(2025) 37 SAcLJ 626
(Published on e-First 11 June 2025)

Book Review

THE LAW ON SEXUAL OFFENCES IN SINGAPORE: A COMMENTARY[1]

by Kevin Ho Hin Tat & Hairul Hakkim s/o Kuthibutheen

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1 It is often said that the law must reflect the times and prevailing social norms – within the realm of criminal law, nowhere is this perhaps more strikingly evident than in the ever-evolving landscape of sexual offending. In recent years, society's understanding of power, consent, victim response, and harm in the context of sexual offences has undergone a profound (and in my mind, positive) transformation. The legal system has responded to such changes by seeking to ensure that the procedural and evidential process as well as the sentencing framework is informed by the full extent of sexual violence or the lived realities of survivors, and, in the process, has had to recalibrate some of its own prior assumptions and legal responses. Over the past few years, sentencing norms, definitions of offences, and procedural safeguards have all shifted in tandem with a society that quite rightly has started to reject the ideas of silence, stigma, or impunity as the norm.[2]

2 This alignment of the law with contemporary mores is particularly striking in the way modern legal frameworks, statutory devices and procedural protections now deal with sexual offences, and with victims of such offending. The rise of movements such as #MeToo (and, within the domestic context, the public discourse sparked by the incident involving then-NUS undergraduate Ms Monica Baey), the increased recognition of digital forms of sexual harm, and the growing emphasis on trauma-

1 Academy Publishing, 2025. This book review is written in the author's personal capacity and the opinions expressed herein are his own views and may not reflect the views of the Supreme Court of Singapore.

2 The recent significant backlash to the comments posted on LinkedIn by the then Vice-President of the Law Society pertaining to a conviction in the High Court of a social media celebrity/actor of serious sexual assault allegations – comments which invoked antiquated conceptions of consent and appeared, on their face, to endorse and perpetuate rape myths – underscores the public's increasingly informed and progressive understanding of sexual offending. See, *eg*, Audrey Wong, "Law Society Vice-President Resigns After His Comments About Rape Survivor Sparked Outcry", *The Straits Times* (25 March 2025).

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informed justice[3] all point to a legal order that is being reshaped by an ever-evolving collective moral consciousness. In this sense, the law (at least in the case of sexual offences) is not just a mirror to societal change but part of the very mechanism through which such change is realised.

3 Such changes are, however, not without their own tribulations. The shifts in norms, both procedural and substantive, since the landmark decision of *Public Prosecutor v NF*[4] going back some two decades back, have been nothing short of seismic. Given the pace and depth of change in this area, it becomes imperative, and equally challenging one suspects, to keep abreast of evolving legal standards, shifting societal expectations, and the growing body of jurisprudence surrounding both the management and sentencing of sexual offences. The legal landscape is no longer static; it is dynamic, shaped by cultural movements, technological developments, and informed concomitantly by an increasingly nuanced understanding of harm and justice. This already challenging dynamic is further complicated by the fact that for a sizeable number of these offences, the principles of deterrence and rehabilitation seemingly often find themselves in tension, ostensibly pointing in diametrically opposed sentencing outcomes when applied to sexual offences.[5] It has been said that "views on sentencing can, and sometimes do in difficult cases, widely diverge",[6] and sexual offences often has more than its fair share of "difficult cases". Cases such as *Public Prosecutor v ASR*[7] (involving the sentencing of an individual suffering from intellectual deficits) and *Public Prosecutor v Siow Kai Yuan Terence*[8] (involving the sentencing of an individual for whom there was some "optimism about [his] prospects [for] rehabilitation")[9] bring into extremely sharp relief some of the difficult dilemmas that those in the sentencing process for sexual offences have to, on occasion, encounter.

4 All of this makes having an in-depth appreciation of the nuances of the law involving sexual offending understandably not the easiest of tasks. And yet, for legal practitioners, scholars, and students alike, as well

3 There have been, for example, steps taken by the courts to develop a specialised list of experienced judges who can better manage cases involving sexual offences. See Chief Justice Sundaresh Menon, Supreme Court of Singapore, response at the Opening of the Legal Year 2025 (13 January 2025) at para 37.

4 [2006] 4 SLR(R) 849.

