IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGDC 333

District Arrest Case No 905473 of 2026

Between

Public Prosecutor

… *Prosecution*

And

Liu Mengwei

… *Accused*

GROUNDS OF DECISION

[COURTS AND JURISDICTION — Jurisdiction — Penal Code — Marrying again during the lifetime of husband or wife — Accused person contracting second marriage in China while first marriage in Singapore was subsisting — Whether Singapore court has jurisdiction to try alleged offence committed outside Singapore — Section 50 State Courts Act 1970]

[CRIMINAL LAW — Statutory offences — Penal Code — Marrying again during the lifetime of husband or wife — Extra-territoriality — Accused person contracting second marriage in China while first marriage in Singapore was subsisting — Whether act of contracting second marriage in China punishable under s 494 Penal Code (Cap 224, 2008 Rev Ed) — Whether Women's Charter (Cap 353, 2009 Rev Ed) extended scope of s 494 Penal Code to cover bigamous marriage taking place overseas — Sections 3 and 494 Penal Code — Sections 3 and 6 Women's Charter]

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Public Prosecutor
v
Liu Mengwei

[2026] SGDC 333

District Court — District Arrest Case No 905473 of 2026
Prem Raj Prabakaran DJ
17 July 2026, 24 July 2026, 6 August 2026

7 October 2026

Prem Raj Prabakaran DJ:

Introduction

1 As at 14 October 2019, the statutory framework governing bigamy under Singapore law was found in:

(a) the Women's Charter (Cap 353, 2009 Rev Ed) (the "Charter"), the long title of which described it as an Act to provide "for monogamous marriages"[1]; and

[1] The words "An Act to provide for monogamous marriages" have appeared in the long title since the Women's Charter was enacted in 1961. The enactment of the Women's Charter was centrally concerned with establishing monogamous marriage as the governing regime for persons to whom the Charter applied. On this note, s 2(1) of the Interpretation Act (Cap 1, 2002 Rev Ed) defines "monogamous marriage" as "a marriage which is recognised by the law of the place where it is contracted as a voluntary union of one man and one woman to the exclusion of all others during the continuance of the marriage".

(b) ss 494 and 495 of the Penal Code (Cap 224, 2008 Rev Ed) (the "Penal Code").

2 The relevant provisions in the Charter for present purposes were ss 3(1), 4(3), 5(1), 6, and 11. Section 3(1), located in Part I of the Charter headed "PRELIMINARY", prescribed the Charter's default scope of application, unless the Charter otherwise provided. It identified, in general, the persons to whom the Charter applied – that is, its personal scope. Sections 4(3), 5(1), and 6 were found in Part II of the Charter, titled "MONOGAMOUS MARRIAGES". Section 11 was situated within Part III of the Charter, which related to the "SOLEMNIZATION OF MARRIAGES". These provisions in the Charter read as follows:

PART I

PRELIMINARY

…

Application

3.—(1) Except as otherwise provided, this Act shall apply to all persons in Singapore and shall also apply to all persons domiciled in Singapore.

…

PART II

MONOGAMOUS MARRIAGES

Disability to contract marriages

4.—(1) …

…

(3) Every person who on 15 September 1961 is unmarried and who after that date marries under any law, religion, custom or usage shall be incapable during the continuance of that marriage of contracting a valid marriage with any other person under any law, religion, custom or usage.

…

Void marriages

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5.—(1) Every marriage contracted in Singapore or elsewhere in contravention of section 4 shall be void.

…

Offence

6. Any person lawfully married under any law, religion, custom or usage who during the continuance of that marriage purports to contract a marriage in Singapore or elsewhere under any law, religion, custom or usage in contravention of section 4 shall be deemed to commit the offence of marrying again during the lifetime of the husband or wife, as the case may be, within the meaning of section 494 of the Penal Code (Cap. 224).

…

PART III

SOLEMNIZATION OF MARRIAGES

…

Avoidance of marriages by subsisting prior marriage

11. A marriage solemnized in Singapore or elsewhere between persons either of whom, at the date of the marriage, is married under any law, religion, custom or usage to any other person shall be void.

[emphasis added by underlining]

3 Sections 494 and 495 of the Penal Code read as follows:

Marrying again during the lifetime of husband or wife

494. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment for a term which may extend to 7 years, and shall also be liable to fine.

Exceptions.— This section does not extend to any person whose marriage, with such husband or wife, has been declared void by a court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, has been continually absent from such person for the space of 7 years, and has not been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage, before the marriage takes place, informs the person with whom the marriage is contracted, of the real state of facts so far as the same are within his or her knowledge.

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> **Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted**
>
> **495.** Whoever commits the offence defined in section 494, having concealed from the person with whom the subsequent marriage is contracted the fact of the former marriage, shall be punished with imprisonment for a term which may extend to 10 years, and shall also be liable to fine.

4 Sections 494 and 495 of the Penal Code can be traced to the Indian Penal Code 1860, which was enacted as law in Singapore in 1872 when Singapore was part of the Straits Settlements (*Lee Chez Kee v Public Prosecutor* [2008] 3 SLR(R) 447 at [128]). These two provisions remained unchanged until their repeal with effect from 1 January 2020, when their substance was re-enacted as s 6A of the Women's Charter 1961 (2020 Rev Ed).

Procedural history

5 The accused, Liu Mengwei ("Liu"), is a Chinese national. In late March 2026, Liu was charged with an offence under s 494 of the Penal Code (hereinafter, "s 494"). In June 2026, she indicated through her counsel that she wished to plead guilty. The plea-of-guilt hearing (the "PG Hearing") was accordingly fixed before me in July 2026, with the Prosecution preferring the following charge against Liu (the "Charge"):

> …that you, on 14 October 2019, in China, having a husband, one Lau Siang Kwang, living, did marry one Chen Wenqiang in which such marriage is void by reason of its taking place during the life of Lau Siang Kwang, and you have thereby committed an offence punishable under s 494…

6 This case raised a question about the territorial limits of Singapore criminal law. Liu was alleged to have contracted a second marriage in China while her first marriage, contracted in Singapore, was still subsisting. The issue was whether her act of contracting the second marriage in China was punishable under s 494 in Singapore and whether a Singapore court could try her for that

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alleged offence. The answer depended on two related questions: whether Singapore law extended s 494 to Liu's conduct in China, and whether a Singapore court had jurisdiction to try Liu for her conduct in China.

7 The Statement of Facts that was prepared by the Prosecution for the PG Hearing is reproduced below. As the PG Hearing did not proceed to the taking of Liu's plea, there was no need to admit the Statement of Facts. I have reproduced it only to explain the factual basis on which the Charge was brought and the context in which the jurisdictional issue arose in this case.

