

News analysis

# Timely Penal Code moves to keep pace with new norms



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Beefing up protection for women and other vulnerable people like minors is a major focus of the extensive Penal Code review – the most wide-ranging since the last landmark changes in 2007.

The 2007 exercise had asked Parliament to consider some 81 amendments, including the repeal of four provisions. This time around, after two years and 14 meetings, the panel co-steered by Minister in the Prime Minister's Office Indraneel Rajah and Senior Parliamentary Secretary for Home Affairs and Health Amrin Amin has made 169 recommendations in a 500-page report.

One key focus is enhancing protection for the vulnerable, such as children, domestic helpers and women. The committee has proposed repealing marital

immunity for rape and beefing up the penalties for offences knowingly committed against vulnerable victims.

These are timely moves, given the recent high-profile cases such as that of convicted martial arts instructor Joshua Robinson who pleaded guilty last year to nine charges involving minors, including one charge of showing an obscene film to a six-year-old girl.

A proposed new offence of "engaging in sexual activity before a minor under 18 or causing a minor under 18 to look at a sexual image" addresses such predatory offences.

Also, a proposed new offence of "causing or allowing death or serious injury of child or vulnerable person" will draw a jail term of up to 20 years, and a possible fine and caning.

This comes on the heels of a case in 2016 where a mother who abused her two-year-old son to death over 25 days was jailed 11 years while her boyfriend, who was also involved, was jailed 10 years and received 12 strokes of the cane.

The panel has also proposed raising the minimum age of criminal responsibility from seven years to 10, bearing in mind the norm abroad and to spare child

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offenders from the damage caused by an early entry into the criminal justice system. Instead, such offenders will have to attend treatment programmes.

Speaking last Friday, ahead of the release of the proposals, Law Minister K. Shanmugam drew notice to vulnerable victims such as young children, people who are mentally challenged and maids who can be subject to abuse.

"Also, we want to deal more

effectively with what I would call the Joshua Robinson-type cases. Young children being exposed to unacceptable material, being sexually groomed. We want to deal very severely with that. So updating the law, changing the definitions, creating new offences in that field."

The committee also underscored the need to address a changing crime environment and update the sentencing framework.

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Law Society president Gregory Vijeyandran points to "revenge porn cases" where the law will deal with disgruntled people who circulate private pictures of their estranged partners.

The slew of proposals provide a buffet spread where various interest groups may zero in on their areas of specialisation to endorse or excoriate.

Veteran lawyer Amolat Singh believes the committee's cautious and calibrated approach reflects the proven school of experience.

He cites the proposed presumptive minimum sentences (PrMS), which require a court to impose a certain minimum sentence unless there are exceptional circumstances in play.

He suggests the list of non-Penal Code offences targeted for this option will give time to gauge how the sentencing works out in practice before further tweaks can be considered.

For a start, the PrMS will apply to a tightly scoped list of nine offences such as engaging in the business of selling Singapore passports and entering Singapore despite a prohibition of entry order. PrMS will not apply to offences under the Misuse of Drugs Act, among others.

Singapore Management University associate professor of law Chen Siyuan argues that the "PrMS may turn out to be slightly unique in that the onus may now be on the offender to show that he does not deserve the mandatory minimum".

More views and submissions can be expected in due course, says Association of Criminal Lawyers of Singapore president Sunil Sudheesan.

The proposed revisions are wide-ranging like in 2007. But the issues back then were dwarfed by the debate on Section 377A – which outlaws gay sex.

It is possible that the same section – which has been left untouched – will loom large again, given that India's recent decision to decriminalise gay sex has brought it back in the spotlight.

Still, it would be a shame if that same animated cerebral energy is not channelled into adding value to the new Penal Code proposals that are already on the table.

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