

Introduction to the Singapore Legal System



Photo by: <https://tinyurl.com/y3s28bd7> 1

Learning Objectives

- Explain criminal law and civil law, and compare the differences
- Describe the sources of Singapore Law
- Explain the hierarchy of Singapore Courts
- Describe the doctrine of binding precedent
- Describe the civil litigation process and the concept of Alternative Dispute Resolution

Classifications of Law

Two broad and separate entities of law:

- Criminal Law
- Civil Law

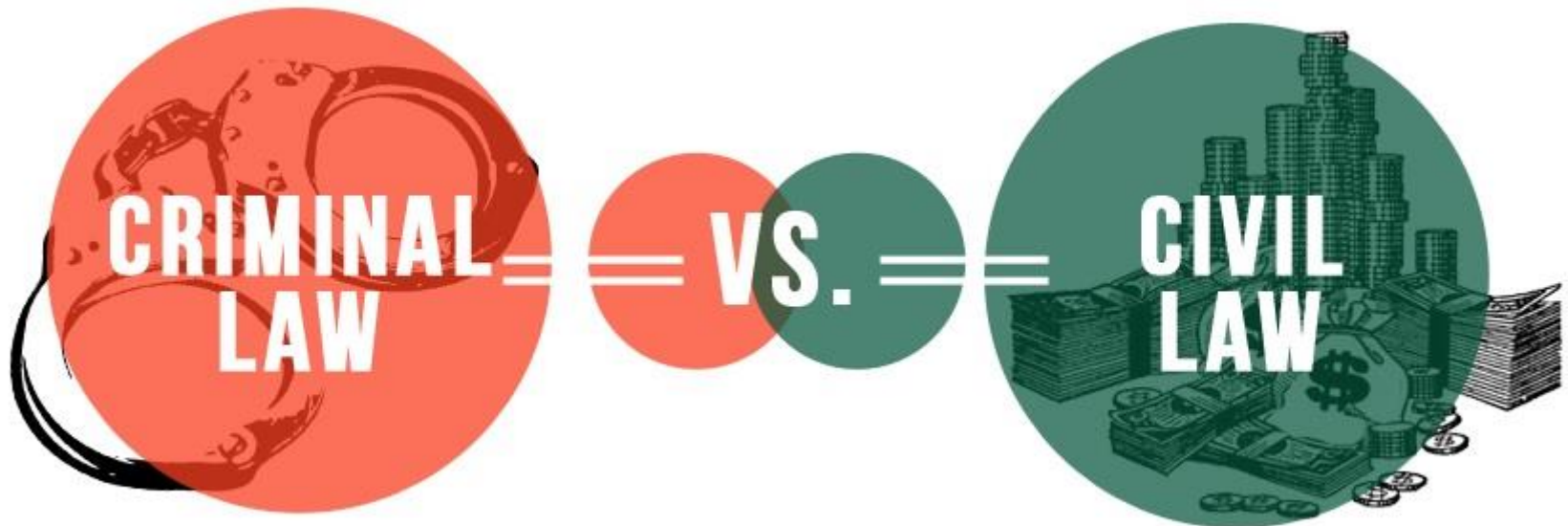


Photo by: <https://tinyurl.com/y28zuxb3>

Criminal Law

- What is criminal law?
 - Collection of rules that are concerned with establishing and maintaining acceptable norms of behaviour so that there is stability in society.
 - Deals with crimes and legal punishment of criminal offences.
 - Objective is to punish the wrongdoer
 - State (refers to Singapore) will prosecute the wrongdoer who committed “wrongs against the State”.
 - Accused is convicted if guilty, acquitted if not.
 - Punishment can be custodial (imprisonment) or non-custodial (fines or community service).

Who's who in Criminal Law

- Attorney General (AG) in his capacity as **Public Prosecutor** (PP) – represents the State in prosecuting the wrongdoer.
- **Accused** – the wrongdoer.
- The ingredients that the PP (or DPP) has to prove in Court:
 - The criminal act
 - The intention to commit the crime

Civil Law

- What is civil law?
 - Collection of rules that govern the relationships among individuals.
 - Deals with disputes between individuals in which compensation is awarded to the victim.
 - Civil case is filed by an individual.
 - Defendant can be found liable, or not liable.
 - To give compensation (usually financial (\$\$\$) to an individual who has been injured by another.
 - The State is not involved

Civil Law

- Some examples of branches of civil law :
- Tort
- Contract
- Family
- Property

Who's who in Civil Law

- **Plaintiff** (also known as claimant or complainant) – party who sues in a civil action.
- **Defendant** – party who is sued.



