Singapore Journal of Legal Studies
[2017] 299–307

THE IMPACT OF NUS LAW ON THE DEVELOPMENT OF TORT LAW IN SINGAPORE

MARGARET **FORDHAM**[*]

Tan Keng Feng, who died in December 2016, was a member of NUS Faculty of Law for over 30 years until his retirement in 2005. Professor Tan introduced generations of students to Tort Law. This compilation of papers to mark the 60th anniversary of the Law Faculty provides a timely opportunity to pay tribute to our colleague by examining the Faculty's influence (both direct and indirect) on the development of Tort Law in this jurisdiction.

I. INTRODUCTION

Tort Law is the field of civil law which covers the widest array of human activities—at times overlapping with both criminal law and contract law, and offering remedies for wrongs ranging from the intentional invasion of bodily integrity, to negligently-inflicted harm caused to person and property, to nuisances suffered at the hands of thoughtless neighbours. It is also one of the most accessible areas of law. Its rules, frequently grounded in common-sense and societal values, have appealed to generations of students. Moreover, its increasing role in addressing claims of an economic nature indicates the extension of its reach beyond issues of a purely personal nature into the world of business and finance.

Since its inception, NUS Law has engaged with Tort Law in Singapore through its teaching and writing. During the past two and a half decades in particular, the Faculty has both witnessed and influenced the evolution of a distinctive approach in a number of areas. Arguably the most significant of these areas—in terms both of its pre-eminence as a cause of action and the ground-breaking nature of the changes which it has undergone—is the tort of negligence. It is also the tort which our friend and long-time colleague, Tan Keng Feng, found particularly fascinating. In his memory, this paper will examine developments in both negligence and other aspects of Tort Law in recent years, with particular focus on the role of Professor Tan and other Faculty members and alumni in helping to shape these developments.

II. THE EARLY YEARS

When the Faculty of Law was founded in 1957, English law reigned supreme. This was at the tail-end of the colonial period, when lawyers and judges were, almost

[*] Associate Professor, Faculty of Law, National University of Singapore.

without exception, English-educated and trained, leading to the virtually automatic application of English law. Even after Singapore gained first self-rule,[1] then independence,[2] during the first decade of the Faculty's existence, decisions continued in general to focus on English—and occasionally Scottish—case law, supplemented by applicable authorities from Malaysia. This practice continued until the early 1990s, with the majority of decisions applying English law to the given facts in succinct judgments.[3] As a result, during the first few decades of the Faculty's existence, its primary role was to instruct students in law which was largely indistinguishable from that of England. While a number of interesting pieces by Professor Tan and others were published both in Singapore and elsewhere on a range of issues,[4] their influence was generally confined to the academic sphere.

However, change came with the introduction of the *Application of English Law Act*[5] in 1993. The effect of the *AELA*—which implicitly exhorted Singapore courts to distance themselves from their colonial heritage—was to create an environment in which the courts began to look to decisions from elsewhere in the Commonwealth when developing the law of Singapore. The *AELA*'s introduction also coincided with the start of the modern era in which the majority of lawyers, and as a consequence judges, are locally-educated and trained. Since the mid-1990s, therefore, the law has been far more open to development, spearheaded by a judiciary comprising graduates of—and in a number of instances also former academics in—NUS Law Faculty. The changes set in motion by the *AELA* have given rise to a symbiotic relationship in which detailed judgments, applying legal principles from a variety of

---

1 On 1st August 1958, Singapore acquired the status of a self-governing state under the *State of Singapore Act 1958* (UK), (6 & 7 Eliz II, c 59), passed by the British Parliament.

2 On 31st August 1963, Singapore, along with North Borneo and Sarawak, was federated with the existing states of the Federation of Malaya to form the Federation of Malaysia (see the Sabah, Sarawak and Singapore (State Constitutions) Order in Council 1963, SI 1963 No 1493). On 9th August 1965, Singapore left the Federation to become fully independent (see *Independence of Singapore Agreement 1965* (1985 Rev Ed)).

