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Elections during COVID-19: Welcome clarifications, unanswered questions

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ELECTIONS DURING COVID-19: WELCOME CLARIFICATIONS, UNANSWERED QUESTIONS

Case Comment: Daniel De Costa Augustin v Attorney-General

[2020] 2 SLR 621 / [2020] SGCA 60
Court of Appeal of Singapore
Sundaresh Menon CJ; Andrew Phang JA; Judith Prakash JA
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I. Introduction

1 On 10th July 2020, Singapore held its Parliamentary Elections, while in the midst of the COVID-19 pandemic. Elections have been similarly held elsewhere during this pandemic, and suffice to say that the pandemic, and its resulting implications, have raised various interesting legal questions in some of these jurisdictions.[1] To that end, a wide range of regulations and rules pertaining to elections have also been passed in response to the COVID-19 pandemic. In some jurisdictions, such as certain states in the United States, voting by mail was allowed with no excuse required, so as to prevent the further spread of COVID-19 via the polling stations.[2] In others, lockdown restrictions were completely eased to facilitate voting, to the extent that some voters were also allowed to choose whether to wear protective devices or not (*e.g.*, gloves and masks).[3]

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1 See, *e.g.*, *People First of Alabama v. Merrill* (2020) WL 320784, *Texas Democratic Party v Abbott* (2020) 961 F. 3d 389.

2 See *e.g.*, Massachusetts; An Act Relative to Voting Options in Response to COVID-19 (Cap 115 of 2020).

3 See, *e.g.*, Serbia; "Serbia holds parliamentary elections amidst COVID-19 risk" (22 June 2020) <http://www.xinhuanet.com/english/2020-06/22/c_139156328.htm> (accessed 9 July 2020). For an overview of the impact of the COVID-19 pandemic on

2 A middle ground was struck in Singapore's approach to elections. While voting by mail was still not allowed, measures were taken pursuant to the Parliamentary Elections (COVID-19 Special Arrangements) Act ("**PE(C19)A**")[4] to ensure that the entire voting process would be safe for voters. For instance, separate voting processes were instituted for persons who were serving mandatory stay-home notices, to ensure the safety of the wider community.[5] However, certain groups, such as COVID-19 patients and persons that were under quarantine orders, were not allowed to vote.[6] In addition, there have been concerns raised in Parliament that overseas voters might be unable to vote because of various lockdown measures and travel restrictions,[7] thereby preventing them from voting in one of the ten overseas polling stations worldwide.[8] This raised questions as to whether such election measures would threaten "the integrity of our democracy by taking away the voting rights of citizens".[9]

3 The COVID-19 pandemic and the resulting measures taken set the factual backdrop for the recent Court of Appeal case of *Daniel De Costa Augustin v Attorney-General* ("**Daniel De Costa**").[10] There, the applicant, De Costa, sought a prohibitory order to prevent the Returning Officer from holding any elections under s 3(1) of the Parliamentary Elections Act. The claim was dismissed by the High Court, which did not hand down a written judgment.[11] On appeal, the claim too, was similarly dismissed. Nevertheless, there were several important points of law which the Court of Appeal elaborated upon in reaching its decision. This essay will comment on the issues raised: first, the justiciability of the decision to dissolve Parliament; second, the

elections, see International IDEA website <https://www.idea.int/news-media/multimedia-reports/global-overview-covid-19-impact-elections> (accessed 10 July 2020).

4 Parliamentary Elections (COVID-19 Special Arrangements) Act.

5 Parliamentary Elections (COVID-19 Special Arrangements) Act s 4, 5, and 6.

6 Parliamentary Elections (COVID-19 Special Arrangements) Act s 3.

7 *Singapore Parliamentary Debates, Official Report* (4 May 2020) vol 94 (Anthea Ong, NMP).

8 Elections Department Singapore website <https://www.eld.gov.sg/voters_ops.html> (accessed 11 July 2020).

9 *Singapore Parliamentary Debates, Official Report* (4 May 2020) vol 94 (Anthea Ong, NMP).

10 [2020] SGCA 60.

11 Charmaine Ng, "Court dismisses challenge to stop polls from being held now", *The Straits Times* <https://www.singaporelawwatch.sg/Headlines/Court-dismisses-challenge-to-stop-polls-from-being-held-now> (accessed 10 July 2020).

existence of implied constitutional rights; and third, locus standi to bring judicial review proceedings.

