

Parliamentary debate on Penal Code (Amendment) Bill,

23 Oct 2007

Source: Hansard

PENAL CODE (AMENDMENT) BILL

Resumption of Debate on Question (22nd October, 2007), "That the Bill be now read a Second time." - [Senior Minister of State for Home Affairs].

Question again proposed.

2.38 pm

Ms Ellen Lee (Sembawang): Mr Speaker, Sir, I applaud the Government for the timely review of the Penal Code provisions. I am glad that the Government has embarked on the review and promulgated these new changes with the aim of protecting the vulnerable who may be victims of crime in this new era and environment.

Sir, I would like to speak on the topic of marital immunity and sexual grooming offences. Under the current law, if a husband forces himself on his wife to have sexual intercourse against her will, he is not guilty of rape, as he is shielded with marital immunity even though under section 376 of the Penal Code, the same deed involving a woman not married to him would attract a maximum jail sentence of 20 years, plus caning. When it was first mooted that part of marital immunity be removed, there were mixed sentiments on the ground. Many felt that while this is a step in the right direction, which is to prevent married women from being abused sexually by their husbands, it does not go far enough. Some argued that this "partial exemption" makes the changes a mere lip service. The victim has still to go through a series of legal

processes in order to get herself protected although the law says that marital rape is wrong and "punishable". Some even argued to abolish marital immunity completely as it negates the usefulness of the law.

According to the proposed changes, marital immunity is suggested to be lifted under three circumstances, ie, where the wife is living separately under a judgment of judicial separation or interim judgment of divorce not made final; where there is an injunction restraining the husband from sexual intercourse with his wife; and where a wife has a protection order against her husband.

Sir, I do not know what will happen to those victims who do not fall into any of the above categories during occasions where their husbands abused them sexually against their will. What if she is "planning to get a separation or divorce" but the legal process has not been set in motion?

Sir, how can we protect the victims who are being sexually abused by their husbands and thus suffer physical and emotional hurt and pain? The law requires the victim to first take legal steps to terminate her husband's marital immunity before she can be protected. What if she has not gone to the court to apply for judicial separation, a divorce, an injunction or a protection order? We all know that anything short of this will not do. To exacerbate the situation, what happens if the victim has a lower than normal IQ and is unable to properly articulate her stance and take proactive steps?

Sir, in reality, we do know that behind closed doors, there are cases of sexual violence or perverse acts some husbands practise on their wives. It is something that the wife feels tremendous shame and humiliation, especially when society and the law hold the view that sex in marriage is consensual. The wives, in such a situation, are unsure of what to do or live in a state of denial. Some of them may feel so ashamed of the situation they are in that they find it difficult to approach anyone for help. Apart from shame and stigma, a wife often hesitates to blow the whistle on the husband for fear that it would ruin his work, his reputation, particularly if he were holding illustrious positions with certain standing in society and, more fundamentally, the effect on their children. So she suffers in silence, hoping that one day the husband, on realising his folly, would love her even more.

Sir, allow me to elaborate further. The proposed changes to the law are also unlikely to address the injustice of the present law as demonstrated in a case decided in 1999, namely, *PP v N* [1999] 4 SLR 619; [1999] SGHC 255, *High Court*. In this scenario, the man and wife involved in 1996 but, because of frequent quarrels, the wife moved to her parents' home a year later. During a telephone conversation in August 1998, the wife suggested they get a divorce. The upset husband then threatened to kill her. About two weeks later, she agreed to his request to meet, but they soon started quarrelling again. The husband then dragged her into his car and drove back to their matrimonial home. He ordered her into the bedroom, stripped her of her clothes, tied her hands with a bath towel and gagged her. He then had sex with her against her will.

As her husband, he could not be charged with "rape". Rather, he was charged with voluntarily causing hurt, wrongful confinement and criminal intimidation. He pleaded guilty. The trial judge imposed a total fine of \$7,000. Even after an appeal by the Public Prosecutor against the mild sentencing, the husband was only slapped with an additional 18 months' imprisonment.

Sir, the proposed changes are still limited. I say this because the proposed changes would still not have seen the husband charged with rape. The marital immunity could not be "lifted up" as the victim did not meet those conditions. The husband was still shielded from a crime otherwise deserving of a heavier charge if the victim was a non-spouse.