3 See *eg*, the following decisions on Tort Law: *The Prince Line Ltd v Singapore Harbour Board* [1960] MLJ 187 (Sing Office of the Chief Justice), a four-and-a-half-page judgment referring to one English and one Scottish authority; *Chozi v Chitrasenan* [1964] MLJ 367 (Sing Office of the Chief Justice), a three-page judgment referring only to Halsbury's Laws of England; *Kwek How Bok v Lee Sin Kweng* [1965-1967] SLR (R) 135 (HC), a four-page judgment referring to five English authorities; *Kosnan v Phua Huat Choy* [1965-1967] SLR (R) 287 (HC), a two-and-a-half-page judgment referring to one English authority; *Kuok Keet Ling v National Iron & Steel Mills Ltd* [1965-1967] SLR (R) 565 (HC), a two-page judgment referring to one English authority; *Wong Ah Sing v Government of Singapore* [1965-1967] SLR (R) 636 (HC), a two-and-a-half page judgment referring to one English authority, and *Chan Nai Inn v Lim Choi Chay* [1988] 2 SLR (R) 343 (HC), a three-and-a-half-page judgment referring to five English authorities. Most appeals display a similar pattern, as in *Sim Jwee Kiat v City Car Rentals & Tours Pte Ltd* [1990] 2 SLR (R) 110 (CA), a four-page decision referring to six English authorities. Note, however, the occasional exception, as in *Gian Singh & Co Ltd v Banque de L'Indochine* [1971-1973] SLR (R) 273 (CA), a decision which, while at eight pages still comparatively short, nevertheless makes reference to a number of authorities, including one American decision.

4 See *eg*, A J Harding & Tan Keng Feng, "Negligent False Imprisonment—A Problem in the Law of Trespass" (1980) 22 Mal L Rev 29; Tan Keng Feng, "A Misconceived Issue in the Tort of False Imprisonment" (1981) 44:2 Mod L Rev 166; and Stanley Yeo Meng Heong, "The Standard of Care in Medical Negligence Cases" (1983) 25 Mal L Rev 30. For earlier pieces, see too Hamish R Gray, "Liability in Negligence for Words" (1959) 1 Mal L Rev 331; and R J Buxton, "The Negligent Nuisance" (1966) 8 Mal L Rev 1.

5 Cap 7A, 1994 Rev Ed Sing [*AELA*].

jurisdictions, have led to an increase in academic articles analysing and critiquing the development of local law. This, in turn, has led to a climate in which the courts nowadays quite frequently refer to—and on occasion are influenced by—the views of academics.[6]

III. The Influence of the Faculty and its Alumni in Recent Decades

A. *The Test for Establishing the Duty of Care in Negligence*

The single most significant development in Tort Law in Singapore during the past 60 years has without doubt been the adoption of a home-grown test to determine the existence of a duty of care in negligence. The test, formulated in the case of *Spandeck Engineering (S) Pte Ltd v Defence Science & Technology Agency*,[7] was introduced by the Court of Appeal in 2007. Although the judgment in that case was delivered by the then-Chief Justice, Chan Sek Keong, the *Spandeck* test was the brainchild of Andrew Phang. A graduate and former member of NUS Law Faculty, Phang JA (as he now is) had advocated the need for a test which gave greater prominence to considerations of policy—initially, while he was still an academic, in a co-authored article,[8] and soon afterwards, following his appointment to the Supreme Court of Singapore, in the High Court decision in *Sunny Metal & Engineering Pte Ltd v Ng Khim Ming Eric*.[9] It was Phang JA's approach, favouring the then-unfashionable two-stage test with its focus on policy formulated by Lord Wilberforce in *Anns v Merton London Borough Council*,[10] but also drawing on aspects of its successor, the three-part test in *Caparo Industries plc v Dickman*,[11] which was adopted by the Court of Appeal in *Spandeck*. The resultant test comprises proximity and policy considerations, prefaced by a threshold requirement of factual foreseeability, applied (where relevant) incrementally by reference to decided cases.[12]

Spandeck is unique in its rejection of reasonable foreseeability as a part of the test for duty in favour of a threshold inquiry based on factual foreseeability. However, while the Court of Appeal has been unwavering in its preference for factual foreseeability as a threshold requirement, it has acknowledged the views of academics within

---

6 See *eg*, the pieces referred to *infra* at notes 14, 19, 20, 30, 34, 36, 42.

7 [2007] 4 SLR (R) 100 (CA) [*Spandeck*].

8 Andrew Phang, Cheng Lim Saw & Gary Chan, "Of Precedent, Theory and Practice—The Case for a Return to *Anns*" [2006] Sing JLS 1.

