Speaking in Parliament, Finance Minister Tharman Shanmugaratnam detailed the process of seeking the President's approval for the drawdown, and characterised the Singapore system as one that "relies on trust in the individuals who are in charge".[3] In May 2009, Prime Minister Lee Hsien Loong

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1 *Constitution of the Republic of Singapore* (1999 Rev. Ed. Sing.) [*the Constitution*].

2 *The Constitution*, art. 4.

3 Jeremy Au Yong, "Government details steps leading to President's OK" *The Straits Times* (Singapore) (6 February 2009).

proposed further changes to the Singapore system of parliamentary democracy that would have the effect of—among other things—diluting the presence of the ruling party in Parliament.[4] Here, it seems, the government acts as much to restrain its own power as it does to institute constitutional changes that would seem to shore it up. There is little appetite for a strong culture of judicial review despite the written bill of rights, and the preferred mode for working out constitutional differences is dialogue and accommodation over adversarial litigation.[5]

Evolution of a Revolution: Forty Years of the Singapore Constitution,[6] a collection of ten essays edited by Li-ann Thio and Kevin Y.L. Tan, systematically documents and foregrounds these complexities. Published more than a decade after the last extended scholarly work on Singapore constitutional law[7]—edited, incidentally, also by Thio and Tan—the collection traverses the past, present and future of the *Constitution*. It includes contributions on the 1966 Wee Chong Jin Constitutional Commission,[8] the development of institutions,[9] the debate between natural law theory and legal positivism in the context of a written constitution,[10] the use of foreign judicial decisions in constitutional adjudication,[11] constitutional supremacy,[12] the protection of rights,[13] minority rights,[14] special powers against subversion,[15] the state of local constitutional scholarship,[16] and the idea and practice of "constitutionalism" in the Singapore context.[17]

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4 Jeremy Au Yong, "Vivian: Changes to safeguard nation's future—not PAP's" *The Straits Times* (Singapore) (29 May 2009).

5 Two notable examples are the third *White Paper on The Principles for Determining and Safeguarding the Accumulated Reserves of the Government and the Fifth Schedule Statutory Boards and Government Companies*, Cmd. 5 of 1999 (2 July 1999), cited in Jaclyn Ling-Chien Neo and Yvonne C.L. Lee, "Constitutional supremacy: Still a little dicey?" [*Constitutional Supremacy*] in Li-ann Thio & Kevin Y.L. Tan, eds., *Evolution of a Revolution: Forty Years of the Singapore Constitution* (Abingdon; New York: Routledge-Cavendish, 2009) 153-192 at 161 [*Evolution of a Revolution*], and the government's handling of the 2002 incident in which a number of female primary school students were expelled for wearing the *tudung* (Muslim headscarf) to a national school, cited in Jaclyn Ling-Chien Neo, "The protection of minorities and the Constitution: A judicious balance?" in Thio & Tan, *Evolution of a Revolution*, *ibid*., 234-259 at 243 [*Protection of Minorities*].

6 Thio & Tan, *Evolution of a Revolution*, *ibid*.

7 Kevin Y.L. Tan & Thio Li-ann, *Tan, Yeo and Lee's Constitutional Law in Malaysia and Singapore*, 2nd ed. (Singapore: Butterworths Asia, 1997).

8 Li-ann Thio, "The passage of a generation: Revisiting the report of the 1966 Constitutional Commission" in Thio & Tan, *Evolution of a Revolution*, *supra* note 5, 7-49 [*The Passage of a Generation*].

9 Kevin Y.L. Tan, "State and institution building through the Singapore Constitution 1965-2005", in Thio & Tan, *Evolution of a Revolution*, *supra* note 5, 50-78 [*State and Institution Building*].

10 Tan Seow Hon, "Constitutional jurisprudence: Beyond supreme law—a law higher still?" in Thio & Tan, *Evolution of a Revolution*, *supra* note 5, 80-113 [*Constitutional Jurisprudence*].

11 Arun K. Thiruvengadam, "Comparative law and constitutional interpretation in Singapore: Insights from constitutional theory", in Thio & Tan, *Evolution of a Revolution*, *supra* note 5, 114-152 [*Comparative Law*].

12 Neo and Lee, *Constitutional Supremacy*, *supra* note 5.

13 Li-ann Thio, "Protecting rights", in Thio & Tan, *Evolution of a Revolution*, *supra* note 5, 193-233 [*Protecting Rights*].

