

**The Comfort of Weak Constraints:
Legality, Sovereignty, and Political Power in Singapore**

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Abstract

This paper examines how a legally sophisticated constitutional order can coexist with sustained political dominance. Drawing on Jeremy Waldron's distinction between legal black holes and gray holes, alongside scholarship on legalism, autocratic legalism, and political constitutionalism, it conceptualizes Singapore as a "normalized gray hole": a system in which legality, judicial review, and rights discourse remain institutionally robust while meaningful political contestation is structurally attenuated. Through analysis of electoral design, administrative governance, and judicial restraint, the paper argues that political insulation is produced not through constitutional rupture or overt legal repression, but through ordinary legal forms and institutional continuity. It further shows that Singapore's engagement with international and regional human rights mechanisms largely reproduces this logic of weak constraint. The Singapore case therefore demonstrates how legality may stabilize sovereign power rather than constrain it, complicating conventional assumptions about the relationship between rule of law, rights review, and democratic accountability.

I. Introduction: The Puzzle of Legality without Constraint

Contemporary constitutional theory is often organized around a broadly shared, if sometimes implicit, assumption: where a legal system maintains the rule of law, professional courts, and a stable discourse of rights, political power will be meaningfully constrained. Across both liberal constitutionalist and political constitutionalist traditions, legality is commonly understood as a disciplining force, one that channels political conflict into institutionalized forms of contestation and renders the exercise of public authority accountable. Courts, in particular, are frequently treated as sites where power encounters resistance, whether through strong judicial review or more modest forms of rights-based scrutiny. Even critics of judicial supremacy tend to assume that law, once institutionalized, exerts at least some constraining effect on political domination.¹

Singapore presents a persistent challenge to this assumption. By most formal and procedural indicators, Singapore exhibits a highly developed legal order, where courts are widely regarded as professional and efficient; legal rules are publicly articulated, stable, and predictable; and administrative governance operates within a dense framework of statutory authorization.² Singapore also participates actively in international and regional legal regimes, including core global human rights mechanisms and the Association of Southeast Asian Nations (ASEAN) human rights framework.³ From the standpoint of legality alone, Singapore appears far removed from paradigmatic cases of authoritarian rule marked by legal arbitrariness, emergency governance, or the open suspension of constitutional norms.

At the same time, however, Singapore's political order has long been characterized by sustained one-party dominance, limited electoral contestation, and the systematic insulation of core questions of political power from effective challenge. Judicial review exists, yet rarely engages issues that bear directly on the reproduction of political authority. Rights discourse is present, but it seldom destabilizes entrenched institutional arrangements. Elections are regularly held, yet

¹ Ronald Dworkin, *Law's Empire* (Cambridge, MA: Harvard University Press, 1986); Tom Bingham, *The Rule of Law* (London: Allen Lane, 2010).

² Jothie Rajah, *Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore* (Cambridge: Cambridge University Press, 2012).

³ ASEAN Intergovernmental Commission on Human Rights (AICHR), *ASEAN Human Rights Declaration* (2012).

structural asymmetries constrain their competitive significance. The result is not a collapse of legality, but a striking coexistence of legal sophistication and political closure—an outcome that has been noted, from different angles, in both comparative constitutional law and political economy scholarship.⁴

Such coexistence raises a puzzle that cannot be resolved by familiar binaries such as democracy versus authoritarianism, or legality versus arbitrariness. Singapore is neither a case of overt repression nor a simple instance of rule by law understood as the instrumental deployment of legal norms at the discretion of political elites. Nor does it sit comfortably within accounts of the rule of law that implicitly equate legality with democratic accountability or robust rights protection. As several theorists have emphasized, the rule of law, as a political ideal, is conceptually distinct from democracy and may coexist with significant forms of political domination.⁵ Singapore appears to occupy precisely this ambiguous space: one in which law functions smoothly, courts operate with institutional credibility, and rights are formally recognized, yet the political stakes of legality remain sharply limited.

The central question that motivates this paper is therefore not whether Singapore possesses the rule of law in an abstract sense, but how a constitutional system can remain legally sophisticated while systematically avoiding meaningful democratic constraint. How can legality endure—indeed, thrive—without generating sustained pressure on dominant political arrangements? And what does this reveal about the relationship between law, sovereignty, and power in contemporary constitutional orders?

To address this question, the paper develops a theoretical account of Singapore as a constitutional “normalized gray hole.” Drawing on Jeremy Waldron’s distinction between legal black holes and gray holes, as developed in dialogue with Adrian Vermeule’s analysis of “Schmittian” legality in modern administrative law, the paper argues that Singapore exemplifies a stable, non-crisis-based

⁴ Chua Beng Huat, *Public Subsidy, Private Accumulation: The Political Economy of Singapore’s Public Housing* (Singapore: NUS Press, 2024).