9 [2007] 1 SLR (R) 853 (HC) [*Sunny Metal*]. (When hearing the appeal from Phang J's decision, the Court of Appeal left open the question of revisiting the duty test: see *Sunny Metal & Engineering Pte Ltd v Ng Khim Ming Eric* [2007] 3 SLR (R) 782 (CA).)

10 [1978] AC 728 (HL) [*Anns*].

11 [1990] 2 AC 605 (HL) [*Caparo*].

12 In *Spandeck*, Chan CJ regarded the test as being closely aligned with *Anns*, stating that it was "basically a restatement of the two-stage test in *Anns*, tempered by the preliminary requirement of factual foreseeability." (*Spandeck*, *supra* note 7 at para 73) However, both the proximity limb of the test and the preference for incremental development arguably have more in common with *Caparo*, leading one commentator to observe that the *Spandeck* test "may in practice mirror the three-step [*Caparo*] test". (See David Tan, "The Salient Features of Proximity: Examining the *Spandeck* Formulation for Establishing a Duty of Care" [2010] Sing JLS 459 at 464.)

the Faculty who have highlighted the normative function traditionally assumed by reasonable foreseeability, particularly in claims for psychiatric injury. Indeed, in the first duty of care decision to be appealed to the Court of Appeal after *Spandeck*—the psychiatric injury case of *Ngiam Kong Seng v Lim Chiew Hock*[13]—Phang JA examined in some detail the views expressed by one member of the Faculty,[14] and recognised the relevance of reasonable foreseeability, albeit as an aspect of proximity.[15]

The claim in *Spandeck* was for pure economic loss, and on the particular facts the key proximity factors identified by the Court of Appeal were assumption of responsibility by the defendant and reasonable reliance by the claimant. Since then, the Court has been called on to decide a number of cases involving duty scenarios in which other proximity factors have been applied.[16] In this respect, too, the Court has drawn on the views of Faculty members —notably in the case of *Anwar Patrick Adrian v Ng Chong & Hue LLC*,[17] where Phang JA, again delivering the judgment of the Court, referred to and drew on an "insightful"[18] article by two Faculty members, identifying the additional proximity factors of knowledge, control, and vulnerability.[19]

In rehabilitating *Anns* by recognising the key role played by policy in the determination of duty, the Court of Appeal in *Spandeck* referred to the views of a number of academics, prominent among whom was Tan Keng Feng. An admirer of *Anns*, Professor Tan had written an article soon after the *Caparo* test was introduced in which he had criticised aspects of that test.[20] Referring with approval to this article, the Court in *Spandeck* focused in particular on Professor Tan's articulation of the need to set limits on duty where liability may be indeterminate, while at the same time recognising the inherent risk of reaching arbitrary decisions where policy was "the overarching determinant of liability".[21] His view that the law must steer

---

[13] [2008] 3 SLR (R) 674 (CA) [*Ngiam*]. See, too, *Man Mohan Singh s/o Jothirambal Singh v Zurich Insurance (Singapore) Pte Ltd (now known as QBE Insurance (Singapore) Pte Ltd* [2008] 3 SLR (R) 735 (CA) [*Man Mohan Singh*], which also involved a claim for psychiatric injury, and which was decided just after *Ngiam*.

[14] Kumaralingam Amirthalingam, "Refining the Duty of Care in Singapore" (2008) 124 Law Q Rev 42 and "Lord Atkin and the Philosopher's Stone: The Search for a Universal Test for Duty" [2007] Sing JLS 350 at 353.

[15] *Ngiam*, *supra* note 13 at para 104.

[16] See *eg*, *Ngiam*, *ibid*, in which the Court of Appeal applied the '*McLoughlin* proximities', formulated by Lord Wilberforce in *McLoughlin v O'Brian* [1983] 1 AC 410 (HL), to the claim for psychiatric injury.

[17] [2014] 3 SLR 761 (CA) [*Anwar*].

[18] *Ibid* at para 115.

[19] David Tan & Goh Yihan, "The Promise of Universality: The *Spandeck* Formulation Half a Decade on" (2013) 25 Sing Ac LJ 510. The article was cited in *Anwar*, *supra* note 17 at paras 115, 148, 152 and 154. It was subsequently also cited in *AEL v Cheo Yeoh & Associates LLC* [2014] 3 SLR 1231 (HC) at paras 80, 81 and 86-90, *Lim Meng Suang v Attorney-General* [2015] 1 SLR 26 (CA) at para 80, and *Ng Huat Seng v Munib Mohammad Madni* [2016] 4 SLR 373 (HC) at para 85. See too David Tan, "Debunking a Myth: A Rejection of the 'Assumption of Responsibility' Test for Duty of Care" (2014) 22 Torts Law Journal 183, cited in *Nava Bharat (Singapore) Pte Ltd v Straits Law Practice LLC* [2015] SGHC 146 at para 543.