14 Neo, *Protection of Minorities*, *supra* note 5.

15 Michael Hor, "Constitutionalism and subversion: An exploration", in Thio & Tan, *Evolution of a Revolution*, *supra* note 5, 260-287 [*Constitutionalism and Subversion*].

16 Kevin Y.L. Tan, "Writing the Constitution: Forty years of constitutional scholarship", in Thio & Tan, *Evolution of a Revolution*, *supra* note 5, 288-322 [*Writing the Constitution*].

17 Li-ann Thio, "In search of the Singapore Constitution: Retrospect and prospect", in Thio & Tan, *Evolution of a Revolution*, *supra* note 5, 323-360 [*In Search of the Singapore Constitution*].

As Tan points out in his Introduction, this collection is "the first collaborative effort by a group of Singapore constitutional law scholars".[18] Using the sustained metaphor of a quiet revolution, beginning with separation from the Federation of Malaysia in 1965, the singular contribution of this collection lies in its effort to aggregate and critically evaluate the changes—textual, jurisprudential or otherwise—that have taken place in the Singapore constitutional milieu since independence.

II. Past as Prologue

If past is prologue, then one must, as they say, begin at the beginning.[19] Thio's first contribution to this collection, which is also its opening essay, does precisely that.[20] Thio sets the stage for the rest of the collection by juxtaposing the post-1965 "evolution" of the Singapore *Constitution* against the "revolution" of the collection's title: Singapore's exit from the Federation of Malaysia in 1965. In a pragmatic turn which was to characterise many of the changes to take place over the next 40 years, this "accidental nation" was wrought through a series of rough-and-ready legislative acts,[21] in contrast to the grand populist gesture of the Indian Constituent Assembly, and had to make do with a "renovated" version of the Singapore State Constitution of 1963.[22] This paradoxical "non-beginning" is a theme that is also explored by Jaclyn Ling-Chien Neo and Yvonne C.L. Lee in relation to the doctrine of constitutional supremacy as it operates in Singapore.[23]

Using the recommendations of the 1966 Wee Chong Jin Constitutional Commission as her starting point, Thio's thesis is that an "early faith in constitutionalism",[24] understood in the Madisonian sense, has given way to a more "syncretic faith in constitutionalism and good government, in tandem with the importance of having good men and good governance, predicated upon Asian particularities".[25] Her writing identifies at least three stages in this evolution.

In the first stage, with the trauma of separation still fresh in the collective memory of the newly-minted sovereign State, the immediate concern was to guarantee racial equality through constitutional processes, while guarding against the possibility that Communist elements might abuse the same processes to realise an "Asian Cuba" in the new State.[26] Thio discusses the Commission's report in considerable detail, noting each of its proposals, as well as the response to those proposals by the government of the day. In particular, Thio's treatment of the report identifies the political philosophy and theoretical orientation underlying the proposals that were made: the principles of secularity, multiracialism and democracy.[27] As she observes, "[t]his

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18 Kevin Y.L. Tan, "Introduction: Time for a revolution", in Thio & Tan, *Evolution of a Revolution*, *supra* note 5, 1-6 at 2.

19 Thus, at least, saith the King in Lewis Carroll's *Alice's Adventures in Wonderland* (1865).

20 Thio, *The Passage of a Generation*, *supra* note 8.

21 *Ibid*. at 7.

22 *Ibid.*

23 See further text accompanying *infra* note 42 *et. seq*.

24 Thio, *The Passage of a Generation*, *supra* note 8 at 8.

25 *Ibid*. at 48.

26 *Ibid*. at 8.

27 *Ibid*. at 12-13.

is the 'Spirit' behind the 'Law' and imparting constitutional status to such principles is a method of reflecting and communicating fundamental values to the polity, what Berman calls 'the legal emotions, legal passions' constituting the 'religious dimension of law" '.[28]

In the second stage, which coincided with the waning of the Communist threat and the emergence of the idea that a dominant-party State had acquired some permanence, a turn toward autochthony manifested itself in a series of experimental variations on the Commonwealth constitutional model bequeathed to Singapore by Whitehall.[29] During this time, amendments to Part VI of the *Constitution* modified the "one-man, one-vote, one-constituency" premise of the Westminster system by instituting the Group Representation Constituency ("GRC"), and providing for non-elected Members of Parliament by way of the Non-Constituency Member of Parliament ("NCMP") and Nominated Member of Parliament ("NMP") schemes.

