

Book Review

CONSTITUTIONAL AND ADMINISTRATIVE LAW IN SINGAPORE: CASES, MATERIALS AND COMMENTARY¹

by Kevin Y L Tan and Thio Li-ann

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1 *Constitutional and Administrative Law in Singapore: Cases, Materials and Commentary* by Kevin Y L Tan and Thio Li-ann will be immediately familiar to most lawyers in Singapore. Indeed, generations of lawyers will surely recall flipping feverishly through the pages of *Constitutional Law in Malaysia and Singapore* by the very same authors – an invaluable one-stop resource that served to facilitate somewhat the then-seemingly-insurmountable task of mastering enough of Singapore public law to graduate from law school.

2 *Constitutional and Administrative Law in Singapore: Cases, Materials and Commentary* is a significant update to that classic reference work on Singapore public law. In addition to being updated with extracts from the latest cases and reference material, there are two major differences between this work and its predecessor. First, as is evident from its title, the scope of this book has been extended to administrative law. This is an important development. Reference materials on Singapore administrative law are relatively scarce. This has left law students struggling to obtain a good understanding of administrative law in Singapore in an unenviable position. They have had to choose between grappling with English administrative law textbooks declining steadily in relevance to the Singapore context as Singapore courts are increasingly minded to develop an autochthonous administrative law, or piecing together a structure of Singapore administrative law from the ground up by reference to Singapore cases (with the help of their instructors, of course, who are performing the very same task). By providing a systematic structure of Singapore administrative law and highlighting the most important cases and reference materials in this regard, this update is likely to be very much welcomed by law students and legal practitioners alike.

1 Academy Publishing, 2021.

3 The second major difference between this book and its predecessor, as is also evident from its title, is that it is now exclusively focused on Singapore law. The fact that this book is nevertheless still a weighty and substantial tome (upwards of 1,500 pages!) speaks volumes about the growing maturity of Singapore public law jurisprudence, reflecting a coming-of-age of this area of law especially in recent decades.

4 Notwithstanding these differences, the style of this book will be instantly recognisable to anyone familiar with its predecessor. It is a casebook containing extracts of judgments, academic articles, speeches, parliamentary debates, and other kinds of reference material, sorted according to themes and points that help to structure one's understanding of Singapore public law. As a casebook, then, the main criterion by which this book stands to be reviewed is its usefulness as a reference point and learning aid for anyone seeking to understand Singapore public law.

5 And by this standard, this book excels. The learned authors' careful selection and structuring of material in this book make it an extremely useful reference guide for students, teachers and practitioners alike. This fact alone is sufficient to make this book a must-have for any student of public law, especially with the inclusion of administrative law within its scope. But that is not all – this book provides a one-stop quick access to a very wide range of primary sources within each domain of public law, ranging from extracts from Joseph Raz's "The Rule of Law and Its Virtue",² Edmund Burke's "Speech to the Electors of Bristol", to extracts from important Singapore cases such as *Wong Souk Yee v Attorney-General*.³ Indeed, the book is a striking illustration of its authors' deep and unparalleled expertise in this subject. By deftly weaving together their mastery of history, philosophy, theory and doctrine relating to Singapore constitutional and administrative law, Tan and Thio have produced a reference work that covers with equal facility the little rules *and* big ideas essential for a comprehensive understanding of public law in any jurisdiction.

6 Further, the updates to the book to include the latest developments in Singapore public law significantly enhance its value. Timeless works like Montesquieu's "The Spirit of the Laws" and the Federalist papers now sit alongside recent reflections on the separation of powers such as Tan's own thoughts on the subject in "Law, Legitimacy and the Separation of

2 (1977) 93 LQR 195.

3 [2019] 1 SLR 1223.

Powers”⁴ Dicey’s classic expression of the rule of law in *An Introduction to the Study of the Law of the Constitution* can now be usefully compared with Chief Justice Sundaresh Menon’s speech, “The Rule of Law: The Path to Exceptionalism”⁵ Recent significant developments in Singapore case law on the right to vote⁶ and the by-election regime have also been included.⁷

7 This book is therefore on its way to becoming a classic reference work on Singapore public law. One will observe though that the book is at present relatively heavily weighted towards constitutional law – indeed, the depth and detail of the discussions of constitutional theory and history exceed those of the corresponding sections in the administrative law portion of the book. It might be interesting for future editions of this work to include more discussion both of administrative law theory at a general level, as well as at the level of specific grounds of review such as the no-fettering rule or legitimate expectations doctrine. Also, it might be worth considering whether the judicial review ground of illegality ought to be treated in a separate chapter instead of within the “Substantive Review” chapter. The learned authors evidently intend to draw a distinction between the grounds of review under the “Substantive Review” chapter with the grounds of review discussed in the subsequent chapter on “Procedural Impropriety”, with the former covering “substantive grounds of review” and the latter covering “procedural grounds of review” more explicitly concerned with the decision-making process.⁸ Such a decision is understandable. However, classifying illegality as a “substantive” ground of review may run the risk of engendering some confusion (especially on the part of stressed-out law students) in light of the Singapore Court of Appeal’s reasoning in *Tan Seet Eng v Attorney-General*,⁹ which distinguished illegality and irrationality on the basis that it is the latter that allows decisions to be impugned for being “substantively unlawful”, while the former serves a different purpose.¹⁰ Nevertheless, these are minor points and do not detract from the value of this book as an important reference work for anyone interested in Singapore public law.

4 Kevin Y L Tan, “Law, Legitimacy and the Separation of Powers” (2017) 29 SAclJ 941, referenced in Kevin Y L Tan & Thio Li-ann, *Constitutional and Administrative Law in Singapore: Cases, Materials and Commentary* (Academy Publishing, 2021) at p 29.

5 Kevin Y L Tan & Thio Li-ann, *Constitutional and Administrative Law in Singapore: Cases, Materials and Commentary* (Academy Publishing, 2021) at p 43.

6 *Daniel De Costa Augustin v Attorney-General* [2020] 2 SLR 621.

7 *Vellama d/o Marie Muthu v Attorney-General* [2013] 4 SLR 1; *Wong Souk Yee v Attorney-General* [2019] 1 SLR 1223.

8 Kevin Y L Tan & Thio Li-ann, *Constitutional and Administrative Law in Singapore: Cases, Materials and Commentary* (Academy Publishing, 2021) at p 1,228.

9 [2016] 1 SLR 779.

10 *Tan Seet Eng v Attorney-General* [2016] 1 SLR 779 at [80].

8 Singapore public law has come a long way indeed, and the development of this work from its previous iterations to its present form tracks nicely the growing maturity of this area of law. It will be most interesting to observe the evolution of this work as the Singapore courts continue to grapple with perennial issues at the frontiers of public law and as Singapore's public law jurisprudence truly comes into its own.