> 1 The accused is Liu Mengwei…, a 33-year-old female Chinese citizen…
>
> 2 The persons involved are:
>
> (a) Lau Siang Kwang ("Mr Lau"), a 63-year-old male Singapore citizen; and
>
> (b) Chen Wenqiang ("Mr Chen"), a 33-year-old male Chinese citizen.
>
> 3 Sometime in 2012, [Liu] came from China to Singapore to visit her mother. During this time, [Liu] met Mr Lau and entered into a romantic relationship with [Mr Lau]. On 24 November 2012, [Liu] entered into a civil marriage with Mr Lau in Singapore ("the First Marriage"). This contract of marriage was registered with the Registry of Marriages, Singapore, on the same day…
>
> 4 During the First Marriage, Mr Lau applied to the Immigration and Checkpoints Authority ("ICA"), Singapore, for a Long-Term Visit Pass ("LTVP") for [Liu], but this application was rejected. [Liu] subsequently had disputes with Mr Lau. On 4 January 2013, [Liu] departed Singapore and returned to China without informing Mr Lau, and did not respond to [Mr Lau's] attempts to contact her.
>
> **5 Sometime in 2018, [Liu] met Mr Chen in China and entered into a romantic relationship with [Mr Chen]. On 14 October 2019, [Liu] and Mr Chen entered into a civil marriage in China ("the Second Marriage"). This contract of marriage was registered with the relevant registry in China on the same day…**
>
> 6 At the time of the Second Marriage:

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> (a) [Liu] did not inform Mr Chen or the relevant registry in China that she had entered into the First Marriage and falsely declared to the relevant registry in China that she was single. [Liu] also knew that the relevant registry in China would not have registered the Second Marriage had she informed them about the First Marriage.
>
> (b) [Liu] knew, and did not inform Mr Chen or the relevant registry in China, that:
>
> (i) Mr Lau was alive at the material time;
>
> (ii) the First Marriage had not been dissolved by [an] order of a court of competent jurisdiction; and
>
> (iii) the First Marriage had not been declared as null or void by a court of competent jurisdiction.
>
> 7 During the Second Marriage, [Liu] conceived two children with Mr Chen. In May 2025, [Liu] brought one of the children from China to Singapore and applied to the ICA for a LTVP for herself. In this LTVP application, [Liu] declared the Second Marriage, but not the First Marriage, to the ICA. The ICA subsequently uncovered the overlapping periods between the First Marriage and the Second Marriage, and the offence came to light.
>
> 8 During the First Marriage, [Liu] and Mr Lau did not have any children together. On 24 October 2025, the First Marriage was dissolved by the Family Justice Courts of Singapore (Case No. FC/OAD 3018/2025). The period of bigamous marriage was between 14 October 2019 and 24 October 2025, amounting to 6 years and 11 days (both dates inclusive). Throughout this period, Mr Lau did not know that [Liu] had entered into the Second Marriage, and Mr Chen did not know that [Liu] had entered into the First Marriage.
>
> 9 The Second Marriage still subsists to date.
>
> 10 By virtue of the foregoing, on 14 October 2019, in China, [Liu], having a husband, Mr Lau, living, married Mr Chen in which such marriage is void by reason of its taking place during the life of Mr Lau. [Liu] has thereby committed an offence punishable under s 494…
>
> [emphasis added in bold]

8 In written submissions:

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(a) the Prosecution urged the court to impose an imprisonment term of between four and five months on Liu; and

(b) Liu's counsel urged the court to impose either a "heavy fine" or an imprisonment term of between two and three weeks on Liu.

9 Before the PG Hearing formally commenced, I sought the Prosecution's responses on three matters that appeared to me to be material to whether the Singapore courts could try Liu for the s 494 offence alleged in the Charge. The Prosecution confirmed that:

(a) Liu is a Chinese citizen and was never a Singapore citizen.[2]

(b) after departing Singapore for China on 4 January 2013, [3] Liu returned to Singapore on 3 November 2013. She departed Singapore again on 2 January 2014. Liu then only returned to Singapore more than ten years later, in May 2025.[4]

(c) Liu was not domiciled in Singapore at the time she entered into the Second Marriage.[5]

10 Given these confirmations, [6] I requested the Prosecution to review the decision of the High Court in *Public Prosecutor v Pong Tek Yin* [1990] 1 SLR(R) 543 ("*Pong Tek Yin*") and consider whether the Charge against Liu could stand. In particular, I asked the Prosecution to consider whether Liu could

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2 Day 1, p 2, lines 1-3. See also [8] of the Accused's Further Submissions.

3 See [6] above.

4 Day 1, p 2, line 4 to p 3, line 2.

5 Day 1, p 3, lines 3-9. See also [8] of the Accused's Further Submissions.

6 See [9] above.

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be tried in Singapore for an offence under s 494 arising from the Second Marriage. The Charge alleged that Liu had contracted the Second Marriage in China while the First Marriage was still subsisting, and Liu was a Chinese citizen who was not domiciled in Singapore at the material time. My reading of *Pong Tek Yin* against the Penal Code as well as ss 3 to 6 and 11 of the Charter suggested that this raised two distinct but related questions: whether Singapore law rendered Liu's conduct in China punishable under s 494, and whether there was a statutory basis on which Liu could be tried in Singapore for the alleged offence. As explained below, these questions are conceptually distinct but may interact through s 3 of the Penal Code.

11 The Prosecution agreed to review *Pong Tek Yin* and consider the court's query.

12 In August 2026, the Prosecution informed the court that Liu had been issued a stern warning in respect of the alleged offence under s 494. The Prosecution thereafter applied:[7]

(a) to "withdraw" the Charge against Liu; and

(b) for a discharge amounting to an acquittal ("DATA") in respect of this Charge.

13 I granted the Prosecution's application for a DATA, having regard to the exercise of prosecutorial discretion.

14 I was mindful that the Prosecution is not required to disclose its reasons for making a particular prosecutorial decision (*Ramalingam Ravinthran v*

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7 Day 3, p 1, lines 13-19.

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Attorney-General [2012] 2 SLR 49 ("*Ramalingam*") at [74]). Indeed, the Prosecution is "entitled and obliged to take into account many factors". These factors include the available evidence, public-interest considerations, the offender's personal circumstances and degree of culpability, and the gravity of the harm caused to the public by the offender's crime (*Xu Yuan Chen v Attorney-General* [2022] 2 SLR 1131 at [26], referring to *Ramalingam* at [24] and [63]).

15 I therefore did not regard the Prosecution's decision to seek a DATA as indicating agreement with the court's view that, on the facts of this case, Liu could not be tried in Singapore for an offence under s 494. Nor are these grounds intended to explain the Prosecution's decision to seek a DATA. That said, I considered it appropriate to set out my views on the legal issue that had arisen before the court for three reasons:

(a) First, the issue arose concretely during the proceedings before me and was anterior to the taking of Liu's intended plea of guilt. Before such a plea could properly be taken, there was a substantial question whether the conduct alleged in the Charge was punishable under Singapore law and whether Liu was legally triable in Singapore for that alleged offence. Although the Prosecution's subsequent application for a DATA meant that it was no longer necessary to determine that question for the disposal of the Charge, the question had arisen directly from the Charge that was before the court.

(b) Second, the question was one which *Pong Tek Yin* had expressly left open. That decision was based on the Women's Charter (Cap 47, 1970 Rev Ed) (the "1970 Charter") as it stood on 1 June 1978, and the High Court expressly refrained from deciding whether subsequent amendments to the 1970 Charter extended s 494 to a bigamous marriage contracted abroad.

