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UNDERSTANDING THE NEED TO EVALUATE AND RECOGNISE LAW RESEARCH IN SINGAPORE BASED ON DIFFERENT METRICS FROM STEM FIELDS RESEARCH

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Last year, the then-Minister for Education intimated that in Singapore, research by university researchers in the fields of social science and humanities should not be evaluated and recognised based on the same metrics as for research in the STEM fields. This article seeks to expand on the Minister's points by focusing on the specific context of research in the field of law by: firstly, explaining what is so different between the nature of law research (generally, and specifically in Singapore) and the nature of STEM research; secondly, elaborating on why we should not evaluate and recognise law research by Singapore law academics generally based on the same metrics as for STEM research; finally, offering some modest suggestions on how we might better assess whether a piece of law research from a Singapore law academic is good research and whether it translates into tangible outcomes for the good of Singaporeans.

I. Introduction

Is research in the fields of the social science and humanities inherently relevant to overseas audiences in the same way as for research in the fields of (natural) science,[1] technology, engineering and medicine ("STEM")? Relatedly, should research output from university researchers in these non-STEM fields and STEM fields be evaluated and recognised based on the same metrics? Last year, the then-Minister for Education Chan Chun Sing in a speech made to the social science and humanities research community in Singapore intimated that in Singapore's context the answer to both questions is "no".[2] The Minister had stated as follows:[3]

> …I know that many [social science and humanities] researchers feel hard pressed because though you do so much good work, it is hard for you to get published in

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1 This is sometimes also known as hard science, and includes the fields of physics, chemistry, biology, geoscience, and astronomy.

2 Chan Chun Sing, "Speech at the Inaugural Ideas Festival Launch Event" (20 March 2024) <https://www.moe.gov.sg/news/speeches/20240320-speech-by-minister-chan-chun-sing-at-the-inaugural-ideas-festival-launch-event> [Chan, "Inaugural Ideas Festival"].

3 See, for example, National University of Singapore (Corporatisation) Act 2005 (2020 Rev Ed), s 5: (1) The Minister may, in consultation with the university company, establish any policies on higher education in Singapore that the Minister thinks fit and may direct the university company to implement those policies. (2) The university company must comply with any direction given by the Minister under subsection (1). For the equivalent provision in respect of some of the other universities in Singapore, see Singapore Management University Act 2000 (2020 Rev Ed), s 3B, and Singapore University of Social Sciences Act 2017 (2020 Rev Ed), s 5.

> world renowned journals as many people think that Singapore is some little place somewhere in Asia whose solutions may not be applicable to others. But that is the furthest from the truth; The power of our ideas can transcend our size and that is what we must aspire to do.
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> I have discussed this with the university leadership and with the public service; if you do good research and come up with good solutions, even if you don't get published, you will be recognised. You will be recognised because you have helped us to advance Singapore's agenda, because you have helped us to bring about better solutions for quality of life for fellow Singaporeans. This is what we are committed to do.
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> …The benchmark of your success will not just be about whether your work is published in renowned journals. Of course, if you can do that, it's a bonus. But even if you cannot do that, Singapore, within our own ecosystem in the universities and the public service, will recognise you…
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> So this is what I promise you, and this is what I hope that you'll keep striving towards; your aim is not just to publish, but to bring about tangible benefits to the Singapore community. If we can do that, as a living testimony of what we can do with social science research, then you will inspire many more to come and join us, and it will also inspire others to look at the solutions unique to Singapore, challenge us, cross-pollinate ideas with us and help us to improve even more.
>
> …never look at recognition of your work just in terms of publications, but in terms of how you can translate your research into tangible outcomes for the good of Singaporeans. That is the uniquely Singaporean way of how we approach the development of our social science research community.[4]

In his speech, the Minister was speaking about social science and humanities research in general. This article seeks to expand on the Minister's points by focusing on the specific context of research in the field of law (which may arguably be a social science or humanities discipline,[5] but in any case, is not considered a STEM subject).[6] Part II of this article highlights and explains what is so different between the nature of law research (generally and also specifically in Singapore) and the nature of STEM research. Based on that, Part III elaborates on why we should not evaluate and recognise law research by law academics in Singapore universities generally based on similar metrics as for STEM research. Part IV then offers some modest suggestions on how we might better assess whether a piece of law research from a law academic in Singapore is "good research" and whether it "[translates]

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4 Chan, "Inaugural Ideas Festival", *supra* note 2 at [19]-[28]. See also Chan Chun Sing, "Speech at the Singapore Teaching and Academic Research Talent Scheme (START) Award Ceremony" (14 September 2022) at [13] and [14.3]. <https://www.moe.gov.sg/news/speeches/20220914-speech-by-minister-for-education-mr-chan-chun-sing-at-the-singapore-teaching-and-academic-research-talent-scheme-award-ceremony>.

5 See generally Mariavittoria Catanzariti, "Law as social science or humanity? Some notes on 'academic determinism'" (2024) 14(2) Oñati Socio-Legal Series 554.

6 Mathias Reimann, "Stepping Out of the European Shadow: Why Comparative Law in the United States Must Develop its Own Agenda" (1998) 46 Am J Comp L 637 at 643.

into tangible outcomes for the good of Singaporeans",[7] while ensuring appropriate parity between the evaluation and recognition of law and STEM fields research by academics in Singapore. Finally, Part V concludes.

This article is written with two groups of audiences in mind. The first is policymakers and decisionmakers, both at the government and university level, who are involved in evaluating or deciding how to recognise law research by law academics in Singapore. The goal is to assist them to gain greater understanding of the specific nature of law research in Singapore. This is so that we might come up with the most appropriate ways to evaluate and recognise such research in a manner that will best advance Singapore's interests. The second group comprises lawmakers, legal practitioners and law publishers in Singapore. The aim is to apprise them of the crucial role that they can play in this process of evaluating and determining how to recognise research by law academics in Singapore universities.

On a side note, although this article is written in the context of law research by university academics in Singapore, readers may find the arguments and suggestions proffered applicable to law research in other countries, and more broadly, to other areas of social science and humanities research, both in Singapore and in other countries.

II. Nature of Stem Research vs Nature of Law Research

A. *Nature of STEM Research*

In respect of STEM fields, knowledge produced from research is generally intrinsically relevant to audiences from all around the world.[8] Most of the time, the relevance of STEM research output does not depend on the place or geographical borders within which the knowledge is produced. For STEM disciplines, the knowledge generated is typically of universal application and interest. The nature of electrons and protons found in Japan is the same as the nature of electrons and protons found halfway across the globe in Austria. A line of computer code will function in exactly the same way whether it is written in Hong Kong or in Canada. Bernoulli's principle, an engineering concept relating to fluid dynamics, applies in the same manner throughout the world. And so on.

So when we come across a piece of STEM research, we ordinarily would not ask, "In which country's context is the subject matter of this research about?".[9] It usually makes no sense to ask such a question. Suppose a scientist in a Singapore university makes a discovery regarding the nature of dark matter. The discovered knowledge and the journal article in which that knowledge is reported are inher-

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7 Chan, "Inaugural Ideas Festival", *supra* note 4.

8 See generally Kevin McCain and Kostas Kampourakis, eds. *What is Scientific Knowledge? An Introduction to Contemporary Epistemology of Science* (New York: Routledge, 2020).

9 Rebecca Lefler, "A Comparison of Comparison: Use of Foreign Case Law as Persuasive Authority by the United States Supreme Court, the Supreme Court of Canada, and the High Court of Australia" (2011) 11 S Cal Interdisciplinary LJ 165 at 167 [Rebecca Lefler], and P. John Kozyris, "Comparative Law for the Twenty-First Century: New Horizons and New Technologies" (1994) 69 Tul L Rev 165 at 167.

ently relevant to scientists in all other parts of the world looking into dark matter, for the nature of dark matter does not differ depending on country or continent. If an engineer in a Singapore university invents a robot arm that can be used to brew delicious coffee, that invention as well as its patent will inherently be of interest to commercial entities in all other parts of the world because the inner workings of the robot arm will not change based on where it is deployed. If a medical researcher from the United States ("US") is looking to synthesise a new drug to treat diabetes, the researcher will generally find relevant all existing literature on diabetes medication, without regard for which country from which the research is produced. In short, for STEM fields, research output and the subject-matter which it reports are rarely country-specific.

B. *Nature of Law Research*

What about research in the field of law? For present purposes, it suffices to think of law as a body of binding rules to govern people, organisations and other entities, the breach of which attracts legal consequences.[10] Throughout the world, there are generally two possible sources of legal rules: judge-made law (more commonly known as case law or law that is pronounced by judges in court cases) and statutory law.[11] The latter refers to law prescribed in statutes. There are countless areas of law, including contract law, tort law, criminal law, evidence law, property law, company law and constitutional law. Examples of well-known statutes in Singapore include the Women's Charter 1961, Misuse of Drugs Act 1973, Penal Code 1871, and Protection from Harassment Act 2014.[12]

Law research can broadly be thought of as research that generally or specifically engages with one or more legal rules relating to any area of law. While there are many types of law research, the nature of law research is usually one or both of the following: i) descriptive – research that describes what the law is; or b) normative or evaluative – research that discusses what the law should be or ought to be.[13] Such law research may also utilise different analytical methods. They may be theoretical, doctrinal, empirical, socio-legal, comparative etc.[14]

In contrast to STEM research, law research output is generally country-[15] and context-specific. Put broadly, if a researcher from Country A produces a piece of law research regarding a particular legal rule in Country A, the extent to which

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10 Britannica, "law" <https://www.britannica.com/topic/law>.