Civil and Criminal Wrong



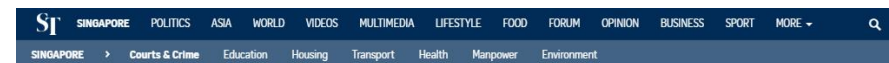
It is possible that a wrong can be both a civil wrong, as well as a crime capable of prosecution by the State.

Civil and Criminal Wrong

Example:

- Drunk driver knocks down and injures pedestrian.
- Driver has committed a **crime** ~ can be charged for drink driving under the Road Traffic Act.
- Driver has also committed a **civil wrong** ~ causing personal injury to the pedestrian resulting in him suffering financial loss, for example from incurring medical expenses and loss of earnings.

<https://www.straitstimes.com/singapore/courts-crime/drink-driver-jailed-18-weeks-over-tanjong-pagar-accident-that-injured-4>



Drink driver jailed 18 weeks over Tanjong Pagar accident that injured 4 pedestrians



Lim Kwong Fei's car also almost collided into a girl before it hit a taxi and a lorry, causing nearly \$17,000 in damages to the two vehicles. ST PHOTO: WONG KWAI CHOW



ST VIDEOS



Sources of Singapore Law

- The Singapore Constitution
- Statutes and Subsidiary Legislation
- Case Law (i.e. decisions made by judges)
- Some aspects of English Law (i.e. English legislation e.g. Sale of Goods Act, Partnership Act & English case law)



Photo by: <https://tinyurl.com/y2x6vf2g>

The Constitution of Singapore

What is a constitution?

A collection of rules that determine the creation and operation of the government and its institutions.

- **Supreme law of the land (“mother of all laws”)**
 - Any law passed that is inconsistent is void
 - Safeguards fundamental liberties (eg Art 9 – right to life and personal freedom)
 - Lays down system of government
- **Three arms of government**
 - Legislature
 - Executive
 - Judiciary

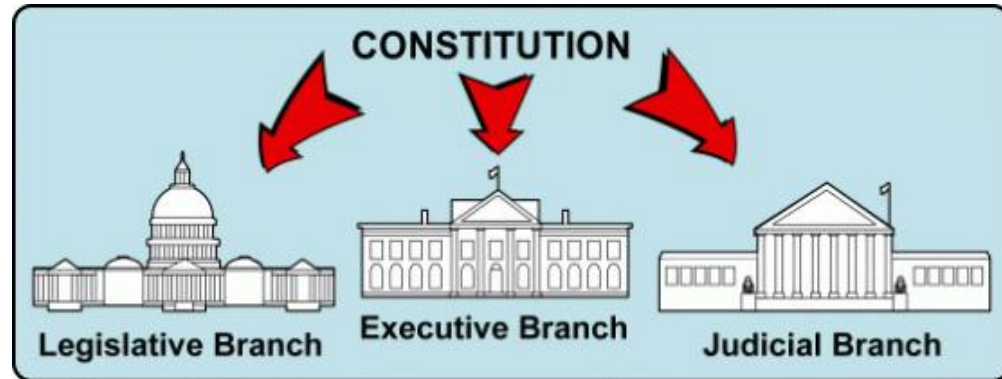


Photo by: <https://tinyurl.com/yxrr68bp>

<https://sso.agc.gov.sg/Act/CONS1963>

<https://www.youtube.com/watch?v=p5UBprWgWlI&t=3s>

The Legislature



- The President and Parliament
- Main law-making body in Singapore
- Critical/Inquisitorial Function (ie check on the actions and policies of the Government)
- Financial control of government spending

Photo by: <https://tinyurl.com/y68kueec>

The Executive

- The President, the Prime Minister & his Cabinet
- Implements Acts of Parliament and executes decisions of the Government
- Running of the country



The Executive



PRIME MINISTER'S OFFICE SINGAPORE

PM & his cabinet



New Cabinet balances continuity, exposure, renewal

The team will lead Singapore through the current public health and economic crisis, and plan for a future beyond Covid-19, said PM Lee Hsien Loong yesterday

