

SPEECH BY MR TEO CHEE HEAN, MINISTER FOR HOME AFFAIRS, AT PARLIAMENT SITTING, 14 NOVEMBER 2012, 3:37 PM AT PARLIAMENT

RESPONSE SPEECH BY TEO CHEE HEAN, DEPUTY PRIME MINISTER AND MINISTER FOR HOME AFFAIRS ON THE MISUSE OF DRUGS (AMENDMENT) BILL ON 14 NOVEMBER 2012

Mr Speaker, Sir, I thank all the 16 Members who have spoken on the Bill –

2. I am heartened at their strong support for the Bill, and more importantly, for their support for the tough stance that we take against drugs.

3. Minister for Law Mr Shanmugam has earlier addressed the legal issues that members have brought up and also the consequences of the decisions that we make in this House. Senior Minister of State for Home Affairs Mr Masagos Zulkifli has also addressed issues related to implementing the recommendations of the Taskforce on Drugs.

4. Having listened carefully to Members' speeches on Monday, there were a number of recurring themes which I would like to now address in broad terms.

a. First, should Parliament change the law to do away with the mandatory death penalty and leave the discretion with the courts?

b. Second, has the mandatory death penalty been effective in helping to curb the drug menace?

c. Third, do the amendments to the mandatory death penalty send the wrong signal that we are softening our stance against drugs?

d. And finally, can the "substantive assistance" provision really be effective?

5. Let me take a step back and re-focus ourselves on the challenges we are facing, and the policy objectives that we are aiming for in tabling these Amendments to the Misuse of Drugs Act. It is with this overall perspective in mind, that I will take us through each of these points, before wrapping up by taking a look at our holistic approach to combating the drug scourge.

Should Parliament change the law to do away with the mandatory death penalty and leave the discretion with the courts?

6. First – should Parliament do away with the mandatory death penalty for drug offences and leave the discretion with the courts?
7. Sir, when Parliament sat in 1975 to consider the drug problem, they were faced with a serious drug situation which was threatening to overwhelm Singapore. They weighed the damage that drugs and those who traffic in drugs were doing to our society. They decided to institute tougher laws and penalties, coupled with strong enforcement.
8. Severe penalties were introduced, including the mandatory death penalty for those trafficking significant amounts of drugs. Even though the penalties were severe, they were instituted in a measured and calibrated way – with only those convicted of trafficking substantial amounts of drugs subject to the mandatory death penalty. In the case of heroin for example, the threshold amount for capital punishment is set at 15 grams of pure diamorphine. This may not sound like very much, but it is in fact equivalent to the pure diamorphine content of some 2,200 straws of heroin, with a current street value of \$66,000. This is enough to supply one straw per day to more than 300 addicts for a week.
9. Trafficking in amounts below the threshold amounts where capital punishment applies, is also subject to mandatory minimum penalties, in this case, long prison terms and caning.
10. Sir, as Mr Shanmugam has pointed out, it is the responsibility of Parliament to decide what acts should be criminalized, and the importance and emphasis to be placed on each crime. Based on the seriousness of the crime, and the damage it does to society and to the victims, Parliament then provides an appropriate penalty framework. For some serious crimes, due to the potential harm that they cause and to register society's disapprobation, it is necessary to send a deterrent signal by providing for minimum or mandatory sentences. This, by their nature, limits the degree of discretion that courts have in deciding sentences. This is not something which the government does lightly, but only after careful consideration of the nature of the act and consequences of doing so.
11. This is especially so in the case of the mandatory death penalty. Parliament bears the heavy responsibility of deciding whether an offence is serious enough and the damage to society severe enough to make the death penalty the only available sentence for the offence.
12. In his tribute to former Chief Justice Chan Sek Keong on Monday, the Minister for Law stated that Chief Justice Chan believed that the function of judges was to interpret and apply the law, and not to legislate or make policy in the guise of adjudication. Which offences carry the mandatory death penalty, and which do not, is therefore clearly a matter of policy which Parliament, and not the courts, has to decide, in the interest of our society.