11 SG Courts, "About the legal system" <https://www.judiciary.gov.sg/who-we-are/about-legal-system>.

12 The Singapore statutes referred to in this sentence are of the 2020 Revised Edition.

13 Chris Dent, "A Law Student-Oriented Taxonomy for Research in Law" (2017) 48 VUWLR 371.

14 *Ibid*. See also Mike McConville and Wing Hong Chui eds, *Research Methods for Law*, 2nd Ed (Edinburgh: Edinburgh University Press, 2017) at 1–7.

15 In the context of law, it is more accurate to refer to "jurisdiction" instead of "country". For instance, the United Kingdom is made up of three jurisdictions: England and Wales, Scotland, and Northern Ireland. But given that a large group of this article's intended audience would not be familiar with legal technicalities, this article will simply refer to "country" to mean "jurisdiction". In any event, in this article, nothing substantive turns on the distinction between the two terms.

anyone outside Country A will find that research to be of relevance and interest depends on a number of important factors. They are as follows.

Firstly, a potential determinant of a piece of law research's relevance and interest to those outside Country A, for instance, to a law user in Country B, is whether Country B has a law or legal rule that is the same or at least sufficiently similar to the law or legal rule in question from Country A. Every country has its own specific rules for each area of its law. Different countries may share some similar rules, though by and large when it comes down to granular details, there are almost always differences in the content of the rules across different countries. A good example, which will be discussed further below,[16] is that virtually every country has some form of the offence of murder. But across different countries, the definition or the precise elements to establish the offence of murder, and the punishment options for the offence, may be highly varied.[17]

The details of legal rules vary from country to country because the considerations that go into the designing of legal rules are likely to differ from country to country. Lawmakers, whether judges or legislators, formulate legal rules customised to best suit the needs and context of the society or segment of society that the law is intended to apply to.[18] They take into account specific socio-political and cultural sensitivities, values and other germane considerations.[19] In Singapore's case, then-Chief Justice Yong Pung How had this to say:

> …Singapore has to develop its own legal responses to its own legal problems… we have to be willing to part ways with England, whenever necessary… We must continue to evolve our own rules of procedure, suited to our own urban, multi-racial, multilinguistic, Asian society. Our approaches to the law must reflect our Asian values, such as consensus and respect for authority and the group.[20]

Secondly, putting aside for the moment the content of a law or legal rule, legal rules exist as plain words in the cases and statutes, and so they will need to be interpreted and applied to factual situations. In this regard, different countries may also have

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16 See *infra* notes 61-67 and the accompanying text.

17 See generally Jeremy Horder, *Homicide Law in Comparative Perspective* (Oxford: Hart Publishing, 2007) [Horder], and Stanley Yeo, *Fault in Homicide* (Annandale, NSW: The Federation Press, 1997) [Yeo].

18 See generally George Mousourakis, *Comparative Law and Legal Traditions: Historical and Contemporary Perspectives* (Cham: Springer, 2019) at 133-134, 139, and 174-177.

19 In Singapore's context, see, for example, *Chan Hiang Leng Colin v PP* [1994] 3 SLR(R) 209 at [53], *Tang Kin Hwa v Traditional Chinese Medicine Practitioners Board* [2005] 4 SLR(R) 604 at [27]-[28], *Re Tan Khee Eng John* [1997] 1 SLR(R) 870 at [13]-[14], *JD v Comptroller of Income Tax* [2006] 1 SLR(R) 484 at [31]-[32] [*JD*], *Man Financial (S) Pte Ltd v Wong Bark Chuan David* [2008] 1 SLR(R) 663 at [133] [*Man Financial*], and *Zhao Hui Fang v Commissioner of Stamp Duties* [2017] 4 SLR 945 at [78]. See also "Changing the law to fit the times: CJ" *The Straits Times* (8 January 1973); Koh Buck Song, "Home-made law" *The Straits Times* (12 January 1991), "S'pore 'must develop its own legal system'" *The Straits Times* (13 September 1995), and "Distinctively S'porean" *The Business Times* (9 November 1995).

20 Chief Justice Yong Pung How, "Speech delivered at the Singapore Academy of Law Second Annual Lecture – 12 September 1995" in *Speeches and Judgments of Chief Justice Yong Pung How* (Singapore: FT Law & Tax Asia Pacific: 1996) at 193-194.

differing approaches and norms to interpreting and applying the law.[21] To elaborate, the world can broadly be divided into common law countries and civil law countries. The sources of law and the method to interpreting and applying legal rules are different between these two types of countries.[22] Notably, Singapore is a common law country.[23] In Southeast Asia, countries such as Malaysia and Brunei have a predominantly common law system. Most other countries in Southeast Asia are civil law countries. Elsewhere in Asia, there is Mainland China, which is a civil law country. Hong Kong and India have a legal system which contains common law elements and features.

Thirdly, whether and to what extent law research produced in one country is relevant and of interest to law users in another country turns on the history and size of the two countries. The United Kingdom ("UK"),[24] in particular, is generally accepted to be the birthplace of the common law.[25] Many former colonies of the UK, including Singapore, inherited the common law system from the UK.[26] Pertinently, the UK has had close to a millennium to develop and apply the common law.[27] It is also geographically a large country with a huge population. Hence, its numerous law courts have heard and resolved countless legal issues.

A country like Singapore, on the other hand, has developed and applied the common law for about two centuries, and if we consider post-independence Singapore, then for 60 years.[28] It also has a much smaller population. The number of legal issues that have been considered in Singapore is naturally much lower than compared to older and larger countries such as the UK.

Law academics, courts, lawmakers and other law users in larger and older countries would thus tend to concentrate on relying on, and often have more than enough,

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[21] See generally Goh Yihan & Paul Tan, "The Development of Local Jurisprudence" and "The Next Leap Forward: The Spread of Singapore Law" in Goh Yihan & Paul Tan eds., *Singapore Law: 50 Years in the Making* (Academy Publishing, 2015) at Chs 3 and 16 respectively, and Jan M Smits, "What is Legal Doctrine? On The Aims and Methods of Legal-Dogmatic Research" in Rob van Gestel, Hans-W Micklitz & Edward L Rubin eds., *Rethinking Legal Scholarship: A Transatlantic Dialogue* (Cambridge University Press, 2017) 207 [Smits].

[22] See generally Nicoletta Bersier, Christoph Bezemek & Frederick Schauer eds, *Common Law – Civil Law: The Great Divide?* (Cham: Springer, 2022), and Mathias Siems, *Comparative Law*, 3rd Ed (Cambridge: Cambridge University Press, 2022) at Ch 3. See also Goh Yihan & Paul Tan, "The Next Leap Forward: The Spread of Singapore Law" in Goh Yihan & Paul Tan eds., *Singapore Law: 50 Years in the Making* (Singapore: Academy Publishing, 2015) 835 at [16.27] [Goh Yihan & Paul Tan].

[23] Though Syariah law applies to specific aspects of Muslim affairs (see Administration of Muslim Law Act 1966 (2020 Rev Ed)).

[24] More accurately, England.

[25] George Burton Adams, "The Origin of the Common Law" (1924) 34(2) Yale LJ 115 [Burton], and Sir Matthew Hale, *The History of the Common Law* (James Moore, 1792) [Hale].

[26] Ronald J Daniels, Michael J Trebilcock & Lindsey D Carson, "The Legacy of Empire: The Common Law Inheritance and Commitments to Legality in Former British Colonies" (2011) 59(1) Am J Comp L 111.

[27] Burton and Hale, *supra* note 25.

[28] Singapore Academy of Law, "Legal and Constitutional History of Singapore" <https://www.sal.org.sg/Resources-Tools/Legal-Heritage/Legal-and-Constitutional-History-of-Singapore>, and Kevin Tan ed, *Essays in Singapore legal history* (Singapore: Marshall Cavendish Academic, 2005).

law research generated from their own respective countries, as well as from fellow larger and older countries.[29] Examples of such common law countries include the UK, the US, Australia, and Canada. Given how much more experience the larger and older countries have in handling various legal issues, law users from smaller and younger countries also frequently look to these countries for assistance and inspiration in crafting, interpreting and applying their own laws. Practically, this means that the relevance and significance of law research can be highly unidirectional[30] – for the older and larger countries, their law research is of significance and relevance within and among themselves and to the smaller and younger countries. But law research from the smaller and younger countries is not of much significance and relevance to the older and larger countries.[31]

Ultimately, when a researcher from Country A produces a piece of law research relating to a particular law, whether and the extent to which a law user from Country B will find that research relevant and of interest turns on whether both countries share a similar law, whether both countries share similar relevant legal and social norms, values and approaches, as well as the history and size of the two countries.[32]

In addition, even if Country A shares these features in common with Country B, the law users in Country B, in trying to find answers to legal issues, may simply not have the habit of referring to research from other countries.[33] This could be because of a lack of resources, or there is simply not a culture among Country B's law users of looking outwards to resolve domestic legal issues.[34]

Pertinently, if based on these above factors the conclusion is that the piece of research is of little relevance or interest to those outside Country A, the quality of that piece of research (for example, in terms of the quality of analysis and research) and the importance of that particular law or research to those in Country A will not change that conclusion.