⁵ Jeremy Waldron, “The Rule of Law and the Role of Courts,” *Global Constitutionalism* 10, no. 1 (2021): 91–105; Joseph Raz, “The Rule of Law and Its Virtue,” in *The Authority of Law* (Oxford: Oxford University Press, 2009).

configuration in which legality is preserved while contestation is structurally attenuated⁶. Unlike classic accounts of authoritarian erosion that emphasize emergency powers, populist mobilization, or constitutional rupture, Singapore's legal order has evolved through routinized judicial restraint, electoral and administrative design, and the normalization of political asymmetry. Courts, constitutional review, and rights discourse are maintained, but their reach is systematically confined to areas that do not threaten the core distribution of political power.

The paper further contends that Singapore's engagement with international and regional human rights regimes does not meaningfully counteract this internal insulation. When examined through Richard Bellamy's political constitutionalist account of weak-form review, Singapore's external human rights commitments appear less as mechanisms of democratic correction than as extensions of a broader logic of non-intrusive legality. Weak international review presupposes domestic democratic contestation as a background condition; where such contestation is structurally limited, external legal commitments may reinforce, rather than unsettle, sovereign discretion.

By situating Singapore at the intersection of domestic gray-hole constitutionalism and weak international human rights review, this paper challenges a shared assumption in both autocratic legalism and political constitutionalism: that weak legal constraints are normatively benign or democracy-preserving. Under conditions of sustained political dominance, weak review—whether domestic or international—may instead contribute to the stabilization of legally mediated domination. Singapore thus functions not merely as an empirical illustration, but as a test case for prevailing theories of legality, sovereignty, and rights.

The paper proceeds as follows. Section II develops a normative baseline through an analysis of legalism and the rule of law, drawing on Judith Shklar and Jeremy Waldron to show how legality may legitimate power without constraining it. Section III introduces the concepts of black holes, gray holes, and autocratic legalism, identifying the assumptions embedded in crisis-centered accounts of constitutional erosion. Section IV examines Singapore's constitutional order as a normalized gray hole, with particular attention to electoral design, administrative governance, and judicial restraint. Section V turns to Singapore's engagement with international and regional

⁶ Adrian Vermeule, "Our Schmittian Administrative Law," *Harvard Law Review* 122, no. 4 (2009): 1095–1149.

human rights regimes, drawing on Bellamy's account of weak-form review to explain why external legality fails to generate meaningful constraint. The conclusion returns to the puzzle of legality without constraint, reflecting on its implications for theories of sovereignty and constitutional governance.

II. Legalism, Rule of Law, and the Limits of Judicial Constraint

Before turning to the Singapore case, it is necessary to clarify the normative baseline against which its constitutional order will be evaluated. Much contemporary constitutional discourse proceeds from an assumption—sometimes explicit, often implicit—that legality constrains power. The rule of law is frequently understood not merely as a procedural virtue, but as a mechanism that disciplines political authority by subjecting it to publicly articulated norms, institutional review, and rights-based justification. Yet this assumption rests on a conceptual slippage: it conflates legality with democracy, and institutional form with political effect. This section disentangles those assumptions by drawing on Judith Shklar's critique of legalism and Jeremy Waldron's insistence on the conceptual separability of the rule of law from democratic legitimacy.

A. Legalism as moral comfort and political displacement

Judith Shklar's critique of legalism is particularly valuable because it does not deny the importance of law; rather, it exposes a recurrent political temptation to treat legal form as moral resolution. In *Legalism*, Shklar characterizes legalism as an ethical attitude that elevates rule-following into a substitute for political judgment.⁷ When conflicts are morally divisive or politically destabilizing, legalism offers reassurance: it promises that difficult questions can be resolved through the disciplined application of rules rather than through contested acts of collective decision-making.

This reassurance is politically consequential. Legalism claims neutrality by presenting outcomes as the product of legal necessity rather than human choice. Responsibility for judgment is displaced from political actors to legal form. Yet, as Shklar emphasizes, legal reasoning is never merely mechanical. Choices about interpretation, relevance, and remedy are unavoidably normative. What

⁷ Judith N. Shklar, *Legalism: Law, Morals, and Political Trials* (Cambridge, MA: Harvard University Press, 1964).

legalism obscures is not the presence of judgment, but its location.⁸ By foregrounding procedure, legalism renders substantive disagreement less visible and less contestable.

Legalism is also procedurally comforting. It transforms political conflict into bounded disputes governed by admissible arguments, recognized forums, and limited remedies. This transformation can be normatively valuable when it prevents violence or arbitrariness. But it can also operate as a mode of depoliticization. When disputes implicate structural inequalities or enduring patterns of domination, “proceduralization” may narrow the scope of contestation rather than deepen it. Questions of justice are reframed as questions of legality; political disagreement is recoded as technical compliance.⁹

Most importantly for the purposes of this paper, legalism displaces political conflict into legal form in a way that can stabilize existing power relations. By treating law as a morally sufficient register, legalism can legitimate outcomes that are procedurally correct yet politically exclusionary. Shklar’s point is not that law is inherently oppressive, but that legality can become a refuge, a way of avoiding responsibility for the political consequences of rule-governed decisions.