II. Challenging the Dissolution of Parliament and its Non-Justiciability

4 In *Daniel De Costa*, the appellant sought to restrain the holding of the election, but did not contest the decision to dissolve Parliament.[12] As a preliminary point, the court had some difficulty with this position. The starting point of the following analysis begins with Article 66 of the Constitution, which provides:

> "There shall be a general election at such time, within 3 months after every dissolution of Parliament, as the President shall, by Proclamation in the Gazette, appoint."

This provision should be read together with Article 65(3) of the Constitution, which entails that the President is obliged to dissolve Parliament once the Prime Minister, who commands the confidence of the majority of Parliament, advises the President to do so.[13]

5 In *obiter*, the court suggested that the necessary consequence (elections) could not be restrained without first restraining the event triggering that consequence (*i.e.*, the dissolution of Parliament).[14] In this regard, the appellant noted that he was "not in a position to challenge" the fact of Parliament's dissolution, to which the court remarked that it thought that "that [was] correct".[15] However, due to the considerably vague terms used by the Court of Appeal, it is unclear as to what the court's position was on the justiciability of the dissolution of Parliament, and whether it would be open to review in appropriate circumstances.

6 The traditional common law position is that Parliament's dissolution is not justiciable.[16] However, as famously indicated by the court in *Chng Suan Tze v Minister for Home Affairs*,[17] all power has legal limits. That necessarily includes the power exercised by the Prime Minister to dissolve Parliament. As such, the courts should be able to

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12 [2020] SGCA 60, [5].
13 [2020] SGCA 60, [5].
14 [2020] SGCA 60, [5].
15 [2020] SGCA 60, [5].
16 *Council of Civil Service Unions v Minister for the Civil Service* [1985] AC 374, 418.
17 *Chng Suan Tze v Minister for Home Affairs* [1988] 2 SLR(R) 525, [86].

examine any exercise of such discretionary power. Indeed, even if a case appears *prima facie* to be non-justiciable, the court may be able to isolate a pure question of law, which the court may then scrutinise.[18]

7 Recently, the UK Supreme Court, in *R (Miller) v Prime Minister* ("***R (Miller)***")[19] had the opportunity to consider the limits of the prerogative power to prorogue the Parliament of the United Kingdom. While the court recognised that it was possible for the power of prorogation to fall within the category of "non-justiciable" matters (similar to the dissolution of Parliament), the court thought that the issue of non-justiciability would only arise where the issue was properly characterised as one concerning the lawfulness of the exercise of a prerogative power within its lawful limits.[20] However, this issue of justiciability would not arise if the issue concerned the lawful limits of the power that was exercised, and whether the use of power would be properly recognised as the usage of a prerogative power (*i.e.*, whether the actor had the power to do what it did).[21]

8 Thus, it is arguable that even if the President's act of dissolving Parliament is not justiciable, it does not follow that the Prime Minister's use of his or her power in advising the President to dissolve Parliament is also not justiciable. In fact, in *R (Miller)*, the lack of any reasons given in advising the Queen to prorogue Parliament was a central factor in the Supreme Court's finding that the Prime Minister's advice was unlawful.[22]

9 Similarly, even if a challenge to the Returning Officer's holding of elections necessarily requires a challenge to the fact of Parliament's dissolution, that may not be an insurmountable hurdle, unlike what seems to have been suggested by the appellant and the court

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18 *Lee Hsien Loong v Review Publishing* [2007] 2 SLR(R) 453, [98].

19 *Regina (Miller) v Prime Minister (Lord Advocate and others intervening); Cherry and others v Advocate General for Scotland (Lord Advocate and others intervening)* [2020] AC 373.

20 *Regina (Miller) v Prime Minister (Lord Advocate and others intervening); Cherry and others v Advocate General for Scotland (Lord Advocate and others intervening)* [2020] AC 373, [36].

21 *Regina (Miller) v Prime Minister (Lord Advocate and others intervening); Cherry and others v Advocate General for Scotland (Lord Advocate and others intervening)* [2020] AC 373, [36].

22 *Regina (Miller) v Prime Minister (Lord Advocate and others intervening); Cherry and others v Advocate General for Scotland (Lord Advocate and others intervening)* [2020] AC 373, [61].

in *Daniel De Costa*. Notably, as this issue was not contested by the appellant, coupled with the fact that the statement made by the Court of Appeal on this point was *obiter*, perhaps the remark that the appellant was "correct" to not challenge the fact of Parliament's dissolution will have to be reviewed at the appropriate time.