All of this puts the general nature of law research in stark contrast to that of research from STEM fields. As explained above, research output from STEM fields is generally of universal relevance and interest. The various factors and considerations highlighted in the preceding paragraphs are generally inapplicable in the context of research from STEM fields.

This significant difference between the nature of research from law and from STEM fields has been underscored by others. For example, the then-Minister for

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29 See generally Ernesto J. Sanchez, "A Case Against Judicial Internationalisation" (2005) 38 Conn L Rev 185.

30 See especially Rebecca Lefler, *supra* note 9 at 166 and 168, and Martin Gelter and Mathias M. Siems, "Citations to Foreign Courts – Illegitimate and Superfluous, or Unavoidable? Evidence from Europe" (2014) 62(1) Am J Comp L 35 at 53, 57-58 and 65 [Martin Gelter and Mathias M. Siems].

31 See generally John Stanton, "Judicial Use of Foreign Law: A Comparative Analysis" (2020) 7(1) Journal of International and Comparative Law 251 [John Stanton].

32 See generally, Martin Gelter and Mathias M. Siems, *supra* note 30.

33 See, for example, Christopher McCrudden, "Legal Research and the Social Sciences" (2006) 122 LQR 632 at 635, and John Stanton, *supra* note 31 at 259-262.

34 Martin Gelter and Mathias M. Siems, *supra* note 30 at 41. See also Goh Yihan & Paul Tan, *supra* note 22 at [16.27].

Law Professor S Jayakumar had made the following pithy observation in a parliamentary speech:[35]

> …law is different from other disciplines. In medicine, when we talk about appendectomy, if you have an appendicitis in the United States and a patient who has appendicitis here [in Singapore], we are talking of the same type of organ. But laws are different. Laws reflect certain norms, value systems, in a given society.[36]

Legal scholar Phoebe Ellsworth likewise noted that:

> [d]espite their similarities, scientific reasoning and legal reasoning differ in fundamental ways. They are bound by different rules, subject to different constraints, and driven by different goals.[37]

Another legal scholar James Boyd White alluded to the reason for this significant difference. He explained that:

> …law is not organised towards truth in the way that science is, or towards a scientific kind of truth… the main goal of law is not [scientific] truth, but justice, a human value of at least equal dignity and importance… Legal knowledge is in the end not factual [in the way that science is] but rhetorical and imaginative.[38]

The significant difference between the nature of law research and STEM fields research is reinforced by Rule 106 in the Singapore Supreme Court Practice Directions 2021:

> *Use of judgments from foreign [countries]*
>
> (4) …where there are in existence local judgments which are directly relevant to the issue, such judgments should be cited in precedence to foreign judgments. Relevant local judgments will be accorded greater weight than foreign judgments. This will ensure that the Courts are not unnecessarily burdened with judgments from jurisdictions with differing legal, social or economic contexts.
>
> (5) In addition, counsel who cite a foreign judgment must: …(b) ensure that such citation will be of assistance to the development of local jurisdiction on the particular issue in question.

Other countries such as the UK have an analogous caution towards citing foreign judgments.[39] There is nothing similar generally in the context of STEM.

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[35] See also Christopher McCrudden, "Legal Research and the Social Sciences" (2006) 122 LQR 632 at 634 ("…legal model-building takes place within a normative context, and is likely to include normative elements").

[36] *Singapore Parliamentary Debates, Official Report* (12 November 1993) vol 61 at col 1177.

[37] Phoebe C Ellsworth, "Legal Reasoning and Scientific Reasoning" (2012) 63 Ala L Rev 895 at 907.

[38] James B White, "Legal Knowledge" (2002) 115 Harv L Rev 1396 at 1397-1399 [White]. See also Susan Hack, "Irreconcilable differences? The troubled marriage of science and law" (2009) 72(1) Law & Contemp Probs 1 [Hack].

[39] *Practice Direction (Citation of Authorities) (Sup Ct)* [2001] 1 WLR 1001 at [9.1]-[9.2].

All of this probably also explains why for virtually every STEM field there is a Nobel Prize or worldwide prize regarded as a Nobel Prize equivalent associated with it. But there is conspicuously no Nobel Prize or recognised equivalent for law generally as a research field.[40] As pointed out, law as a subject matter of research is generally non-universal in nature.[41] There is consequently no commensurable or equitable way to compare the value and impact of law research contributions across countries worldwide.[42]

Speaking more specifically, this non-universal, or national, nature of law research is the most acute for some particular areas of law in Singapore. These are areas of Singapore law for which either or both of the following features applies:[43]

(a) The lawmakers and courts in Singapore have decided that Singapore's approach in respect of the particular area of law must *especially be tailored* to Singapore's unique sensitivities and circumstances, and accordingly is very different from the approach taken in other countries, in particular the Western countries;[44]
(b) The majority of the legal rules in the particular area of law is found in statutes (rather than case law) and there are no or few other countries which share similar legal rules in their statutes.

An excellent illustration of feature (a) may be found in the Singapore High Court (sitting with three Judges) case of *Law Society of Singapore v Tan Guat Neo Phyllis*,[45] a case which dealt with criminal law issues in Singapore. In that case, Chief Justice Chan Sek Keong (as he then was) took pains to caution that:

> …in formulating the principles of law in relation to the legal issues raised in this case, we must give primacy to the objectives and values of our criminal justice system. The principles which we lay down must conform to the fabric of our law… While we pay great respect to the decisions of the appellate courts in Australia, Canada and England on these issues, we must also bear in mind that the legal and social environments in these jurisdictions are not the same, and that the courts in each jurisdiction must take into account the values and objectives of the criminal justice system they wish to promote. The common law is infused with common or universal values which are applicable in all common

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40 Wikipedia, "List of prizes known as the Nobel or the highest honors of a field" <https://en.wikipedia.org/wiki/List_of_prizes_known_as_the_Nobel_or_the_highest_honors_of_a_field>.

41 See generally Martin Gelter and Mathias M. Siems, *supra* note 30 and Pierre Legrand, "On the Singularity of Law" (2006) 47(2) Harv Intl LJ 517.

42 On the point of incommensurability in the specific context of law research's influence on judicial decisions in different jurisdictions, see Neil Duxbury, *Jurists and Judges: An Essay on Influence* (Oxford: Hart Publishing, 2001) at 2, 20 and 22 [Neil Duxbury].

43 See Goh Yihan & Paul Tan, "The Development of Local Jurisprudence" in Goh Yihan & Paul Tan eds., *Singapore Law: 50 Years in the Making* (Academy Publishing, 2015) 195 at [3.24]-[3.32].

44 See, for example, K Shanmugam, "The Rule of Law in Singapore" [2012] SJLS 357, S Jayakumar, *Governing: A Singapore Perspective* (Singapore: Straits Times Press, 2020) at Ch 4, and Lee Kuan Yew, "Singapore Prime Minister's Speech to the University of Singapore Law Society Annual Dinner at Rosee D'Or" (18 January 1962) <https://www.nas.gov.sg/archivesonline/data/pdfdoc/lky19620118.pdf>.

45 *Law Society of Singapore v Tan Guat Neo Phyllis* [2008] 2 SLR(R) 239.

> law jurisdictions, but, in the field of criminal law, national values on law and order may differ not only in type, but also in intensity of adherence.[46]

Where an area of Singapore law is especially tailored to Singapore's objectives and values, research in that area of Singapore law would perforce become substantially less relevant and of significance to law users in any other country which do not share the same objectives or type or intensity of adherence to those values.[47]

As regards feature (b), Lord Bingam (former Lord Chief Justice and Senior Law Lord in the UK), in discussing the relevance of foreign law research and materials to law users in the UK, had observed as follows:

> There are some areas of the law – one might instance taxation and social security – in which the task of the courts is essentially to interpret and apply the extremely detailed and complex statutory scheme which Parliament has laid down. The judge is unlikely to gain much help in resolving the problem before the court from consideration of analogous schemes in Germany or Australia or the United States. The greater the statutory content of the law in a particular field [of law], the more likely, generally speaking, is this to be so.[48]

This is because the general rule is that when it comes to interpreting and applying a legal rule or law found in a statute in Country A, materials and research concerning a legal rule in a statute in another country is relevant *only if* that legal rule is *in pari materia*, that is, materially the same, as the legal rule in the statute in Country A.[49] Two countries may share an ostensibly similar legal rule in their respective statute, but if there is a materially important word or phrase that differs between the two rules, then the two rules are not *in pari materia*.[50] Readers who may not be familiar with just how strict and exacting this rule of statutory interpretation is may find helpful the following passage from the Singapore Court of Appeal (highest court in Singapore) case of *JD Ltd v Comptroller of Income Tax*.[51] In that case, the court had to interpret a legal rule in the Singapore Income Tax Act:[52]

> Before examining these positions, however, a word must be said about the reliance on foreign [materials when it comes to interpretation of statutes]...
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> …we find it important to remind… that as tax law is essentially a creature of statute, decisions from foreign jurisdictions should be treated with the appropriate

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46 *Ibid* at [58].