B. Waldron on the separation of rule of law and democracy

Jeremy Waldron’s work reinforces and sharpens this critique by insisting on a strict conceptual separation between the rule of law and democracy. Against a common tendency in constitutional theory to treat the two as mutually reinforcing or even interchangeable, Waldron argues that the rule of law is a distinct political ideal with limited moral content. A society may exhibit high levels of legality—public, stable, and general rules administered through institutionalized procedures—while remaining deeply unjust or politically dominated.¹⁰

Such insistence matters because it blocks a common inferential move: the assumption that democratic deficit implies legal deficit, or vice versa. Waldron draws on a Razian account of the

⁸ Shklar, *Legalism*, esp. chapters on legalism as an ethical attitude.

⁹ Ibid.

¹⁰ Jeremy Waldron, “The Rule of Law and the Role of Courts,” *Global Constitutionalism* 10, no. 1 (2021): 91–105.

rule of law as a virtue of legal systems rather than a comprehensive theory of justice.¹¹ The rule of law, on this view, concerns how power is exercised, not who holds it or to what ends. It may reduce arbitrariness and enhance predictability, but it does not guarantee democratic accountability or rights protection.

Waldron's skepticism extends beyond abstract conceptions of legality to the institutional role of courts themselves. In *The Core of the Case Against Judicial Review*, he challenges the widely held assumption that strong-form judicial review is inherently democracy-enhancing.¹² His critique does not rest on a rejection of rights or their moral importance. Rather, Waldron emphasizes that persistent disagreement about the content, scope, and priority of rights is a normal and unavoidable feature of democratic politics. In such conditions, the transfer of final decision-making authority over rights disputes from legislatures to courts is not self-evidently more legitimate, particularly where representative institutions are broadly functional and inclusive.

Crucially, Waldron's argument is explicitly conditional rather than categorical. It presupposes a set of background conditions, including a political community committed to rights, reasonably well-functioning representative institutions, and good-faith disagreement among citizens.¹³ Judicial review is assessed against this institutional and political backdrop, not as a corrective for its absence. Courts, on Waldron's account, do not generate democratic conditions; they presuppose them. Where democratic contestation is weak or structurally constrained, judicial review cannot be assumed to compensate for that deficit and may instead risk further displacing political disagreement from arenas of collective self-government. Waldron's later work further complicates the optimistic picture by warning that judicial ascendancy may itself threaten rule-of-law values if courts come to resemble unaccountable political authorities.¹⁴ The point is not anti-judicial. It is a caution against equating the institutional prestige of courts with democratic legitimacy or political constraint.

¹¹ Joseph Raz, "The Rule of Law and Its Virtue," in *The Authority of Law: Essays on Law and Morality*, 2nd ed. (Oxford: Oxford University Press, 2009), 210–29.

¹² Jeremy Waldron, "The Core of the Case Against Judicial Review," *Yale Law Journal* 115, no. 6 (2006): 1346–1406.

¹³ Waldron, "Core of the Case," on the background conditions of the argument.

¹⁴ Waldron, "The Rule of Law and the Role of Courts."

C. The normative baseline: legality as constraint or legitimation

Taken together, Shklar and Waldron establish the baseline necessary for evaluating Singapore. Legal institutions can constrain power, but they can also legitimate it without doing so. Legalism can provide moral comfort and procedural reassurance while displacing responsibility for political outcomes. The rule of law can reduce arbitrariness while leaving structures of domination intact. Courts can adjudicate rights claims while remaining institutionally cautious toward politically foundational questions.

This two-sided account of legality prepares the ground for the analysis that follows. It allows us to take Singapore's legal sophistication seriously without assuming that it generates democratic constraint. It also prevents a premature diagnosis of failure: the issue is not that legality has broken down, but that legality may be operating in a mode that stabilizes power rather than subjects it to contestation.

Once this possibility is acknowledged, it becomes analytically plausible to speak of legal "holes" that do not involve the suspension of law, but its careful moderation. The next section develops this analytical vocabulary by turning to Waldron's distinction between black holes and gray holes, and to Scheppele's account of autocratic legalism, in order to explain how legality can persist while political traction is systematically attenuated.

III. Black Holes, Gray Holes, and Autocratic Legalism

Having established that legality does not necessarily constrain political power, the next step is to develop a more precise analytical vocabulary for identifying *how* legality may fail to generate political traction. Jeremy Waldron's distinction between legal black holes and gray holes provides an initial framework for thinking about the institutional conditions under which law ceases to function as a meaningful site of contestation. Kim Lane Scheppele's theory of autocratic legalism, in turn, offers a regime-level account of how legality can be mobilized to stabilize authoritarian rule. This section argues that while both frameworks are indispensable, neither fully captures a constitutional order in which legality is neither suspended nor captured through crisis, but instead routinized as a mechanism of political insulation.