* New appointments in new ministries
* Promotions
* Minister since 2015

PRIME MINISTER'S OFFICE			
Lee Hsien Loong, 68 • Prime Minister	Heng Swee Keat, 59 • Deputy Prime Minister • Coordinating Minister for Foreign Affairs, Strategy Coordination, Security, Customs and Border Protection, and National Research Foundation, President POF	PM Lee will remain Finance Minister and steered the government's budget, which broad coverage of most priorities and policies, said PM Lee. PM Lee will also be formally appointed as Coordinating Minister for economic policies, forming a role he played in the past years.	Teo Chee Hean, 65 • Senior Minister • Coordinating Minister for National Security, Security, and Digital Government, Deputy Minister, Deputy Coordinating Secretary for National Population and Talent Division and Business, Customs, Government
Tharman Shanmugaratnam, 63 • Senior Minister • Coordinating Minister for Social Policy, Monetary Affairs, and Finance, and Productivity, Skills and Employment, Social Development, and Chairman of the National Jobs Council	Indraneel Rajah, 57 • Minister • Population Ministry (since 2015)	Mallikarajan, 55 • Minister • Dr. Han, had performed well in the Ministry of Health and it was time for him to take on more responsibilities	Tan See Leng, 55 • Minister • Minister, had performed well in the Ministry of Health and it was time for him to take on more responsibilities
S. Iswaran, 58 • Minister • Minister, In-charge of Security	Sin Ann, 45 • Senior Minister • Minister of Health	Edwin Tong, 50 • Minister • Minister of Health and it was time for him to take on more responsibilities, said PM Lee	Low Yen Ling, 45 • Minister of State • Minister of State • Minister of State • Minister of State
COMMUNICATIONS AND INFORMATION			
S. Iswaran, 58 • Minister • Minister, In-charge of Security	Sin Ann, 45 • Senior Minister • Minister of Health	Edwin Tong, 50 • Minister • Minister of Health and it was time for him to take on more responsibilities, said PM Lee	Low Yen Ling, 45 • Minister of State • Minister of State • Minister of State • Minister of State
DEFENCE			
Ng Eng Hen, 61 • Minister	Heng Chee How, 59 • Senior Minister of State	Zaczy Muhamad, 45 • Senior Minister of State	Lawrence Wong, 47 • Minister
FINANCE			
Heng Swee Keat, 59 • Minister	Lawrence Wong, 47 • Second Minister	Indraneel Rajah, 57 • Second Minister	Finance • Minister • Minister in charge of the Social Welfare Initiative
HEALTH			
Gan Kim Yong, 61 • Minister • Minister • Minister in charge of ageing issues	PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee.	Masagos Zulkipri, 57 • Second Minister • Minister of State	Koh Poh Koon, 48 • Minister of State • Minister of State
HOME AFFAIRS			
K. Shanmugam, 61 • Minister	Josephine Teo, 52 • Second Minister • Minister of State	Muhammad Faishal Brahman, 52 • Minister of State	Desmond Tan, 52 • Minister of State
NATIONAL DEVELOPMENT			
Desmond Lee, 44 • Minister	PM Lee will continue to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee.	Indraneel Rajah, 57 • Second Minister • Minister of State	Sin Ann, 45 • Senior Minister of State • Minister in charge of the Ministry of State
SOCIAL AND FAMILY DEVELOPMENT			
Masagos Zulkipri, 57 • Minister • Minister in charge of Ministry of State	PM Lee will continue to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee.	Desmond Lee, 44 • Minister • Minister in charge of Social Services Integration	Sin Ann, 45 • Senior Minister of State • Minister in charge of the Ministry of State
TRANSPORT			
Ong Ye Kung, 50 • Minister	PM Lee will continue to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee.	Amy Khor, 62 • Senior Minister of State	Cheong Hong Tat, 46 • Minister of State
SUSTAINABILITY AND THE ENVIRONMENT			
Grace Fu, 56 • Minister	PM Lee will continue to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee.	Muhammad Faishal Brahman, 52 • Minister of State	Sin Ann, 45 • Senior Minister of State • Minister in charge of the Ministry of State
TRADE AND INDUSTRY			
Chan Chun Sing, 50 • Minister • Deputy chairman of the Association	PM Lee will continue to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee.	Desmond Lee, 44 • Minister • Minister in charge of Social Services Integration	Sin Ann, 45 • Senior Minister of State • Minister in charge of the Ministry of State
MAYORS			
Denise Phua, 60 • Mayor of Central Singapore District	PM Lee will continue to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee. PM Lee continues to lead the government's response to the public health system, building new hospitals and expanding healthcare services, and PM Lee.	S. Iswaran, 58 • Minister in charge of trade relations	Alvin Tan, 40 • Minister of State • Minister of State