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(c) Third, the legal framework has since been clarified by the High Court in *Ng Kok Wai v Public Prosecutor* [2024] 3 SLR 1516 ("*Ng Kok Wai*"), particularly as to the distinction between the jurisdiction of a Singapore court to try an offence and the extraterritorial application of substantive criminal law. The issue was also the subject of detailed written submissions by Liu's counsel concerning what counsel described as the "jurisdictional defects in the Charge".[8]

16 In these circumstances, I considered it useful to set out the court's analysis so that the reasoning on this issue is available should the question arise again.

The decision in *Pong Tek Yin*

17 The accused in *Pong Tek Yin* had pleaded guilty before a District Court in March 1989 to a charge under s 494.[9] This charge read as follows:

> …that you, on or about 1 June [1978], **at the Registry of Marriages, Perak, Malaysia**, married one…Lim Nya Hoo when your wife…Lim Seh Moi was still living, and you have thereby committed an offence punishable under s 494 of the [pre-2020 Penal Code].
>
> [emphasis added in bold]

The accused's first marriage in Malaysia in 1964

18 The accused was a Malaysian citizen. In 1964, while he was residing in Malaysia, he married Lim Seh Moi, also a Malaysian citizen (the "first wife"), in Kuala Lumpur, Malaysia, under Chinese customary marriage law.

19 In 1970, the accused came to Singapore to work.

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8 [4] of the Accused's Further Written Submissions.

9 See [3] above.

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The accused's purported marriages in Malaysia in 1975 and 1978

20 In 1972, the accused returned to Malaysia. Disputes between him and his first wife arose. In 1974, the accused left his first wife. The High Court noted that it was unclear whether the accused was still working in Singapore when he left his first wife, or whether he returned to Singapore to work only after leaving her.

21 In any case, the accused met Lim Nya Hoo, also a Malaysian citizen ("Lim"), in Singapore in 1974. While his marriage to his first wife was still subsisting, the following events took place between 1975 and 1978:

(a) On 10 May 1975, the accused went through a Chinese customary marriage with Lim in Taiping, Perak (the "1975 marriage"). He then began living with Lim in Singapore.

(b) On 1 June 1978, the accused went through a civil marriage with Lim before the Registrar of Marriages in Perak under the Civil Marriage Ordinance 1952 then in force in Malaysia (the "1978 marriage").

22 Under s 30(*b*) of the Civil Marriage Ordinance 1952, a marriage purported to be solemnised thereunder is void where either party was, at the date of the marriage, married under any law, religion, custom, or usage to someone other than the other party. As the accused was, on 1 June 1978, still married to his first wife under Chinese custom[10], the High Court observed that the 1978 marriage was void by virtue of s 30(*b*) of the Civil Marriage Ordinance 1952.[11]

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10 See [18] above.

11 *Pong Tek Yin* at [4].

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The accused became a Singapore citizen in 1987

23 In 1979, the accused obtained permanent resident status in Singapore. He later acquired Singapore citizenship in 1987.

24 In 1988, the accused applied for Singapore citizenship for Lim. In the course of processing this application, the 1978 marriage came to light. An officer of the Registry of Citizens in Singapore subsequently lodged a complaint that the accused had contracted two marriages. Criminal proceedings were then initiated against the accused.

The accused's conviction in the District Court

25 Following his plea of guilt[12], the accused was convicted and sentenced by the District Court to one day's imprisonment and a fine of $900.

The criminal revision in the High Court

26 The accused subsequently engaged counsel, who filed a criminal revision to challenge the accused's conviction. Before the High Court, the accused's counsel advanced two related arguments:[13]

(a) First, that a Singapore court had no jurisdiction to try the accused for an offence arising from an act committed outside Singapore.

(b) Second, that the accused's act of contracting the 1978 marriage abroad was, in any event, not an offence under s 494 because that provision had no extraterritorial operation.

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12 See [17] above.

13 *Pong Tek Yin* at [6].

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Section 9 of the 1985 CPC conferred jurisdiction to try an offence punishable under s 494

27 Referring to s 15(1) of the Supreme Court of Judicature Act (Cap 322, 1985 Rev Ed) (the "1985 SCJA"), the accused's counsel argued that the Singapore High Court had no jurisdiction to try the accused because the act alleged to constitute the offence had been committed outside Singapore. According to the accused's counsel, this was even more so in the case of a Singapore District Court, which is subordinate to the High Court.[14] Section 15 of the 1985 SCJA read as follows:

Original Jurisdiction

Criminal jurisdiction

15.—(1) The High Court shall have jurisdiction to try all offences committed —

(*a*) within Singapore;

(*b*) on the high seas on board any ship or aircraft registered in Singapore;

(*c*) by any person who is a citizen of Singapore on the high seas or on any aircraft;

(*d*) by any person on the high seas where the offence is piracy by the law of nations; and

(*e*) by any person within or outside Singapore where the offence is punishable under and by virtue of the provisions of the Hijacking and Protection of Aircraft Act [Cap. 124].

(2) The High Court may pass any sentence allowed by law

28 The High Court accepted that, had s 15(1) of the 1985 SCJA been the only provision governing the jurisdiction, the Singapore courts would have had no jurisdiction to try the alleged offence because the act alleged to constitute it

14 *Pong Tek Yin* at [8].

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was committed outside Singapore.[15]

29 That said, the High Court also considered s 9 of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) (the "1985 CPC"). It held that if the accused's act constituted an offence punishable under s 494, s 9 of the 1985 CPC would confer jurisdiction on the Singapore High Court and District Court to try the accused for that offence. Section 9 of the 1985 CPC read as follows:

> **Offences under the Penal Code.**
>
> **9.** Subject to the other provisions of this Code –
>
> (*a*) any offence under the Penal Code may be tried by the High Court or by any other court by which the offence is shown to be triable in the 8th Column of Schedule A;
>
> (*b*) any offence under any law other than the Penal Code may be tried by the High Court or by any other court mentioned in that behalf by that law;
>
> (*c*) when no court is so mentioned such offence may be tried by the High Court or by any court constituted under this Code:
>
> Provided that:
>
> (i) no District Court shall try any such offence which is punishable with imprisonment for a term which may exceed 10 years;
>
> (ii) no Magistrate's Court shall try any offence which is punishable with imprisonment for a term which may exceed 3 years.

30 According to the High Court:

> 14 … s 9 of [the 1985 CPC] does confer jurisdiction on the [Singapore] High Court and, in numerous cases, on the [Singapore] Subordinate Courts as provided in [Schedule A of the 1985 CPC], to try offences punishable under the Penal Code. As provided in [Schedule A of the 1985 CPC], the offence punishable under s 494…is triable by a District Court, besides the High Court. It therefore follows that **if the act committed**

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[15] *Pong Tek Yin* at [13]. Sections 15(1)(*b*)-(*e*) of the 1985 SCJA were otherwise clearly not relevant given the facts in *Pong Tek Yin*.