A. Waldron's black holes and gray holes

Although the black hole/gray hole distinction is most closely associated with Waldron's work on the rule of law, its contemporary articulation in public law theory owes much to Adrian Vermeule's analysis of "Schmittian" legality in modern administrative governance. In *Our Schmittian Administrative Law*, Vermeule argues that liberal legal systems routinely tolerate zones of formally lawful but weakly constraining review, particularly in areas involving executive discretion and administrative expertise¹⁵. These gray holes, on his account, are not pathological departures from legality, but structurally embedded features of modern governance. Waldron's contribution may thus be understood not as identifying their existence, but as sharpening their normative stakes.

Waldron introduces the concepts of black holes and gray holes to describe different ways in which legal systems may fail to provide effective constraint on power. Black holes are sites where the law explicitly withdraws: executive action is insulated from review, jurisdiction is excluded, or entire domains of decision-making are placed beyond legal contestation.¹⁶ In black holes, legality fails overtly. Law acknowledges its own absence.

Gray holes are more subtle. They arise where legal review formally exists but is "so attenuated, deferential, or procedurally constrained that it offers little real prospect of challenge."¹⁷ Courts retain jurisdiction, but the standards governing review are left indeterminate or highly elastic. Doctrines of deference, standing, justiciability, or reasonableness confer substantial interpretive discretion on judges, without supplying uniform or robust criteria for assessing the legality of contested action. As a result, review remains formally available, yet its constraining force depends heavily on how courts choose to exercise judgment in particular cases.

Waldron's distinction is significant because it draws attention away from overt lawlessness and toward the *modalities* of legal operation. Gray holes are not pathologies in the sense of institutional breakdown; they are configurations produced through ordinary legal doctrine. They are often justified in the name of competence, expertise, or separation of powers. Indeed, Waldron

¹⁵ Vermeule, 2009

¹⁶ Waldron, "The Rule of Law and the Role of Courts."

¹⁷ Ibid.

acknowledges that gray holes may be normatively defensible in limited contexts, particularly where courts lack institutional capacity or democratic legitimacy to intervene decisively.

At the same time, Waldron is clear that gray holes pose a distinct danger. Because legality persists in form, gray holes can mask the absence of political accountability. The presence of judicial reasoning and procedural regularity may create the appearance of constraint, even where the absence of determinate standards leaves outcomes largely insulated from meaningful challenge.¹⁸ Gray holes thus provide procedural reassurance without substantive traction.

Importantly, Waldron develops this analysis primarily with reference to liberal constitutional systems—most notably the United States—where gray holes are typically exceptional and contested. His concern is that even in rights-protective systems, pockets of attenuated review may emerge that undermine the rule of law’s promise. What his analysis leaves under-explored, however, is the possibility that gray holes might become systemic: not isolated deviations within an otherwise adversarial constitutional order, but a governing logic of institutional design. It is this possibility that the Singapore case brings into focus.

B. Gray holes beyond liberal constitutionalism

Once gray holes are understood as institutional configurations rather than accidental failures, their relevance extends beyond liberal democracies. Gray holes may be actively produced through legislative design, administrative structure, and judicial doctrine, without ever triggering the alarm bells associated with emergency powers or rights suspension.

This extension requires a conceptual shift. Vermeule believes that gray holes are endemic to legality itself rather than exceptional deviations within otherwise rights-protective systems, while in Waldron’s framework, gray holes are troubling because they deviate from a baseline expectation of contestation. In a system where contestation is already limited, however, gray holes may cease to appear anomalous. Instead, they may become normalized, integrated into the ordinary operation of legality.

¹⁸ Waldron, “Core of the Case.”

This insight matters for comparative constitutional analysis. If gray holes can be produced and stabilized without legal breakdown, then the presence of courts, review, and rights discourse cannot be taken as evidence of political openness. The analytical task shifts from identifying *whether* review exists to examining *where* review operates and *what it systematically avoids*. Gray holes thus become a diagnostic tool for mapping the political reach of legality.

At this point, Waldron's framework intersects with—but does not collapse into—accounts of authoritarian legality. The question is no longer whether law is suspended, but whether law is selectively configured to preserve institutional credibility while insulating foundational power relations from challenge.

C. Scheppele's autocratic legalism

Scheppele's theory of autocratic legalism provides a regime-level account of this phenomenon. She defines autocratic legalism as a mode of governance in which leaders use law, courts, and constitutional mechanisms to entrench their power while maintaining a façade of legality.¹⁹ Unlike classical authoritarianism, autocratic legalism does not rely on the overt rejection of law. Instead, it proceeds through constitutional amendment, judicial restructuring, and legal normalization.