In normal times, we need experienced ministers to provide steady hands, and also to mentor the younger ministers. In this crisis, this need is even greater because this is not normal times. We are in the thick of a grave crisis... This puts a premium on experience and a sure touch...

I am rotating the ministers, especially the younger ones, to gain exposure and experience...

I am renewing the line-up to bring in fresh blood... They will reinforce my team, and offer new ideas and perspectives.

- PM LEE

<https://www.straitstimes.com/singapore/new-cabinet-balances-continuity-exposure-renewal>

The Judiciary

- Responsible for administration of justice
- Judicial power vested in the Supreme Court and the State Courts



Photo by: <https://tinyurl.com/y462fstk>

The Judiciary



Photo by: <https://tinyurl.com/yy5gzmxa>

The Judiciary



What do the
Scales and
Sword mean?

Image credit Wikipedia



Singapore High Court Bigstock

Statutes

- Laws made or written by the Government in Parliament through an act called legislation.
- Examples of statutes: Copyright Act, Computer Misuse Act, Cybersecurity Act and Personal Data Protection Act.



<https://sso.agc.gov.sg/>



<https://www.youtube.com/watch?v=TZPWz7d0w1w&feature=youtu.be>

Statutes

Subsidiary legislation:

e.g. Road Traffic Rules made pursuant to Road Traffic Act



Photo by: <https://tinyurl.com/y6hged42>



Photo by: <https://tinyurl.com/y3ydpplf>

Purposes of legislation

- To introduce new law, e.g. Covid-19 (Temporary Measures) Act 2020
- To repeal existing law which may no longer be relevant / archaic, e.g. S309 Penal Code (attempting suicide no longer a crime)
- To consolidate existing laws, e.g. Women's Charter
- To implement government policy, e.g. current changes to CPF drawings
- Make penalties more severe for certain offences; eg traffic offences like drink-driving

https://www.straitstimes.com/politics/fake-news-law-to-come-into-effect-oct-2&utm_source=STSmartphone&utm_medium=share&utm_term=2019-10-01+17%3A59%3A11

<https://www.straitstimes.com/singapore/penal-code-review-proposals-aim-to-better-protect-vulnerable>

<https://www.straitstimes.com/singapore/rules-on-cpf-usage-and-hdb-housing-loans-updated-to-ensure-homes-for-life>

<https://www.singaporelawwatch.sg/Headlines/Stiffer-penalties-for-errant-motorists-from-Nov-1>

Legislative Process

The 3 readings (how a Bill is introduced and considered in Parliament)

- **First reading** – The Bill is formally introduced in Parliament by any Member of Parliament whereas a Government Bill is introduced by the Minister concerned.
- **Second reading** – Minister responsible outlines purpose/reason for law then a general debate may arise covering the general merits and principles of the Bill.
- **Third reading** – Amendments, if any, will be proposed. The debate at the Third Reading is confined to the contents of the Bill. The Bill is then put to vote.
- President assents and 'Bill' becomes law.

<https://www.pmo.gov.sg/newsroom/pm-lee-hsien-loong-parliamentary-debate-constitution-amendment-bill>

<https://www.channelnewsasia.com/news/videos/protection-from-online-falsehoods-and-manipulation-bill-passed-11515432>



Legislative Process



<https://www.youtube.com/watch?v=TZPWz7d0w1w>

New legislation passed in Parliament?

