



NUS
National University
of Singapore

FACULTY OF LAW
PART A BAR COURSE 2011

SINGAPORE LEGAL SYSTEM
& CONSTITUTIONAL LAW

COURSE DESCRIPTION**Course Description:**

Even though Singapore derived its legal system from the United Kingdom, many of its institutions, rules and practices have changed since it attained self-government in 1959. The legal system, once a mirror-image of the British system, has become much more autochthonous. Also, like almost all former British colonies, Singapore has a written constitution which, in the course of forty years, developed institutions and a jurisprudence quite unlike that of its parent. This course will guide lawyers qualified in the United Kingdom through the laws, institutions, concepts, practices and philosophy underlying the current legal and constitutional system.

Course Convenor: Professor (Adjunct) Kevin Tan

Co-teacher(s): NA

Mode of Assessment: Final Exam - 100% (Open Book) [16 November 2011]

SYLLABUS & READING LIST**PRESCRIBED TEXT/CASEBOOK**

- Kevin YL Tan & Thio Li-ann, *Constitutional Law in Malaysia & Singapore*, 3 ed (Singapore: LexisNexis, 2010) [Tan & Thio].
- Kevin YL Tan, *Introduction to Singapore's Constitution*, Revised Edition (Singapore: Talisman, 2011).

RECOMMENDED READING

- Thio Li-ann & Kevin YL Tan (ed), *The Evolution of a Revolution: Forty Years of the Singapore Constitution* (London: RoutledgeCurzon, 2009).
- Kevin YL Tan (ed), *Essays in Singapore Legal History* (Singapore: Singapore Academy of Law & Marshall-Cavendish, 2005) [out of print]

For copyright reasons, no extracts or chapters from these four books will be reproduced. They are, however, readily available at the Law Library.

PART I: THE SINGAPORE LEGAL SYSTEM**TOPICAL READINGS****Week 1****Sources Of Law**

- * GW Bartholomew, 'The Sources and Literature of Singapore Law' in GW Bartholomew (ed), *Malaya Law Review Legal Essays in Memoriam Bashir Ahmad Mallal* (Singapore: Malaya Law Review, 1975) 314–345.
- * Andrew BL Phang, 'The Reception of English Law' in Kevin YL Tan (ed), *Essays in Singapore Legal History* (Singapore: Singapore Academy of Law & Marshall-Cavendish, 2005) 7–26.
- * Kevin YL Tan, 'A Short Legal and Constitutional History of Singapore' in Kevin YL Tan (ed), *Essays in Singapore Legal History* (Singapore: Singapore Academy of Law & Marshall-Cavendish, 2005) 27–72.

SYLLABUS & READING LIST**Week 2****Institutions**

* Andrew Phang Boon Leong, 'Jury Trial in Singapore and Malaysia: The Unmaking of a Legal Institution' (1984) 25 *Malaya Law Review* 50–86

* Andrew Phang Boon Leong, 'Of Codes and Ideology: Some Notes on the Origins of the Major Criminal Enactments of Singapore' (1989) 31 *Malaya Law Review* 46–77.

Mavis Chionh, 'The Development of the Court System' in Kevin YL Tan (ed), *Essays in Singapore Legal History* (Singapore: Singapore Academy of Law & Marshall-Cavendish, 2005) 93–137

Leong Wai Kum, 'Common Law and Chinese Marriage Custom in Singapore' in AJ Harding (ed), *The Common Law in Singapore and Malaysia* (Singapore: Malaya Law Review, 1985) 177-194

RH Hickling, 'The Influence of Islam on Singapore Law' in MB Hooker (ed), *Malaysian Legal Essays: A Collection of Essays in Honour of Professor Emeritus Datuk Ahmad Ibrahim* (Kuala Lumpur: Malayan Law Journal, 1986) 291-334.

Week 3**Legal Education & Practice**

Tan Cheng Han, 'Challenges to Legal Education in a Changing Landscape – A Singapore Perspective' (2003) 7 *Singapore Journal of International & Comparative Law* 545–578.

Yeo Hwee Ying, 'Provision of Legal Aid in Singapore' in Kevin YL Tan (ed), *The Singapore Legal System*, 2 ed (Singapore: Singapore University Press, 1999) 446–466.

* Michael Ewing-Chow & Aedit Abdullah, 'The Structure of the Legal Profession' in Kevin YL Tan (ed), *The Singapore Legal System*, 2 ed (Singapore: Singapore University Press, 1999) 368–390.

SYLLABUS & READING LIST

PART II: CONSTITUTIONAL LAW

This part of the course is primarily concerned with basic constitutional principles and the Constitutional Law of Singapore. It deals with the constitutional history of Singapore, supremacy of the constitution, constitutional amendments, the executive, the legislature, and the judiciary, judicial remedies, fundamental rights, powers against subversion, and emergency powers.