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> **by the accused is an offence punishable under s 494**..., the District Court, besides the High Court, will have jurisdiction to try the offence and convict him.
>
> [emphasis added in bold]

The accused's act of marrying again in Malaysia was not an offence punishable under s 494

31 Having held that s 9 of the 1985 CPC would confer jurisdiction if the accused's act constituted an offence punishable under s 494, the High Court proceeded to consider:

> 15 ...whether the act committed by the accused, *ie* contracting the 1978 marriage or, for that matter, the 1975 marriage in the State of Perak, is an offence punishable under s 494...

32 The High Court held that s 494 had to be construed subject to the presumption of territoriality. This presumption was said to be:

> 16 ...a well-established presumption that in the absence of clear and specific words to the effect a [domestic criminal] statute which creates an offence is not intended to make an act taking place outside the territorial jurisdiction of the country an offence triable in the courts here: *Air-India v Wiggins* [1980] 2 All ER 593.[16]

33 As there were "no clear and specific words" in s 494 to suggest that it had any extraterritorial operation, the High Court held that the presumption of territoriality meant that:

> 17 ...the word "marries" in [s 494 of the Penal Code] must be construed to mean "marries in Singapore" ...

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[16] *Air-India v Wiggins* [1980] 2 All ER 593 was also followed by the Singapore Court of Appeal in *Public Prosecutor v Taw Cheng Kong* [1998] 2 SLR(R) 489.

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34 In other words, "a bigamous marriage taking place abroad [was] not an offence punishable under [s 494]".[17] The High Court then considered whether s 494 had been "extended by the relevant provisions of the [1970] Charter…to cover a bigamous marriage contracted abroad and render it punishable under s 494".[18] The applicable provisions were those in force when the alleged offence was committed on 1 June 1978.[19] These provisions were ss 3(1), 4(1), 5(1), and 6 of the 1970 Charter. They read as follows:

> **Application**
>
> 3.— (1) Save as is otherwise expressly provided this Act shall apply to all persons in Singapore and shall also apply to all persons domiciled in Singapore who are resident outside Singapore.
>
> …
>
> **Disability to contract marriages**
>
> **4.**— (1) Every person who on the date of the coming into operation of this Act is lawfully married under any law, religion, custom or usage to one or more spouses shall be incapable, during the continuance of such marriage or marriages of contracting a valid marriage under any law, religion, custom or usage with any person other than such spouse or spouses.
>
> …
>
> **Void marriages**
>
> **5.**— (1) Every marriage contracted in contravention of the provisions of section 4 in this Act shall be void.
>
> …
>
> **Offence**
>
> **6.** Any person lawfully married under any law, religion, custom or usage who during the continuance of such marriage purports to contract a marriage under any law, religion, custom or usage in contravention of the provisions of section 4 of this Act shall be deemed to commit the offence of marrying again during the

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17 *Pong Tek Yin* at [17].

18 *Pong Tek Yin* at [18].

19 See [17] above.

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> lifetime of husband or wife, as the case may be, within the meaning of section 494 of the Penal Code.
>
> [emphasis added by underlining]

35 Referring to s 3(1) of the 1970 Charter, the High Court was not satisfied that, at the material time, the accused was domiciled in Singapore and resident in Malaysia.[20] On this note, the High Court found that:

> 19…[o]n the facts before [it], the accused was not in Singapore when he committed the act [in Perak, Malaysia]; nor was [the accused] at that time domiciled in Singapore and resident abroad. The [1970] Charter therefore did not at the time, apply to the accused, and it follows that the act committed by the accused, namely, contracting the 1978 marriage in Perak, was not an offence punishable under s 494…

36 The High Court then considered whether, even *if* the 1970 Charter applied to the accused by virtue of s 3(1) of the 1970 Charter, s 6 of the 1970 Charter "enlarge[d] the ambit of s 494...to…cover[] a bigamous marriage contracted abroad". In this regard, the High Court held that s 6 of the 1970 Charter, as it stood at that time, did not. This was because s 6 of the 1970 Charter:

> 20 …did not provide expressly or by necessary implication that a person (to whom the [1970] Charter applied) who contracted a bigamous marriage abroad would be deemed to have committed the offence within the meaning of s 494…Sections 3 and 6 of the [1970] Charter therefore, as they stood in 1978, did not confer on s 494…any extra-territorial effect.

37 Professor Leong Wai Kum subsequently summarised the effect of *Pong Tek Yin* as follows (Leong Wai Kum, *Principles of Family Law in Singapore* (Butterworths Asia, 1997) ("*LWK1997*") at pp 281 and 283):

> [In *Pong Tek Yin*, the] High Court, on revision, held that the offence of bigamy in [s 494] is committed only within the

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[20] *Pong Tek Yin* at [19].

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> territory of Singapore, *ie*, the second attempted marriage void for breach of the monogamy requirement [set out in the 1970 Charter] must have taken place in Singapore and nothing in the [1970] Charter has altered this basic principle…
>
> …**The effect of…*Pong Tek Yin* is that the offence of bigamy is not committed unless the second attempted marriage which is void for breach of the requirement of monogamy is solemnised here in Singapore**…
>
> [emphasis added in bold]

The result in Pong Tek Yin

38 The High Court therefore held that the accused could not be tried in Singapore. Section 15(1) of the 1985 SCJA did not confer jurisdiction on the facts: the alleged act had been committed outside Singapore, and none of the specified extraterritorial bases applied. Section 9 of the 1985 CPC would have conferred jurisdiction *if* the accused's act constituted an offence punishable under s 494. But the High Court held that it did not: neither s 494 itself nor the relevant provisions of the 1970 Charter rendered the accused's bigamous marriage abroad an offence under s 494. There was therefore no offence punishable under s 494 to which the jurisdiction conferred by s 9 of the 1985 CPC could attach. The District Court proceedings were accordingly "a nullity",[21] and the High Court quashed the conviction and set aside the sentence.

Decision confined to the 1970 Charter

39 The decision in *Pong Tek Yin* was based on provisions in the 1970 Charter, as they stood on 1 June 1978. Since then, the Women's Charter has undergone several amendments. Indeed, the High Court in *Pong Tek Yin* observed that material amendments had since been made to ss 3, 5, and 6 of the 1970 Charter. It therefore expressly refrained from deciding whether those

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21 *Pong Tek Yin* at [21].

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amendments to the 1970 Charter gave s 494 extraterritorial operation in respect of bigamous marriages contracted abroad.[22]

Whether Liu could be tried for an offence under s 494

40 Before an accused may be tried and convicted in Singapore for an offence involving an act committed outside Singapore, there must be (*Ng Kok Wai* at [16]-[17])[23]:

(a) a jurisdictional provision: an applicable statutory provision that confers authority on the Singapore courts to try the accused for the offence in question; and

(b) an extraterritorial application provision: an applicable statutory provision that renders an act committed by the accused outside Singapore an offence under a Singapore law.