<https://www.straitstimes.com/singapore/viral-text-saying-anyone-on-phone-while-engine-is-running-will-lose-licence-on-the-spot-is>

Can be done very quickly if needed (eg Covid-19 situation)

<https://www.straitstimes.com/business/property-buyers-get-temporary-relieve-from-making-payments-under-covid-19-law>

Case Law

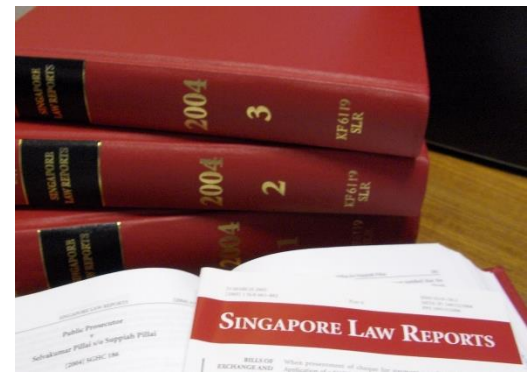


Photo by: <https://tinyurl.com/y2x6vf2g>

- Case law is an important source of unwritten law in Singapore. Unwritten means law not embodied in a code or statute.
- Case Law has been derived from recorded judgments of judges in cases which come before the courts (judge-made laws).
- For example: *Donoghue v. Stevenson [1932]*
 - Through *Donoghue v. Stevenson*, the modern concept of negligence was created and set out general principles whereby one person would owe another person a duty of care.

<https://www.youtube.com/watch?v=helmiPe52YyA>

Doctrine of Binding Precedents



- Case Law is subject to the doctrine of binding precedents or previous decisions.
- Under this doctrine:
 - The judge has to follow a prior decision of the courts above in the hierarchy IF the case he/she is now deciding is similar to that prior case.
 - Also known as the theory of ***stare decisis*** (let the decision stand),²⁵ where the decision of the higher court binds lower courts.

Doctrine of Binding Precedents

EXAMPLE

- Wong promised to make a gift of \$10,000 to the National Kidney Foundation in 2004.
- In 2005 after the NKF scandal, Wong refused to fulfil his promise and the NKF sued him alleging a breach of promise. The court ruled in favour of Wong holding that a promise to make a gift is not legally enforceable.
- Five years later (2010), the Singapore Children's Society sues Lee alleging that she had breached her promise to make a gift of 5 diamond rings to the Society.

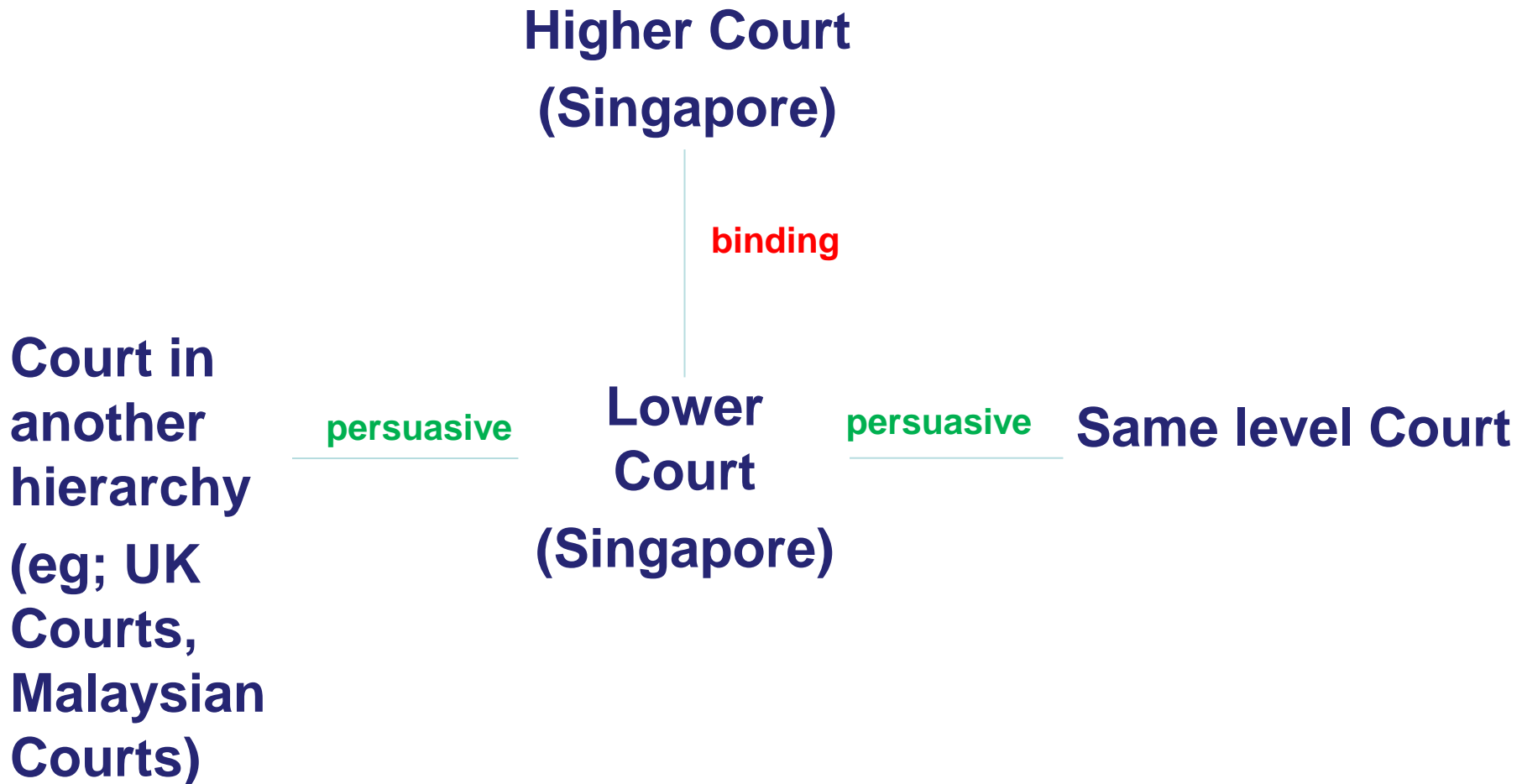
>> The two cases are substantially similar. Each involves breaches of a promise to make a gift. The court in the second case would most likely cite the case of National Kidney Foundation v. Wong to hold that Lee's promise is not legally enforceable.

