

## **SECOND READING SPEECH BY MINISTER FOR LAW, MR K SHANMUGAM PENAL CODE (AMENDMENT) BILL 2012**

Mr Speaker, Sir

1. I beg to move, "That the Bill be now read a Second time".

### **INTRODUCTION**

2. Sir, in July in this year, DPM Teo and I made two Statements in this House announcing proposed changes to our laws on drug control and murder.
3. The amendments to the Misuse of Drugs Act which were just passed implement the changes announced by DPM Teo.
4. The Penal Code (Amendment) Bill will implement the changes announced by me.

### **SUBSTANTIVE AMENDMENTS**

5. Murder is defined in section 300 of the Penal Code (taken from the Indian Penal Code 1860) as culpable homicide committed with one of four mental states:
  - (a) The intention to kill;
  - (b) The intention to cause injury, coupled with the knowledge that such injury is likely to cause death;
  - (c) The intention to cause injury, when the intended injury is objectively sufficient to cause death; and
  - (d) Knowledge that the act by which death is caused is so imminently dangerous that death is virtually certain or likely to result.
6. Section 302 provides that murder shall be punished with death.
7. Clause 2 amends section 302 such that murders committed in a manner other than as set out in section 300(a) – will hereafter be punished with death or life imprisonment at the discretion of the Court.
8. In addition, where the Court orders life imprisonment, it is also given the discretion to order caning.
9. For consistency, clause 3 repeals and re-enacts section 304 to remove the option of a fine when life imprisonment is ordered for culpable homicide not amounting to murder.
10. In other words, when the Court orders life imprisonment for culpable homicide not amounting to murder, it can still order caning, but not a fine.

## **RATIONALE**

11. Let me discuss the rationale for these changes. They were set out in July.
12. We are making the changes in the context of the homicide rate in Singapore which is low – 0.3 cases per 100,000 population
13. In these circumstances, we think it right to introduce more judicial discretion in deciding whether the death sentence ought to be imposed for murder.
14. That, as Members appreciate, is something that I said is our approach in the earlier debate. Where possible, where practical, where it is realistic, and where it does not substantially impact our criminal justice framework, we must move towards giving greater discretion to the Courts. In fact that is the guiding principle for the vast majority of our laws. Mandatory sentences are and should be the exception
15. For murder coming within Section 300(a), where the Court finds beyond reasonable doubt that an accused intentionally killed another, the death penalty will still be imposed.

## **LAW REFORM**

16. Sir, in this process, of changing our laws we have consulted a number of academics and criminal law practitioners. Their names are set out at Annex A. We are grateful for their contributions.

## **TRANSITIONAL PROVISIONS**

17. After these amendments, all accused persons will be eligible for sentencing in accordance with the amended law.
18. The transitional provisions are in clause 4.
19. They work as follows:
  - (1) The Court which last heard the case will clarify the limb of murder under which the accused is guilty. Before the Court does so, the Prosecution or the accused person may apply to the Court to adduce further evidence as to the limb of murder under which the accused is guilty.
  - (2) After the Court clarifies this it will affirm the death sentence for section 300(a) cases. For section 300(b), (c) and (d) cases, there will be resentencing by the High Court to decide on whether to impose the death penalty or life imprisonment, with the option of caning in the latter case.
  - (3) The High Court's resentencing decision can be appealed. Those who have not exhausted their appeals against conviction can also bring an appeal at the same time.

- (4) The new requirement for the Court of Appeal to confirm sentences of death which will be introduced by the next Bill – the Criminal Procedure Code – will apply to these transitional cases.
- (5) At the end of the appellate process, those still under a sentence of death will go through the clemency process.

## **CONCLUSION**

20. Sir, I beg to move.

## **ANNEX A**

### **Lawyers and academics consulted (in alphabetical order)**

1. Associate Professor Chan Wing Cheong
2. Mr. Alvin Chen
3. Associate Professor Chin Tet Yung
4. Mr. Hamidul Haq
5. Professor Michael Hor
6. Associate Professor Chandra Mohan
7. Mr. Sunil Sudheesan
8. Mr. Amarjeet Singh SC
9. Mr. Sant Singh SC
10. Professor Tan Yock Lin
11. Professor Thio Li Ann
12. Mr. Wendell Wong
13. Professor Stanley Yeo