[20] Tan Keng Feng, "The Three-Part Test: Yet Another Test of Duty in Negligence" (1989) 31 Mal L Rev 223 [Tan, "The Three-Part Test"].

[21] *Spandeck*, *supra* note 7 at para 84.

a middle-ground between "pure principle-based decisions and pure policy-based decisions"[22] permeates the subsequent jurisprudence on duty of care.[23]

B. *Medical Negligence*

The other area of negligence in which major developments have taken place in recent years is the field of medical negligence, in which respect the views of Faculty members have been influential in two major decisions by the Court of Appeal.

ACB v Thomson Medical Pte Ltd[24] concerned the question of whether a duty of care was owed in a case involving a claim for the cost or raising a child who was born following a negligent IVF procedure in which the claimant had been implanted with an embryo fertilised with the sperm not of her husband but of an unnamed third party. At trial level, the claim failed, and the claimant appealed. At the hearing before the Court of Appeal, a former member of the Faculty appeared as *amicus curiae*,[25] and included in his submission the arguments made in an article written by one of his former Faculty colleagues for allowing the appeal.[26] After a period of deliberation, the Court of Appeal—in another judgment delivered by Phang JA—awarded damages for "loss of genetic affinity".[27] In its judgment, the Court expressed "deep appreciation" for the assistance of the *amicus curiae*, whose submissions it described as "comprehensive, elegantly expressed and lucidly organised",[28] and whose "excellent advocacy" it commended.[29] The judgment also referred with approval both to the article on which the *amicus curiae* had relied, and to a piece written by another member of the Faculty, focusing on the significance of patient autonomy in the determination of claims for medical negligence.[30]

In *Hii Chii Kok v Ooi Peng Jin London Lucien*,[31] the negligence claim involved issues arising from diagnosis and treatment, as well as the advice given by the defendant doctor about the risks associated with the relevant medical procedure. The aspect of the case relating to the advice raised the question of whether a finding of negligence in such circumstances should be determined by reference to the risks which a 'reasonable doctor' would have considered appropriate to disclose or those which a 'reasonable patient' would have wished to be disclosed. At trial level, the High Court was bound by a decision of the Court of Appeal some years earlier to apply the reasonable doctor approach.[32] However, on appeal the Court of Appeal

---

22 Tan, "The Three-Part Test", *supra* note 20 at 228.

23 See *eg*, *Ngiam*, *supra* note 13, *Animal Concerns Research & Education Society v Tan Boon Kwee* [2011] 2 SLR 146 (CA) [*Animal Concerns*]; and *Anwar*, *supra* note 17.

24 [2017] 1 SLR 918 (CA) [*ACB*].

25 Goh Yihan.

26 Margaret Fordham, "An IVF Baby and a Catastrophic Error—Actions for Wrongful Conception and Wrongful Birth Revisited in Singapore" [2015] Sing JLS 232 [Fordham, "Catastrophic Error"].

27 *ACB*, *supra* note 24 at paras 125-135.

28 *Ibid* at para 17.

29 *Ibid* at para 212.

30 See Fordham, "Catastrophic Error", *supra* note 26, referred to by the Court of Appeal in *ACB*, *ibid* at paras 41, 108 and 136, and Kumaralingam Amirthalingam, "Causation and the Gist of Negligence" [2005] Cambridge LJ 32, referred to by the Court of Appeal in *ACB*, *ibid* at paras 114 and 148.

31 [2017] SGCA 38 [*Hii Chii Kok*].