How does the doctrine work??

Application of Precedent “Stare Decisis”:
(where facts of case are similar)

- Decision of higher court binds all lower courts in same hierarchy
- Court is not bound by its own prior decision - may be persuasive authority
- Not bound by decision of court from another hierarchy - may be persuasive authority

Doctrine of Binding Precedents



But, how did Singapore law originate?



Photo by: <https://tinyurl.com/cp3lje9>

- By reception of English law
- In 1819, when Singapore passed into British hands, it consisted of only a few fishing villages inhabited by some Malay fishermen. There was no existing laws or any tribunals to enforce them.
- When acquired by East India Company, law of England was taken as governing law.
- Raffles in 1823, prepared the Memorandum stated that English laws must be enforced in Singapore “*with due consideration to the habits and usages of the people*”. That is, it must not ignore local religions, manners and usages.
- In 1826, by the Second Charter of Justice, Singapore received English common law, equity and statute for the first time (referred to as General Reception of English Law).

English Law



Photo by: <https://tinyurl.com/y6zcua4o>

- Today, a lot of these English laws have been repealed, or abolished, by the Singapore Parliament for lack of practicality.
- However, some English laws continue to influence our laws and in some cases have become accepted as part of our law e.g. The Sale of Goods Act.
- This is the reason why Singapore judges today will still look to previously decided English cases, or precedents, to help them in their decisions. However, they may not follow the outcome of these English cases because the Singaporean context may require the judges to decide differently from the English Courts.