47 See *infra* notes 57-60 and the accompanying text.

48 Thomas Henry Bingham, *Widening Horizons: The Influence of Comparative Law and International Law on Domestic Law* (Cambridge: Cambridge University Press, 2010) at 2.

49 See generally Jeffrey Barnes, Jacinta Dharmananda and Eamonn Moran, *Modern Statutory Interpretation: Framework, Principles and Practice* (Cambridge: Cambridge University Press, 2003) at [29.2] [Jeffrey Barnes, Jacinta Dharmananda and Eamonn Mora].

50 *Ibid* at [29.3]. See also *SZTAL v Minister for Immigration and Border Protection* (2017) 262 CLR 362 at [25].

51 *JD*, *supra* note 19.

52 Singapore Income Tax Act (Cap 134, 2004 Rev Ed).

> degree of caution, especially where the wording of the foreign tax legislation is not identical with or not *in pari materia* with the local equivalent…
>
> It is desirable, therefore, in interpreting tax legislation, to rely on foreign [materials] only if the corresponding tax statutes are identical or very similar to local legislation, and if the schemes of deduction and taxation systems are alike…
>
> [An] illustration of how our courts are careful in comparing tax provisions across jurisdictions is seen in *T Ltd v Comptroller of Income Tax*… where Andrew Ang J said at [55] to [57]:
>
> > So much then as to how the UK provision was construed in the *European Investment Trust* case [(1932) 18 TC 1]. Should the Singapore provision be interpreted likewise? Although counsel for the appellant argued cogently why it ought not be likewise construed, he may have been a little generous in conceding that the language of the Singapore provision is close to its UK counterpart. As noted, the UK provision prescribes that:
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> > > [N]o sum shall be deducted in respect of … any sum employed or intended to be employed as capital …
> >
> > In other words, 'no sum … in respect of any sum employed as capital …' is to be deducted.
> >
> > As framed, it is possible to construe the 'sum' first referred to as separate and distinct from the second. On this basis, it did no violence to the language of the UK provision for the *European Investment Trust* case… to construe the first sum as being referable to interest while the second referred to the principal amount on which the interest accrued.
> >
> > The Singapore provision is differently worded. It states:
> >
> > > [N]o deduction shall be allowed in respect of … any sum employed or intended to be employed as capital.
> >
> > The provision makes no mention of any sum other than the sum employed or intended to be employed as capital. Whereas the words 'in respect of' in the UK provision could be read to mean 'in connection with' without doing violence to the statutory provision, the same words 'in connection with' could not, in my view, comfortably substitute for "in respect of" in the Singapore provision. It would immediately invite the question 'Deduction of what?' To my mind, the words 'in respect of' in the Singapore provision is the equivalent of 'for' or 'on account of'. Thus, what is prohibited is the deduction of the sum employed or intended to be employed as capital.[53]

This general principle on interpreting statutes applies in other common law countries just as it applies in Singapore.[54] Therefore, if there is a piece of research on

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[53] *JD*, *supra* note 19 at [30]-[33].

[54] See, for example, the Privy Council case of *Liquidator, Rhodesia Metals, Limited v Commissioner of Taxes* [1940] AC 774 at 788, the High Court of Australia case of *Momcilovic v The Queen* (2011) 245 CLR 1 at [18], and the Supreme Court of Canada case of *Cdn Council of Churches* [1992] 1 SCR 236 at 244. See generally Jeffrey Barnes, Jacinta Dharmananda and Eamonn Moran, *supra* note 49 at Ch 30.

a particular legal rule in a statute in Singapore, that research will generally be of minimal relevance or interest to law users in any other country which does not have a legal rule in their statute which is in *pari materia* to that in the Singapore statute.

As a result, in respect of areas of Singapore law for which feature (a) or (b) or both above applies to a large extent ("first group of areas of Singapore law"), research and discourse would generally be of significance and relevance to the fewest outside of Singapore. The main examples of such areas of law are criminal law, constitutional law, evidence law, criminal procedure law, civil procedure law, and land law.[55] Areas such as tax and revenue law and legal ethics arguably also fall into this group. *Generally speaking, research relating to these areas of law in Singapore will be highly national in nature and is the most different from research in STEM fields*.

There are areas of Singapore law where there is to some extent more similarities in terms of the content of legal rules, approaches and considerations between Singapore and other major common law countries such as the UK, the US and Australia. Or put another way, these are areas of law for which features (a) and (b) above apply to a lesser extent ("second group of areas of Singapore law"). Examples of such areas of law in Singapore include contract law, tort law, trust law and more generally in areas of commercial law.[56] At the risk of oversimplification, it may be said that for these areas of Singapore law, research may be relatively less national, and more universal, in nature. Hence, research in such areas may be of more interest and relevance to others outside of Singapore.

To be sure, there are areas of law which Singapore law academics may research in (and produce output on) and which by default are "universal" in nature. Broadly, these are areas of law which are designed and meant to apply across countries or regions, as well as areas of law which tackle discourse at high levels of generality and abstraction ("'universal' areas of law"). The former may include areas such as public international law, international commercial arbitration, international investment law, international environmental law, and international air law. The latter refers mainly to the approaches of legal theory and jurisprudence (otherwise known as the philosophy of law). As a rough rule of thumb, an area of law which has the word "international" or "theory" in its name likely falls into this group of areas of law. These areas are accordingly similar to STEM fields in the sense that research in these areas is generally not inherently country-specific.

Indeed, in an illuminating piece of empirical research carried out by some local law scholars in 2015 examining how frequently Singapore court judgments have been cited by foreign courts,[57] it is likely not a coincidence that the results revealed that: Singapore court judgments that were most frequently cited by overseas courts were the judgments that had decided issues pertaining to some of the "universal"

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[55] See Goh Yihan & Paul Tan, *supra* note 43 at [3.26]-[3.30], [3.37], [3.50] and [3.63]-[3.64]. See also Chan Sek Keong SC, "The Torren System Under the Land Titles Act: A '*Bebe*' Retrospective" (2024) 36 SAcLJ 42 at [46] and [93].

[56] *Man Financial*, *supra* note 19 at [133]. See also Andrew Phang Boon Leong, *From Foundation to Legacy – The Second Charter of Justice* (Singapore: Singapore Academy of Law, 2006) at 60.

[57] Goh Yihan & Paul Tan, *supra* note 22 at [16.59]-[16.63].

areas of law;[58] less frequently cited were judgments that decided issues in some areas of law which fall into the second group described above;[59] Singapore court judgments that decided issues regarding the first group of areas of Singapore law (such as criminal law, constitutional law, evidence law, revenue and tax law, and legal ethics) appear to be the most rarely cited by overseas courts.[60]

It bears re-iterating that apart from the "universal" areas of law, in relation to other areas of law, generally the level of relevance and interest of a piece of law research by Country A's researcher to whosoever in Country B is regardless of the intrinsic quality of the piece of research by Country A's researcher and independent of how important that piece of research is to Country A's interests. Two examples illustrate this point.

In Singapore, there are four ways in which a person may commit the offence of murder.[61] Out of all the offenders prosecuted for murder in Singapore, the third way, colloquially known as "section 300(c) Penal Code murder",[62] is the one most frequently relied on by the Prosecution.[63] There are various legal complications and nuances surrounding this particular definition of murder,[64] and interpreting this definition appropriately could literally make a difference between life and death for the accused person prosecuted. Thus, research and academic discourse into the most appropriate interpretation of section 300(c) murder may be of significant importance to Singapore.

Nevertheless, although every country in this world would presumably have an offence of murder, there are only a small handful of countries which share a similar definition of murder as Singapore's section 300(c) murder. This definition of murder first arose in India's Penal Code in 1863 and was subsequently adopted by a few countries such as Singapore, Malaysia, Brunei and Sri Lanka.[65] Other large common law countries such as the UK, the US and Australia do not share an *in pari materia* definition of murder.[66] Accordingly, if a researcher in Singapore were to produce a piece of research on section 300(c) murder, it would very unlikely be of interest and relevance to law users in these other countries.[67] This is regardless of its quality and relevance to Singapore. How much that research will be relevant and of

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58 Such as the areas of admiralty, shipping and aviation law, and arbitration law.

59 Such as the areas of banking law, company law, contract law and tort law.

60 Goh Yihan & Paul Tan, *supra* note 55.

61 See Penal Code 1871 (2020 Rev Ed) [*PC*], s 300.

62 S 300(c) of the *PC* defines murder as doing an act which causes death, where the act is done "with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death".

63 Jordan Tan Zhengxian, "Murder Misunderstood: Fundamental Errors in Singapore, Malaysia and India's *Locus Classicus* on Section 300(C) Murder" [2012] SJLS 112 at 113.