32 See the decision of Chan Seng Onn J in *Hii Chii Kok v Ooi Peng Jin London Lucien* [2016] 2 SLR 544 (HC), acknowledging that the court was bound by *Khoo James v Gunapathy d/o Muniandy* [2002]

favoured the reasonable patient approach, which had already been adopted in most other Commonwealth jurisdictions (including, comparatively recently, the United Kingdom).[33] This approach was founded on the recognition of patient rights in general and patient autonomy in particular, and in reaching its decision the Court of Appeal cited with approval another article by the same Faculty member whose views on patient autonomy had influenced the Court of Appeal in *ACB*.[34]

C. *Harassment*

Outside the field of negligence, the most notable development to have taken place in Tort Law in recent years is the introduction of legislation to protect against harassment—a course of action which had been advocated by a number of current and former members of the Faculty following the recognition of the common law tort of harassment in *Malcomson Nicholas Hugh Bertram v Naresh Kumar Mehta* in 2001.[35] Writing immediately after the decision in *Malcomson*, Tan Keng Feng observed: "my own academic inclination is to opt for a statutory route to define what constitutes intentional harassment",[36] and twelve years later, in *AXA Insurance Singapore Pte Ltd v Chandran s/o Natesan*,[37] Choo Han Teck J—another member of the judiciary who was formerly a member of NUS Law Faculty—similarly favoured a legislative solution, and indeed doubted whether the common law tort of harassment existed in Singapore at all.[38] In the same year, 2013, a conference on the subject of harassment in Singapore[39] was organised by the Institute of Policy Studies. In his opening speech, the Minister of Law, K Shanmugam (a graduate of the Faculty), suggested that it would be useful to look at standalone legislation on harassment in other jurisdictions.[40] Presentations were made by a wide range of contributors, including members of the Faculty,[41] one of whom subsequently wrote a comprehensive

---

1 SLR (R) 1024 (CA) [*Gunapathy*]. The Court of Appeal in *Gunapathy* applied the test formulated in *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582 (QBD), which had been extended to cover disclosure of risks in *Sidaway v Board of Governors of the Bethlem Royal Hospital and the Maudsley Hospital* [1985] AC 871 (HL).

[33] *Montgomery v Lanarkshire Health Board* [2015] 1 AC 1430 (SC) [*Montgomery*]. See, too, *Reibl v Hughes* [1980] 2 SCR 880 and *Rogers v Whitaker* (1992) 175 CLR 479 (HCA) for the position in Canada and Australia. (Note that in *Hii Chii Kok*, *supra* note 31, the Court of Appeal concluded that, even under a reasonable patient approach, the defendant doctor was not liable.)

[34] Kumaralingam Amirthalingam, "Medical Negligence and Patient Autonomy: *Bolam* Rules in Singapore and Malaysia—Revisited" (2015) 27 Sing Ac LJ 666, referred to in *Hii Chii Kok*, *supra* note 31 at paras 73, 80 and 111.

[35] [2001] 3 SLR (R) 379 (HC) [*Malcomson*].

[36] Tan Keng Feng, "Harassment and Intentional Tort of Negligence" (2002) Sing JLS 642 at 646.

[37] [2013] 4 SLR 545 (HC) [*AXA*].

[38] In *AXA*, *ibid*, Choo J was concerned that since courts are not subject to the process of accountability, they should exercise restraint when making law. Given that harassment was essentially a new tort, he concluded that it should be for Parliament to determine its content and parameters (*ibid* at paras 9, 10).

[39] "Harassment in Singapore: Realities, Conundrums and Approaches Moving Ahead", 18 November 2013. For a report on the conference, see Sim Jui Liang, *Report on Conference on Harassment in Singapore: Realities, Conundrums and Approaches Moving Ahead*, online: Lee Kuan Yew School of Public Policy <https://lkyspp.nus.edu.sg/ips/wp-content/uploads/sites/2/2013/12/Conference-Harassment-in-Singapore_report-updated.pdf>.

[40] See *ibid* at 2.

[41] Goh Yihan, who made a presentation on sexual harassment and stalking, and Tan Cheng Han, who made a presentation on cyber-bullying.

article about the then-current law in which he, too, advocated legislative intervention.[42] In 2014, the *Protection from Harassment Act*[43] was enacted. In addition to introducing a number of criminal offences, the *PHA*—which was designed to provide better protection to the victims of harassment through more cohesive provisions—created a statutory tort granting the right to seek damages for the violation of various provisions.[44]

D. *Other Contributions by the Faculty to the Development of Tort Law in Singapore*

A number of former members of the Faculty are, or have been, members of the judiciary, in which capacity they have delivered judgments on various aspects of Tort Law. Reference has already been made to Phang JA,[45] who has to date decided over fifty torts cases, and whose seminal decisions have been instrumental in developing the duty of care in of negligence,[46] and Choo J,[47] who has decided more than thirty torts cases, including several relating to negligence, nuisance and other property-related torts.[48] In addition, a former Dean of the Faculty, Tan Lee Meng SJ, decided around two dozen torts cases during his judicial career, and was a member of the Court of Appeal in the key medical negligence case of *Gunapathy* in 2002.[49] And