Whether there was an applicable jurisdictional provision

41 The term "jurisdiction" refers to the court's authority to hear and determine a matter usually based on a statutory provision (*Ng Kok Wai* at [20]). In the present case, the relevant provision governing the District Court's criminal jurisdiction at the material time was s 50 of the State Courts Act (Cap 321, 2007 Rev Ed) (the "SCA"), which read as follows:[24]

PART IV

JURISDICTION

…

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22 *Pong Tek Yin* at [20].

23 [6(c)] of the Accused's Further Submissions.

24 The terms of s 50 of the SCA are substantively identical to those in s 50 of the State Courts Act 170 (2020 Rev Ed) which presently apply.

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Criminal Jurisdiction of District Courts

Jurisdiction of District Courts exercising criminal jurisdiction

50.—(1) Subject to subsection (2), a District Court exercising criminal jurisdiction has —

(*a*) the jurisdiction and powers conferred on it by the Criminal Procedure Code (Cap. 68) and any other written law; and

(*b*) without prejudice to the generality of paragraph (*a*), the power to order medical examination of a person who is an accused in any criminal proceedings where the physical or mental condition of the person is relevant to any matter in question in the proceedings.

(2) The criminal jurisdiction of a District Court is exercisable where the offence is committed —

(*a*) within Singapore;

(*b*) on board any ship or aircraft registered in Singapore;

(*c*) by any person who is a citizen of Singapore on the high seas or on any aircraft; and

(*d*) in any place or by any person if it is provided in any written law that the offence is triable in Singapore.

42 Section 50(2) of the SCA thus specifies the circumstances in which the District Court may exercise its criminal jurisdiction (*Ng Kok Wai* at [23]). However, ss 50(2)(*a*)-(*c*) of the SCA did not apply in this case because:[25]

(a) the Second Marriage:

(i) had taken place in China, and not within Singapore; and

(ii) had not taken place on board any ship or aircraft registered in Singapore.

[25] [8]-[9, [23], and [28] of the Accused's Further Written Submissions.

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(b) Liu was not a citizen of Singapore and the Second Marriage, in any event, had not taken place on the high seas or on any aircraft.

43 Sections 50(2)(*a*)-(*c*) of the SCA were therefore not engaged. The remaining possibility was s 50(2)(*d*) of the SCA, which requires some written law providing that "the offence is triable in Singapore".

44 At this juncture, it is useful to highlight that (*Ng Kok Wai* at [24]):

> …[t]he fact that the court has the power and authority to determine the matter [*ie*, criminal jurisdiction under, for instance, s 50(2)(*d*) of the SCA] does not address the separate and distinct question of whether the relevant criminal statute that is relied on by the Prosecution has the effect of proscribing conduct that takes place outside Singapore [*ie*, extraterritorial application] …

45 That said, while jurisdictional provisions and extraterritorial application provisions are conceptually distinct (*Ng Kok Wai* at [18]-[19] and [24]), they can interact through s 3 of the Penal Code – which reads as follows:

> **Punishment of offences committed beyond, but which by law may be tried within Singapore**
>
> **3.** Any person liable by law to be tried for an offence committed beyond the limits of Singapore, shall be dealt with according to the provisions of this Code for any act committed beyond Singapore, in the same manner as if such act had been committed within Singapore.
>
> [emphasis added by underlining]

46 Section 3 of the Penal Code "makes clear that acts committed by an accused person outside the territory of Singapore shall be treated as having been committed within Singapore, provided the Singapore courts have the jurisdiction to try the person for committing such an offence beyond the territory of Singapore" (*Ng Kok Wai* at [49]). This is apparent when s 3 is broken down into its two parts (*Ng Kok Wai* at [49(a)]-[49(b)]):

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> (a) The first part consists of the words "[a]ny person liable by law to be tried for an offence committed beyond the limits of Singapore". We term this the "Condition Limb". On a plain reading, the Condition Limb refers to some other provision of law that permits a person to be tried in Singapore for an offence committed outside the territory of Singapore. The Condition Limb in effect requires as a prerequisite that there exists an applicable jurisdictional provision…
>
> (b) The second part consists of the words "shall be dealt with according to the provisions of this Code for any act committed beyond Singapore, in the same manner as if such act had been committed within Singapore. We term this the "Operative Limb". On a plain reading the Operative Limb states that an act that is criminalised under the Penal Code, may, if it were committed outside the territory of Singapore, be deemed to have been committed within Singapore provided the Condition Limb is satisfied.

47 The Operative Limb of s 3 of the Penal Code therefore "permits the extraterritorial application of Penal Code offences to cover offending acts committed outside the territory of Singapore, so long as the Condition Limb [of s 3] is satisfied". In other words, "there must be a jurisdictional provision empowering the Singapore court to try a person for an alleged offence committed outside of Singapore" (*Ng Kok Wai* at [50]). As such, where reliance is placed on s 50(2)(*d*) of the SCA, there must still be some other written law providing that the offence is triable in Singapore: neither s 50(2)(*d*) of the SCA nor s 3 of the Penal Code supplies that independent basis by itself.[26]

48 Against this backdrop, I turn first to consider whether s 494 itself applied, or whether the Charter extended its application, to Liu's act of contracting the Second Marriage in China. I return thereafter to s 3 of the Penal Code and s 50(2)(*d*) of the SCA.

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26 [6(b)], [25], and [26] of the Accused's Further Submissions.

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Whether s 494 extended to Liu's overseas marriage

49 It is a well-established principle that "a statute generally operates within the territorial limits of the Parliament that enacted it" (*Ng Kok Wai* at [25], referring to *Public Prosecutor v Taw Cheng Kong* [1998] 2 SLR(R) 489 ("*Taw Cheng Kong*") at [66]; see also *Pong Tek Yin* at [16][27]). This means that (*Yong Vui Kong v Public Prosecutor* [2012] 2 SLR 872):

> 41 …a domestic statute has no extra-territorial effect unless it is expressed to have such effect, and…in the absence of such express provision, acts committed outside the jurisdiction are presumed not to constitute an offence under the relevant domestic statute even if they would have amounted to an offence under that statute had they been committed within the jurisdiction…

50 In other words, "acts…committed outside the territory of Singapore would generally not constitute an offence because such acts are usually not within the reach of the applicable domestic criminal legislation" (*Ng Kok Wai* at [26]).[28] This default territorial position was reflected in s 2 of the Penal Code, which provided as follows (*Ng Kok Wai* at [27]):

> **Punishment of offences committed within Singapore**
>
> **2.** …[e]very person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he is guilty within Singapore.
>
> [emphasis added by underlining]

51 The rationale for the presumption of territoriality is that it "may be regarded as an unjustifiable interference with the sovereignty of other nations if a State were to extend the reach of its criminal legislation over the conduct of persons in a foreign State's territory" (*Ng Kok Wai* at [28]).

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27 The relevant extract appears at [32] above.

28 [23] of the Accused's Further Submissions.