The global trend in other jurisdictions shows an increasing drift in criminalising marital rape. Several jurisdictions have adopted marital rape laws, including Britain, the USA, Australia, Taiwan, Hong Kong, Sri Lanka and the Philippines. In the United States, individual states began enacting laws against spousal rape

since the 1970s. By 1993, all 50 states and the District of Columbia have such laws. Currently, 17 states and the District of Columbia provide no exemptions from rape laws whatsoever for husbands, as reported in the *Straits Times* on 9th November 2006 Edition. Even India, too, has criminalised marital rape. A sweeping new law, called The Protection of Women from Domestic Violence

Act, 2005, came into effect late October 2006. It has very simple requirements for women to report coercion and abuse, including rape, as reported in the *Indian Express* on 25th October 2006.

Should we also remove the marital immunity completely and criminalise marital rape?

Unfortunately, we all know that marital rape, whether it is in Singapore or another state, is very difficult to prove. Studies in Britain have also shown that it is rare to get a rape conviction if the victim had long-term intimate relationship with the accused. At the end of the day, behind closed doors, it is your word against mine.

Must these married women then suffer in silence?

Sir, the women most likely to be abused and raped by their husbands would be those who are least empowered in their marriages. With some exceptions, of course, they are likely to be the ones intellectually poor, financially dependent or possibly foreign wives. They are unlikely to know about or have access to legal processes, such as injunctions and protection orders. Yet, without these, the law is unable to protect them.

On the other hand, the women most likely to be able to protect themselves with these legal devices will tend to be the more empowered ones as they understand their rights and better able to seek legal recourse.

Sir, we must be careful that the proposed changes do not have any social and economic barriers. It should not be a case where the conditions are applied unequally to different classes of women. Married women, of all classes, should be able to say "no" to unwanted sexual contact, just like their unmarried counterparts.

Thus, the law must not allow the husbands to hide behind the shield of marital immunity. So, the interest in protecting women from non-consensual intercourse is paramount. However, I do not suggest a complete abolition of marital immunity. I feel that there should be provisions there for use in case of need instead of denying the relief altogether. Removing the immunity completely might also lead to a sudden change of the society's view of conjugal relations and may lead to undesirable social outcomes. For instance, wives could start crying "rape" to punish their husbands for other transgressions, and outside of the three proposed conditions, the onus of proof of marital rape can be overbearing. Therefore, we should maintain the marital immunity and allow it to be lifted under the proposed three circumstances. The courts will be there as adjudicators to decide if the allegation has been made out to grant the relief sought. It would also serve as an effective deterrence and caution to husbands accustomed to physically overempowering their wives into submission. Sex in marriage should be about sharing intimacy in an enjoyable and consensual manner; it should not bring about inhumane infliction of pain and humiliation, causing the wife to suffer vaginal tears and bruises accompanied by extremely brutal acts inflicted on other parts of her body.

Sir, allow me to say something in Mandarin.

*(In Mandarin): [For vernacular speech, please refer to [Appendix A](#) *.*
] Although this Penal Code (Amendment) Bill does not completely repeal the provisions to exempt the husband from being charged with raping his wife, he can nevertheless be charged and punished under three specific circumstances - for using violence or threat to force his wife to have sex with him or to rape his wife. Some people feel that this is indeed regrettable. However, I feel that this Amendment Bill, while not exactly perfect, is already one big step ahead to seek justice for the victimised wives.

A strong message is sent through this Amendment Bill that husbands should respect and be considerate to their wives when they want to have sex with them, rather than treating them as a free tool to satisfy their sexual desire and to throw in punches and kicks to add more excitement to themselves and to bring more sufferings and frustrations to their wives.

*Cols. 2465-2466.

(In English): Sir, the other issue is section 376E on sexual grooming. I applaud and support this new legislation wholeheartedly to protect young girls and boys under the age of 16 from being exploited sexually by sexual predators who prowl the Internet for this purpose.

Youths and children are impressionable, easily influenced and vulnerable. It is given to assume that there are many vehicles a sexual predator can use to meet his or her young victims. There are far too many grooming activities one can think of that a sexual predator can deploy. Unfortunately, it is difficult for the law to be a dynamic panacea to cover all aspects and situations, where the predator contacts or arranges to meet a child, with the intention of having sexual activity, whether or not the intended abuse occurs.