13. Parliament took the responsibility for making this policy decision and sending this strong signal in 1975 after careful and serious consideration; and this together with the other measures that Parliament decided on then and over the years, has provided the basis for our success in tackling the drug problem that has overwhelmed so many other countries.

14. On Monday, Members of this House unanimously welcomed the setting or raising of penalties for those who target youths or vulnerable persons in drug offences. This included mandatory minimum sentences. When Members of this House pass this amendment into law, this would be another example where Parliament has taken a policy decision and is prepared to send a strong signal, which requires the courts to subject persons convicted of such offences involving young or vulnerable persons in drug offences, to mandatory minimum penalties.

Has the mandatory death penalty been effective in helping to curb the drug menace? Do the amendments to the mandatory death penalty send the wrong signal that we are softening our stance against drugs?

15. Let me now deal with the second and third themes: Has the mandatory death penalty been effective in helping to curb the drug menace? Do the amendments to the mandatory death penalty send the wrong signal that we are softening our stance against drugs?

16. A number of MPs including Ms Sylvia Lim, Assistant Professor Eugene Tan, Mrs Lina Chiam and Ms Faizah Jamal have asked whether the mandatory death sentence has been effective.

17. As several members have already pointed out, it is not easy to prove a counter-factual conclusively. But it is instructive to take a look at the approaches that other jurisdictions have used to combat drugs and the corresponding outcomes.

18. In some jurisdictions, the legal regime is not operating properly and the enforcement is not effective. The drug situation is completely out of control and drug cartels rule the roost. We read about them in the newspapers and we thank our lucky stars that we are not one of those countries. Then, there are jurisdictions where laws are strict theoretically, but enforcement is not effective. They also face problems, which demonstrate that strict laws and severe penalties are not sufficient by themselves; good enforcement and effective courts are needed too.

19. There are also jurisdictions where law enforcement agencies are effective, but drug laws are liberal, allowing drugs to become common-place. In such countries, we have all heard of, or seen for ourselves, the easy availability of drugs, for example in legalized so-called “coffee

shops”, or being passed around at parties; or caught a whiff of drugs being smoked while walking down the corridors of college dorms. We might also have encountered drugged out persons “shooting themselves up” in side streets in the night, or seen the detritus of discarded hypodermic syringes in public parks and underpasses during a morning jog. It strikes me, Sir, that families from these countries with more liberal drug regimes and drug laws, find that one of the key attractions of living in Singapore with their families is that their children are much safer from drugs and crime. And I think there’s a lesson, an important one, to learn from there.

20. Sir, we have to ask ourselves what type of society we want. There may be no death penalty or mandatory death penalty, but the human toll is great. Drug wars take the lives of thousands – innocents, law enforcement officers and members of drug cartels. Daily, people die of overdoses or adverse drug reactions, including young people, and people whom young people idolize – pop stars, movie stars, and sports personalities. Lives and futures are destroyed, families are left destitute and in despair. The fabric of society is weakened, safety and security for its citizens compromised, and children put at risk.

21. Sir, the mandatory death penalty is an important part of our comprehensive anti-drug regime. The regime does not just depend on one element, but depends on all of them. The regime is a multi-pronged one – it involves education, strong enforcement, severe penalties for trafficking, strict rehabilitation for drug abusers, and long-term imprisonment for repeat abusers. The deterrence message is strong and clear. We send the signal that drugs are bad – bad for abusers, their families and society. People who take drugs do so at their own peril – they should expect to be caught eventually. Drug traffickers should also beware; there is high certainty of being caught and punished. Punishment is severe, including capital punishment.

22. The mandatory death penalty strengthens this deterrent message. The incidence of kidnapping and firearms offences fell sharply after the mandatory death penalty was introduced for these crimes. From 38 kidnapping offences in 1959, the number of offences fell significantly after the death penalty was introduced for kidnapping in 1961 to just one case, and has remained low since then. For firearms offences, the number fell from 174 in 1973 to 97 in 1975 after the introduction of the death penalty in 1973. This has since dropped steadily and there have been no firearms offences since 2007.