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52 The position would, however, be different in either of two situations. The first is where "some other statutory provision exists that extends the application of the domestic criminal legislation extraterritorially". The second is where "the statutory offence itself reflects Parliament's intention that it is to apply extraterritorially" (*Ng Kok Wai* at [26]). To this end, Parliament may, for instance:

(a) "legislate extraterritorially and create a statutory offence which criminalises acts…occurring outside the territory of Singapore which has consequences within its borders which the State reprehends" (*Ng Kok Wai* at [30], referring to *Taw Cheng Kong* at [85]); or

(b) "enact a statutory provision that permits the extraterritorial application of existing domestic criminal [legislation] to criminalise acts …committed abroad in particular circumstances" (*Ng Kok Wai* at [30]).

53 Whether Parliament intended a statutory provision to have extraterritorial application is "ultimately a question of statutory interpretation" (*Ng Kok Wai* at [30]).

54 Section 494 remained unchanged between *Pong Tek Yin* and the present case. Accordingly, the High Court's construction in *Pong Tek Yin* of s 494 itself continued to apply: standing alone, s 494 did not extend to a marriage contracted outside Singapore. There were no "clear and specific words" in s 494 indicating that it was intended to have extraterritorial application. The word "marries" in s 494 therefore had to be construed to mean "marries in Singapore". Read on its own, s 494 was hence to be understood as follows:[29]

Marrying again during the lifetime of husband or wife

[29] See also [33] above.

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> **494.** Whoever, having a husband or wife living, marries [in Singapore] in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment for a term which may extend to 7 years, and shall also be liable to fine.

55 The question was therefore whether another statutory provision nevertheless rendered s 494 applicable to Liu's overseas conduct. Two possibilities required consideration. The first was whether the Charter itself extended s 494 to a marriage contracted abroad. The second was whether an applicable jurisdictional provision existed which, through s 3 of the Penal Code, rendered Liu's overseas conduct punishable under s 494.

56 I consider the Charter first. In *Pong Tek Yin*, the High Court held that the Charter did not extend s 494 to cover a marriage contracted abroad. Its conclusion was reached by reference to the relevant provisions of the 1970 Charter as they then stood, including ss 3(1), 5(1), and 6.[30]

57 Sections 3(1), 5(1), and 6 of the 1970 Charter were, however, subsequently amended by the Women's Charter (Amendment) Act 1980 (Act 26 of 1980) (the "Amendment Act").[31]

58 The key amendment made by the Amendment Act to s 3(1) of the 1970 Charter was the removal of the words "who are resident outside Singapore". These words had previously appeared in the second limb of s 3(1) of the 1970 Charter after "all persons domiciled in Singapore":

Pre-amendment version (that applied in *Pong Tek Yin*)

Application

30 *Pong Tek Yin* at [18].

31 This came into effect on 1 June 1981.

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3.— (1) Save as is otherwise expressly provided this Act shall apply to all persons in Singapore and shall also apply to all persons domiciled in Singapore who are resident outside Singapore.
Post-amendment version (that applied in Liu's case) **Application** **3.**— (1) Except as otherwise provided, this Act shall apply to all persons in Singapore and shall also apply to all persons domiciled in Singapore.

59 The second limb of s 3(1) of the Charter thereafter applied to "all persons domiciled in Singapore", regardless of their residence.

60 It was also the Amendment Act that inserted the phrase "in Singapore or elsewhere" into ss 5(1) and 6 of the 1970 Charter.

Pre-amendment versions (that applied in *Pong Tek Yin*) **Void marriages** **5.**— (1) Every marriage contracted in contravention of the provisions of section 4 in this Act shall be void. **Offence** **6.** Any person lawfully married under any law, religion, custom or usage who during the continuance of such marriage purports to contract a marriage under any law, religion, custom or usage in contravention of the provisions of section 4 of this Act shall be deemed to commit the offence of marrying again during the lifetime of the husband or wife, as the case may be, within the meaning of section 494 of the Penal Code…
Post-amendment versions (that applied in Liu's case) **Void marriages** **5.**— (1) Every marriage contracted in Singapore or elsewhere in contravention of section 4 shall be void.

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Offence

6. Any person lawfully married under any law, religion, custom or usage who during the continuance of that marriage purports to contract a marriage in Singapore or elsewhere under any law, religion, custom or usage in contravention of section 4 shall be deemed to commit the offence of marrying again during the lifetime of the husband or wife, as the case may be, within the meaning of section 494 of the Penal Code…

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61 The Amendment Act also inserted this same phrase ("in Singapore or elsewhere") into ss 9, 10(1), and 11 of the 1970 Charter. The use of the same phrase across these provisions formed part of the statutory context in which the meaning of the words "in Singapore or elsewhere" fell to be considered. The amended provisions, which remained in the Charter, read as follows:

> **Avoidance of marriages where either party is under minimum age for marriage**
>
> **9.** A marriage solemnized in Singapore or elsewhere between persons either of whom is below the age of 18 years shall be void unless the solemnization of the marriage was authorised by a special marriage licence granted by the Minister under section 21.
>
> **Marriages within prohibited degrees**
>
> **10**.—(1) A marriage solemnized in Singapore or elsewhere between a man and any of the persons mentioned in the first column of the First Schedule, or between a woman and any of the persons mentioned in the second column of that Schedule, shall be void.
>
> …
>
> **Avoidance of marriages by subsisting prior marriage**
>
> **11.** A marriage solemnized in Singapore or elsewhere between persons either of whom, at the date of the marriage, is married under any law, religion, custom or usage to any other person shall be void.
>
> [emphasis added by underlining]

62 The amended s 3(1) of the Charter, like its predecessor, began with the caveat that its default scope of application (or personal scope) would be displaced if there was a particular provision in the Charter providing otherwise. The question was hence whether the words "in Singapore or elsewhere" in ss 5(1), 6, 9, 10(1), and 11 of the Charter prescribed the scope of those provisions so as to displace the default scope of application provision in s 3(1) of the Charter.

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The words "in Singapore or elsewhere" must be read in their statutory context

63 This question is one of statutory interpretation. Under the purposive approach mandated by s 9A of the Interpretation Act (Cap 1, 2002 Rev Ed) (*Tan Cheng Bock v Attorney-General* [2017] 2 SLR 850 ("*Tan Cheng Bock*") at [37], [43], and [54]), a court must do the following:

(a) First, ascertain the possible interpretations of the provision, having regard to its text and the context of that provision within the written law as a whole.

(b) Second, ascertain the legislative purpose of the provision and the part of the legislation in which it is situated. In ascertaining legislative purpose, primacy is ordinarily to be accorded to the statutory text and context over extraneous material.

(c) Third, compare the possible interpretations against that purpose, preferring the interpretation which advances the legislative purpose.

64 I first consider the operation of this phrase in ss 5(1), 9, 10(1), and 11 of the Charter, which concern the validity or capacity requirements for marriage. I address s 6 of the Charter separately below because of its distinct function in connecting a contravention of s 4 of the Charter to criminal liability under s 494. One possible reading of the phrase "in Singapore or elsewhere" in ss 5(1), 9, 10(1), and 11 of the Charter is that it independently prescribed the scope of application of those provisions. On this reading, those provisions would apply to any person who marries in Singapore or anywhere else in the world, irrespective of whether that person otherwise falls within s 3(1) of the Charter.