New media and technology such as the Internet and cellphones have made it easier for sex offenders to groom and prey on their intended victims. It is reasonable to assume that a groomer will most likely use the Internet chat to reach his or her victim. And for this reason, we see a global trend in other jurisdictions, such as Australia, Canada, UK and the US, prohibiting and criminalising the use of Internet for this purpose.

Sir, I feel that specifically criminalising this activity is only part of the response to the problem. Equally important is education to ensure parents and main caregivers as well as children are aware of the risks and the steps they can take to keep their young ones safe. As the saying goes, "Prevention is better than cure". I was once a member of now defunct PAGi (The Parents Advisory Group for the Internet) under MICA which was established in 1999. For those few years I was there, I personally saw how useful it was for parents, teachers and main caregivers to be taught on making Internet access child-safe.

With the use of the Internet in schools to educate students becoming more commonplace, parents often leave their children to surf the Internet alone at home without guidance, trusting them to faithfully complete their homework or assignments. It may not have dawned upon them yet that accessing the Internet is, in fact, voluntarily inviting invisible strangers with unknown intention into

their homes, something they would not otherwise do if a stranger comes in person to knock on their front door!

I therefore urge parents and caregivers to be more involved with their young children with the use of Internet. On 21st February 2006, MICA has set up the National International Advisory Committee (NIAC)-Community Advisory Committee (CAC). The NIAC-CAC provides useful advice on outreach strategies to learn more about the practices of the Internet, bridging the knowledge divide and also help parents to better guide their children in this age of convergence and cyber-activities. PAGi, together with Cyber Wellness Task Force (CWTF) and the Public Education Sub-Committee (PESC), now comes under the NIAC-CAC.

I urge parents and caregivers of young children to make use of these available resources and outreach programmes to help them monitor the usage of Internet by their young children.

In fact, I was quite happy yesterday to read in the *Lianhe Zaobao* an article reminding parents that they have to pay more attention to how their children are responding to Internet chats and surfing, especially now that two websites called MySpace and Facebook have been drawing a lot of young children to surf their websites.

(*In Mandarin*): [*For vernacular speech, please refer to [Appendix A](#) **.]
] Yesterday, in *Lianhe Zaobao*, there was an article regarding the concern for the safe use of Internet for young children. Some of the measures in the article should be made full use by the parents to ensure that their children will not fall into any of the pitfalls.

*Cols. 2465-2466.

(*In English*): Mr Speaker, Sir, as I have mentioned earlier, it is difficult for the law to net all situations where the predator contacts or arranges to meet a child with the intention of having sexual activity, whether or not the intended abuse occurs. A recent article in the *Straits Times* on 29th September 2007, entitled "Anti-grooming law needs tweak to plug loopholes" mentioned that face-to-face sexual grooming is just as significant. Therefore, besides the use of Internet to lure the young victims, we must be mindful that sexual grooming can happen anywhere, even within very close physical proximity, such as in school and at home. I urge parents and caregivers to pay more attention to their young children - the activities they engaged in and the friends they interact. Given busy schedules and multiple stressors parents face nowadays, coupled with having to strike a balance between keeping a tight rein or giving freedom to their adolescent/teenage children, parents may find this a challenging cum uphill task. However, to reiterate, it is better to be safe than sorry; proactive rather than to be reactive.

Sir, with that, I support the new legislation.

2.54 pm

Mr Baey Yam Keng (Tanjong Pagar): Mr Speaker, Sir, I rise in support of the Bill.

After more than two decades, the overhaul of the Penal Code is necessary and timely. The updated Code will enable us to deal more effectively with the shifts in the nature and operation of crimes, fulfil our new requirements for social stability and national security, and empower us to keep up with new lifestyles, attitudes and aspirations. New laws and penalties have been introduced to deal with crimes which have emerged. Technological advances and globalisation necessitate such sweeping changes. The issues covered are indeed wide-ranging.

The section that has attracted the most number of opinions, most heated public debate, with two online petitions and one Public Petition to Parliament is, in fact, one that has been retained - section 377A which probably has become the most known piece of legislation in recent Singapore history.