64 *Ibid*. See also *Tham Kai Yau v PP* [1977] 1 MLJ 174.

65 See Stanley Yeo and Barry Wright, "Revitalising Macaulay's Indian Penal Code" in Wing-Cheong Chan, Barry Wright and Stanley Yeo eds., *Codification, Macaulay and the Indian Penal Code: The Legacies and Modern Challenges of Criminal Law Reform* (Burlington, VT: Ashgate, 2011) 3.

66 Horder and Yeo, *supra* note 17.

67 Also, in Singapore cases involving the interpretation of s 300(c) of the *PC*, the courts rarely, if ever, cite cases from countries such as the UK, the US and Australia. See, for example, *Ike Mohamed Yasin bin Hussin v Public Prosecutor* [1974-1976] SLR(R) 596, *Tan Joo Cheng v Public Prosecutor* [1992] 1 SLR(R) 219, *Public Prosecutor v AFR* [2011] 3 SLR 653, *Public Prosecutor v Lim Poh Lye* [2005] 4 SLR(R) 582, and *Wang Wenfeng v Public Prosecutor* [2012] 4 SLR 590.

interest to law users in countries such as India, Malaysia, Brunei and Sri Lanka will depend on the various other factors described above.[68]

Another example relates to section 2(2) of the Singapore Evidence Act 1893.[69] That statutory provision governs how the statutory rules in the Evidence Act interact with common law rules of evidence. The interpretation of section 2(2) has been described as arguably the greatest source of controversy in the law of evidence in Singapore.[70] However, as far as this author can tell, section 2(2), or its equivalent, currently only exists in the Singapore Evidence Act (and Sri Lanka Evidence Ordinance)[71] and not in any other evidence law statute anywhere else in the world. Singapore inherited its Evidence Act from India's Evidence Act 1872.[72] However, section 2(2), as it exists in Singapore's Evidence Act, was not found in India's Evidence Act. Malaysia's Evidence Act[73] presumably used to contain the equivalent of section 2(2), but that provision has since been deleted. Similar to section 300(c) of the Singapore Penal Code, a piece of research produced in Singapore regarding section 2(2) may be significant to Singapore's interests but will very unlikely be of relevance or interest to anyone else in the world.

III. Challenges Arising from Evaluating and Recognising Law Research Based on the Same Metrics as for Stem Research

For STEM fields, university researchers are generally evaluated and recognised based on the degree of international standing and reputation that they have earned for their body of research work.[74] For instance, a tenured Professor may be an academic who has sustained international renown as a leader or is "world-class" in his or her field of research. A tenured Associate Professor (one rank below Professor) is an academic who has garnered international stature in his or her field of research,

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68 In particular whether the law users in these countries, in trying to resolve domestic legal issues, have a habit or culture of referring to research from other countries.

69 Singapore Evidence Act 1893 (2020 Rev Ed).

70 Jeffrey Pinsler, SC, *Evidence and the Litigation Process*, 8th Ed (Singapore: LexisNexis, 2024) at [1.062]. See also *ARX v Comptroller of Income Tax* [2016] 5 SLR 590 at [42], where the Singapore Court of Appeal commented that there is "general conceptual confusion and lack of clarity that beset the operation of s 2 of the Evidence Act, which has given rise to an innumerable number of difficulties".

71 Sri Lanka Evidence Ordinance Cap 14.

72 India's Evidence Act 1872 (Act 1 of 1872).

73 Malaysian Evidence Act 1950, Act 56 (1971 Rev Ed).

74 See, for example, The University of Melbourne, "Academic Promotions: Guidelines" (August 2019) <https://staff.unimelb.edu.au/__data/assets/pdf_file/0017/3432032/Academic-Promotions-Guidelines-050819-Aug2019.pdf>, University of York, "Academic promotion criteria" <https://www.york.ac.uk/admin/hr/pay-and-grading/promotion/research/>, Imperial College London, "Academic Promotions" <https://www.imperial.ac.uk/human-resources/recruitment-and-promotions/promotions/academic-promotions/>, University of Glasgow, "Academic Promotion Criteria" <https://www.gla.ac.uk/media/Media_497802_smxx.pdf>, and University of Canterbury, "Academic Promotion" <https://www.canterbury.ac.nz/about-uc/our-structure/service-departments/people-and-culture/academic-promotion#accordion-0461aa77fa-item-2812e209e9-button>. See also Jay Maddock, "Zen and the Art of Tenure and Promotion" JPHMP Direct (15 December 2017) <https://jphmpdirect.com/zen-and-the-art-of-tenure-and-promotion/>.

and an Assistant Professor (one rank below Associate Professor) on the tenure track is an academic who possesses clear potential to go on to attain international standing in his or her field of research.[75] This hiring and promotion system makes sense for STEM fields. Given the generally non-country-specific nature of STEM fields research,[76] the extent to which researchers in other countries rely on and recognise a STEM researcher's research work is a reasonable proxy to indicate the extent of positive influence of and impact made by the latter's research. Arguably, the greater and more sustained such impact and influence, the more it is justified to accord that researcher a higher rank and greater benefits.

The same, however, cannot be said for law research in Singapore. This is because as explained above,[77] for many areas of Singapore law, research concerning various legal issues is inherently non-universal in nature. Whether and to what extent a piece of research on Singapore law may be of relevance and interest to others outside of Singapore turns on numerous factors independent of the intrinsic quality of the piece of research and the importance of that research to Singapore's interest.[78]

What are the challenges that will arise from evaluating and recognising research produced by law academics in Singapore universities based on similar metrics as for STEM fields? To answer this question, it is necessary to first identify the conventional markers of "international reputation and standing" in respect of STEM field researchers and research. In his speech quoted above,[79] the Minister for Education had alluded to two such markers: (i) the number of people overseas who find the research relevant and of interest, and (ii) the extent to which the research is published in overseas "world-renowned" journals (and in books published by overseas "world-renowned" book publishers).

There is a third important marker, which is based on a peer reviewer's assessment of the academic's body of work.[80] Typically, peer reviewers are senior researchers from peer or aspirant universities who specialise in the same or related sub-field as the academic being evaluated.[81] A number of peer reviewers read selected published work[82] by the academic and are usually asked to provide an opinion on how

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75 For a general overview of university academic positions on the tenure track, see George R Buchanan, "Academic promotion and tenure: a user's guide for junior faculty member" (2009) 1 Haematology Am Soc Hematol Educ Program 736.

76 See Part II.A of this article above.

77 See Part II.B of this article above.

78 Janja Hojnik, "What shall I compare thee to? Legal journals, impact, citation and peer rankings" (2021) 41 LS 252 at 260 ("In contrast to natural sciences, law (similar to other disciplines of social sciences and humanities) has an intrinsic connection with the national environment, parliaments, courts and administrative bodies that create national law and practice in national languages. It is arguable, therefore, whether scholarly research that is primarily related to national aspects is of interest and should be communicated to scholars in other countries").

79 Chan, "Inaugural Ideas Festival", *supra* note 2.

80 See generally Lance Hannon and Meredith Bergey, "Policy variation in the external evaluation of research of tenure at U.S. universities" (2024) Research Evaluation 1.

81 Karen Kelsky, "Your External Reviewers for Tenure" The Professor Is In (15 June 2018) <https://the professorisin.com/2018/06/15/your-external-reviewers-for-tenure/>, and "Selecting external reviewers for tenure" Higher Ed Professor – Demystifying Higher Education (22 May 2017) <https://highered professor.com/2017/05/22/selecting-external-reviewers-tenure/> [Kelsky].

82 Usually full-length journal articles, books or monographs, or book chapters.

the academic's work compares to that of researchers in peer or aspirant universities (including the peer reviewer's own university) who specialise in the same or similar sub-field.[83] In this vein, it is worth noting that most highly ranked law faculties or departments ("law schools") from common law countries, and therefore the most likely candidates of peer or aspirant law schools, are found either in the UK, the US or Australia.[84]

If law research by academics in Singapore universities is evaluated and recognised based on these same three markers,[85] very few or no academic in the Singapore law schools will have reason to specialise and research in legal rules and issues salient to Singapore but which are of minimal or no interest to overseas audience[86] – there will be even lesser reason for junior law academics on the tenure track, who as a result of the "up-or-out" policy will understandably be highly anxious to attain the international standing and reputation necessary to secure promotion and tenure.[87] All this is especially so *in respect of the first group of areas of Singapore law*, which as explained above are areas of Singapore law which are the most national and non-universal in nature.

How applying the first abovementioned marker will lead to such a consequence is self-evident. The causal link between the second marker – the extent a researcher's work is published in overseas "world-renowned" journals – and this consequence, however, merits some elaboration. Overseas "world-renowned" law journals, by virtue of their reputation, will receive vastly more article submissions than they have space to publish.[88] Naturally, the editors and referees of these overseas journals will need to be extremely selective and prioritise selecting submissions that they expect to be the most significant and of interest to their main or a wide range

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[83] Kelsky, *supra* note 81.