Central to Scheppele's account is the role of *rupture*. Autocratic legalism typically follows a moment of political transformation: a populist electoral victory, a constitutional refounding, or a crisis that justifies extraordinary measures. Courts may be packed, jurisdiction altered, or constitutional texts rewritten, but always through legally recognizable forms. The result is a system that appears lawful even as it becomes substantively authoritarian.

Scheppele's framework is powerful because it explains how legality can become an instrument of domination rather than its constraint. Courts are not abolished; they are repurposed. Judicial review persists, but it stabilizes the regime rather than challenging it. In this sense, autocratic legalism can be understood as not lawless, but hyper-legal.

¹⁹ Kim Lane Scheppele, "Autocratic Legalism," *University of Chicago Law Review* 85, no. 2 (2018): 545–83.

Yet the Singapore case sits uneasily within this framework. Singapore lacks the defining features of Scheppele's paradigm: there is no identifiable moment of democratic erosion, no populist rupture, and no visible campaign to capture or neutralize courts. Judicial restraint is not imposed through purges or jurisdiction stripping, but has been historically continuous. Legal institutions have not been repurposed in response to crisis; they have evolved alongside a stable political settlement.

D. From crisis-driven autocratic legalism to normalized gray holes

This divergence suggests the need for conceptual refinement. Singapore is not a counterexample to autocratic legalism, but a variant that exposes its limits. Where Scheppele emphasizes transformation through rupture, Singapore illustrates stabilization through continuity. Law does not need to be seized in order to insulate power; it can be designed to do so from the outset. In this respect, Singapore aligns more closely with Vermeule's account of Schmittian administrative legality than with Scheppele's crisis-centered model of autocratic legalism. Where Scheppele emphasizes moments of constitutional rupture and subsequent legal capture, Vermeule highlights how sovereign discretion may operate continuously through law itself, without suspension or breakdown. Singapore illustrates this latter possibility: domination stabilized through legal normality rather than emergency.

Seen in this light, gray holes supply a mechanism through which autocratic legalism can operate without crisis. Rather than dismantling judicial review, a constitutional system may channel it toward non-threatening domains. Rather than suspending rights, it may adjudicate them in ways that leave underlying structural asymmetries intact. Legality persists, institutional credibility is maintained, and domination is stabilized through ordinary legal forms.

The analytical payoff is twofold. First, gray holes help identify how legality operates in systems that do not fit standard narratives of democratic backsliding. Second, they caution against treating weak review as normatively benign: weakness may function as a design feature rather than a temporary compromise. These insights provide the conceptual framework for the analysis that follows.

IV. Singapore's Constitutional Order as a Normalized Gray Hole

The preceding sections developed an analytical framework for understanding how legality may persist without generating meaningful democratic constraint. This section applies that framework to Singapore's constitutional order. The claim is not that Singapore lacks legality, nor that its courts are captured or dysfunctional. Rather, Singapore exemplifies a normalized gray hole: a system in which legality is institutionally robust, judicial review formally available, and rights discourse publicly articulated, yet the most politically salient dimensions of power are systematically insulated from effective contestation.

A. Formal constitutional legality without rupture

At the level of formal structure, Singapore satisfies many of the standard criteria associated with the rule of law. Judicial power is vested in an independent judiciary; courts engage in technically sophisticated reasoning; and administrative action is governed by publicly articulated legal rules. Singapore's legal system is widely regarded as predictable and professionally administered, particularly in commercial and regulatory domains. As Rajah emphasizes, legality in Singapore functions less through arbitrariness than through disciplined proceduralism and routinized legal discourse.²⁰

Equally important is the absence of constitutional rupture. Singapore has not experienced the kind of populist takeover, emergency governance, or constitutional revision that characterizes many contemporary accounts of democratic erosion. Constitutional amendments have been enacted incrementally and through legally orthodox procedures. Fundamental liberties remain enumerated in the constitutional text, even where they are subject to broad qualifications.²¹ Courts have not been packed or purged; judicial restraint has instead been historically continuous.

This continuity suggests that Singapore's legal order cannot be understood as a system in which law has been overtly subordinated to political power. Rather, legality has developed alongside a

²⁰ Jothie Rajah, *Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore* (Cambridge: Cambridge University Press, 2012).

²¹ Li-ann Thio, "A Treatise on Singapore Constitutional Law," *Singapore Journal of Legal Studies* (Academy Pub., 2012).

stable political settlement. The puzzle, therefore, is not why law has failed, but how law has come to coexist so comfortably with sustained political dominance.