Let us look at this issue in a hypothetical scenario. Singapore was never a British colony and we did not inherit section 377A. Today's debate then becomes one of justifying the introduction of a new piece of legislation which states that, "It is an offence for any male person, who in public or private, commits an act of gross indecency with another male person."

The rationale will be that since Singapore is a generally conservative society, we should single out and criminalise all sexual activities between two men while accepting that the same activity of anal and oral sex between a heterosexual couple and sexual activity between two women need not be offences.

By doing so, we will be aligning our law with most countries in Africa and Middle East. In this hypothetical scenario, perhaps some countries like India, Sri Lanka, Pakistan and Malaysia will also introduce similar Acts, as what their current position is. Other former British colonies which have since repealed the 19th century law, such as Australia, New Zealand and Hong Kong, will most likely not think it is necessary to now criminalise man-to-man sex.

While almost all western countries do not have similar laws, we will argue that it is not relevant for us to take reference from them. However, we are also choosing not to benchmark Singapore against countries like China, Indonesia, Thailand, Japan, South Korea and the Philippines which do not have laws that criminalise male homosexual activity.

According to various points raised by the public, by not criminalising gay sex, it will lead to an increase in homosexual activity, both in public and private. There will also be more male paedophiles eyeing young boys, blatant public solicitation and more AIDS patients.

The fact that in 2006, of all the new AIDS cases in Singapore, homosexual transmission constitutes only 26% does not seem to register clearly with the public.

We also know that there are already laws and there will be stronger laws against prostitution, sexual abuse, exploitation of minors and public indecency. Maybe that is why we will propose that section 377A need not and will not be proactively enforced.

Can the Senior Minister of State give examples of situations where specific enforcement of only section 377A may be needed? Yesterday, he mentioned previous convictions under section 377A, but it seems to me that they could also have been prosecuted under other sections. With no proactive enforcement, should anyone be a good citizen and report private gay sexual activities to the police or will they be simply ignored? Will there be ramifications of this legislation? If someone rents his apartment to a gay couple, will he be charged as an abetting accomplice to a crime under section V of the Penal Code? Besides valid immigration and employment papers, should landlords now ask for confirmation of their tenant's sexual orientation?

With a punishment by up to two years of imprisonment, we are deeming that such activities are of similar severity as causing death by negligent act in section 304A(b), and wrongfully confining any person for three or more days in section 345, and assault or use of criminal force to a person with intent to outrage modesty in section 354(1).

Our justification will also be supported by various surveys, including a NTU study published in September 2007 which saw that 68.6% of respondents in Singapore were negative towards sex between two men or two women. However, it is also interesting to note that some countries choose not to reflect such social non-acceptance in legislation.

Based on the Pew Global Attitudes Project in 2003, 93% in Indonesia and 84% in Vietnam say that homosexuality should not be accepted by society, but these countries have no equivalent of section 377A.

I assume most Singaporeans do not have many gay acquaintances. We are likely to gather our knowledge and form our opinions of the homosexual world from media reports. I believe certain stereotypes of homosexuals in people's minds will include effeminate men, like Boy George, men who prey on young boys, eg, Christopher Neil, flamboyant men who seem to lead decadent lifestyles, like Elton John, and AIDS patients, like Paddy Chew.

I do know quite a number of homosexual men and women. However, the majority, if not all of them, do not fall into any of those abovementioned stereotype categories. Well, they include some very talented and creative people - a common impression of gays which many have said is totally unfounded. These are the directors, actors, hairstylists and designers. But I also know many gay men who are just your average men on the street, making

a living as lawyers, lecturers, engineers, accountants, bankers, teachers and civil servants.

I know they have different sexual practices from me, and I have treated them just as any other person. Now, I am reminded that perhaps I should see them as criminals who should spend time behind bars. Perhaps, the thousands of audience who paid as much as \$400 to watch Sir Ian McKellen, better known as Gandalf in Lord of the Rings, playing King Lear, in July, might think twice now as he is an openly gay man and hence should object to allowing a criminal on the stage of our Esplanade.

There are negative and positive steps a country can do to discourage and encourage certain behaviours. For example, we do not want to condone smoking and drinking. These acts are not criminal under the law, although we have made tobacco and alcohol less accessible and a lot more expensive. We want to promote marriage and procreation. Hence, singles do not enjoy certain tax and housing benefits, but they are not jailed.

