

NATIONAL UNIVERSITY OF SINGAPORE

PART A OF THE SINGAPORE BAR EXAMINATIONS

November 2009

SINGAPORE LEGAL SYSTEM &
CONSTITUTIONAL LAW

Time Allowed 2 Hours

INSTRUCTIONS TO CANDIDATES

1. This examination paper contains **FIVE (5)** questions and comprises **THREE (3)** printed pages inclusive of this cover page.
2. The examination will be in three sections:
Section A – Choose 1 out of 2 questions
Section B – Choose 1 out of 2 questions
Section C – One compulsory hypothetical question
3. Candidates are permitted to bring annotated copies of the Singapore Constitution and relevant statutes into the examination hall.

PART A OF THE SINGAPORE BAR EXAMINATIONS

NOVEMBER/DECEMBER 2009

Singapore Legal System & Constitutional Law

Instructions to Candidates:

- A. Answer ONE question from Section A;
- B. Answer ONE question from Section B; and
- C. Answer the question in Section C.
- D. This paper contains a total of 2 (two) pages. You have two hours to complete the paper.

Section A: Singapore Legal System (30%)

Answer any ONE question.

- 1. To what extent do you think Singapore has benefited from its English legal heritage?
- 2. Write short notes on *all* of the following:
 - a. Demise of jury trial in Singapore (10%)
 - b. *Stare decisis* and predecessor courts in Singapore (10%)
 - c. Challenges to the Singapore legal profession (10%)

Section B: Constitutional Law Pt 1 (30%)

Answer any ONE question.

- 3. Of the numerous changes to Singapore's legislative system, which do you think has had the greatest impact, and in what way?
- 4. 'Singapore's elected presidency is little more than a paper tiger, with a bite far less potent than its bark.' Do you agree with the above statement? Why?

Section C: Constitutional Law Pt 2 (40%)

- 5. Abel and Benny were members of the Democratic Alliance, a non-government organisation dedicated to the promotion of human rights in Singapore. On 15 August 2009, they were arrested by the police and brought to the Tanglin Police Station for questioning. They demanded to see a lawyer but their

request was denied and when they asked the police why they had been arrested, they were simply told, 'You should know why!'

On 19 August 2009, they were served with a Detention Order under section 8(1) of the Internal Security Act signed by the Commissioner of Police. The Order stated that they were being detained for 'dangerous activities' that jeopardised the national security of Singapore and were ordered to be detained for a period of 18 months.

Connie, who was also a member of the Democratic Alliance, and the organization's unofficial legal counsel, applied for a writ of habeas corpus to have Abel and Benny released. When her application failed, she blurted out in open court, 'What do you expect? A real hearing?' Mr Justice Deng, who was the presiding judge in the case immediately cited Connie for contempt and ordered the Attorney-General to proceed with committal proceedings against her for scandalizing the court.

You have been engaged to provide a legal brief advising the leaders of the Democratic Alliance on the rights and remedies available to Abel, Benny and Connie.

The relevant portions of the Internal Security Act are as follows:

8. —(1) If the President is satisfied with respect to any person that, with a view to preventing that person from acting in any manner prejudicial to the security of Singapore or any part thereof or to the maintenance of public order or essential services therein, it is necessary to do so, the Minister shall make an order —

(a) directing that such person be detained for any period not exceeding two years; ...

(2) The President may direct that the period of any order made under subsection (1) be extended for a further period or periods not exceeding two years at a time.

NATIONAL UNIVERSITY OF SINGAPORE

PART A OF THE SINGAPORE BAR EXAMINATION

2010

SINGAPORE LEGAL SYSTEM & CONSTITUTIONAL LAW

November 2010 – Time Allowed 2 Hours

INSTRUCTIONS TO CANDIDATES

1. This examination paper contains **FIVE (5)** questions and comprises **THREE (3)** printed pages inclusive of this cover page.
2. Answer **ONE (1)** question from **Part A** and **TWO (2)** questions from **Part B**.
3. Candidate should answer **ALL** parts of a question unless otherwise instructed.
4. This is an **OPEN BOOK** examination.

PART A: Singapore Legal System (30%)

Answer any ONE question.

1. What do you consider to be the most important factors shaping the development of Singapore's legal system? Why?
2. 'Even though Singapore ceased to be a British colony over 50 years ago, her laws continue to be based mainly on the English common law which has continued to exercise a continuing influence on their development.' Critically assess the validity of this statement.

PART B: Constitutional Law (70%)

Answer any ONE question.

3. 'The offence of scandalizing the court is archaic and outmoded and should be permanently buried by Parliament.' Do you agree with this statement? Why?
4. Adam and Bonny were members of the Labour Alliance, a non-government organisation dedicated to fighting for better working conditions for foreign workers in Singapore. On 15 August 2010, they were arrested by the police and brought to the Tanglin Police Station for questioning. They demanded to see a lawyer but their request was denied and when they asked the police why they had been arrested, they were simply told, 'You should know why!'

On 19 August 2010, they were served with a Detention Order under section 8(1) of the Internal Security Act signed by the Commissioner of Police. The Order – which was signed by KK Ong, Acting Permanent Secretary of the Ministry of Home Affairs – stated that they were being detained for 'activities prejudicial to the national security of Singapore'. They were ordered to be detained for a period of 18 months. No allegations of fact were supplied.

Crystal, who was also a member of the Labour Alliance, and the organization's unofficial legal counsel, applied to see Adam and Bonny, her request was denied on the grounds that the police had not yet completed their investigations and that

Crystal's presence would only impede investigations.

Crystal has approached you for advice on what to do next. Write a **legal brief** advising the leaders of the Democratic Alliance on the rights and remedies available to Abel, Benny and Connie.

5. In a hotly contested election, Kong Wah – a former Chief Justice of Singapore – was elected as President of Singapore. He narrowly defeated the government-supported candidate Kah Yew who had initially been tipped to romp home to victory without much resistance. Kong Wah's election as President worried Bang Sak, the Prime Minister, as he foresaw possible resistance from the Istana with respect to some ground-breaking legislation he was planning to introduce.

To avert a possible showdown, Bang Sak and his party members (who control more than two-thirds of the total number of seats in Parliament) decide to amend the Constitution, to remove all the President's discretionary powers under the Constitution completely. He waited till Kong Wah was out of the country on a 21-day state visit to Russia. The moment Kong Wah left Singapore, he pushed through a Constitution (Amendment) Bill under a Certificate of Urgency to remove the President's various discretionary powers that had been introduced in the 1991 amendments. As his party controlled more than two-thirds of the seats in Parliament, Bang Sak had no problem getting the Bill passed. He then sent the Bill to the Istana for signature, and the Bill was duly assented to by Chow Kah who, as Chairman of the Presidential Council of Advisors, was acting as President in Kong Wah's absence.

When Kong Wah heard what happened, he took the first plane back to Singapore. He was met at the airport by MacGarrett, the Commissioner of Police and some 20 crack police troops who placed Kong Wah under arrest. MacGarrett told him that they were putting him in protective custody pending proceedings to remove him from office for treason as he had been discussing 'state secrets with high-level Marxists' while he was in Russia.

Kong Wah calls you for legal advice. Evaluate the possible arguments you can make on his behalf before the Special Tribunal.

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