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65 Professor Leong has explained the difficulty with such a reading at p 219 of *LWK1997* in the following terms:

> Literal reading
>
> If we ignore the context and read 'in Singapore and elsewhere' literally, [these words] do expressly prescribe the scope of application of the particular requirement[s] [set out in ss [5,] 9, 10, and 11 of the Charter]. These words [would] direct that the particular requirement[s] of capacity to marry [as set out in ss 5, 9, 10(1), and 11 of the Charter apply] to every person who marries in Singapore or anywhere in the world and, even beyond. When we remind ourselves that we are defining the proper scope of application of Singapore's requirements of capacity to marry however, we appreciate the absurdity of this literal reading. Singapore is not competent to govern the capacity to marry of every person in the world, much less beyond. Indeed, she has no interest to do so as her choice of law rules inform. Singapore is only interested in regulating the capacity to marry of Singapore domiciliaries…and all other persons who choose to marry in Singapore. A literal reading of the words leads to an absurdity and, thereby, exposes our law to ridicule…

66 Read in their statutory context, however, there is a second possible interpretation. Section 3(1) of the Charter is the general provision defining the persons to whom the Charter applies. The words "in Singapore or elsewhere" in ss 5(1), 9, 10(1), and 11 of the Charter may therefore be understood as identifying where a marriage involving a person to whom the Charter applies may be contracted, rather than independently defining a new and unlimited class of persons to whom those provisions apply. On this reading, the geographical reach of those provisions is distinct from the personal scope of the Charter as prescribed by s 3(1).

Purposive reading to be preferred

67 In my view, the second interpretation is the better reading of the statutory text in context. Section 3(1) is the Charter's general application provision and expressly identifies the persons to whom the Charter applies. By

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contrast, the words "in Singapore or elsewhere" in ss 5(1), 9, 10(1), and 11 of the Charter describe the location at which the marriage in question may be contracted or solemnised. Those words do not, in terms, identify a class of persons to whom the Charter applies. Reading them as doing so would also give these provisions a personal scope extending to any person marrying anywhere in the world, notwithstanding the personal scope expressly prescribed by s 3(1) of the Charter. The statutory context therefore favours reading the geographical expressions in these provisions subject to the personal scope prescribed by s 3(1) of the Charter.

68 This reading of the statutory text and context is also confirmed by the legislative history of the 1980 amendments. I considered this material for that purpose, consistently with the approach in *Tan Cheng Bock.* In this regard, I agree with Professor Leong that the insertion of the phrase "in Singapore or elsewhere" into ss 5(1), 9, 10(1), and 11 of the 1970 Charter "was intended to emphasise the continued application of the Women's Charter prescriptions of capacity to marry to persons domiciled in Singapore who leave Singapore temporarily to marry under another marriage law outside Singapore" (*LWK2007* at p 33). The *Report of the Select Committee on the Women's Charter (Amendment) Bill [Bill No. 23/79]* (Parl 1 of 1980, 18 January 1980) (the "Select Committee Report") preceded the enactment of those amendments to the 1970 Charter. It is particularly relevant because it addresses the specific mischief that prompted the proposal to insert the words "in Singapore or elsewhere" into s 9 of the 1970 Charter. In the course of the discussions of the members of the Select Committee, the then Acting Minister of Social Affairs, Dr Ahmad Mattar, proposed thus:

> Sir, the existing subsection (1) of section 3 of the Act provides that, save for the exceptions contained in other provisions of the Act, the Act applies to (*a*) all persons in Singapore and (*b*) all persons domiciled in Singapore who are resident outside

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> Singapore. Since this subsection states that the Act applies to all persons domiciled in Singapore who are resident outside Singapore, it is therefore logical that the provisions of the [Women's Charter] should also apply to a person domiciled in Singapore [who] contracts a marriage outside Singapore while he is visiting another country for a short period, say, for a week. **At present, Sir, two Singaporeans both domiciled in Singapore and one of whom is below the age of 18 can contract a valid marriage, say, in Johore Bahru by making a visit there just for the purpose of getting married. So I feel that such an anomaly should be removed.**
>
> For these reasons, I therefore agree that section 9 [of the 1970 Charter, which prescribes 18 years of age as the minimum age of marriage] should be amended **to provide that the capacity of a person domiciled in Singapore to contract marriages wherever celebrated should also be governed by Singapore law**.
>
> [emphasis added in bold]

69 The Select Committee's Report records that the Acting Minister's proposal to insert the phrase "in Singapore or elsewhere" into s 9 of the 1970 Charter was put to the Select Committee and agreed to by its members. The Select Committee also agreed to insert the same phrase into the other relevant provisions of the 1970 Charter, without recording any separate reason for doing so. Professor Leong notes (*LWK1997* at p 224) that:

> …**The words 'in Singapore or elsewhere' may have been added to each of these provisions so [that] 'the capacity of a person domiciled in Singapore to contract marriages wherever celebrated should also be governed by Singapore law**. It is of note that the Select Committee approved of the addition[s] without offering any reason for so doing besides that from the Minister. When the [Select Committee Report] was presented in Parliament, it was accepted without any Member of Parliament disagreeing with this or any other part of it. **The intention stated by the Minister may be taken to reflect the intention of Parliament in making this amendment**.
>
> [emphasis added in bold]

70 In my view, this material is probative because the Acting Minister's explanation was directed specifically to the reason for inserting the geographical

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phrase, and the Select Committee then agreed to insert the same phrase into the other relevant provisions without recording any separate reason for doing so.

71 Read in isolation, the words "in Singapore or elsewhere" might appear to give these provisions an unlimited geographical reach, extending the Charter to every person marrying anywhere in the world. Professor Leong has therefore argued that this phrase should instead be read consistently with s 3(1) of the Charter. In other words, the phrase "in Singapore or elsewhere" emphasises the continued application of the prescriptions of capacity to marry (in ss 5(1), 9, 10(1), and 11 of the 1970 Charter) to persons within the scope of s 3(1) of the Charter who marry outside Singapore. This phrase does not independently enlarge the class of persons to whom the Charter applies. Professor Leong's views bear setting out in detail (*LWK2007* at p 34):

> While the objective behind the insertion of the phrase "in Singapore or elsewhere" [that is, to emphasise the continued application of the prescriptions of capacity to marry to Singaporeans domiciliaries who marry outside Singapore] was good, what was misguided was the proposed manner of achieving the objective. The members of the Select Committee of Parliament [appeared to believe] that the addition of this phrase would only emphasise the continued application of the provisions of capacity to marry to persons domiciled in Singapore who leave Singapore temporarily to marry. The phrase read literally, however, achieves more than this. It provides for its own scope of application that is quite senselessly broad and which does not relate rationally with our choice of law rules of capacity to marry.
>
> The phrase literally provides that the prescription of capacity to marry applies not only to Singapore domiciliaries but to anyone who purports to marry in Singapore or elsewhere! The phrase can be thought to displace the default scope of application of the Women's Charter section 3(1) and, in its place, to provide this senselessly broad scope of application whereby the Women's Charter's prescriptions of capacity to marry apply to every person who purports to marry anywhere in the entire world and indeed beyond the world as well! To avoid such a reading, it is critical to remember its context and, in particular, the intention of the amendment, *ie*, to have the prescriptions apply as broadly as the choice of law rules allow and no more.