In the third stage, the idea that faith in good governance alone may no longer be enough culminated in the most "fundamental modification to our parliamentary system of government"[30] yet. This modification was the amendment to Part V of the *Constitution* that turned the office of the President—hitherto largely a ceremonial one—into the office of the Elected President, with discretionary veto powers over decisions to draw on past reserves and key public service appointments.[31] Yet, the emerging turn to institutions remains tempered by a continuing faith in "the integrity and quality of the people working [the system]", rather than hard-coding political and legal checks into the design of the system itself. Indeed, the ongoing evolution of the Elected Presidency, which the government continues to work out in an iterative process, is a microcosm of the antinomies I describe in Part I of this essay.

To date, these experiments number amongst the most interesting variations on the Westminster model of parliamentary democracy, creating, instead, a "form of managed democracy with Singapore traits".[32] The tensions that Thio identifies in her first essay are developed further in subsequent contributions by Kevin Y.L. Tan, and by Jaclyn Ling-Chien Neo and Yvonne C.L. Lee. In Kevin Y.L. Tan's *State and Institution-Building*, the specific focus is on the development of Singapore's constitutional institutions over the last 40 years. Tan begins by establishing the now-familiar opposition between the Madisonian conception of constitutionalism as a means of limiting state power, and the pragmatic Singaporean conception of the *Constitution* as "a charter of state power and authority which does not threaten the existence of the state nor fetter the Government's ability to govern".[33] Although there is a certain inevitable degree of overlap with the material in Thio's first essay,[34] given

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28 *Ibid.*

29 *Ibid*. at 30-31. These developments are also dealt with elsewhere in the collection in Tan, *State and Institution Building*, *supra* note 9 at 71-76. For more on the Commonwealth constitutional model, see generally William Dale, "The Making and Remaking of Commonwealth Constitutions" (1993) 42 I.C.L.Q. 67.

30 Sing., *Parliamentary Debates*, vol. 56, col. 460 (4 October 1990).

31 Thio, *ibid*. at 44.

32 *Ibid*. at 37.

33 Tan, *State and Institution Building*, *supra* note 9 at 51-52.

34 For example, Tan also deals with the recommendations of the 1966 Wee Chong Jin Constitutional Commission in some detail: see *ibid*. at 56-62.

the need to contextualise subsequent developments against the recommendations of the 1966 Wee Chong Jin Constitutional Commission, Tan does highlight the little-known fact that in 1965, Singapore's political leaders had originally intended that the new State should have a brand new constitution, to be drafted by no less than the Chief Justices of Australia, India and New Zealand.[35]

Given the extent to which the peculiar genesis of the *Constitution* precipitated the development of an equally particularist constitutional ethos, it is interesting to speculate whether the promulgation of an entirely new constitution in 1965 would have made a significant difference to the current state of our constitutional order. This state of affairs is a function of several different variables, including the government's attitude that the *Constitution* should primarily serve a state-building function. As Tan writes, "[t]o the [People's Action Party (PAP)], the Constitution is meant to control bad government and restrict them from harming the people. However, it should never be an impediment to be used against a good government who bore the weight of the people's aspirations and destiny".[36] So, for example, the *Constitution of Singapore (Amendment) Act*[37] was enacted in 1965 to replace the parliamentary majority necessary to effect a constitutional amendment from the two-thirds special majority to a simple majority, precisely in order to create a flexible constitution that would cleave to the needs of a newly-independent developing country.[38]

Even after the special majority amendment procedure was reinstated in 1979,[39] the state-building enterprise continued apace. As Tan points out, this enterprise touched all three branches of government: the judiciary, the executive and the legislature. In Tan's view, many of these changes arose from "the bitter political lessons learnt by the PAP top leadership … during the formative decade of Singapore, from 1955 to 1965".[40] The approach was quite simple: "[c]hanges would be made if they were absolutely necessary to get on with the business of government".[41] As such, to the extent that this attitude is, and continues to be, determinative of concrete outcomes, it seems unlikely that the existence of a "deliberate 'constitutional moment' " at independence would have substantially altered subsequent treatment of the constitutional document.[42]

However, the essay by Neo and Lee takes this speculation in a somewhat different direction, emphasising some of the *conceptual* difficulties with applying the doctrine of constitutional supremacy to the "untidiest and most confusing constitution that any country has started life with".[43] In *Constitutional Supremacy*, Neo and Lee argue that although the *Constitution* formally fulfils the three criteria for supremacy set out by A.V. Dicey, the scope of legislative power in Singapore constitutional