Old Supreme Court



Photo by: <https://tinyurl.com/y462fstk>

New Supreme Court



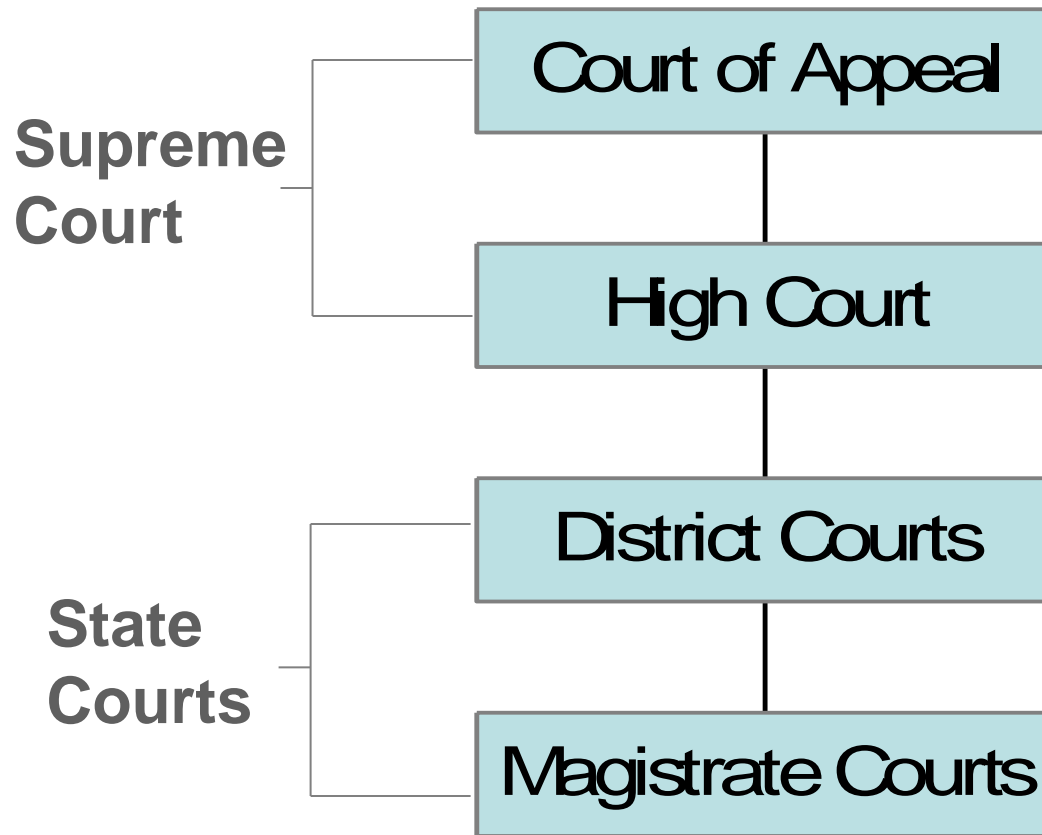
Photo by: <https://tinyurl.com/y92frb87>

State Courts



Photo by: <https://tinyurl.com/y6mz2u4m>

Hierarchy of Singapore Courts



Jurisdiction of the Courts

The jurisdiction of the Courts
(i.e. the power to hear cases):

- For **Civil Cases**:-

- ☐ Court of Appeal – (hears appeal cases from High Court)
- ☐ High Court - (more than \$250,000)
- ☐ District Court - (more than \$60,000 but less than or equal to \$250,000)
- ☐ Magistrate Court - (less than or equal to \$60,000)

- For **Criminal Cases**:-

- ☐ Begins at the Criminal Mentions Court (located in the State Courts) regardless of offences.

NB: - Small Claims Tribunal – certain types of small civil claims up to \$20,000 limit, but up to \$30,000 if agreed by the parties

Magistrates Court



Photo by: <https://tinyurl.com/y6kgpnug>

- Courts of first instance presided over by a Magistrate
- Has both civil and criminal jurisdiction
- Criminal jurisdiction limited to trying cases where max. jail sentence do not exceed 5 years
- Civil jurisdiction limited to \$60,000 claim
- Parties have a right of appeal to High Court

District Court

- Courts of first instance presided over by a District Judge
- Has both civil and criminal jurisdiction
- Criminal jurisdiction limited to trying cases where max. jail sentence do not exceed 10 years
- Civil jurisdiction limited to \$250,000 claim
- Parties have right of appeal to High Court

High Court

- A very powerful court with unlimited jurisdiction in both civil and criminal matters
- Is both a Court of first instance as well as an appellate court hearing appeals from State Courts in both civil and criminal cases
- Presided over by a High Court Judge or Judicial Commissioner
- Capital offences (death penalty cases) and serious offences (eg rape, murder) are all heard before this court
- Cannot hear matters relating to Muslim Syariah laws, where the Syariah Court has exclusive jurisdiction