[84] See, for example, Times Higher Education, "World University Rankings 2024 by subject: law" <https://www.timeshighereducation.com/world-university-rankings/2024/subject-ranking/law> and Quacquarelli Symonds, "QS World University Rankings by Subject 2023: Law & Legal Studies" <https://www.topuniversities.com/university-subject-rankings/law-legal-studies>.

[85] There are three law schools in Singapore (listed here in order of oldest to youngest): National University of Singapore, Faculty of Law <https://law.nus.edu.sg/>, Singapore Management University, Yong Pung How School of Law <https://law.smu.edu.sg/>, and Singapore University of Social Sciences, School of Law <https://www.suss.edu.sg/about-suss/schools/slaw>.

[86] On how research evaluation criteria affects academics' research and publication patterns, see Emmanuel Kulczycki, *The Evaluation Game: How Publication Metrics Shape Scholarly Communication* (Cambridge: Cambridge University Press, 2023) at 176-180 [Emmanuel Kulczycki] and John Aubrey Douglass, "How Rankings Came to Determine World Class" in John Aubrey Douglass ed, *The New Flagship University: Changing the Paradigm from Global Ranking to National Relevancy* (New York: Palgrave Macmillan, 2016) 9 at 25.

[87] The "up-or-out" policy refers to the policy where junior university academics (such as Assistant Professors) on the tenure track have a limited time, usually around six years, to achieve tenure, failing which they will be required to leave the university. See generally Josie Glausiusz, "Tenure Denial, and How Early-Career Researchers Can Survive It" (2019) 565 Nature 525.

[88] Albert H. Yoon, "Editorial Bias in Legal Academia" (2013) 5(2) Journal of Legal Analysis 309 at 311 [Albert H. Yoon]. See also Oxford Journal of Legal Studies, "Notes for Contributors" <https://academic.oup.com/ojls/pages/General_Instructions?login=false> ("Each year we receive over 340 submissions and can only publish a small fraction of these in the 4 issues we publish annually").

of audiences.[89] For example, Cambridge Law Journal, undoubtedly considered one of such overseas "world-renowned" law journals, states explicitly that the journal "rarely, if ever, publish manuscripts devoted to a single foreign (i.e. non-UK) legal system".[90] Essentially, a research article on a law or legal issue in Singapore which is of little relevance or interest to overseas audience will, irrespective of the article's intrinsic quality or the importance of the research to Singapore, stand a much lower probability of being selected for publication in these overseas journals.[91]

There are several ways in which an academic in a Singapore law school may try to boost his or her chances to get published in these journals:[92]

a) by researching and specialising in "universal" areas of law, that is, specific areas of law which are designed and meant to apply across countries or regions, or areas of law which tackle discourse at high levels of generality and abstraction,[93]
b) by researching and specialising in the law and legal rules of the larger and older countries (such as the UK, the US, and Australia),[94] or
c) by researching and specialising in the second (and possibly first) group of areas of Singapore law, but then find ways, to the extent possible given the word limit of the article submission, to frame the issues and adopt approaches such that the article will be of more interest to a wider range of overseas audience.

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89 Dan Jerker B. Svantesson, "International rankings of law journals – Can it be done and at what cost?" (2009) 29(4) LS 678 at 690 [Dan Jerker B. Svantesson]. Cambridge University Press has issued a guide to peer reviewing journal articles that it publishes. In the guide, it is suggested that peer reviewers, in deciding whether to recommend a submitted research article for publication in the journal, consider, among other things, how significant a contribution the submitted article makes to the discipline <https://assets.ctfassets.net/ulsp6w1o06p0/dO4DN56RgXPTrRn6BVXzn/1eec5001380da2f5dedd214a0a682665/A_guide_to_peer_reviewing_journal_articles.pdf> at 7-8.

90 Cambridge Law Journal, <https://www.cambridge.org/core/journals/cambridge-law-journal/information/author-instructions>. Legal Studies, another such overseas "world-renowned" law journal, states that it "warmly welcomes contributions from all those who wish to reach a broad international and UK readership" <https://www.cambridge.org/core/journals/legal-studies>.

91 This was a point acknowledge by the Minister for Education in the general context of Singapore-based research in the social sciences and humanities fields (see Chan, "Inaugural Ideas Festival", *supra* note 4 and the accompanying text).

92 See Lord Rodger of Earlsferry, "Judges and Academics in the United Kingdom" (2010) 29(1) UQLJ 29 at 34-35 [Lord Rodger of Earlsferry], Russell Korobkin, "Ranking Journals: Some Thoughts on Theory and Methodology" (1999) 26 Fla St UL Rev 851 at 859-860, Janja Hojnik, *supra* note 78 at 263-264, and Dan Jerker B. Svantesson, *supra* note 89 at 690.

93 Emmanuel Kulczycki, *supra* note 86 at 180 ("In the course of their work, researchers are confronted with the challenge of fulfilling contradictory expectations. On the one hand, they must work to solve local problems in order to produce a social impact, while on the other, they are pushed to publish papers in internationally recognised journals in order to prove their research excellence. One of the more commonly adopted strategies in response to this dilemma is to decontextualise research problems, that is, to address more universal issues that are not embedded in a local context").

94 Dan Jerker B. Svantesson, "Truisms About the Australian Publishing Climate for Law Journal Articles, and Some Strategies to Cope; or 'A Feminist Perspective on the Human Rights of Vegetarian Child-Soldiers in Outer Space" (2011) 10(3) Canberra Law Review 4 at 16 ("…most 'international' journals are in fact more correctly described as being domestic to a foreign jurisdiction").

All of these ways, while laudable in their own right, substantially reduce the amount of law research produced by academics in Singapore law schools that is more practically and directly of use to Singapore law users.[95] Notably, many law users in Singapore may not even have paid subscription, and therefore access, to research articles published in "world-renowned" law journals. Lawmakers and practitioners in Singapore may also find more useful shorter pieces[96] or pieces of work which adopt more pragmatic perspectives and approaches and the level of abstraction usually employed by such law users in legal discourse in Singapore.[97]

The challenges arising from applying the third marker of international reputation – a peer reviewer's opinion of the researcher's body of work – also warrants some explanation. As noted, if the peer reviewers must be from peer or aspirant universities, they will likely be senior academics from the top law schools in the UK, the US or Australia. If a peer reviewer is asked to assess how the work of a law academic in Singapore compares to that of a researcher from these law schools, the very real concern is that the reviewer in evaluating the academic's work will consciously or unconsciously be influenced by the first and second markers (that is, the number of people overseas who will find the academic's work relevant and of interest, and the extent to which the academic's work is published in overseas "world-renowned" journals), because the reviewer is used to applying these markers when evaluating research from the top law schools in the UK, the US or Australia.[98] So we are back at square one.

Furthermore, in his speech, the Minister for Education reminded social science and humanities researchers in Singapore to more actively collaborate with practitioners from their relevant industries, including those in government agencies.[99] If the three conventional markers and the metric of international reputation and standing were applied to law research in a similar manner as for STEM fields research, law researchers in Singapore would be hamstrung in answering the Minister's clarion call. This is given that in proposing a possible research project for collaboration and funding, the industry practitioners' primary consideration will be the research's relevance to Singapore's interest, whereas for the researcher, the foremost consideration is likely the probability of the research output being selected for publication in overseas "world-renowned" journals.

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[95] Chief Justice Susan Kiefel AC, "The Academy and the Courts: What Do They Mean To Each Other Today" (2020) 44(1) Melbourne University Law Review 447 at 448, Smits, *supra* note 21 at 209, Deborah L. Rhode, "Legal Scholarship" (2002) 115 Harv L Rev 1327 at 1355 [Deborah L. Rhode], and Richard A. Posner, "The Judiciary and the Academy: A Fraught Relationship" (2010) 29(1) UQLJ 13 at 15.

[96] The typical length of a full-length article in an academic law journal is around 8000 to 10,000 words in main text.

[97] Deborah L. Rhode, *supra* note 95 at 1336-1337, Mark Tushnet, "Academics as Law-Makers?" (2010) 29(1) UQLJ 19 at 22-24, and Dan Jerker B. Svantesson, *supra* note 89 at 681.

[98] Albert H. Yoon, *supra* note 88 at 309-310, and Gregory Scott Crespi, "Ranking International and Comparative Law Journals: A Survey of Expert Opinion" (1997) 31(3) The International Lawyer 869 at 869.

[99] Chan, "Inaugural Ideas Festival", *supra* note 2 at [9], [22], [25] and [28].