We may be utterly surprised, disappointed, embarrassed, disgusted and angry with our friends, our colleagues and our relatives if we find out they are gay. I will be saddened if my son is gay, because I realise I will not have any grandchildren by him. I may choose to disown him, but now we are saying that he should be jailed.

Sir, I will now continue my speech in Mandarin.

*(In Mandarin): [For vernacular speech, please refer to [Appendix A](#) *.]* As the Chinese saying goes, 不孝有三, 无后为大 (*Bu Xiao You San, Wu Hou Wei Da*) which means, "There are three unfilial acts, the greatest is not to have a son." This is an important concept in a traditional and oriental society like ours. Parents are hoping that their sons will have wives and their daughters will be married, and the children also understand that it is an obligation for them to get married and have children. Nevertheless many people choose to marry late, not to get married, or not to have children, and for some it remains solely a personal choice. There are many reasons, but one reason is that they are homosexuals.

I have some homosexual friends and most of them do not want to make public the fact about their sexual inclination, because Singapore is after all a more conservative society. They will only confide with their close friends, colleagues and siblings. More often than not, parents are the last to know. Especially for those who are male homosexuals, the gays, they will not be able to have children and they do not know how to live up to their parents' expectations. A friend of mine did not have the courage to tell his parents. And only after his father had passed away that he disclosed his secret at his father's coffin. Even now the mother does not know about it.

When parents find out that their children do not like the opposite sex, their immediate reaction is that of shock, sadness, shame, anger or remorse, and they try to find out what has gone wrong - why their children had become homosexuals. Some of the parents chose to run away from reality and one of my friend's mother had gone to the temple to pray, she came back with a charm mixed with water, with the hope that after drinking it, it will cure the son. They do not know what to do and some of them even chase their son out of the house, but if they were to take time to think it through calmly, I do not believe that they will charge their son in court and send him to prison for two years.

I have a friend who is the only child in the family. His mother still could not fully accept the fact that her son does not have any interest in the opposite sex. She was more worried that her son may be sentenced to jail being a homosexual. However, she is the person that knows him best, she knows that her son is very filial and obedient; he is a law-abiding citizen and a successful professional. Also, she has known the "boyfriend" of her son for many years and knows they do not have a promiscuous lifestyle.

As parents, we are often the best judges of our children's character. Having a different sexual orientation from the others does not mean that they have committed a heinous crime and therefore should be criminalised.

(In English): Back to my hypothetical scenario, we will also say that we introduce section 377A as a symbol that the society is conservative and that we do not want to go down a slippery slope to see public display of affection between men, the fight for gay rights and gay marriages. For seven years, I have lived in London, a city that legalised consensual homosexual sex 40 years ago in 1967. I am hence surprised to recollect my time there and I have not ever seen any such behaviour or intimacy between two men in public whilst I was there. Perhaps I have not been to the right places, but I have not indeed seen anyone before my eyes.

Perhaps we are afraid that the slope will be more slippery in Singapore. After all, we have a track record of taking a more progressive stance in some areas, such as stem cell research and digital rights, leading the way, so to speak. We take into account the change of times and lifestyles. For example, section 376E on sexual grooming of minors is farsighted nip in the bud. Times have changed and our attitudes towards different crimes and their punishments have evolved as well.

Should the law reflect the general or popular opinion or should it set up a framework to steer the way of thinking and behaviour of its citizens, residents and visitors? It is clear that we have chosen to take the former approach in this case.

I do recognise that in today's situation, there is already an existing Act, and the debate is whether it should be retained or repealed and not whether we should introduce a new Act. We have inherited section 377A from the British. It is easier and, as the Senior Minister of State said, more practical to maintain the *status quo* than to change it. Because of the extensive and, some may say, polarised debate, we may not be ready to repeal the Act now. However, whether the perceived majority holding the status quo view has enough knowledge and understanding of the subject matter to make an informed opinion, is another question. I suspect a significant segment of our society does not really care and some are just uncomfortable with this topic and choose the convenient way to stick with the *status quo* without knowing what the Act exactly is and does.

Last week, a resident came to my meet-the-people session and said that she is happy that the Government is retaining section 377A. I asked her, "Do you know what section 377A is about?" She said, "I don't know."

