

Data Protection Law in Singapore: Privacy and Sovereignty in an Interconnected World (Second Edition) BY SIMON CHESTERMAN, ed [Singapore: Academy Publishing, 2018. lvii + 587 pp. Paperback: SG\$64.20]

The second edition of *Data Protection Law in Singapore*, edited by Professor Simon Chesterman, is a much-anticipated update to the authoritative text on data protection law in Singapore. This second edition builds on the strengths of the first, combining a focus on practical issues with theoretical and comparative analyses. The book offers a broad spectrum of perspectives by bringing together a wide range of authors including law academics, data protection regulators and legal practitioners.

The *Personal Data Protection Act 2012* (No 26 of 2012, Sing) [*PDPA*] was passed by Parliament in 2012. The first edition of this book was published in 2014, which was the year in which the *PDPA* fully commenced. Four years have since passed, and in the interim between the first and second editions of this book, Singapore data protection law had been far from static. Indeed, significant developments have taken place since the provisions of the *PDPA* fully came into force. First, the Personal Data Protection Commission (“PDPC”) has been tireless in fulfilling its statutory mandate as Singapore’s data protection authority, by actively enforcing the obligations of the *PDPA* against errant organisations, releasing a substantial volume of infringement decisions in the process. Second, as Minister for Communications and Information S Iswaran noted in the Foreword of the book, the *PDPA* is presently undergoing a review, in order for Singapore to “keep abreast of technological advancements and global developments” (at p xi). Contemplated areas of reform include implementing rules on mandatory data breach notification and adjusting the consent regime in the *PDPA* to address challenges posed by the fast-emerging digital economy. In view of the rapid evolution of this area of law, a second edition of this book is therefore a timely one.

This book is divided into three parts and contains a total of fourteen chapters (including an introductory chapter by Professor Chesterman).

Part I of this book addresses the changing context in which data protection law is situated.

In Chapter 2, Professor Chesterman assesses Singapore’s turn from privacy to data protection. In view of the difficulty (and perhaps, impossibility) of constructing an essential theory of privacy, Professor Chesterman suggests that “[r]ather than seeking an overarching theory of privacy, a better approach may be to consider whether it is possible to reconceptualise privacy from the bottom up, focusing on ‘the concrete, the factual, and the experienced situations’ of privacy” (at p 24). This theoretical

perspective, it is submitted, accurately reflects the practice in Singapore, in which privacy is protected by a diverse range of legal mechanisms.

In Chapter 3, Professor Tan Cheng Han SC considers the interaction between the online world and the offline world and the blurring boundaries between the two. Professor Tan argues that laws such as the *PDPA* are “necessary but not sufficient in protecting individuals and managing the flow of information” (at p 80). In particular, he correctly notes the trend towards democratisation of media production, which provides individuals with an unprecedented capacity to reach broad audiences. This trend shows no signs of abating, as recent worries over the rise of homemade “deepfake” videos evince. The co-dependence of the online and offline worlds will continue to raise important legal and ethical issues as more and more of our lives migrate into the virtual realm.

Chapter 4, written by Lanx Goh and Jansen Aw, is a new chapter discussing the concepts of privacy and personal data and how they interact in Singapore. Using the PDPC decision in *Re My Digital Lock Pte Ltd* [2018] SGPDPDC 3 as a point of departure, the authors contextualise the *PDPA* within the taxonomy of privacy torts articulated by William Prosser. The authors make the point that it would be inaccurate to equate privacy law with data protection law, arguing that “[g]iven . . . the intent of the [*PDPA*]; the application of the [*PDPA*]; and the remedies afforded, one can see that the [*PDPA*] is but a piece of the overall jigsaw of privacy” (at pp 121, 122).

Chapter 5 is another new chapter, contributed by Steve Tan. In this chapter the author provides a technological perspective, by examining the implications of new technologies on data protection law. Here, the author looks at the growth of the Internet of Things and the proliferation of tracking and data analytics. These developments create compliance challenges, particularly in relation to consent of data subjects and data security. This chapter is timely in view of the recent proposals to amend the *PDPA* to adapt it to the digital economy.

Part II of the book discusses the practical aspects of data protection law.