23. For drugs, the war is ongoing. We want to give our drug enforcement officers the tools they need to do their jobs, to keep us safe. We know that the mandatory death penalty has a deterrent effect because drug traffickers deliberately try to keep the amounts they carry to below the capital punishment threshold. So you can say, they are clever, they can get away with it. But there is an operational effect on the drug syndicates, and a benefit to Singapore. This complicates their supply chain, raises their costs and their risks. This ultimately helps to restrict drug supply in Singapore, and helps keep our drug situation under control.

24. Several MPs, including Mr Edwin Tong, Mr Alvin Yeo, Asst Prof Eugene Tan, Dr Intan

Azura, Mr Liang Eng Hwa, Mr Vikram Nair, Mr Zainal Sapari, and Mr Christopher de Souza have cautioned that we do not send out the wrong signals with the changes that we are making. And I agree wholeheartedly with them.

25. Sir, this is not the signal that we want to send at this point of time, when, as I had said in my speech on Monday, we are facing serious and new challenges on the drug front.

26. If we went the way that some MPs are advocating, by doing away with the mandatory death penalty, as Mr Pritam Singh suggested, or doing away with the death penalty altogether, as Mr Laurence Lien mentioned, we would be sending the wrong signal that the risks of drug trafficking into Singapore have now been lowered, that the society is now more accepting of drugs. They have looked at this from the point of view of the drug trafficker who has been apprehended. We also have to look at abolition from the point of view of society and the victims of drugs.

27. Would Singapore and Singaporeans be better off as a result? I do not think so. Not if our deterrence is weakened and more people might be tempted to try to smuggle in significant quantities of drugs. Not if more of them try, get caught, and spend the rest of their lives in prison. Not if more victims fall into the downward spiral of drug abuse because more drugs enter into Singapore. Not if our enforcement officers are overwhelmed by a greater number of traffickers and drug abusers and are not able to get on top of the situation. These are real risks we face if we weaken our deterrence and the message that we are sending. And this is a responsibility that the Government has to bear, and which I, as Minister for Home Affairs, have to bear.

28. I can understand Mr Lien's point of view and the nobility of his motives and his cause. We need people like Mr Lien in our society to try to save every wrong-doer and to give him more chances. But we must also as Parliament carry the responsibility of putting in place an overall system that minimizes the number of those who will take the chance and end up becoming wrong-doers in the first place, by sending an unequivocal deterrent signal that this is a serious crime and the consequences are severe, and don't even think about going down that line.

29. As Members of Parliament, we have to reconcile the two – attend to the concerns of those of our constituents caught on the wrong side of the law and do our best to help them within the constraints of the law. But we also bear the responsibility of putting in place a legal and policy framework that minimizes the temptations for people to commit crime and cause damage to others, thinking they can get away with it lightly. Members like Assistant Professor Eugene Tan, Mr Vikram Nair, Mr Desmond Lee, Mr Chris de Souza and Mr Muhamad Faisal Abdul Manap understand this as they have seen the despair and destruction that drugs cause. And I did not hear them call for the abolition of the mandatory death penalty.

30. As Parliament, we must establish a system that not only provides fairness, justice and protection to wrong-doers; we must provide fairness, justice and protection to victims and society as well.

Can the “substantive assistance” provision really be effective?

31. The fourth issue I would like to address is: Can the “substantive assistance” provision really be effective? Minister for Law has already addressed the issues related to how this will operate legally. Let me talk about the policy considerations.

32. But before I do so, let me speak about the sentencing discretion for the death penalty for drug couriers with an abnormality of mind which satisfies the diminished responsibility test. While there is strong support for the mandatory death penalty, there is also a legitimate concern that it may be applied without sufficient regard for those accused persons who might be suffering from an abnormality of mind.