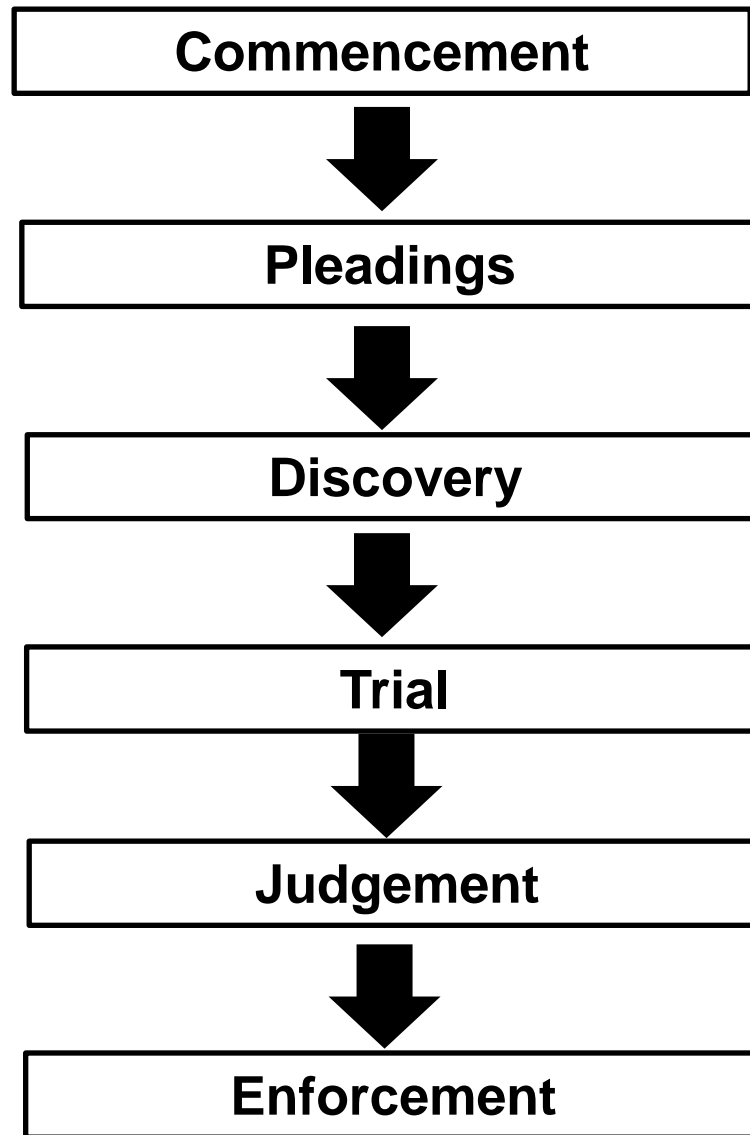
Court of Appeal

Photo by: <https://tinyurl.com/y2gh7fey>

- Presided over by the Chief Justice and 2 Justices of Appeal
- Hears appeals from High Court in both civil and criminal matters
- In criminal matters, both prosecution as well as defence can appeal against conviction and/or sentence

<https://www.straitstimes.com/singapore/city-harvest-case-five-highlights-from-court-of-appeals-judgment>

Civil Litigation Process



Commencement

Plaintiff commences legal action through his lawyer who will issue through the court an “originating process” usually in the form of a Writ of Summons or Origination Summons. The process is then served on the Defendant

Pleadings

The Pleadings consist of several documents filed at the Court Registry. The Statement of Claim sets out the Plaintiff’s claim against the Defendant and this is followed by the Defence (and sometimes Counter-claim) from the Defendant. The Plaintiff can then serve a Reply to the Defendant’ Defence and a Defence to the Counter-claim.

Discovery

Discovery involves listing all the documents in possession or control of the parties which are relevant to the claim and making these documents available for inspection by the other party. During this time, Pre-Trial conferences are also held with a view to settlement.

Trial, Judgement & Enforcement

If settlement is not possible, a trial date is fixed and trial will take place on that date. Judgement is pronounced at the end of the trial or in complex cases, a judgement is handed down some time at a later date. The successful party may then seek to enforce the judgement.

Alternative Dispute Resolution

- Is an alternative to litigation and takes 2 major forms; Mediation and Arbitration
- Unlike litigation where “winner takes all”, here there is room for compromise
- Its advantages over litigation are:
 - ✓ Faster and cheaper
 - ✓ Informal & non-confrontational
 - ✓ Preserving confidentiality
 - ✓ Selection of mediator or arbitrator by disputing parties themselves



Alternative Dispute Resolution



THE DYNAMIC DUO MEDIATE
THEIR DIFFERENCES.

END OF LECTURE