TOPICAL READINGS**Week 4****Constitutional Developments & The Written Constitution**

Kevin YL Tan, 'A Short Legal and Constitutional History of Singapore' in Kevin YL Tan (ed), *Essays in Singapore Legal History* (Singapore: Singapore Academy of Law & Marshall-Cavendish, 2005) 27–72.

Constitutional Interpretation

* Chapter III, Wee Chong Jin Constitutional Commission Report 1966

* Tan & Thio, pp 631–654; 665–689.

Chapter IV, Report of the Constitutional Commission 1954 (Rendel Commission)

Week 5**The Legislature**

* Tan & Thio, pp 299 (Introduction), 305–311; 323–324 (Nominated MP); 324–331 (Right to Vote).

* Kevin YL Tan, 'Is Singapore's Electoral System in Need of Reform?' (1998) 14 *Commentary* 109.

* SM Thio, 'The Presidential Council' [1969] 1 *Malayan Law Journal* xl.

SYLLABUS & READING LIST

Week 6

The Executive

Constitution, Part V, Chapter 1 (President), Chapter 2 (Executive); Chapter VA (Council of Presidential Advisors)

Presidential Elections Act (Cap 240A)

1. The Head of State's Discretionary Powers

Discretionary Powers of the Head of State in an Emergency (Tan & Thio, 338)

* *Teh Cheng Poh v Public Prosecutor* (Tan & Thio, 390)

* *Lee Mau Seng v Minister for Home Affairs, Singapore & Anor* (Tan & Thio, 396)

* *Yong Vui Kong v Attorney-General* [2011] SGCA 9.

2. The Elected President

* Tan & Thio, pp 420–426; 428–430.

* *Constitutional Reference No 1 of 1995* [1995] 2 SLR 201 (Tan & Thio, 117)

* 'I had a job to do' says ex-President Ong, *Asiaweek* 10 March 2000 (Tan & Thio, 426).

Yvonne CL Lee, 'Under Lock and Key: The Evolving Role of the Elected President as a Fiscal Guardian' [2007] *Singapore Journal of Legal Studies* 290.

Thio Li-ann, 'Working out the Presidency: The Rites of Passage' [1995] *Singapore Journal of Legal Studies* 509–527.

Chan Sek Keong, 'Working out the Presidency: No Passage of Rights' [1996] *Singapore Journal of Legal Studies* 1–39.

SYLLABUS & READING LIST

Week 7

The Judiciary*1. Judicial Power: Meaning, Nature, Content and Scope*

* Tan & Thio, 505–508.

* *Liyanage v The Queen* [1967] AC 259 (Tan & Thio, 508)

* *Hinds v The Queen* [1977] AC 195 (Tan & Thio, 512)

* *Public Prosecutor v Dato' Yap Peng* [1987] 2 MLJ 311 (Tan & Thio, 522)

2. Jurisdiction of the Courts

Tan & Thio, 539–542.

3. Judicial Review

Marbury v Madison [1802] 1 Cranch 137 (Tan & Thio, 542)

Dr Bonham's Case [1610] 8 Co Rep 18; [1938] LQR 543 (Tan & Thio, 544)

Haw Tau Tau [1981] 2 MLJ 49 (Tan & Thio, 544)

4. Doctrine of Prospective Overruling

Linkletter v Walker 381 US 618 (Tan & Thio 560)

IC Golaknath v State of Punjab AIR 1967 SC 1643 (Tan & Thio, 562)

* *Public Prosecutor v Dato' Yap Peng* [1987] 2 MLJ 311 (Tan & Thio, 564)

5. Supervisory Jurisdiction

* *Abdul Wahab bin Sulaiman v Commandant, Tanglin Detention Barracks* [1985] 1 MLJ 418 (Tan & Thio 547).

6. Judicial Independence

Tan & Thio, 573–577.

Alexander Hamilton, *The Federalist Nos 78 & 79* (Tan & Thio, 578, 579).

The Malaysian Judicial Crisis of 1988 (Tan & Thio, 624–630).

7. Contempt of Court

* *Shadrake Alan v Attorney-General* [2011] SGCA 26.

SYLLABUS & READING LIST

Week 8

Fundamental Liberties I – Protection Of Life & Liberty (Article 9)*1. Introduction*

Tan & Thio: Chapters 10 (Interpreting Fundamental Liberties, 665–676) & 11 (Fundamental Liberties: An Introduction, 690–699; Effect of International Human Rights Treaties, 702–703; 706–716)

Wee Chong Jin Commission Report, Chapter 2.