33. The policy intent is for this exception to operate in a measured and narrowly defined way. We want to take this into account, where an accused can show that he has such an abnormality of mind that it substantially impairs his mental responsibility for his acts in relation to his offences. Such cases are worthy of special consideration. However, in Mr de Souza’s words, we do not want to inadvertently “open the backdoor for the offender to escape harsh punishment notwithstanding his or her understanding of the consequence of the crime.”

34. We do not want the application of the mandatory death penalty in such cases to call into question the appropriateness of applying the mandatory death penalty regime on traffickers in general. But we do not want to open the doors wide. Otherwise, we would have undermined our strict penalty regime and its deterrence value. And as Mr Shanmugam has pointed out, we might even encourage drug syndicates to recruit more couriers who think they can easily escape the gallows by claiming any condition without medical evidence.

35. The exception for drug couriers who provide substantive cooperation serves a different purpose.

36. Some Members including Mr Edwin Tong, Ms Sylvia Lim, Assistant Professor Eugene Tan, Mr Laurence Lien, and Mr Desmond Lee have asked whether couriers who are low in the hierarchy within drug syndicates will be able to provide useful information to substantively assist the CNB in disrupting drug trafficking activities. The CNB feels that there may be potentially useful information to assist them. They also asked whether it is fair that those couriers who know little about the drug network may not be able to benefit from this, while

couriers who are more knowledgeable about the drug network may be able to cooperate and avoid the death penalty.

37. As Mr Shanmugam said, we must be clear about what the policy intent is. The policy intent of this substantive cooperation amendment to our mandatory death penalty regime is to maintain a tight regime – while giving ourselves an additional avenue to help us in our fight against drugs, and not to undermine it.

38. Couriers do play a key role in the drug network. In fact, they are often our key point of contact with the drug network. Let me explain why. Illicit drugs are not manufactured or grown in Singapore because of our tough laws and enforcement. All our drugs therefore have to be couriered into Singapore. Thus, couriers are a key part of the network which has to be vigorously targeted and suppressed in order to choke off the supply to Singapore. And they are the main link to the suppliers and kingpins outside Singapore.

39. Earlier in my speech, I made the point that the mandatory death penalty is applied only to those who traffic in large quantities of drugs, enough to bring misery in that one act, to hundreds, if not thousands, of lives. Every such convicted courier has thus already crossed the threshold of culpability under our laws and is subject to the death penalty.

40. What we are proposing is that where the Public Prosecutor has certified that substantive cooperation has been provided, judges will have the discretion to sentence them to life imprisonment with caning, rather than death.

41. We cannot be sure how exactly couriers or the syndicates will respond to this new provision. But we have weighed the matter carefully, and are prepared to make this limited exception if it provides an additional avenue for our enforcement agencies to reach further into the networks, and save lives from being destroyed by drugs and hence make our society safer.

42. Syndicates may now be forced to reorganise their operations to more tightly compartmentalise the information. Or they may have to stop using experienced couriers who may have, through several trips, gleaned more information about the networks. They may have to look for new people as couriers, which will make their supply chain less reliable. All in all, it will create an atmosphere of risk and uncertainty, because if one of them gets caught, he may reveal secrets that may cause problems for all of them. Our intent is to make things as difficult as possible for the syndicates, and to keep them and drugs out of Singapore.

43. We expect that after these changes, the syndicates will continue to evolve their operations, and we too will have to watch and assess and adapt our strategies. If we are able to get substantive information that enables us to disrupt the networks, we will have gained in our war on drugs. If couriers are unable to provide us with substantive information, we would at the very least have increased the risks and complications for the syndicates.

A comprehensive approach to tackling the drug menace

44. Sir, the drug challenge remains a serious one. As at the end of September this year, as pointed out several times during this debate, offenders made up more than two-thirds (68%) of locals in our prisons. About four out of five (79%) of the local prison population had drug antecedents. Mr Vikram Nair spoke about the higher recidivism rates for those with drug antecedents. And this is so. For prisoners who were released in 2009, the recidivism rate over two years for those with drug antecedents was 36% – more than one in three. This is almost double the 20% recidivism rate for those without drug antecedents. This is how the long tail of drug addiction destroys lives and families.