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35 *Ibid*. at 53.
36 *Ibid*. at 55.
37 No. 8 of 1965.
38 *Ibid*.
39 *Ibid*. at 58.
40 *Ibid*. at 76.
41 *Ibid*. at 77.
42 Thio, *The Passage of a Generation*, *supra* note 8 at 7. For the purposes of the present discussion, I acknowledge but leave aside the purely symbolic value of such a "constitutional moment".
43 These are the words of Singapore's first Chief Minister, David Marshall, cited in Tan, *State and Institution Building*, *supra* note 9 at 54.

practice has more in common with the doctrine of parliamentary supremacy in the Westminster vein.[44] They attribute this "diceyness" to the "uneasy relationship between Singapore's formal constitutional framework and its constitutional ethos", which remains "firmly characteristic of parliamentary sovereignty".[45]

In this regard, the thesis advanced by Neo and Lee is somewhat more nuanced—and arguably, more satisfactory—than that of Penna, who argued in 1990 that the *Constitution* satisfied Dicey's three criteria, but left his claim at that. Neo and Lee deal with each of Dicey's requirements for constitutional supremacy in turn. Broadly speaking, these requirements are that the constitution be written, that it is rigid in the sense of being either legally immutable or capable of being amended only by some authority over and above the ordinary legislature, and provision for judicial review.[46] In particular, Neo and Lee recall what has been termed "the *grundnorm* problem" by Andrew Harding: the proposition that "[i]n Singapore…the Constitution could not be said to be a foundational document, in the sense of being the ultimate source which validates the legal system".[47] This is because "Parliament effectively took upon itself the right to determine the content of the new Constitution and established its own plenary competence at the same time".[48] While the Court of Appeal offered an alternative reading of the events of 1965 in *PP v. Taw Cheng Kong*,[49] positing that the Singapore Parliament's passing of the *Republic of Singapore Independence Act*[50] was an exercise of the plenary powers of a sovereign State, this reading nonetheless seeks to cloak that act with the juridical significance of a "deliberate 'constitutional moment' ".[51]

Neo and Lee also point to various other characteristics of Singapore constitutional practice that complicate a straightforward application of the Diceyan criteria for constitutional supremacy. These include the use of non-binding documents such as White Papers to elaborate what appear to be quasi-constitutional principles, in a practice that Neo and Lee analogise to Westminster constitutional conventions,[52] and the relative ease with which the *Constitution* may be amended.[53] In the Singapore context, then, Neo and Lee conclude that "the Diceyan conception of constitutional supremacy is too formalistic in that it focuses too much on the external manifestations of a supreme constitution".[54] Making an important connection between the doctrine of constitutional supremacy and notions of legitimacy, they argue that a responsive constitution—in the sense that it may be "amended and shaped to reflect the aspirations and democratic will of the people"—may command legitimacy where an "overly rigid supreme constitution" does not.[55]

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44 Neo and Lee, *Constitutional Supremacy*, *supra* note 5 at 156.
45 *Ibid*. at 156.
46 *Ibid*. at 154.
47 *Ibid*. at 159.
48 *Ibid*.
49 [1998] 2 Sing. L.R. 410 (C.A.) at 421B, cited in Neo and Lee, *ibid*.
50 No. 9 of 1965.
51 See text accompanying *supra* notes 21 and 42.
52 Neo and Lee, *Constitutional Supremacy*, *supra* note 5 at 160-161.
53 *Ibid*. at 162-169.
54 *Ibid*. at 187.
55 *Ibid.*

III. Tilling the Field: Making Sense of the Singapore Constitutional Enterprise

In this Part, I turn to those contributions in the collection that seek to make sense of the present, providing Singapore lawyers with grist for the constitutional mill, as it were. These range from essays that focus on constitutional interpretation and the role of the judiciary in the Singapore constitutional order, to essays that de-emphasise the idea of strong judicial review in the enterprise of protecting rights, including minority rights, in the Singapore context.