B. Electoral law and the upstream production of gray holes

The gray-hole character of Singapore's constitutional order becomes most visible when attention shifts from courts to electoral design, where the conditions of political contestation are structured before judicial review becomes relevant. The Group Representation Constituency (GRC) system, introduced in 1988 through amendments to the Parliamentary Elections Act, requires most parliamentary seats to be contested by multi-member party teams, each of which must include at least one officially designated minority candidate.²²

Formally, the GRC system is justified as a mechanism for ensuring minority representation and preventing communal politics. Courts have accepted this rationale, treating the scheme as consistent with Singapore's constitutional commitment to multiracialism. Legally, the system is unexceptionable: it is statutory, procedurally regular, and facially neutral as between political parties.

Politically, however, the GRC system functions as a structural barrier to opposition participation. Fielding a full multi-ethnic team imposes significant coordination, recruitment, and financial costs that are unevenly distributed across political actors. The ruling People's Action Party (PAP), with its extensive organizational networks and access to political talent, can comply with these requirements routinely. Smaller opposition parties face markedly higher barriers to entry, not because they are formally excluded, but because compliance itself becomes prohibitively demanding.²³

The effects of this design are amplified by the winner-take-all nature of GRC elections, which converts relatively small vote margins into complete seat capture within a constituency. Boundary redrawing by the Electoral Boundaries Review Committee (EBRC), an executive-appointed body

²² Parliamentary Elections Act (Cap. 218), ss. 8A–8C.

²³ Garry Rodan, *The Political Economy of Singapore's Industrialization* (London: Macmillan, 1989)

operating with limited transparency and no judicially enforceable standards, further compounds this asymmetry.²⁴

From the perspective of gray-hole analysis, the significance of the GRC system lies in its *preemptive* function. Electoral inequality is produced upstream, through lawful institutional design, rather than downstream through judicial suppression. Courts are not required to defer aggressively because the core distribution of political power is already legally structured in ways that minimize contestation. Review exists, but it rarely encounters politically foundational questions.

C. Administrative governance and housing as legalized political insulation

Administrative governance reinforces this pattern of insulation. Public housing provides a particularly instructive example. Approximately eighty percent of Singapore's population resides in Housing and Development Board (HDB) flats, and homeownership rates exceed ninety percent.²⁵ Housing allocation, upgrading, and neighborhood investment are administered through an extensive legal and bureaucratic framework that links welfare provision, asset accumulation, and state planning.

The constitutional significance of housing policy does not lie in crude claims of explicit coercion or vote-buying. Rather, as Chua Beng Huat demonstrates, public housing operates as a system of state-mediated dependency, embedding citizens' material security within administrative discretion and long-term policy planning.²⁶ Upgrading programs and neighborhood investments have historically been associated with electoral outcomes, but these associations are framed as policy prioritization rather than sanction. Each administrative decision is legally defensible and procedurally rational when viewed in isolation.

What remains largely beyond legal scrutiny is the cumulative political effect of these practices. Because benefits are administered through lawful discretion rather than explicit threat, they are difficult to challenge judicially. Courts are institutionally ill-equipped to assess how administrative

²⁴ Ibid.; see also discussions of the Electoral Boundaries Review Committee in Singapore electoral law scholarship.

²⁵ Housing and Development Board, *Key Statistics FY2023* (Singapore: HDB, 2024).

²⁶ Chua Beng Huat, *Public Subsidy, Private Accumulation: The Political Economy of Singapore's Public Housing* (Singapore: NUS Press, 2024).

legality shapes political behavior over time. The result is a gray hole produced not through judicial abdication, but through administrative normality: legality governs effectively, while the political consequences of governance remain insulated from constitutional contestation.

D. Judicial restraint as stabilization rather than abdication

Within this institutional context, judicial restraint functions less as weakness than as stabilization. Courts need not actively repress dissent because the legal system has already structured the terrain of political competition. Judicial review persists, but it operates downstream of legalized asymmetry.

Rights are adjudicated, but remedies remain individualized and non-structural. Electoral arrangements are treated as political facts rather than constitutional problems. Administrative discretion is reviewed for procedural compliance rather than cumulative political effect. In this sense, courts perform the role Scheppele identifies in autocratic legalist systems: not repression, but normalization.²⁷

Singapore thus both aligns with and departs from Scheppele's paradigm. Like autocratic legalist regimes, it governs through law rather than against it. Legal form provides moral authority and international legitimacy. Unlike Scheppele's core cases, however, this configuration is not the product of democratic erosion following rupture. It is foundational rather than degenerative, sustained through continuity rather than crisis.

E. Summary

Singapore is therefore best understood as neither a simple case of rule by law nor a classic instance of crisis-driven autocratic legalism. It represents a normalized gray hole, produced through electoral and administrative law rather than constitutional capture. Legality does not merely legitimate power after the fact; it preconfigures the conditions under which power is contested, rendering democratic challenge legally implausible long before courts are asked to intervene.

²⁷ Scheppele, "Autocratic Legalism."

Gray holes, in this context, are the operating logic of governance itself. This diagnosis sets the stage for examining whether external legal commitments—particularly international and regional human rights regimes—can supply the democratic constraint that domestic legality withholds, or whether they reproduce the same logic of weak, non-intrusive legality at a different institutional level.