Having a dearth of academics in each Singapore law school specialising and researching in a range of areas of Singapore law and national legal issues will also precipitate other practical challenges. The nub of it is that *in Singapore, each of the law schools is not only a sub-unit of its respective home university, but it is also as much, if not more, a sub-unit of Singapore's legal industry*.[100] This is a paramount point. At one level, the legal industry in Singapore expects academics in the Singapore law schools to engage in research that is more practically and directly of use to Singapore law users.[101]

On top of that, the three law schools in Singapore do not have that much flexibility in terms of its undergraduate and Juris Doctor compulsory curriculum.[102] A holder of an undergraduate or Juris Doctor degree from any of the three Singapore law schools becomes eligible to complete the bar requirements to qualify as a lawyer in Singapore.[103] Thus, teaching curriculum-wise, the law schools have to cater to the legal industry's needs.[104] Indeed, since the inception of law schools in Singapore, many national-level working groups and committees have regularly been formed to make recommendations on, among other things, the reform of aspects of Singapore

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[100] "Legal education in Singapore can no longer be seen as a discrete responsibility of several institutions – the Faculty of Law, Board of Legal Education, Law Society or the Academy of Law. It must be seen as a holistic enterprise with the first primary or formal stage being the degree stage, followed by a system of coordinated, continuous and even compulsory legal education throughout the working life of a lawyer. Only in this way, can a lawyer of today prepare for the practice of tomorrow." (*Singapore Parliamentary Debates, Official Report* (8 March 2000) vol 71 at col 1459 (Associate Professor Chin Tet Yung)). See also *Singapore Parliamentary Debates, Official Report* (12 November 1993) vol 61 at col 1177 (Prof S Jayakumar, Minister for Law). See further the next paragraph in main text and the accompanying footnotes.

[101] "National University of Singapore Faculty of Law 50th Anniversary Gala Dinner – Speech of Chief Justice Chan Sek Keong" (1 September 2007) in Chao Hick Tin *et al*, eds., *The law in his hands: a tribute to Chief Justice Chan Sek Keong* (Singapore: Academy Publishing, 2012) 747 at 749-750. Singapore in general also expects its university academics to produce research that is of tangible use to Singapore. See Ong Ye Kung, "Speech at the Award Ceremony of the Singapore Teaching and Academic Research Talent Scheme (START)" (26 July 2017) at [7] <https://computing.smu.edu.sg/sites/scis.smu.edu.sg/files/news/MOE%2520speech%252026%2520July%25202017.pdf> ("…a large part of the work our universities do must be pertinent to [our academics'] home base. In a small city like Singapore, all our autonomous universities are national universities, with important national objectives to fulfil… [One such objective] is to produce research that has a real and significant, and from time to time even transformative impact on our society, economy and way of life").

[102] For National University of Singapore, Faculty of Law, see generally "Degree Requirements – LLB Programme" <https://law1.nus.edu.sg/student_matters/llb_prog/deg_req.html> and "Degree Requirements – Juris Doctor (JD) Programme" <https://law1a.nus.edu.sg/student_matters/grad_prog/jd_deg_reqm.html>; for Singapore Management University, Yong Pung How School of Law, see generally "LL.B. Curriculum" <https://law.smu.edu.sg/llb/curriculum> and "J.D. Detailed Curriculum" <https://law.smu.edu.sg/jd/curriculum/detailed-curriculum>. For Singapore University of Social Sciences, School of Law, see generally "Bachelor of Laws" <https://www.suss.edu.sg/programmes/detail/bachelor-of-laws-lawllb> and "Juris Doctor" <https://www.suss.edu.sg/programmes/detail/juris-doctor-lawjd>.

[103] This is subject to certain grade thresholds. See Legal Profession (Qualified Persons) Rules (Cap 161, R 15), r 5-6. See also generally Legal Profession (Admission) Rules 2024 (S 597/2024).

[104] See generally the excellent texts Kevin Tan ed, *Change and continuity: 40 years of the Law Faculty* (Singapore: Times Editions, 1999), and Kevin Tan, *The Lamp of the law: 60 years of legal education at NUS Law* (Singapore: Faculty of Law, National University of Singapore, 2017).

law schools' formal and informal curriculum.[105] The compulsory law courses span more than half of the law undergraduate (and Juris Doctor) programme.[106] To fulfil the spectrum of teaching needs, there will always need to be sufficient academics in each Singapore law school specialising in a range of areas of Singapore law and national legal issues.[107]

There is an additional reason for the ongoing need to have enough academics in each law school who are specialists in a range of areas of Singapore law. It is that the compulsory law courses in the Singapore law schools are mostly not foundational skills-type courses, but rather, courses covering substantive areas of Singapore law deemed by the legal industry in Singapore to be the most important areas of law.[108] This is in contrast to various other disciplines taught in universities, where the compulsory courses are usually foundational skills or concepts-type courses (for instance, Core Concepts in Mathematics, Research Methods in Social Science) which can generally be competently taught by virtually any academic in that field. For the faculties for these other disciplines, there may be considerably more flexibility in terms of the range of specialisation needs of their academics.

All told, in Singapore's context, there is no university discipline that is, generally speaking, more different from STEM than law. Accordingly, the more it is insisted that all law research in Singapore is evaluated in the same way as for STEM research, the greater the overall costs are to the Singapore system.

IV. Suggestions Moving Forward

How then might we best evaluate and recognise law research in Singapore so as to encourage more vibrant and active engagement by academics in the Singapore

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[105] See, for example, Ministry of Trade & Industry, "Economic Review Sub-Committee on Service Industries Report of the Working Group (Legal Services)" (2002) <https://eresources.nlb.gov.sg/webarchives/wayback/20100906042913/https://app.mti.gov.sg/data/pages/507/doc/ERC_SVS_LEG_MainReport.pdf>, "Report of the Committee to Develop the Singapore Legal Sector – Final Report" (September 2007) <https://www.mlaw.gov.sg/files/news/press-releases/2007/12/linkclicke1d7.pdf>, "Report of the Working Group for the Reform of Legal Education" (January 2024) <https://www.mlaw.gov.sg/files/news/press-releases/2024/legal_education_reform_report.pdf>, and "Interim Report of the Ethics and Professional Standards Committee" (December 2023) <https://www.judiciary.gov.sg/docs/default-source/news-docs/interim-report-of-the-ethics-and-professional-standards-committee-(final).pdf>. See also "Report of the Committee for the Professional Training of Lawyers" (March 2018) <https://www.judiciary.gov.sg/docs/default-source/default-document-library/law_reports.pdf?sfvrsn=eeea2aa9_0>. There is also the Singapore Institute of Legal Education [*SILE*], which is a statutory body formed under the Legal Profession Act 1966 (2020 Rev Ed). Among other things, *SILE* has explicit statutory oversight vis-à-vis the curriculum of the three Singapore law schools. There are other disciplines taught in Singapore universities which also have a statutory body that governs their graduates practicing in industry (such as the Professional Engineers Board, the Singapore Medical Council and the Architects Board). But as far as this author can tell, *SILE* is the only one of such body *statutorily charged* with a degree of supervisory oversight over the university programmes of the relevant discipline.

[106] See *supra* note 102.

[107] Rob Van Gestel, "Ranking, Peer Review, Bibliometrics and Alternative Ways to Improve the Quality of Doctrinal Legal Scholarship" in Rob van Gestel, Hans-W Micklitz & Edward L Rubin eds, *Rethinking Legal Scholarship: A Transatlantic Dialogue* (Cambridge University Press, 2017) 351 at 351-352.

[108] See *supra* note 102.

law schools (including in collaboration with industry practitioners) on a range of Singapore law and national legal issues, while maintaining sufficient rigour in the evaluation of law research and appropriate parity between the evaluation and recognition of law and STEM fields research by academics in the Singapore universities? In this penultimate section of this article, two broad suggestions are humbly offered for consideration. *If accepted, it is suggested that the updated policies be expressly and strongly communicated to current and prospective law academics in Singapore to ensure the policies' intended effects are achieved maximally*.

A. *Applying More Context-appropriate Markers of International Reputation and Standing*

When evaluating research by a law academic in Singapore, whether for the purposes of hiring, promotion, or recognition, the nature of the area of law and legal issues that the academic specialises in should be keenly taken into account. For law academics who specialise in "universal" areas of law, it may be more appropriate to assess the extent of international recognition and standing based on the three markers conventionally applied for STEM fields research because the inherent nature of such areas of law closely resembles that of STEM fields.

But when evaluating the research of a law academic who specialises in the first or second group of areas of Singapore law, it is suggested that comparatively less weight be placed on the extent to which the research is published in overseas "world-renowned" law journals as well as the extent to which audience overseas will find the research relevant and of significance. Instead, a more nuanced yet rigorous assessment of the academic's international standing and research can be achieved in the following (non-mutually exclusive) ways:

a) When selecting peer reviewers to evaluate the law academic, instead of looking for senior researchers from peer or aspirant law schools (which would almost invariably mean senior researchers from the highly ranked law schools in the UK, the US and Australia), to appoint senior researchers specialising in the same or related area of specialisation as the law academic, *from a country or countries where law users would find the academic's work of most relevance and interest (which may well not be the UK, the US or Australia), if any*.
b) To appoint senior researchers from peer or aspirant law schools (from the UK, the US or Australia) to be peer reviewers but *explicitly request* that each peer reviewer when evaluating the academic's body of work to: i) be mindful of the non-universal or national nature of the area of law or legal issues that the academic specialises in, and ii) disregard both whether the academic's work is published in "world-renowned" journals and the extent to which the academic's work will be of interest and relevance to overseas law users. This is to encourage the peer reviewers *to focus on the originality and inherent quality of research, analysis and writing in the academic's work*.
c) To apply as an indicator of international reputation and standing the extent to which the law academic has been invited to speak or write on the area

of Singapore law that he or she specialises in, *in forums which specifically require an expert in that area of Singapore law*. Such forums include overseas conferences or edited book volumes that are intentionally arranged to discuss the law in various countries, including Singapore. Relying on this indicator will more accurately signal how much a law academic in Singapore is recognised as an expert in his or her chosen area of law specialisation while minimising the various challenges pointed out in Part III above.