The contributions by Tan Seow Hon and Arun K. Thiruvengadam fall into the first category. In *Constitutional Jurisprudence*, Tan Seow Hon analyses some of the right to life and equal protection case law in the context of the jurisprudential debate between natural law theory and legal positivism.[56] She argues that the adoption of a written constitution with a supremacy clause does not necessarily foreclose resort to a higher law of morality in the enterprise of constitutional interpretation.[57] Citing Honore, Tan Seow Hon's argument, in fact, is that "[r]eference to natural law is mandatory" when interpreting fundamental liberties as enunciated in the constitution, because these may incorporate moral criteria, so that we cannot ignore moral considerations in the interpretive enterprise.[58] Both Article 9(1), on the right to life, and Article 12, on equal protection, are replete with the "essentially contested concepts" that must be interpreted with reference to a higher law. She points out that resort to natural law theory in these circumstances is not to engage in pointless and abstract discourse; rather, "[p]hilosophising has the practical effect of clarifying the interests at stake".[59] Recognising the real dilemma in ascribing the interpretive task to the appropriate authority, she also highlights that there is a "real conceptual distinction between fiat *per se* of a tyrant who acts on his whimsical view of morality, and judgments that take into account higher law".[60] Equally, however, she acknowledges that her argument is not dispositive. To recognise the "metaphysical nature" of the questions at stake in constitutional interpretation is to avert the danger of "practical decisions being made without an awareness of our assumptions and the true nature of the debate".[61]

The particular focus of Thiruvengadam's *Comparative Law* is the use of foreign judicial decisions in constitutional adjudication, which he terms "trans-judicial influence".[62] The aim of this exercise is to draw conclusions about the "foundational interpretive beliefs and choices of Singapore judges in constitutional cases" from their "patterns of engagement" with foreign constitutional cases.[63] Surveying Singapore constitutional jurisprudence in two periods (1965 to 1989 and 1989 to the present), Thiruvengadam argues that the Singapore judiciary adheres to what

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56 Tan, *Constitutional Jurisprudence*, *supra* note 10 at 79.
57 *Ibid*. at 80.
58 *Ibid*. at 100-101.
59 *Ibid*. at 84.
60 *Ibid*. at 100.
61 *Ibid*. at 113.
62 Thiruvengadam, *Comparative Law*, *supra* note 11 at 114.
63 *Ibid*. at 115.

he calls the "National Formalist" model, in contradistinction to the "Cosmopolitan Pragmatist" model.[64]

Under the Nationalist Formalist model, judges "tend to display scepticism towards using foreign judicial decisions in constitutional adjudication, as they consider such comparative materials outside the realm of relevant or legitimate sources of constitutional adjudication".[65] Invoking a concern that Tan Seow Hon foreshadows in her own essay,[66] Thiruvengadam notes that Nationalist Formalist judges "believe the legitimacy of constitutional review hinges upon judges not foisting their subjective value choices through their binding decisions".[67] They therefore seek to limit the remit of judicial discretion through interpretive strategies such as textualism and originalism.[68] Judges of the Cosmopolitan Pragmatist bent, however, perceive the singular function of judges to be that of interpreting the constitution, which itself is "a normative attempt to embody notions of fundamental justice".[69]

He cites a number of specific cases in Singapore constitutional law to support his thesis, adopting a three-pronged categorisation of the ways in which Singapore courts have responded to foreign judicial decisions.[70] Where earlier critiques attributed such responses to mere " 'cherry-picking' of convenient authorities", Thiruvengadam develops this idea by drawing a link between the use of foreign judicial decisions in particular cases and judges' "deeper beliefs about what is a proper approach to constitutional adjudication".[71]

The significance of 1989, of course, is that this year post-dates the Singapore Court of Appeal decision in *Chng Suan Tze v. MHA*.[72] This decision is dealt with in both Thiruvengadam's essay[73] as well as in Michael Hor's *Constitutionalism and Subversion*. In the latter essay, Hor argues that in the Singapore context, Article 149 of the *Constitution*—and its progeny, the *Internal Security Act*[74]—are the conceptual "norm" to the "exception" of the observance of Part IV of the *Constitution* on Fundamental Liberties.[75] Like Tan,[76] Hor identifies a similar opposition between an "empowerment ethic"—the idea that "the *Constitution* exists to give power to the government to do what is necessary or expedient for the good of the country"—and the "limitation ethic", which Hor uses in the same sense as the Madisonian ideal of governmental power limited through the constitution.

What next, then, where there is apparently so little in our constitutional culture by way of a strong judicial role? In *Protecting Rights*, Thio's second contribution, she grapples with the particular question of how the protection of civil liberties, which

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64 *Ibid.* Thiruvengadam points out that Singapore judges are not alone in adhering to the Nationalist Formalist model, since this also characterises the approach of American and Australian judges. He cites India, Canada and South Africa as exemplifying the Cosmopolitan Pragmatist model.

65 *Ibid*. at 125.