5 The use of the expressions "seemingly" and "ostensibly" here is by design – as noted by Sundaresh Menon CJ in *Public Prosecution v Low Ji Qing* [2019] 5 SLR 769 at [2], when properly understood, these principles are not generally in these cases in conflict but are, in fact, complementary to each other.

6 *ADF v Public Prosecutor* [2010] 1 SLR 874 at [169].

7 [2019] 1 SLR 941.

8 [2020] 4 SLR 1412.

9 *Public Prosecutor v Siow Kai Yuan Terence* [2020] 4 SLR 1412 at [82].

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as policymakers,[10] staying current is not merely an academic exercise – it is essential to ensuring that the law continues to serve its purpose in a society that is understandably ever-evolving, and redefining some of its norms in this space. Doing so becomes especially important in light of the reality that the rate of sexual offending appears to have been on the ascent in recent times.[11]

5 It is precisely for this reason that this publication is not only timely, but profoundly significant – it offers an accessible and authoritative guide for those engaged in the often complex task of understanding and applying the law on sexual offences. As the first dedicated work in the domestic context to focus exclusively on this area, it fills a long-standing lacuna in the legal literature – as the Honourable the Chief Justice Sundaresh Menon aptly observed, the publication "fill[s] the gap in the existing academic literature"[12] on the subject. From the authors' perspective, the gap that they seek to fill encompasses two facets: to provide for a "repository for legal principles" and to aid the practical application of sentencing frameworks, with a broader goal of ultimately promoting clarity, consistency, and fairness in the sentencing of sexual offenders.[13]

6 In my view, the publication not only meets these intended aims but, in many respects, surpasses them. From a practitioner's standpoint, it is particularly valuable for its comprehensive overview of sentencing norms for sexual offences in Singapore. Spanning Chapters 4 to 9, the authors thoughtfully chart the sentencing landscape across a wide spectrum of

10 The Government has demonstrated a marked readiness to enact appropriate legislation with striking swiftness, reflecting the evolving societal understanding of sexual offences and norms. These measures include (a) the 2012 repeal of a provision in the Evidence Act (Cap 97, 1997 Rev Ed) that permitted the questioning of rape victims on the basis of their purported "immoral character"; (b) subsequent amendments to both the Evidence Act 1893 (2020 Rev Ed) and the Criminal Procedure Code 2012 (2020 Rev Ed) to curtail specific lines of cross-examination; (c) and the enhancement of penalties for certain sexual offences in 2022. See also Andrew Wong, "Concerns of Sexual Assault Victims Should Not Be Minimised or Dismissed: Shanmugam", *The Straits Times* (11 April 2025).

11 The statistics do make for rather grim reading. See Syarafana Shafeeq, "Breaking the Silence On Sexual Violence: More Care and Support for Victims In Singapore", *The Straits Times* (10 February 2025). See also Kevin Ho & Hairul Hakkim, *The Law on Sexual Offences in Singapore: A Commentary* (Academy Publishing, 2025) at para 1.2.

12 Kevin Ho & Hairul Hakkim, *The Law on Sexual Offences in Singapore: A Commentary* (Academy Publishing, 2025) at p vi.

13 Kevin Ho & Hairul Hakkim, *The Law on Sexual Offences in Singapore: A Commentary* (Academy Publishing, 2025) at para 1.8.

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offences – from long-established offences such as outrage of modesty[14] to more recent emergent (and emerging) offences, including the creation or distribution of voyeuristic material[15] and the possession of child abuse imagery.[16] Notably, these chapters do more than merely catalogue offences; they carefully identify the key sentencing considerations relevant to each category of offences and illustrate how these principles are applied in practice via a study of the relevant sentencing precedents.[17] The result is a clear and accessible guide that offers both doctrinal clarity and a practical compass for the multitude of actors having to navigate this evolving and deeply sensitive area of the law.

7 Practitioners will also find particular value in the discussion in Chapter 3 on the "unusually convincing" standard that is very frequently applied in trials involving sexual offences (see *Public Prosecutor v GCK*[18]), in light of the reality that many trials involving sexual offences turn almost exclusively on two wholly divergent and conflicting personal accounts). The chapter offers a clear and thoughtful examination of what this standard entails, accompanied by a helpful synthesis of how it operates in cases that may also engage, implicitly or explicitly, with ostensible rape myths.[19] Drawing the line between the impermissible reliance on outmoded rape myths and the legitimate pursuit of evidential clarity represents, as seasoned practitioners are often aware, a delicate and often fraught exercise. It requires the court, and criminal practitioners, to navigate, with both sensitivity and precision, the fine boundary between probing facts and perpetuating harmful stereotypes while ensuring that the search for truth does not come at the cost of fairness or dignity.