I am happy to note that both the proposition and the opposition have spoken publicly and rationally. Hopefully, the Government will provide the environment to encourage the continuation of such dialogue so that the society at large can achieve a better understanding of the matter. I want to especially encourage voices from institutions, like the Law Society, so that this discussion will not be driven to periphery. Hopefully, the discussion will be ongoing and not just during the next review of the Penal Code. Hopefully, the review will happen earlier rather than another 23 years later. Hopefully, we will move with and not play catching up with the pace of change around the world that is affecting people's lives.

Sir, with that, I support the Bill.

*Cols. 2467-2468.

3.09 pm

Mdm Ho Geok Choo: Mr Speaker, Sir, I rise in support of the Penal Code (Amendment) Bill.

The sweeping changes to Singapore's Penal Code are very much necessary to keep the law moving with the times. In the course of the debate on the amendments, much ink has been spilt and saliva spent on the most

controversial amendments. Much technical analysis and criticism of the Bill have been made by legal academics.

As a layperson, I feel that we should not miss the woods for the trees. As laws advance, it is important to examine their impact on society at large: legislation does not exist in a vacuum, and must constantly be assessed according to their relevance to society.

I feel that it is perhaps the least remarkable amendments that most deserve mention for moving the Penal Code one step closer to creating the kind of society we want Singapore to be. Having said that, this revision should not be the last of its kind: continual improvements have to be made to weed out anachronistic and obsolete legislation as well as to incrementally build on the progress made in this and future amendments.

Modernising the Code for a more just society

Sir, 56 changes were made to fine quantum in the recent amendments. This is to be highlighted and lauded because it brings fine quantum up in line with the purchasing power of this day and age. Fines pegged at 1984 price levels are certainly unlikely to deter criminals in 2007.

More importantly, increasing maximum fine ceilings also allow judges the important sentencing discretion of imposing higher fines rather than imprisonment.

Sir, this is an important recognition that imprisonment should not be the first resort. Instead, rehabilitation outside of a prison environment should be the first choice for non-serious offences. This is an essential step forward if we are to become a kinder, more caring and just society

Also significant is the removal of minimum terms of imprisonment for four offences: section 379A on theft of motor vehicle or components, section 411 on dishonestly receiving stolen property, section 414 on assisting in concealment of stolen property (where it involves motor vehicle or components) and section 454 on lurking house-trespass or house-breaking in order to commit an offence punishable with imprisonment.

Sir, this, like the increase in fine quantum, allows judges greater flexibility in sentencing. It is a clear sign that we trust the courts to balance the broader

societal need to deter serious offences with the need to treat the individual offender fairly. In the explanatory notes to the amendment, it was said: "Minimum imprisonment terms will be removed, where possible.". I agree with this approach.

Observations on debate on section 377A

Sir, reactions to section 377A have been sharp and vocal, with several interest groups taking highly public positions on this particular provision. In fact, I understand that there is a disturbing undercurrent of violent hostilities surrounding this discussion. I would like to appeal to all interest groups and interested individuals to discuss section 377A in a calm and peaceful manner befitting a civil and civilised society. Sir, I would like to reiterate what Dr Balaji said recently, although in another context, and that is, "Whilst we encourage diversity in society, we must not allow divisiveness to cut society into a disintegrated one, especially in a small and open country like Singapore.". We must strike a balance.

Sir, I was reflecting on this issue and I realised that the Government is very much like the parents in the household. With a brood of children, born of the same parents, but with totally different characters, how do the parents ensure that within the family, there is space, tolerance, balance and peace and harmony in their co-existence? Of course, there are principles and values that parents must instil. But when there are disagreements, it is not enough to know what is wrong but it is important to know how to fix the problem as well. How could the parents do this without excluding any member of the family? This is the imperative task faced by the Government at the moment.

Areas of clarification

Sir, the Penal Code (Amendment) Bill also seeks to create the new offence of "Sexual grooming of minor under 16". Modelled after an existing English provision, the new offence is targeted at sexual predators who prowl Internet chatrooms in the hope of procuring minors for sexual activity. The relevant section is section 376E(1).

This offence of sexual grooming follows the example of many jurisdictions in recognising the importance of legislative protection of minors. Overseas legislation that makes sexual grooming a crime can be found in section 15 of the UK's Sexual Offences Act, Australian Criminal Code (section 218A), and Canadian Criminal Code (section 172.1).