---

[42] Goh Yihan, "The Case for Legislating Harassment in Singapore" (2014) 26 Sing Ac LJ 68. The author concluded that there were, from a legal perspective, sufficient grounds to consider that the tort of harassment still existed in Singapore (*ibid* at para 31)—both because the High Court did not have the power to overrule its own decisions, and because the Court of Appeal in the case of *Tee Yok Kiat v Pang Min Seng* [2013] SGCA 9 had already indirectly acknowledged the existence of the tort of harassment in Singapore. The author was, however, of the opinion that the existing protection (both at common law and under piecemeal statutory provisions) offered uncertain or incomplete remedies, and for this reason argued for the consideration of general blanket legislation (*ibid* at para 71). In a postscript to the piece, he noted that, just prior to it going to print, the *Protection from Harassment Bill* had been introduced in Parliament.

[43] Cap 256A, 2015 Rev Ed Sing [*PHA*].

[44] For a detailed comment on the legislation, see Goh Yihan & Yip Man, "The Protection from Harassment Act 2014" (2014) 26 Sing Ac LJ 700. The statutory tort is found in *PHA*, *ibid*, s 11. It creates civil actions for the crimes covered by the *PHA*, ss 3 and 4 (causing harassment, alarm or distress), s 5 (fear or provocation of violence) and s 7 (unlawful stalking). The *PHA* has been used extensively in the criminal context, but the breadth of the civil action—particularly in terms of its possible overlap with trespass to the person—has yet to be clarified. Notably, though, in *Ting Choon Meng v Attorney-General* [2016] 1 SLR 1248 (HC), See Kee Oon JC refused a claim in tort for harassment which had been brought not by an individual, but by the Ministry of Defence, on the basis that the Ministry was "not capable of being affected emotionally or psychologically" by the statement complained of, and that it was "difficult to see how its interests more generally were compromised" (*ibid* at para 56).

[45] *Supra*, text at notes 7, 13, 17 and 27.

[46] See *eg*, *Spandeck*, *supra* note 7; *Ngiam*, *supra* note 13; *Man Mohan Singh*, *supra* note 13; *Anwar*, *supra* note 17 and *Animal Concerns*, *supra* note 23.

[47] *Supra*, text at note 38.

[48] See *eg*, *Tesa Tape Asia Pacific Pte Ltd v Wing Seng Logistics Pte Ltd* [2006] 3 SLR (R) 116 (HC) (which involved the duty of care in negligence, *res ipsa loquitur*, private nuisance and the rule in *Rylands v Fletcher* (1868) LR 3 HL 330); *Sim Chiang Lee v Lee Hock Chuan* [2003] 1 SLR (R) 122 (HC) (which involved negligence and the rule in *Rylands v Fletcher*); *Epolar System Enterprise Pte Ltd v Lee Hock Chuan* [2002] 2 SLR (R) 1025 (HC) (which involved negligence and private nuisance); and *Paul Patrick Baragwanath v Republic of Singapore Yacht Club* [2016] 1 SLR 1295 (HC) (which involved trespass to land).

[49] *Gunapathy*, *supra* note 32.

George Wei J, a more recent appointment to the judiciary who is also a former member of the Faculty, has to date decided ten torts cases, about half of which have concerned actions brought under defamation and the economic torts,[50] with the balance focusing on aspects of negligence.[51]

Members of the Faculty have also been called on from time to time to make recommendations to committees examining specific areas of Tort Law. Thus, for example, in 2000 Professor Tan was invited to make submissions to the Law Reform Committee on Liability for Negligently Inflicted Psychiatric Illness, with particular reference to the question of whether legislative reform was required. He concluded that it was not,[52] and the law has since been left to develop without parliamentary intervention. Moreover, in a number of cases, works by Faculty members have been referred to by the courts in order to confirm or clarify existing law.[53]

---

[50] See *eg*, *Golden Season Pte Ltd v Kairos Singapore Holdings Pte Ltd* [2015] 2 SLR 751 (HC) (which involved defamation and passing off); *Invenpro (M) Sdn Bhd v JCS Automation Pte Ltd* [2014] 2 SLR 1045 (HC) (which involved breach of confidence and defamation); *Ramesh s/o Krishnan v AXA Life Insurance Singapore Pte Ltd* [2015] 4 SLR 1 (HC) (which involved defamation and malicious falsehood, as well as issues of negligence); *Park Regis Hospitality Management Sdn Bhd v British Malayan Trustees Ltd* [2014] 1 SLR 1175 (HC) (which involved inducement of breach of contract); and *Allergan Inc v Ferlandz Nutra Pte Ltd* [2016] 4 SLR 919 (HC) (which involved malicious falsehood and passing off).