* Li-ann Thio, 'Protecting Rights' in *The Evolution of a Revolution: 40 Years of the Constitution* 193–233.

* Li-ann Thio, 'Reading Rights Rightly: The UDHR and its Creeping Influence on the Development of Singapore Public Law' [2008] *Singapore Journal of Legal Studies* 264–291.

2. 'Life' and 'Liberty'

Tan & Thio, 735–737.

Government of Malaysia v Low Wai Kong [1979] 2 MLJ 29 (Tan & Thio 737)

Tan Tek Seng v Suruhanjaya Perkhidmatan Pendidikan [1996] 1 MLJ 261 (Tan & Thio 743)

3. 'In accordance with "Law"'

* Tan Seow Hon, 'Beyond Supreme Law: A Higher Law Still?' in Thio & Tan (eds), *The Evolution of a Revolution: 40 Years of the Singapore Constitution* (Routledge, 2009).

* *Arumugam Pillai v Govt of Malaysia* [1975] 2 MLJ 29 (Tan & Thio 747)

* *Ong Ah Chuan v PP* [1981] 1 MLJ 64 (Tan & Thio 748)

* *Haw Tua Tau v PP* [1981] 2 MLJ 49 (Tan & Thio 752)

PP v Mazlan [1993] 1 SLR 512 (Tan & Thio, 754)

* *Jabar v PP* [1995] 1 SLR 617 (Tan & Thio, 755)

* *PP v Nguyen Tuong Van* [2004] 2 SLR 328 (HC) (Tan & Thio, 763)

* *Nguyen Tuong Van v PP* [2005] 1 SLR 103 (CA) (Tan & Thio, 764)

SYLLABUS & READING LIST**4. Nature & Quantum of Punishment**

Wee Chong Jin Commission Report – para 40.

PP v Yong Vui Kong [2010] SGCA 10.

5. Right to Counsel

Tan & Thio, 814–816.

* *Jasbir Singh v PP* [1994] 2 SLR 18 (Tan & Thio, 820)

Balasundaram v PP [1996] 2 SLR 331 (HC) (Tan & Thio, 826)

* *Tan Chor Jin v PP* [2008] 4 SLR 306 (Tan & Thio, 828)

* *Rajeevan Edakalavan v PP* [1998] 1 SLR 815 (Tan & Thio, 834)

6. Preventive Detention

Articles 149, 151

Internal Security Act (Cap 143) – focus on ss 8–13 & 74.

Criminal Law (Temporary Provisions) Act (Cap 67)

* *Karam Singh v MHED* [1969] 2 MLJ 129 (Tan & Thio, 193)

* *Lee Mau Seng v Minister for Home Affairs, Singapore & Anor* [1971] 2 MLJ 137 (Tan & Thio, 396)

* *Chng Suan Tze v Minister for Home Affairs* [1989] 1 MLJ 69 (Tan & Thio, 228)

* *Teo Soh Lung v Minister for Home Affairs & Ors* [1989] 2 MLJ 449 (HC) (Tan & Thio, 256)

* *Teo Soh Lung v The Minister for Home Affairs* [1990] 2 MLJ 129 (CA) (Tan & Thio, 259)

* *Re Tan Boon Liat* [1977] 2 MLJ 108 (Tan & Thio, 248)

SYLLABUS & READING LIST

Week 9

Fundamental Liberties II – Protection Against Retrospective Criminal Laws & Equality**1. Retrospective Criminal Law & Punishment**

Article 11

Fan Yew Teng v PP [1975] 2 MLJ 235 (Tan & Thio, 856)

Teh Cheng Poh v PP [1979] 2 MLJ 238 (Tan & Thio, 856)

Sau Soo Kim v PP [1975] 2 MLJ 134 (Tan & Thio, 858)

Jamali bin Adnan v PP [1986] 1 MLJ 163 (Tan & Thio, 860)

Mohamed Yusoff bin Samadi v AG [1975] 1 MLJ 1 (Tan & Thio, 862)

PP v Musa [1970] 1 MLJ 101 (Tan & Thio, 864)

Yeap Hock Seng v Minister for Home Affairs, Malaysia & Ors [1975] 2 MLJ 279 (Tan & Thio, 864)

Nadarajan v Timbalan Menteri Hal Ehwal Dalam Negeri Malaysia [1994] 2 MLJ 657 (Tan & Thio, 865)

Harry Lee Wee v Law Society of Singapore [1985] 1 MLJ 1 (Tan & Thio, 867)

2. Equality & Equal Protection of the Law

Articles 12 & 16

Tan & Thio, 871–892.