III. A Constitutional Right to Vote and Implied Rights

A. The Right to Vote

10 In this case, the appellant did not seek to challenge the constitutionality of PE(C19)A. Instead, the main issue was whether conducting elections at the material time would deprive the electorate of a free and fair election.[23] In determining whether there was a right to a free and fair election, and whether this right was violated, the court first had to deal with the precedent question of whether there was a right to vote in Singapore.

11 The Constitution does not provide for an explicit right to vote, despite recommendations by the Constitutional Commission in 1966.[24] Prior to the court's decision in *Daniel De Costa*, there were various decisions which discussed the right to vote in Singapore law. The first time the court dealt with such an argument was the 1999 case of *Taw Cheng Kong v PP*.[25] There, the High Court characterised voting as a privilege instead of a constitutional right.[26] However, subsequent statements made by the then-Minister for Home Affairs and the Minister for Law in 2001 and 2009 respectively suggested that the right to vote was a constitutional right.[27] In 2015, the Court of Appeal, in the case of *Yong Vui Kong v PP* ("***Yong* (2015)**") referred to the Minister for Home Affairs' statements in 2001, suggesting that there may be a right to vote as "part of the basic structure of the Constitution."[28] However, this statement was made *obiter* as the case did not deal with the right to vote.

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23 [2020] SGCA 60, [3].

24 Wee Chong Jin, *Report of the Constitutional Commission* (Government Publications Bureau, 1966), 11 – 12.

25 *Taw Cheng Kong v Public Prosecutor* [1988] 1 SLR(R) 78.

26 *Taw Cheng Kong v Public Prosecutor* [1988] 1 SLR(R) 78, [56].

27 *Singapore Parliamentary Debates, Official Report* (16 March 2001) vol 73, col 1726 (Wong Kan Seng, Minister for Home Affairs), *Singapore Parliamentary Debates, Official Report* (13 February 2009) vol 85, col 3158 (K Shanmugam, Minister for Law).

28 *Yong Vui Kong v Public Prosecutor* [2015] 2 SLR 1129 ("***Yong* (2015)**"), [69].

12 What is clear, therefore, from these statements is that while the Government appears to have accepted the existence of a constitutional right to vote, it has never been explicitly accepted by the courts. Therefore, it was significant that the Court of Appeal clarified in *Daniel De Costa* that the right to vote is best understood as "a right that is found in the Constitution either as a matter of construing it in its entirety or as a matter of necessary implication in the light of the reference to elections contained in Art 66 and Art 39(1)."[29] The explicit acceptance of the right to vote as a constitutional right is to be highly welcomed. As famously remarked by Thomas Paine, voting is an indispensable cornerstone of the democratic process, and arguably the true and only basis of representative government.[30] By unambiguously enumerating the right to vote amongst the constitutional rights possessed by citizens, the court gave greater acknowledgement and legitimacy towards Singapore's system of representative democracy.

B. The Implication of Constitutional Rights

13 Nevertheless, some teething issues remain. For one, the method by which the court had implied these rights was not elucidated. Thus, while it is clear that constitutional rights may be implied, and the right to vote is one such right, it is unclear what standard should be applied.

14 In this regard, Goldsworthy notes that there are two possible standards to apply when implying constitutional rights: (a) the standard of practical necessity, or (b) the standard of determinative necessity.[31] The lower standard of implication is "practical necessity", as utilised by the High Court of Australia in *Lange v Australian Broadcasting Corporation*.[32] In deciding that there was a constitutional right to communicate, the court extended this implied right to vote only insofar as it was necessary to give effect to the related sections of the Constitution,[33] which provided for the system of government prescribed by the Constitution.[34] On the other hand, the higher standard of

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29 [2020] SGCA 60, [9].

30 Thomas Paine, "Dissertation on the First Principles of Government", *The Political Writings of Thomas Paine* (Boston: JP Mendum Investigator Office, 1859), 335 – 336.

31 Goldsworthy, "The Implicit and the Implied in a Written Constitution", *The Invisible Constitution in a Comparative Perspective* (Dixon & Stone gen ed) (Cambridge University Press, 2018), 137.

32 *Lange v Australian Broadcasting Corporation* [1997] HCA 25.

