A Modern Indian Penal Code
Study Guide
NUJS Summer School June 2012
Lecturer: Professor Stanley Yeo

Instructor

Stanley Yeo, LLB (Hons) (Sing), LLM (Well), LLM, PhD, LLD (Syd) is a professor of law at the National University of Singapore. Prior to that, he was professor of criminal law at Southern Cross University, New South Wales, Australia, where he received the Vice-Chancellor's award for teaching excellence. Professor Yeo's main teaching and research interests lie in the area of criminal law, especially comparative criminal law. He has taught in Australia, Canada, Japan and Singapore and published extensively in the fields of criminal law and criminal justice. His major works include Compulsion in the Criminal Law (Law Book Co, 1990), Fault in Homicide (Federation Press 1996), Unrestrained Killings and the Law (OUP, 1997), Criminal Defences in Australia (LexisNexis 2005), Australian Criminal Justice (OUP, 2005) and Criminal Law in Malaysia and Singapore (LexisNexis 2007, 2011); and Codification, Macaulay and the Indian Penal Code: The Legacies and Modern Challenges of Criminal Law Reform (with B Wright and WC Chan, Ashgate, 2011). Professor Yeo is chief editor of the Singapore Journal of Legal Studies, and was previously general editor of the Criminal Law Journal.

Introduction

Welcome to this course which I hope you will find an enjoyable and rewarding experience. To help achieve this, please feel entirely free to share any of their concerns with me at any time about this course - the way it is taught, the reading materials, the assessment tasks or whatever.

Course description

This course critically evaluates the general principles of criminal law contained in the Indian Penal Code (IPC) against contemporary thinking about them. Its primary aim is to formulate a new set of general principles that are consistent with the spirit of Macaulay’s original draft Penal Code, and which could be incorporated into an updated version of the IPC. This exercise is assisted by considerations of legal history and comparative analyses of current law and law reform perspectives from selected common law jurisdictions.
The syllabus, in the main, comprises a study of a series of papers (since published by Ashgate) which were presented by leading criminal law experts at a symposium held in June 2010 and hosted by the Faculty of Law of the National University of Singapore. The theme of the symposium was “A Model Indian Penal Code adhering to the philosophy of Macaulay”. The experts were instructed to consider how the general principles of criminal law contained in the IPC might look today if the original Code framers, maintaining their philosophical stance, undertook a major revision. In addressing that question, they would examine the 150 years of judicial interpretations of the IPC, and study recent common law and criminal code developments from other comparable jurisdictions such as Australia, Canada and England. No doubt they would be prepared to move away from their original philosophical stance if there were sufficiently strong public policy reasons (evinced, for example, by the wide acceptance of a particular criminal law principle by the current criminal laws of major jurisdictions). But they could suppose that any such departures would be to the minimum extent necessary, and should be compatible with the rest of the modernized Code.

The topics covered by the papers, which will comprise the readings for this course, are as follows:

1. The philosophical and political underpinnings of the original Code framers
2. The fault elements of crime (including intention, knowledge, recklessness, negligence)
3. The conduct elements of crime (including voluntariness, omissions and causation)
4. Mistake and strict liability
5. General defences involving compulsion (private defence, duress, necessity)
6. General defences involving mental malfunctioning (insanity, intoxication)
7. Abetment, conspiracy and attempt
8. Vicarious liability
9. Challenges of codification and reform of the criminal law

**Course objectives**

1. To provide students with a detailed understanding of the general principles of criminal responsibility found in the IPC, and those principles as they appear under the current laws of other jurisdictions such as Australia, Canada and England.
2. To introduce students to use of legal history and comparative analyses of law, and the benefits to be derived from these methods of study.
3. To develop the student’s critical appraisal of a variety of social institutions and community values and expectations in relation to criminal behaviour and responsibility.
4. To develop further a student’s skills in legal research and writing and in oral presentation and argument.

**Prescribed and Reference Texts**

The prescribed text is *Codification, Macaulay and the Indian Penal Code: The*
Legacies and Modern Challenges of Criminal Law Reform (eds. Wing-Cheong Chan, Barry Wright and Stanley Yeo; Ashgate, 2011).

The recommended reference text is Stanley Yeo, Neil Morgan and Chan Wing Cheong, Criminal Law in Malaysia and Singapore (LexisNexis, 2edn, 2011), and referred to as “YMC” in this study guide.