66 See text accompanying *supra* note 60.

67 Thiruvengadam, *Comparative Law*, *supra* note 11 at 126.

68 *Ibid.* at 125-126.

69 *Ibid.* at 128.

70 *Ibid.* at 134-151.

71 *Ibid.* at 122-123.

72 [1988] Sing. L.R. 132 (C.A.).

73 Thiruvengadam, *Comparative Law*, *supra* note 11 at 118-121.

74 Cap. 143, 1985 Rev. Ed. Sing.

75 Hor, *Constitutionalism and Subversion*, *supra* note 15 at 260-261.

76 See text accompanying *supra* note 33.

itself is a legal transplant formulated in individualist terms, and the concomitant mechanism of "(potentially) rights-oriented judicial review", pans out in "a non-liberal or communitarian legal-political culture".[77] The same resistance to hard-coding political and legal checks into our constitutional design finds its analogy, in terms of rights protection, in the preference for the "channelling of rights-related concerns through informal means".[78] Engaging in an extensive review of Singapore rights jurisprudence, Thio—like Neo and Lee—also invokes the "largely English and pragmatic" spirit that inhabits our constitutional structure despite its trappings of Madisonian constitutionalism.[79] Jaclyn Ling-Chien Neo takes up the theme of non-judicial means of rights protection in her contribution, *Protection of Minorities*, where she argues that Singapore's system of minority protection incorporates a "political management" approach, under which "the government judiciously balances majority and minority interests in a manner that is seen to be fair and just to the electorate".[80]

IV. The Road Ahead

The closing essays of the collection, Tan's *Writing the Constitution* and Thio's *In Search of the Singapore Constitution*, both reflect on the past and seek to give prognoses for the way ahead. Despite Tan's observation in the opening lines of his essay that "few law students and fewer legal academics will rank Constitutional Law as their favourite subject", one is struck, by the end of his contribution, by just how much literature there is on the topic. The truth is that Singapore constitutional law, precisely because of the singular patterns, experiments and quirks that this collection documents and analyses, makes for fascinating academic study, yielding what Tan rightly calls "a rich and varied tapestry of solid scholarship".[81]

Thio's third and final contribution to this collection is a wide-ranging thematic exploration of the "making, remaking and interpretation of the Singapore Constitution".[82] Returning to the twin metaphors of "evolution" and "revolution" of the collection's title, she argues that "while 'cultural factors' may shape constitutional forms and practices, the constitution as a form of legal technology may also 'reconstitute' culture and in that sense effectuate a constitutional revolution".[83] In other words, the culture-constitution dialectic is precisely that: a two-way process. In terms remarkably similar to (though perhaps somewhat broader than) the oft-quoted description of the Constitution as an "old shoe", which has to be stretched and eased, softened, resoled and repaired,[84] Thio quotes Donald Lutz's characterisation of the constitutional enterprise as "a process rather than a model—a never-ending process that works out, through experience, the changing hopes and needs of the people living under the Constitution".[85]

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77 Thio, *Protecting Rights*, *supra* note 13 at 194-195.
78 *Ibid.* at 196.
79 *Ibid.* at 232-233.
80 Neo, *Protection of Minorities*, *supra* note 14 at 235.
81 Tan, *Writing the Constitution*, *supra* note 16 at 321.
82 Thio, *In Search of the Singapore Constitution*, *supra* note 17 at 323.
83 *Ibid.* at 324.
84 Former Prime Minister and Minister Mentor Lee Kuan Yew, cited in Neo and Lee, *Constitutional Supremacy*, *supra* note 5 at 164.
85 Thio, *In Search of the Singapore Constitution*, *supra* note 17 at 329.

Like the evolution it documents, the overall mood of the collection can be fairly described as ambivalent at best. What it reveals, however, should not be underestimated. First, the collection demonstrates the importance of constitutional ethos: the ideational value of constitutional identity as a function of an autochthonous national identity, including a characteristically Singaporean approach to constitutional law. This, in turn, must be rooted in a proper understanding of our constitutional history, which sheds light on many of the antinomies described in Part I of this essay. Second, these antinomies can be theorised in a logical and coherent manner, so as to encourage the development of an autochthonous brand of constitutionalism without necessarily capitulating to simple relativism. Taking their cue from the closing words of the final essay in this collection, this collection is a basis from which a new generation of Singapore lawyers may begin to negotiate the appropriate "power-justice-culture" balance in a truly autochthonous Singapore constitutional law.