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> The phrase "in Singapore or elsewhere" can only be read sensibly if read with the limits required by the Women's Charter section 3(1) that retain the choice of law rules.
>
> In other words, the optimal reading of "in Singapore or elsewhere" is that the phrase emphasises the continued application of the scope of application provided for by section 3(1). There is, therefore…no provision to the contrary of section 3(1) within sections 5, 9, 10, and [11]. Section 3(1)'s opening caveat is not engaged…

72 Section 6 of the Charter required separate consideration. Unlike ss 5(1), 9, 10(1), and 11 of the Charter, s 6 of the Charter was not itself a prescription of capacity to marry. Instead, it expressly connected a marriage contracted in contravention of s 4 of the Charter to criminal liability under s 494 of the Penal Code. Nevertheless, the phrase – "in Singapore or elsewhere" – was also inserted into s 6 of the Charter by the Amendment Act. The meaning of those words in s 6 of the Charter must therefore be considered separately, but in the context of the statutory scheme as a whole and the legislative purpose underlying the 1980 amendments.

73 In my view, the different function of s 6 of the Charter did not justify reading the words "in Singapore or elsewhere" as prescribing a different personal scope from that in s 3(1) of the Charter. Section 6 of the Charter must be read as part of the Charter as a whole. Section 3(1) of the Charter expressly identified, subject to the Charter otherwise providing, the persons to whom the Charter applied. By contrast, s 6 of the Charter did not expressly identify any different class of persons. Its opening words, "Any person", described the person upon whom the consequence prescribed by s 6 of the Charter would operate, but did not themselves state that s 6 of the Charter applied to persons otherwise outside the Charter. Nor did the words "in Singapore or elsewhere" identify such a class. Those words described where the subsequent marriage might be contracted. Read together with s 3(1) of the Charter, the effect of the

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amended s 6 was therefore that, where the Charter applied to a person, a subsequent marriage contracted by that person outside Singapore in contravention of s 4 of the Charter could attract the consequence prescribed by s 6 of the Charter. In that respect, the amended s 6 answered the question left open in *Pong Tek Yin*: for a person to whom the Charter applied, s 6 of the Charter could extend s 494 to a subsequent marriage contracted outside Singapore. It did not, however, independently enlarge the class of persons to whom the Charter applied.[32]

74 To summarise: s 3(1) of the Charter prescribed the Charter's default personal scope, and the words 'in Singapore or elsewhere' in s 6 of the Charter did not displace that scope but determined where a subsequent marriage involving a person within it might be contracted.[33] At the time of the alleged offence, Liu was neither in Singapore nor domiciled in Singapore. She therefore fell outside s 3(1) of the Charter[34], and the words "in Singapore or elsewhere" in s 6 of the Charter did not independently bring her within the Charter.

75 It followed that s 6 of the Charter did not extend s 494 to Liu's act of contracting the Second Marriage in China. Liu's conduct therefore did not become punishable under s 494 by virtue of s 6 of the Charter.

76 Nor did s 3 of the Penal Code alter this conclusion. As explained in *Ng Kok Wai* at [39]-[41], s 3 of the Penal Code is an extraterritorial application provision, but it operates only where its condition is satisfied: the person must first be "liable, by any law, to be tried for an offence committed beyond the limits of Singapore". Section 3 of the Penal Code does not itself supply that

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32 [30] of the Accused's Further Submissions.

33 [30] of the Accused's Further Submissions.

34 [6(e)], [34], [55], and [122]-[123] of the Accused's Further Submissions.

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liability to be tried.[35] In Liu's case, the Second Marriage was contracted in China and none of the jurisdictional bases in s 50(2)(*a*)–(*c*) of the SCA applied. As I explain below, there was also no written law providing, for the purposes of s 50(2)(*d*) of the SCA, that the alleged offence was triable in Singapore.[36] The condition for the operation of s 3 of the Penal Code was therefore not satisfied. Section 3 of the Penal Code consequently did not operate to render Liu's conduct punishable under s 494.

77 I return to s 50(2)(*d*) of the SCA. For the reasons set out above, I was not aware of any written law providing that Liu was triable in Singapore for an offence under s 494 arising from her alleged conduct in China. Section 3 of the Penal Code could not itself supply that jurisdictional basis.[37] Its operation depended upon Liu first being liable, by some other law, to be tried in Singapore for the overseas offence. Section 50(2)(*d*) of the SCA was therefore not engaged.[38]

78 For completeness, s 3(5) of the Charter provided that, for the purposes of the Act, a Singapore citizen was deemed, until the contrary was proved, to be domiciled in Singapore. This did not affect Liu's position. As noted above, Liu was a Chinese citizen and had never been a Singapore citizen. The presumption in s 3(5) of the Charter therefore did not apply to her.

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35 [6(b)] of the Accused's Further Submissions.

36 [6(c)] and [100] of the Accused's Further Submissions.

37 [6(b)] of the Accused's Further Submissions.

38 [5] of the Accused's Further Submissions.

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Conclusion

79 In summary, although the 1980 amendments extended the geographical reach of ss 5(1) and 6 of the Charter to marriages contracted abroad, they did not independently extend the Charter's personal scope beyond the persons to whom it applied under s 3(1) of the Charter. At the time Liu was alleged to have contracted the Second Marriage in China, she was neither in Singapore nor domiciled in Singapore. Section 6 of the Charter therefore did not extend s 494 to her conduct. Nor was there an applicable written law rendering Liu liable to be tried in Singapore for the alleged offence. The Condition Limb of s 3 of the Penal Code was therefore not satisfied, and s 50(2)(*d*) of the SCA was not engaged.[39]

80 Put simply, the fact that Liu's first marriage was contracted in Singapore did not, by itself, make her subsequent marriage in China an offence punishable in Singapore. Liu was outside the personal scope of the Charter when she was alleged to have contracted the Second Marriage in China, and there was no other applicable law that rendered the alleged offence triable here. In my view, Liu could therefore not have been tried and convicted in Singapore for an offence punishable under s 494 arising from the Second Marriage.

81 It is also important to be clear about what these grounds do not decide. Liu's plea was never taken, and the Statement of Facts was not admitted. These grounds therefore make no finding that Liu engaged in the conduct alleged to constitute the offence referred to in the Charge and Statement of Facts. Nor do they determine whether she committed an offence under Chinese law or any other foreign law, or the validity of the Second Marriage under such law. The question decided here is narrower: whether Liu's alleged act of contracting the

[39] [5] of the Accused's Further Submissions.

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Second Marriage in China was punishable under s 494 in Singapore and whether Liu could be tried here for that alleged offence.

Prem Raj Prabakaran
District Judge

Xu Sijia (Attorney-General's Chambers) for the Prosecution;
Diana Foo (Legal Eagles) for the accused.

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