Class Structure

There will be 6 four-hour long classes. Except for the first two classes, each class will cover two sets of topics, with two hours devoted to each set. Each set will commence with a lecture presentation by students, followed by those same students leading a seminar discussion. The lecturer will make further observations and sum-up at the end of each discussion. Further details are provided below.

The maximum enrolment for this course is 18 students.

Class Preparation

Teaching of the course proceeds on the assumption that students are making a detailed study of the selected readings. As students will be expected to participate in class, they should be sure to read the prescribed readings before attending the seminar discussion on those topics.

Assessment Methods

There will be three forms of evaluation in this course:

<table>
<thead>
<tr>
<th>Assessment Type</th>
<th>Percentage of Final Grade</th>
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<tbody>
<tr>
<td>Class participation</td>
<td>20% of the final grade</td>
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<tr>
<td>Lecture Presentation &amp; Leading Discussion</td>
<td>20% of the final grade</td>
</tr>
<tr>
<td>Take-home Examination</td>
<td>60% of the final grade</td>
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</tbody>
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Due to the intensive nature of the course, prior to its commencement I shall be assigning to students their topics.

Class Participation

This will be based on the attendance at classes, and on the overall quality of the student’s contributions in the seminars. Students should feel free to make (relevant) comments and ask (relevant) questions at any time in the seminars.

Lecture presentation and leading seminar discussion

Students working in pairs will present a lecture (45 mins) and lead a seminar discussion (45 mins) on their assigned topic(s). Besides the prescribed readings for the topic, students are expected to engage in some supplementary independent legal research (as a guide, it should be no more than 14 hours). Students will be afforded some supervision by the lecturer. This mode of assessment is based on oral presentation and facilitating
class discussion. Any written or visual material (e.g. lecture handouts or powerpoint slides) should serve only as teaching tools and should be succinct and kept to the minimum. Such materials should be supplied to the other students at the commencement of the class.

Marking criteria

Your lecture presentation and leading of a seminar discussion will be considered together, and marked collectively on the basis of the following:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Unsatisfactory</th>
<th>Excellent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount of content consistent with time and purpose</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Clear, concise, fluent and logical presentation</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Quality of critical analysis and suggestions for change or retention of the current law</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Content and use of independent research findings</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Ability to facilitate class discussion</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Handling of questions and discussion</td>
<td>1</td>
<td>2</td>
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Take-home Examination

The examination will be for two hours and comprise a selection of essay-type questions. It will be a take-home paper with limited time given to write and submit it. Further information and instructions concerning the examination paper will be given after classes have commenced.

Marking criteria

Your examination paper will be marked on the basis of the following:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Inadequate</th>
<th>Excellent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ability to extract and summarise relevant information from the readings</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Ability to integrate and evaluate information from the readings, and from independent legal research</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Content and use of independent legal research</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Ability to develop convincing legal arguments</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Conciseness and fluency of expression</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Correctness of spelling, grammar and punctuation</td>
<td>1</td>
<td>2</td>
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Class Schedule

Class One:
1. “Getting to know you” and aims, content and structure of the course;
2. The Case for Revitalising the Indian Penal Code
3. Macaulay’s Indian Penal Code: Historical Context & Originating Principles
4. An Introduction to the Comparative Legal Method

Class Two:
1. Discussion of Chapters 1 and 2 of the prescribed text
2. The Fault Elements of Crime
Discussion of Chapter 3 of the prescribed text; and Chapter 4 of YMC

Class Three:
1. The Conduct Elements of Crime
Discussion of Chapter 4 of the prescribed text, and Chapter 3 of YMC
2. Mistake and Strict Liability
Discussion of Chapter 5 of the prescribed text; and Chapters 7 & 17 of YMC

Class Four
1. Abetment, Conspiracy and Attempt
Discussion of Chapter 6 of the prescribed text; and Chapters 34 & 36 of YMC
2. Vicarious Liability
Discussion of Chapter 7 of the prescribed text; and Chapter 35 of YMC

Class Five
1. Private Defence, Duress and Necessity
Discussion of Chapter 8 and 9 of the prescribed text; and Chapters 20, 22 & 23
2. Insanity and Intoxication
Discussion of Chapter 10 and 11 of the prescribed text; and Chapters 24 & 25

Class Six
1. Provocation
Discussion of Chapter 12 of the prescribed text; and Chapter 29 of YMC
2. Challenges of Codification and Criminal Law Reform
Chapter 13, 14 and 15 of the prescribed text
3. Concluding Observations: The Quest for and Makings of a Modern Indian Penal Code

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