33 *Lange v Australian Broadcasting Corporation* [1997] HCA 25, [89].

34 *Lange v Australian Broadcasting Corporation* [1997] HCA 25, [90].

implication, namely, "determinative necessity", entails that the courts should only imply a term where it is so obvious that they do not need to be mentioned.

15 The higher standard of determinative necessity may perhaps be more appropriate in Singapore as it gives greater effect to an originalistic interpretation of the constitutional framers' intentions. In a similar vein, Goldsworthy argues that "practical necessity" is a dubious test for the genuine implication of a constitutional right, as it is possible for the constitution framers to have omitted the inclusion of the right due to a mistake.[35] In such cases, the appropriate recourse would not be to imply their existence, but a constitutional amendment to correct the deficiency.[36] One thing is, however, clear – the vagueness of the court's methodology in elucidating these rights is certainly regrettable. Perhaps, given that the judgement was given *ex tempore*, and that there was (on the facts) little time for the court to also consider the matter,[37] it may be more appropriate to flesh out these considerations in a future decision.

C. The Basic Structure Doctrine

16 The Court of Appeal in *Daniel De Costa* also touched upon the "basic structure" (or "basic features") doctrine. By way of background, as understood from the *locus classicus* of *Kesavananda Bharati v State of Kerala* ("***Kesavananda***"),[38] the "basic structure" or "basic features" doctrine is essentially a doctrine that stipulates that certain clauses in the Constitution are unamendable, since such clauses form part of the Constitution's basic structure. As it stands, however, there has not been any consensus as to whether this doctrine is applicable in Singapore law.[39] Notably, in *Ravi s/o Madasamy v Attorney-General* ("***Ravi***"),[40] the Singapore High Court seemed to interpret the "basic structure" doctrine as a "broad restatement of the truism that the Constitution rests on an overarching principled framework".[41] Moreover, in *Ravi*, it would

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35 Goldsworthy, "Constitutional Implications Revisited" (2010) 30(1) UQLJ 10, 20.
36 Goldsworthy, "Constitutional Implications Revisited" (2010) 30(1) UQLJ 10, 20.
37 Only 7 days elapsed between the application on 23 June 2020 and the judgement on 30 June 2020.
38 *Kesavananda Bharati v State of Kerala* (1973) 4 SCC 225.
39 [2020] SGCA 60, [11]. See *Yong Vui Kong v Public Prosecutor* [2015] 2 SLR 1129; *Mohammad Faizal Faizal bin Sabtu v Public Prosecutor* [2012] 4 SLR 947 cf. *Teo Soh Lung v Minister for Home Affairs* [1989] 1 SLR(R) 461; *Ravi s/o Madasamy v Attorney-General* [2017] 5 SLR 489.
40 *Ravi s/o Madasamy v Attorney-General* [2017] 5 SLR 489 ("***Ravi***").
41 *Ravi s/o Madasamy v Attorney-General* [2017] 5 SLR 489, [66].

appear that the court thought there were "valid distinctions"[42] between the "basic features" and "basic structure" of the Constitution, albeit it was content to proceed on the basis that the basic structure and features of the Constitution were the same.

17 If a distinction is to be drawn, it may be that the former refers to the contentious *Kesavananda* doctrine, whereas the latter refers to the uncontentious position that there is an "overarching structure" to the Constitution,[43] *vis-à-vis* which *only* certain amendments (*e.g.*, those that curtail judicial power) are precluded,[44] and more importantly, in respect of which certain rights can be implied to give effect to the Constitution's basic structure. Indeed, Goh has similarly noted that the "basic structure" doctrine might preclude the need to refer to whether there are any unamendable constitutional provisions in the Constitution.[45]

18 This brings us back to *Daniel De Costa*. There, the appellant argued that the right to vote was part of the "basic structure" and thus a "fundamental" right.[46] In doing so, it appears that the appellant was relying on the interpretation in *Ravi*. However, this argument was swiftly dismissed. The court thought that the appellant's argument was mistaken and unfounded, as the court was not dealing with the "validity or otherwise of any constitutional amendment" and thus, issues concerning the "basic structure" of the Constitution simply did not arise to be considered in this case."[47] In referring to the "basic structure" doctrine as relevant only to the issue of constitutional amendments, it is evident that the Court of Appeal thought that the phrase "basic structure" doctrine merely referred to the *Kesavananda* doctrine. However, as noted earlier, the "basic structure" doctrine as interpreted in *Ravi* is not just limited to the issue of constitutional amendments. To that end, if the term "basic structure" or "features" is to be read coterminously, then this should entail that, in interpreting past decisions where the term "basic