45. We must therefore continue our comprehensive approach to tackling the drug challenge, dealing with both demand and supply. This Bill, which has taken in the recommendations of the inter-ministry Taskforce on Drugs chaired by Senior Minister of State Masagos, strengthens our ability to do so, at all parts of the drug eco-system.

46. It starts with public education, but we have also put in place strict laws with severe penalties, coupled with strong enforcement. The new measures proposed in this Bill will enable us to help drug abusers who themselves have shown commitment to get off drugs and stay away from drugs. And we are introducing new offences and increasing penalties for those who target the young and vulnerable, so that we don't create another generation who are enslaved to drugs. Offenders have a high certainty of being caught, and of facing severe punishment, including death. We are maintaining the mandatory death penalty for the drug offences where it currently applies, but are making measured and carefully defined exceptions to allow for the courts to impose life imprisonment instead for couriers in cases of abnormality of mind or where substantive cooperation has been provided.

47. Let me state categorically that we are maintaining our "zero tolerance" stance against drugs. We are maintaining our "zero tolerance" stance against drugs. Taken in totality, these amendments will make our regime tougher against repeat offenders, introduce new offences especially against those who target the young and vulnerable, and enhance the effectiveness of the death penalty regime. We will also give CNB officers more power to deal with emerging threats and improve their monitoring capabilities.

48. Beyond what Government does, in partnership with the community, what we do as individuals, and as a society, matter too. I listened carefully to what Assistant Professor Eugene Tan said on Monday. He said that he sensed from questions he had posed to his students, that "societal attitudes towards drugs are perhaps softening, especially among the young." And he

gave some examples.

49. Sir, I do hope that Professor Tan not only posed questions to his students, but also helped his students come to their own conclusion that experimenting with drugs is dangerous and has no socially redeeming qualities. Experimenting with drugs is not like trying bungee jumping or sky-diving – drug taking is illegal, and it can only lead down the path of addiction, and damage to one's health and mind, as well as one's future and family. Beyond the impact on the individual, taking drugs outside of company time can have a serious impact on work and society. Surely, one would be concerned if a train driver or an airline pilot were to take drugs, even outside of his working hours. So one should similarly have concerns, if his lawyer or accountant or financial advisor (the type of students which Prof Tan's university trains) is on drugs recreationally.

50. Sir, several members, including Dr Intan, Ms Ellen Lee, Ms Faizah Jamal, Mr Muhamad Faisal Abdul Manap and Mr Zainal Sapari, have called on the Government to put more resources into public education and public outreach. We will do so. But we need the public to help us magnify the voice and send the right signal.

51. But, Sir, all of us have the responsibility of spreading the message about the harmful effects of drug abuse – whether as parents, teachers, lecturers, workmates, schoolmates or friends. This is not just the role of the Government. We should all be prepared to help shape social attitudes in positive directions, and away from negative ones – for the benefit of our society and our children.

52. Sir, this was what our parliamentarians did in 1975 in moving to stem the tide of drug abuse that was sweeping across the Western world and threatening to overwhelm us. Parliament set the tone and sent a strong signal that galvanized our nation to work together and reverse the tide in Singapore against the global tide.

53. Mr Speaker, Sir, Singaporeans should have no illusions about the challenge we are facing. We are in this for the long haul. The war against drugs will not be won today, or next year, or even in the next 10 years. But it can be lost very quickly, as we have seen in many other countries. We have gradually and steadily managed to bring the situation under control in Singapore compared to the 1970s. The measures we have taken have kept the drug problem in Singapore in check in spite of the serious global and regional situation. But the war is still on. We must continue to have the determination and resolve to take the measures needed, tough but unfortunately necessary ones, to keep our streets free from drugs, and ensure that Singapore remains a safe and secure home for ourselves and our children.

54. Let me once again thank the Members for their support of the Bill.