In Chapter 6, Bryan Tan proffers a practitioner’s perspective on data protection law. The author provides a panoramic view of the typical data protection issues that may confront an organisation undertaking a compliance project, highlighting key points to look out for. Chapter 8 is contributed by Professor Hannah Lim, who comprehensively discusses the application of the data protection obligations in the context of employment relations. These two chapters will no doubt be useful for businesses and other organisations seeking to achieve compliance with the *PDPA*.

Professor Daniel Seng in Chapter 7 provides a clear treatment of the concept of the data intermediary and the problems that it poses in the local context. These problems arise in the situation where a data intermediary causes or allows a data breach to occur—questions arise as to the extent to which these data intermediaries are liable for such data breaches. The author proposes reform measures that ensure that data intermediaries are subject to enforceable data protection obligations and that increase the transparency of controller-intermediary relationships to data subjects. These are important considerations to assure a sufficient degree of protection to individuals.

Chapter 9 is an interesting new contribution by Professor David Tan. Professor Tan provides a rare analysis of the overlap between image rights and the right to data protection. He assesses the extent to which data protection law can be used to protect one’s persona alongside other causes of action available in Singapore and

draws comparisons with legal protections offered in other jurisdictions including the United States, the United Kingdom and Australia. His characterisation of the *PDPA* as conferring “incidental personality rights” (at p 241) on individuals is apt, given the limited degree of protection that the Singapore data protection framework offers to personality interests.

In Chapter 10, Professor Warren Chik examines the Do Not Call (“DNC”) Registry, contrasting it with the approaches taken in the United States and other jurisdictions to combat intrusive telemarketing practices. Apart from providing a succinct overview of the operation of the DNC Registry in Singapore, the author proposes some areas for improvement. He considers whether the DNC rules might be extended to cover other problematic forms of intrusive telemarketing that are not linked to telephone numbers and thus presently fall outside of the ambit of the DNC rules. The author also makes a persuasive case for a Do Not Track registry to deal with the problem of unwanted online surveillance—a problem that is increasing in significance as more abusive online practices by organisations have come to light in recent months.

In Part III, the book turns to take a wider perspective of data protection law, by examining its new frontiers.

In Chapter 11, Yeong Zee Kin discusses the idea of accountability as a general principle of data protection law. He argues for its “foundational role” (at p 339) in the *PDPA*, showing how it is embedded in the data protection obligations. He provides useful guidance on how organisations can implement the principle of accountability in their data protection practices and points the way ahead for the Singapore data protection framework in its shift from compliance to accountability. The chapter provides welcome clarity to the concept of accountability, which is often cited but rarely elucidated.

Chapter 12 is a joint contribution by David Alfred and Lanx Goh, addressing key cross-border issues in data protection law. They ably explain the extraterritorial application of the *PDPA* and the rules governing the cross-border transfer of personal data. They also provide valuable insights on cross-border enforcement—an issue that is particularly salient in the data protection context given the fluidity of personal data and the increasingly international nature of data processing—and discuss the various difficulties and solutions that have arisen thus far.

The book is concluded by Chapters 13 and 14, which offer comparative perspectives. Chapter 13 is written by Professor Abu Bakar Munir, in which he provides an excellent overview of neighbouring Malaysia’s data protection law. In Chapter 14, Professor Graham Greenleaf situates the Singapore data protection legislation in the Asian context, providing a critical comparison with the data protection laws of other Asian jurisdictions. He highlights Singapore’s “pro-business” (at p 505) approach to data protection, providing incisive analysis of the adequacy of Singapore’s data protection framework (particularly in light of recent proposals for legislative amendment).

Despite the relative youth of the Singapore data protection regulatory system, it has managed to provide protection to individuals against the mistreatment of their personal data, while keeping up to date with the broader context in which it is embedded. There is every sign that Singapore data protection law will continue to advance in pace with future technological, economic and social changes. Amidst

these changes, *Data Protection Law in Singapore* will be a valuable companion to all those working in this fast-moving area of law, be they practicing lawyers, data protection officers or legal scholars.

BENJAMIN **WONG** YONGQUAN
Sheridan Fellow
Faculty of Law, National University of Singapore