42 *Ravi s/o Madasamy v Attorney-General* [2017] 5 SLR 489, [56].
43 *Ravi s/o Madasamy v Attorney-General* [2017] 5 SLR 489, [66].
44 *Ravi s/o Madasamy v Attorney-General* [2017] 5 SLR 489, [66].
45 Yihan Goh, "The interpretation of the Singapore Constitution: Towards a unified approach in interpreting legal documents", *Constitutional Interpretation in Singapore: Theory and Practice* (gen ed Jacelyn L Neo) (Routledge, 2017), 260.
46 [2020] SGCA 60, [10].
47 [2020] SGCA 60, [11].

structure" was used (*e.g.*, *Yong* (2015)),[48] its meaning should not be watered down.

D. Free and Fair Elections: The Content Of The Right To Vote

19 The next point that the court considered was the right to free and fair elections. The court accepted that as a "statement of principle", elections must be free and fair.[49] Nevertheless, the more contentious matter, as the court noted, was whether the litigant could "establish the precise content of the right", and "show how that right [was] being violated".[50]

20 The appellant sought to argue that the elections would not be free and fair for several reasons. First, s 8 of the PE(C19)A provided that the Returning Officer or Director of Medical Services could lawfully advise voters against voting if they "exhibit acute respiratory symptoms or are febrile; or may have been exposed to the risk of becoming infected with, or a carrier of, the COVID-19". Second, many Singaporeans overseas could not vote due to travel restrictions. Third, holding elections may affect the health of the polling agents.[51]

21 The first reason was dismissed on the grounds that s 8 of the PE(C19)A was merely a provision designed to exempt certain public servants from the risk of prosecution (since it is prohibited for persons to dissuade voters from voting).[52] Furthermore, the Returning Officer or Director of Medical Services could only advise voters not to vote, and did not exclude the right of a voter from casting his/her ballot subject to appropriate public health precautions.

22 The second reason was dismissed on the basis that the appellant "was unable to identify the constitutional basis upon which it could be said that the Government had an obligation to provide a means for every Singaporean anywhere in the world to be able to cast their ballots".[53]

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48 *Yong Vui Kong v Public Prosecutor* [2015] 2 SLR 1129.
49 [2020] SGCA 60, [13].
50 [2020] SGCA 60, [13].
51 [2020] SGCA 60, [13].
52 [2020] SGCA 60, [13].
53 [2020] SGCA 60, [13].

23 Notably, however, the Court of Appeal did not specify what obligations (if any) the Government had to ensure that the electorate would be able to cast their votes. It is therefore unclear what the right to vote actually demands as a minimum standard. It may very well be that, notwithstanding Singapore's system of compulsory voting,[54] the right to vote in Singapore is a form of "negative liberty". As famously elucidated by Isaiah Berlin,[55] negative liberties generally entail the absence of interference in acting.[56] If so, one wonders how far this point can be stretched. Would a complete lack of means to vote overseas be constitutional? Would the lack of administrative measures to enable prisoners that are legally entitled to vote be also viewed as constitutional?[57]

24 This may boil down to the quintessential question that was highlighted at the start of this section – what is the precise content of the right to vote? Perhaps the clearest point of reference could be the political system which sets the backdrop to which the Constitution was drafted – representative democracy. In fact, the Court of Appeal highlighted the importance of this in the case of *Vellama v Attorney-General*, where the court held:

> "the form of government of the Republic of Singapore as reflected in the Constitution is the Westminster model of government, with the party commanding the majority support in Parliament having the mandate to form the government. The authority of the government emanates from the people."[58]

25 Further questions may yet arise, such as the particular type of representative democracy espoused in the Singapore constitution, which will undoubtedly shape the exact content of this right to vote. Unfortunately, the court did not give any indication here as to how the content of this constitutional right to vote should be delineated. Instead, the court simply found that the appellant failed to identify the specific

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54 Parliamentary Elections Act (Cap 218, 2011 Rev Ed) s 43.