8 From the vantage point of scholars, students, and policymakers, this publication offers not only a clear account of what the law is, but also, where relevant, provides an illuminating glimpse into the legislative journey that has shaped it. Such contextual framing enriches

14 Kevin Ho & Hairul Hakkim, *The Law on Sexual Offences in Singapore: A Commentary* (Academy Publishing, 2025) ch 4.

15 Kevin Ho & Hairul Hakkim, *The Law on Sexual Offences in Singapore: A Commentary* (Academy Publishing, 2025) ch 5.

16 Kevin Ho & Hairul Hakkim, *The Law on Sexual Offences in Singapore: A Commentary* (Academy Publishing, 2025) ch 7.

17 For instance, consider the comprehensive analysis of sentencing precedents across Bands 1 to 3 for rape offences (as set out in *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449), along with the underlying factors that informed their classification, as discussed in some depth in Kevin Ho & Hairul Hakkim, *The Law on Sexual Offences in Singapore: A Commentary* (Academy Publishing, 2025) at paras 8.85–8.126.

18 [2020] 1 SLR 486.

19 Kevin Ho & Hairul Hakkim, *The Law on Sexual Offences in Singapore: A Commentary* (Academy Publishing, 2025) at paras 3.15–3.29.

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one's understanding of current legal norms, while also underscoring the importance of situating the law within its broader socio-political milieu. Notably, the publication addresses recent amendments to the statutory definition of rape in Singapore[20] and, in the spirit of thoughtful suggestions for reform, reflects on the potential merits (and pitfalls) of introducing a statutory presumption to alleviate the psychological toll on prosecutors, law enforcement officers, and arguably judicial officers, of being made to engage with large volumes of distressing sexual material for the purposes of criminal proceedings.[21] I should, however, caveat that these reform-oriented discussions are not a central feature of the publication – and rightly so. As the authors themselves make clear, the aim was not to develop a prescriptive text that seeks to articulate what the law *should* be, but rather to be focused on what the law *is*.[22]

9 If the preceding decades of legal developments in the realm of sexual offences are any indication, it should be clear to all of us that this field will continue to evolve, both procedurally and substantively, as the law endeavours to keep pace with the shifting contours of our collective lived experiences. The challenges ahead are unlikely to abate; indeed, they are likely to grow more complex. Courts and legislatures, not just here in Singapore, but all over the world, will increasingly find themselves navigating uncharted territory, not only in responding to changing societal expectations and comparative reforms in other developed jurisdictions, but also in grappling with the disruptive impact of emerging technologies. Nowhere is this more apparent than in the proliferation of pornographic material created through the use of artificial intelligence and deepfake technology – a development that threatens to radically reshape long-standing legal definitions of harm, consent, and culpability. These areas are not specifically covered in the publication – through no fault of the authors in light of their relative infancy – but are areas that all of us, scholars, advocates, decision makers and politicians alike, must navigate in the months and years to come. As the law struggles to define and regulate conduct in this fast-moving digital frontier, it is clear that many more chapters in the story of sexual offences remain to be written. In the meantime, this publication offers a much-needed compass in a landscape still in motion, bringing some coherence to a field often marked by uncertainty. It is a work that deserves to be welcomed and

20 Kevin Ho & Hairul Hakkim, *The Law on Sexual Offences in Singapore: A Commentary* (Academy Publishing, 2025) at paras 8.3–8.4.

21 Kevin Ho & Hairul Hakkim, *The Law on Sexual Offences in Singapore: A Commentary* (Academy Publishing, 2025) at paras 7.9–7.12.

22 Kevin Ho & Hairul Hakkim, *The Law on Sexual Offences in Singapore: A Commentary* (Academy Publishing, 2025) at para 1.10

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celebrated – not only for its contribution to legal scholarship, but for its place in the continuing pursuit of justice.

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