B. *To Consider Whether the Research Has Contributed to Tangible Outcomes for Singapore*

To further ensure sufficient rigour and parity in the evaluation and recognition process, it is also suggested that when evaluating the research of a law academic who specialises in the first or second group of areas of Singapore law, relatively more weight could be accorded to the extent the law academic's research has contributed to tangible outcomes for the benefit of Singapore. This will be in lieu of the extent the research is published in "world-renowned" journals and the extent audiences overseas will find the research relevant and of interest. This is consistent with the stance taken by the Minister for Education in his abovementioned speech.[109]

In assessing whether a law academic's research has contributed to tangible outcomes for Singapore, it may be helpful to be conscious of the norms and realities surrounding how law research benefits law users such as judges, lawmakers and legal practitioners.[110] There are at least two aspects to this.

Firstly, in practice, judges may not necessarily make explicit mention of a piece of law research that they had been influenced by or otherwise benefited from in coming to their decision.[111] This is likewise for lawyers in respect of their court submissions and policymakers in respect of lawmaking reports and speeches. So in trying to assess whether a law academic's research has contributed to tangible outcomes for Singapore, it is not prudent to simply look at mentions of the academic's work in the public record. It may be equally, if not more, important to allow a law academic to submit one or more reference letters written by key law users that will more accurately indicate how the academic's research has tangibly contributed to various outcomes.

Secondly, much of law research deals with how best to approach or resolve a legal issue. As James Boyd White has explained, law is fundamentally about justice

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[109] Chan, "Inaugural Ideas Festival", *supra* note 4 and the accompanying text.

[110] For an excellent discussion on the realities of the practical impact and influence of law academic research, see generally Neil Duxbury, *supra* note 42.

[111] Lord Rodger of Earlsferry, *supra* note 92 at 31-32. See generally Lord Burrows, "The Lionel Cohen Lecture 2021 – Judges and Academics, and the Endless Road to Unattainable Perfection" (25 October 2021) <https://www.supremecourt.uk/docs/lionel-cohen-lecture-2021-lord-burrows.pdf>, and Jack Beason, "Legal Academics: Forgotten Players or Interlopers?" in Andrew Burrows, David Johnston, QC and Reinhard Zimmermann, *Judge and Jurist: Essays in Memory of Lord Rodger of Earlsferry* (Oxford: Oxford University Press, 2013) 523.

rather than truth as defined in science.[112] This means that much of law research is about finding existing materials and offering arguments, approaches and perspectives. It is not usually about discovering novel facts or knowledge or creating new inventions or technology as in the STEM fields.[113] A substantial part of law research also seeks to contribute tangibly by teaching the law, or explaining, synthesising or summarising existing legal materials to aid law users to more effectively and efficiently understand and apply the law and resolve legal issues.[114] To that end, it is the norm for law research to contribute to tangible outcomes to law users or to society without being "cutting edge", "paradigm shifting", or involving "radical innovation" or "breakthrough in knowledge" in the way that is more commonplace for STEM fields research.[115] In fact, how radical or paradigm shifting a piece of law research is or seeks to be may have little to no correlation with how tangibly it benefits law users on the ground.[116]

A useful source to get a realistic and good sense of how law research usually contributes to tangible outcomes is Singapore court judgments in cases where an academic from one of the law schools in Singapore has been appointed independent counsel (formerly known as *amicus curiae* or "friend of the court"). An independent counsel is appointed by the Court of Appeal of Singapore specially to do research and offer an opinion on how best to resolve the novel or complex legal issue(s) facing the court. The following are some representative quotes from the Court of Appeal judgments where a law academic has been appointed independent counsel:

> …We found both [the independent counsel's] written and his oral submissions to be admirably succinct, clear and illuminating and of great assistance. For this, we are deeply grateful.[117]
>
> Finally, we express our deep gratitude to [the independent counsel] for his assistance and his comprehensive submissions in this matter. This case raised some extremely difficult questions and we benefitted immensely from the characteristically careful and thorough submissions that were made by [the independent counsel].[118]
>
> …we would like to record our deep appreciation once again to [the independent counsel] for the invaluable assistance he provided us – notwithstanding the fact that we did not ultimately agree with all of his submissions. His masterly

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[112] White and Hack, *supra* note 38.

[113] See generally Joshua Guetzkow, Michèle Lamont and Grégoire Mallard, "What is Originality in the Humanities and the Social Sciences" (2004) 69 American Sociological Review 190.

[114] See generally Smits, *supra* note 21, and Colin P.A. Jones, "Unusual Citings: Some Thoughts on Legal Scholarship" (2005) 11 The Journal of the Legal Writing Institute 377. See also Dan Jerker B. Svantesson, *supra* note 94 at 17 and footnote 19.

[115] *Ibid*.

[116] See, for example, the comments of the Singapore Court of Appeal in *Tan Kiam Peng v Public Prosecutor* [2008] 1 SLR(R) 1 at [75]. See also Deborah L. Rhode, *supra* note 95 at 1337.

[117] *Global Yellow Pages Ltd v Promedia Directories Pte Ltd* [2017] 2 SLR 185 at [12].

[118] *Public Prosecutor v Azlin bte Arujunah* [2022] 2 SLR 825 at [231].

> integration of theory and practice exemplifies all that excellent legal scholarship should be.[119]
>
> Finally, we would like to express our deepest appreciation to [the independent counsel] for his invaluable assistance. Although we did not ultimately agree with all of his submissions, they were extremely comprehensive and constituted a masterly survey of all the relevant case law and materials across all the relevant common law jurisdictions.[120]
>
> We would like to express our thanks to [the independent counsel] for taking on the role of independent counsel and giving us his learned views on the possible answers to the Question. Although we did not, ultimately, agree with his submissions, they provided useful material and approaches and contributed substantially to the analysis.[121]

Two observations may be gleaned from these quotes: first, a law academic's research can contribute tangibly and significantly to law users for being cogent, succinct, comprehensive and for offering perspectives and approaches; second, a law academic's research can contribute tangibly and significantly even if a law user does not agree with significant parts of the academic's arguments.

Most crucially, it is hoped that following the discussion in this article, law users and law publishers in Singapore will:

a) gain a heightened appreciation of the need for law academics in Singapore who specialise in the first and second groups of areas of Singapore law to show, through specific examples, how their research contributes tangibly to Singapore's interests, and
b) help to brainstorm for more effective ways through which law academics in Singapore can evidence that their research tangibly benefits Singapore.

These law users and publishers include the Ministry of Law, the Judiciary, the Law Society of Singapore and the Singapore Academy of Law. In coming up with appropriate ways to assess whether a law academic's research has contributed tangibly, inspiration may be drawn from the recently announced updated criteria for the appointment of Senior Counsels in Singapore – to consider the extent to which the applicant's work has "tangibly contributed to the development of Singapore law" as well as his or her "contributions to the [legal] profession".[122] *The support of law users and law publishers in this regard is indispensable to spurring academics in the Singapore law schools to specialise and research in a range of areas of*

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[119] *ACB v Thomson Medical Pte Ltd* [2017] 1 SLR 918 at [212].

[120] *Lee Tat Development Pte Ltd v Management Corporation Strata Title Plan No 301* [2018] 2 SLR 866 at [213].

[121] *Poh Yuan Nie v Public Prosecutor* [2023] 1 SLR 903 at [51].

[122] Chief Justice Sundaresh Menon, "Response delivered at the Opening of The Legal Year 2024" (8 January 2024) at [46] <https://www.judiciary.gov.sg/news-and-resources/news/news-details/chief-justice-sundaresh-menon-response-delivered-at-the-opening-of-the-legal-year-2024>.

Singapore law and national legal issues in a manner that is more practically and directly of use to Singapore.

V. Conclusion

It is clear from the Minister's speech that the Ministry of Education, the public service, and the universities in Singapore are committed to evaluating and recognising social science and humanities research in Singapore in a tailored manner that will most appropriately advance Singapore's interests.[123] This article's main aim is to assist the policymakers and decisionmakers to best achieve this in the specific context of law research in Singapore.

To this end, this article has sought to explain just how different the inherent nature of law research is from that of STEM fields research. The reality is that unlike for STEM fields research generally, the nature of research in many areas of law is non-universal and national in nature. There are therefore numerous challenges that will arise from trying to evaluate and reward research in these areas of law based on the same metrics as those used for STEM fields research. To be clear, law researchers in Singapore should certainly be encouraged to spread their research and ideas to overseas audiences, but the extent to which they are able to do so should generally not be a dominant determinant of the quality of their research output.[124] Instead, the research of law academics in Singapore should be evaluated and recognised based predominantly on a context-appropriate meaning of international standing and reputation as well as the extent to which the research contributes tangibly to Singapore's interest.

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[123] Chan, "Inaugural Ideas Festival", *supra* note 4 and the accompanying text.
[124] *Ibid*.