55 Isaiah Berlin, *Two Concepts of Liberty*, (Clarendon Press, 1958).

56 Ian Carter, "Positive and Negative Liberty", *The Stanford Encyclopedia of Philosophy* (Winter 2019 Edition) <https://plato.stanford.edu/entries/liberty-positive-negative/#PosLibConNeu> (accessed 10 July 2020).

57 See, *e.g.*, *R (Chester) v Secretary of State* [2013] 3 WLR 1076, where it was noted that even where prisoners were eligible to vote, they could not do so in practice because of the lack of "administrative arrangements".

58 *Vellama d/o Marie Muthu v Attorney-General* [2013] 4 SLR 1, [79].

aspects of what the right to "free and fair elections" requires, and why it is a "constitutional right".[59]

26 As for the third ground, it was quickly dismissed on the basis that the health concerns of the voting agents were not relevant to the right to vote.[60] Thus, the appeal was dismissed.

IV. Locus Standi

27 In the last paragraph of the judgement, the Court of Appeal dealt with the standing of the appellant, albeit in *obiter*. By way of background, for an applicant to possess the requisite standing to bring about a claim for a prerogative order, three requirements must be met.[61] First, the subject matter must be susceptible to judicial review.[62] This was dealt with in brief in Part II. Second, the material must disclose an arguable case for the applicant.[63] Third, the applicant must have sufficient interest in the matter.[64]

28 The Court of Appeal held that the appellant did not have any standing to bring the action as the third requirement was not met. This was for two reasons. First, the appellant was not based overseas and so would not be affected by any difficulty faced by potential voters residing overseas. Second, insofar as the appellant relied on those who might be dissuaded by any public health advisory, the court held that not only was it "premature to say whether such an advisory [would] be issued", the appellant also did not suggest that he would be prevented from voting as adequate arrangements would not be made for him to vote.[65] In short, the appellant did not have standing because it was premature for him to bring the claim.

29 Notably, while prematurity is an established basis for refusing leave to litigants seeking a prerogative order, one wonders if it might be impractical for an appellant to be permitted to bring a claim only when such advisories are issued. After all, it is possible that any advisory

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59 [2020] SGCA 60, [14].
60 [2020] SGCA 60, [13].
61 *Jeyaretnam Kenneth Andrew v Attorney-General* [2014] 1 SLR 345, [5].
62 *Jeyaretnam Kenneth Andrew v Attorney-General* [2014] 1 SLR 345, [5].
63 *Jeyaretnam Kenneth Andrew v Attorney-General* [2014] 1 SLR 345, [5].
64 *Jeyaretnam Kenneth Andrew v Attorney-General* [2014] 1 SLR 345, [5].
65 [2020] SGCA 60, [15].

would only be released on Polling Day – by which, it may be too late to seek relief. By contrast, in *Vijaya Kumar s/o Rajendran v Attorney-General*, the High Court rejected an argument by the Attorney-General that the relief sought was premature, as the timeframe might have been too tight for the applicants to seek effective relief.[66] This was also seen in the earlier decision of *Wong Keng Leong Rayney v Law Society of Singapore*, where the High Court acknowledged that where there is a "real risk" of irreparable damage, then any requirement that the relief sought is not premature could be dispensed with.[67] Given the possible short timeframe between the issuance of any advisories and the election of the candidates, it is certainly questionable whether this was a sound basis for dismissing the appeal.

V. Conclusion

30 Ultimately, the short 13-page *ex tempore* judgement of *Daniel De Costa* leaves as much unanswered as it clarified the position on various aspects of the law. For instance, it leaves open the question as to whether the dissolution of Parliament is a justiciable issue, and what standard should be applied to assess the prematurity of claims. Nevertheless, despite these unanswered questions, the clarifications made in this case should be lauded. Notably, this is the first time in Singapore's history of constitutional jurisprudence that the right to vote been so explicitly and authoritatively affirmed as being a constitutional right. As earlier argued, this is a significant step forward in the constitutional protection of the system of representative democracy. Yet, this is unlikely to be the last word on the constitutional right to vote. As the Court of Appeal pointed out, the critical task is to establish the precise content of this right.[68] In the meantime, we await further decisions to elucidate the content of this constitutional right.

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66 *Vijaya Kumar s/o Rajendran v Attorney-General* [2015] SGHC 244, [25].

67 *Wong Keng Leong Rayney v Law Society of Singapore* [2006] 4 SLR(R) 934, [20] – [21].

68 [2020] SGCA 60, [13].