[51] See *eg*, *AmFraser Securities Pte Ltd v Goh Chengyu* [2016] SGHC 278 (which involved the duty of care); *Chen Qiangshi v Hong Fei CDY Construction Pte Ltd* [2014] SGHC 177 (which involved the duty of care, breach of duty and contributory negligence); *Cristian Priwisata Yacob v Wibowo Boediono* [2017] SGHC 8 [*Cristian Priwisata Yacob*] (which involved the duty of care, breach of duty, causation, and contributory negligence); and *AYW v AYX* [2016] 1 SLR 1183 (HC) (which involved the duty of care).

[52] Tan Keng Feng, *Discussion Paper on Liability for Negligently Inflicted Psychiatric Illness* (Singapore: The Law Reform Committee of Singapore Academy of Law, 22 August 2000), online: Singaporelawwatch <http://www.singaporelawwatch.sg/legal/lgl/html/freeaccess/lrcr/psychiatric_illness.pdf>. After a detailed analysis of the then-current law, Professor Tan concluded that legislative reform at that time might have "interrupted the proper development of the law on an incremental case-by-case basis" and might also have given rise to "legislative recovery in certain areas of psychiatric illness that could, on implementation, prove to be more generous than envisaged." (*Ibid* at 11). See, too, Professor Tan's earlier views on the report of the English Law Commission in Tan Keng Feng, "Liability for Psychiatric Illness—The English Law Commission" (1999) 7 Tort L Rev 165. Both works were subsequently referred to extensively by the Court of Appeal in *Ngiam*, *supra* note 13 (see *eg*, paras 39, 74).

[53] See *eg*, the High Court decision in *ACB v Thomson Medical Pte Ltd* [2015] 2 SLR 218 (HC), in which Choo J in the High Court referred to Margaret Fordham, "Blessing or Burden? Recent Developments in Actions for Wrongful Conception and Wrongful Birth in the UK and Australia" [2004] Sing JLS 462; *Asnah bte Ab Rahman v Li Jianlin* [2016] 2 SLR 944 (CA) at para 116, in which Chao Hick Tin JA, delivering the majority judgment in the Court of Appeal, referred to Margaret Fordham, "Contributory Negligence and the Disabled Claimant" [2013] Sing JLS 192; and *Cristian Priwisata Yacob*, *supra* note 51 at para 259, in which George Wei J in the High Court referred (in the context of professional negligence) to Tan Yock Lin, *The Law of Advocates and Solicitors in Singapore and West Malaysia*, 2d ed (Singapore: Butterworths Asia, 1998). For a decision in the related field of medical ethics referring to the work of a Faculty member, see too *Pang Ah San v Singapore Medical Council* [2014] 1 SLR 1094 (HC), in which V K Rajah JA, delivering the judgment of the High Court in an appeal against the finding of the Disciplinary Committee of the Singapore Medical Council, referred to Tracey Evans Chan, "Legal and Regulatory Responses to Innovative Treatment" (2013) 21:1 Med L Rev 92.

IV. Conclusion

Although the Faculty's role in the development of Tort Law in Singapore during the first decades of its life was relatively limited, its influence since then—and particularly in the decades following the *AELA*—has been far more extensive. This influence can be seen in a number of ways, the most pervasive, if indirect, being that the majority of contemporary lawyers and judges (as well as a number of politicians) are graduates of the Faculty. More directly, erstwhile Faculty members have gone on to become judges, in which capacity they have framed—and in some cases quite dramatically changed—the law. Moreover, through their academic writing, past and current members of the Faculty have influenced both judicial decision-making and legislative developments.

The Faculty's influence in the realm of Tort Law owes much to Tan Keng Feng, whose teaching and writing had a profound influence on several generations of lawyers, and who would have been delighted to have participated in this celebration of our achievements. While his absence is a source of sadness, there is comfort in the knowledge that his legacy lives on.