V. Externalizing Rights Review: International and Regional Human Rights Commitments as Weak Constraint

If Singapore's domestic constitutional order operates through normalized gray holes, a natural question follows: can external legal commitments generate the democratic constraint that internal legality withholds? International and regional human rights regimes are often assumed to perform this role by subjecting states to supranational norms, monitoring, and review. This section argues that, in the Singapore case, such external engagement instead takes the form of weak review that mirrors rather than disrupts domestic gray-hole constitutionalism.

A. Weak-form review and Bellamy's political constitutionalism

Richard Bellamy's political constitutionalist account provides a useful starting point precisely because it resists strong claims about the inherently democratizing force of international human rights law. Bellamy challenges legal cosmopolitan defenses of international human rights courts that treat supranational adjudication as a superior substitute for domestic democratic decision-making. In their place, he advances a two-level constitutional model in which international human rights conventions derive legitimacy from the ongoing authorization and control of democratic states.²⁸

On this view, international human rights regimes should operate through weak-form review. International bodies may articulate standards, facilitate dialogue, and impose reputational costs, but they should not displace domestic institutions as final arbiters of rights. This design is intended

²⁸ Richard Bellamy, "The Democratic Legitimacy of International Human Rights Conventions: Political Constitutionalism and the European Convention on Human Rights," *European Journal of International Law* 25, no. 4 (2014): 1019–42

to preserve democratic self-government while mitigating parochialism and rights-blindness at the national level. Bellamy's argument is normatively attractive because it treats sovereignty not as an obstacle to rights protection, but as a condition of democratic legitimacy.

Yet Bellamy's framework contains an implicit assumption that is crucial for the Singapore case: weak-form international review presupposes the existence of domestic institutions capable of translating external norms into meaningful political contestation. Where such contestation is absent or structurally attenuated, weak review may fail to operate as a constraint at all. Instead of supplementing domestic democracy, it may simply coexist with its limits.

B. Singapore's selective engagement with global human rights regimes

Singapore's participation in the global human rights system reflects this dynamic. The state has ratified some international human rights treaties while remaining outside others that would generate denser reporting obligations and more authoritative interpretive oversight.²⁹ This pattern does not signal rejection of international law, but institutional selectivity. By limiting the scope of binding commitments, Singapore reduces the channels through which domestic practices can be translated into sustained legal critique.

Singapore's most prominent site of engagement is the Universal Periodic Review (UPR) of the UN Human Rights Council. The UPR is explicitly designed as a peer-review mechanism rather than an adjudicatory process. It produces recommendations rather than binding judgments and emphasizes dialogue, cooperation, and voluntary commitment. Singapore's Ministry of Foreign Affairs has consistently framed the UPR as an opportunity for exchange and capacity-building rather than external scrutiny.³⁰

From one perspective, this engagement aligns neatly with Bellamy's model. The UPR respects sovereignty, avoids judicial override, and situates rights review within a collective political process among states. Yet from the perspective developed in this paper, the UPR's weakness is not merely

²⁹ Office of the High Commissioner for Human Rights, "Ratification Status for Singapore," UN Treaty Body Database.

³⁰ Ministry of Foreign Affairs (Singapore), "Singapore and the Universal Periodic Review," official statement.

a tradeoff for democratic legitimacy; it is a feature that renders the mechanism compatible with domestic gray holes. Recommendations can be acknowledged, selectively accepted, or reframed as matters of administrative improvement without reopening the structural sites of political insulation identified in Section IV.

This is not to deny the informational or reputational effects of the UPR. Civil society submissions and peer-state recommendations may increase transparency and generate international attention.³¹ However, reputational pressure is diffuse and mediated by geopolitical considerations, particularly for a state widely regarded as administratively competent and economically significant. Where domestic legality already converts contestation into managerial discourse, external review may reinforce that conversion rather than disrupt it.

C. ASEAN human rights institutions and regionalized weak legality

The regional dimension reinforces this conclusion. ASEAN's human rights architecture is explicitly sovereignty-centered and consultative. The ASEAN Intergovernmental Commission on Human Rights (AICHR) is an intergovernmental body with a mandate focused on promotion, dialogue, and cooperation rather than adjudication. Its Terms of Reference emphasize consensus, non-interference, and respect for national particularities.³² There is no regional human rights court, nor any mechanism for binding legal judgment against member states.

This institutional design is often justified as reflecting ASEAN's diversity and commitment to regional stability. From Bellamy's perspective, it may appear as an extreme form of political constitutionalism: states remain authors and controllers of the regime, and review remains weak. Yet this justification presupposes that member states are democratic agents capable of authorizing and disciplining regional institutions in ways that enhance rights protection. ASEAN's membership, however, encompasses a wide range of regime types, and its core operating norm—the so-called “ASEAN Way”—prioritizes consensus and non-interference over contestation.