* *Datuk Haji bin Harun Idris v PP* [1977] 2 MLJ 155 (Tan & Thio, 895)

* *Malaysian Bar v Government of Malaysia* [1987] 2 MLJ 165 (Tan & Thio, 912)

* *Taw Cheng Kong v PP* [1998] 1 SLR 943 (HC) (Tan & Thio, 924)

* *PP v Taw Cheng Kong* [1998] 2 SLR 328 (CA) (Tan & Thio, 929)

Mohamed Emran bin Mohamed Ali v PP [2008] 4 SLR 411 (Tan & Thio, 934)

* *Eng Foong Ho & Ors v AG* [2008] 3 SLR 437 (Tan & Thio, 937)

* *Eng Foong Ho v AG* [2009] 2 SLR 542 (Tan & Thio, 940)

* *Yong Vui Kong v PP & Anor Matter* [2010] 3 SLR 489; [2010] SGCA 20

SYLLABUS & READING LIST

* Jaclyn Ling-Chien Neo, 'Minorities and the Constitution: A Judicious Balance?' in Thio & Tan (eds), *The Evolution of a Revolution: 40 Years of the Singapore Constitution* (London: RoutledgeCurzon, 2009)

Thio Li-ann, 'Recent Constitutional Developments: Of Shadows and Whips, Race, Rifts and Rights, Terror and Tudungs, Women & Wrongs' [2002] *Singapore Journal of Legal Studies* 328, at 355–370.

Yvonne CL Lee, "'Don't Ever Take a Fence Down Until You Know the Reason it was Put Up" – Singapore Communitarianism and the Case for Conserving 377A' [2008] *Singapore Journal of Legal Studies* 347–394.

Week 10

Fundamental Liberties III – Freedom of Speech, Assembly, Association & Religion

1. Constitutional Limits on Free Speech – Political Speech

Article 14

Public Entertainments and Meetings Act (Cap 257)

Films Act (Cap 107) – ss 33 & 35.

Defamation Act (Cap 75)

* Thio Li-ann, 'The Virtual & the Real: Article 14, Political Speech and the Calibrated Management of Deliberative Democracy in Singapore' [2008] *Singapore Journal of Legal Studies* 25

* Tey Tsun Hang, 'Singapore's Jurisprudence of Political Defamation and Its Triple-Whammy Impact on Political Speech' [2008] *Public Law* 452.

* *Chee Siok Chin v Minister for Home Affairs* [2005] 1 SLR 582 (Tan & Thio, 991)

* *Chee Soon Juan v PP* [2003] 2 SLR 445 (Tan & Thio, 1000)

* *JB Jeyaretnam v Lee Kuan Yew* [1992] 2 SLR 310 (Tan & Thio, 1001, 1052)

* *PP v Koh Seng Huat Benjamin* [2005] SGDC 272 (Tan & Thio, 1027)

* *PP v Ong Kian Cheong & Anor* [2009] SGDC 163 (Tan & Thio, 1028)

* *Lee Hsien Loong v Singapore Democratic Party & Ors* [2009] 1 SLR 642 (Tan & Thio, 1063, 1069)

* *Review Publishing Co Ltd v Lee Hsien Loong* [2010] 1 SLR 52 (Tan & Thio, 1080)

SYLLABUS & READING LIST

Ng Chye Huay v PP [2006] 1 SLR 157 (Tan & Thio, 1139)

PP v Chong Kai Xiong & Ors, Unreported District Court decision (Tan & Thio, 1143)

3. Freedom of Religion

Articles 15, 16, 150(5)(b)(iii), 22I, 152, 153.

Maintenance of Religious Harmony Act (Cap 167A)

Administration of Muslim Law Act (Cap 3)

Wee Chong Jin Commission Report – para 38

Tan & Thio, 1197–1210

* Li-ann Thio, 'Control, Co-optation and Co-operation: Managing Religious Harmony in Singapore's Multi-Ethnic, Quasi-Secular State' [2006] *Hastings Constitutional Law Quarterly* 197–252.

* *Colin Chan v PP* [1994] 3 SLR 662 (Tan & Thio, 1323)

* *Colin Chan v MITA* [1995] 3 SLR 644 (HC) (Tan & Thio, 1330)

* *Colin Chan v MITA* [1996] 1 SLR 609 (CA) (Tan & Thio, 1331)

* *Nappalli Peter Williams v ITE* [1999] 2 SLR 569 (CA) (Tan & Thio, 1252)

* *Adelaide Company of Jehovah's Witnesses* [1943] 67 CLR 116 (Tan & Thio, 1332)

* *Meor Atiqulrahman bin Ishak v Fatimah bte Sihi* [2006] 4 MLJ 605 (Tan & Thio, 1313)