³¹ Human Rights Watch, “*Submission to the Universal Periodic Review of Singapore*,” October 9, 2025, Human Rights Watch, <https://www.hrw.org/news/2025/10/09/submission-to-the-universal-periodic-review-of-singapore>.

³² ASEAN, “Terms of Reference of the ASEAN Intergovernmental Commission on Human Rights,” 2009.

In this context, regional human rights legality mirrors domestic gray holes rather than counteracting them. Rights discourse circulates, declarations are adopted, and institutional forums are maintained, but the architecture is carefully designed to avoid authoritative determinations that would destabilize domestic political settlements. Singapore's regional engagement thus does not introduce an external constraint on domestic legality; it situates that legality within a regional order structured by the same preference for moderation, deference, and sovereign discretion.

D. External weak review as reinforcement, not remedy

The broader implication is not that international or regional human rights regimes are irrelevant, but that their effects are conditional. Weak-form review does not operate in a vacuum. Its capacity to generate democratic constraint depends on domestic institutional conditions—particularly the presence of adversarial politics capable of mobilizing external norms. Where domestic legality already operates through gray holes, external weak review may reinforce legitimacy without producing traction.

This insight extends Bellamy's argument in a critical direction. Weak review is often defended as a way of respecting sovereignty and democratic self-government. The Singapore case suggests that under conditions of sustained political dominance, weak review may instead contribute to the stabilization of authoritarian legality. External norms are absorbed into domestic legal discourse as standards of good governance rather than as grounds for political challenge.

Seen in this light, Singapore's international and regional human rights engagement does not contradict the gray-hole diagnosis developed in this paper. It confirms it. External legality mirrors internal legality: robust in form, restrained in effect, and oriented toward reassurance rather than disruption. The promise of rights remains visible, but the sites at which that promise could generate meaningful contestation remain insulated.

VII. Conclusion: Legality, Sovereignty, and the Comfort of Weak Constraints

This paper began with a puzzle that is easy to overlook precisely because it does not present itself as a crisis. Singapore is neither lawless nor institutionally fragile. Its courts are professional, its administrative governance is disciplined, and its participation in international and regional human

rights regimes is substantive rather than merely symbolic. Yet this dense legality has not translated into sustained democratic constraint. The central argument of this paper has been that this outcome is not accidental. It reflects a mode of governance in which legality is not suspended or hollowed out, but carefully moderated.

The analysis has shown that the rule of law is not self-executing. Legal form, judicial review, and rights discourse do not automatically generate political accountability. Under certain institutional conditions, they may instead stabilize existing power relations. In Singapore's case, electoral law, administrative governance, and judicial restraint work together to shape the terrain of political contestation in advance. The result is a normalized gray hole: a constitutional order in which contestation remains formally available, yet structurally attenuated, and in which courts rarely encounter the mechanisms through which political dominance is reproduced.

This diagnosis complicates familiar assumptions across constitutional theory. Against liberal constitutional optimism, it suggests that the presence of courts, rights, and legality cannot be taken as proxies for democratic constraint. Their political significance depends on where they operate and, just as importantly, where they do not. Against critical accounts that associate authoritarian legality with rupture, emergency, or overt repression, the Singapore case demonstrates a different possibility: domination stabilized through continuity, competence, and legal normality. Sovereign power need not exceed the law; it can operate through it.

The paper has further argued that external legal commitments do not necessarily correct internal constitutional insulation. Singapore's engagement with international and regional human rights regimes illustrates how weak-form review, often defended as sovereignty-respecting and democracy-preserving, may align seamlessly with a domestic order already structured around gray holes. Dialogic mechanisms such as the Universal Periodic Review and ASEAN's consultative human rights institutions extend the language of rights without penetrating the institutional sites where legality preempts political challenge. In this sense, external legality does not stand apart from domestic governance; it reflects and reinforces the same logic of restraint.

These findings invite a more careful reflection on sovereignty in contemporary constitutional orders. Sovereignty is often imagined as asserting itself through excess—through emergency

powers, constitutional suspension, or populist rupture. The Singapore case suggests a quieter but no less effective modality. Sovereignty today may operate through moderation: through calibrated review, routinized administrative discretion, and the preservation of legal credibility. The comfort of weak constraints lies in their ability to reassure—to signal legality, responsibility, and restraint—while leaving foundational power relations intact.

For constitutional and human rights theory, this presents an unsettling implication. If legality can legitimate domination without visibly failing, then the task is not simply to demand more law, more courts, or more review. It is to ask where contestation is structurally foreclosed, how legal form redistributes political possibility, and under what conditions weak constraints cease to function as constraints at all. Singapore does not illustrate the breakdown of the rule of law. It illustrates something more challenging: the possibility that legality itself, when carefully designed and strategically limited, can become one of sovereignty's most reliable instruments.

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