My concern with the sexual grooming offence in the Penal Code (Amendment) Bill is that it is targeted only at persons of age 21 and above. There are, after all, many sexual crimes committed by those under the age of 21. Given the increasing Internet savviness of teenagers, it would be more appropriate to have the sexual grooming offence applicable to those of age 18 and above, similar to the age in the UK Act.

Sir, the UK cyberspace research unit did a study shortly after the passing of the Sexual Offences Act in the UK. It discovered that 14% of the youths from ages 9 to 16 admitted to having engaged in some form of abusive cyber behaviour, although it was not clear what percentage of these actions would constitute an offence under the sexual grooming provision.

In our Internet savvy generation, it is clear that the age of innocence is crossed before 21 years of age. I would urge the Minister to consider lowering the age at which this section can apply to 18 years. Also, while the abovementioned amendments are to be lauded, they must also be supplemented by stronger efforts at the community level against sexual predators. We need to translate these legal definitions into programmes at the community level that can reach out to the different stakeholders concerned for child safety: parent, teachers and children. We must educate the public in spotting signs of sexual abuse and how to counsel those who have been sexually abused.

This was a challenge the UK faced after it brought section 15 of the UK Sexual Offences Act into being in 2003: how to make sure public education kept pace with the law. There was a dearth of research done in the fields of sexual grooming and Internet abuse, and I suspect that this might also be the case in Singapore.

Fortunately, we do not need to start from scratch. I would like to urge MCYS to complement the efforts of the Ministry of Law by commissioning a

study into the public education efforts embarked upon by other jurisdictions and how effective they have been in highlighting community efforts to combat sexual grooming.

Sir, to supplement the legislative efforts in combating sexual abuse, I would also like to urge MCYS to take an aggressive role in educating parents on spotting tell-tale signs of sexual abuse and grooming. This can be done through the tried and tested use of information booklets for parents modelled after those in the UK.

I would also further urge MOE to work in tandem with MCYS in the dissemination of such information as schools represent the greatest congregation of the individuals these laws seek to protect.

It is laudable that we have recognised the problem: now we need to follow through with efforts that will ensure that the children we love and care for are safe on the Internet.

Amendments to be improved upon

Mr Speaker, Sir, currently, under section 375 of the Penal Code, a man cannot be penalised for forcing himself onto his wife. The amendment to section 375 of the Penal Code states that no man shall be guilty of an offence against his wife, who is not under 13 years of age, except where there was an injunction, a court order or the spouses were living apart.

Sir, it is my belief that this provision must be taken further and that the immunity against charges of marital rape must be completely abolished. Why should a man be protected from the appalling crime of rape just because the person he rapes is his wife? Is not rape by any other name still a rape? An oft-cited concern for retaining the immunity against charges of marital rape is the fear that vindictive wives will falsely accuse their husbands of marital rape.

Sir, in practice, such instances will be very rare, as the emotional and mental cost of reporting rape is very high. A woman who reports rape is often said to be "raped a second time". Her sexual conduct will be questioned on the witness stand by the defence counsel and the public ordeal is often said to be psychologically worse than the results of the physical rape.

The partial abolition of the marital rape immunity does not go far enough in protecting women who need to rely on it most. Women with access to legal advice and counsel are able to get separation documents or an injunction, but it is the most disadvantaged that will be the most dependent on their husbands as well as those who will have the least access to legal counsel. Should we not then be making every effort to protect them if we want to make this amendment more than just symbolism?

Hence, Sir, while I support this Bill, I would also ask for marital rape to be fully recognised as an offence under the Penal Code and that it should be an offence whether or not the spouses are living apart or under an injunction or a court order.

3.25 pm

Mr Ong Kian Min (Tampines): Sir, I wish to express my support for the proposed amendments to the Penal Code.

Section 377A. I would state categorically that I am not in favour of mainstreaming the homosexual lifestyle, but have not intended to speak on section 377A as the Government has consulted widely. Many have spoken on this issue and most Singaporeans let out a sigh of relief when they noticed that this Amendment Bill left the existing section 377A intact. Well, I do not want to dwell into the hypothetical scenario painted by Mr Baey Yam Keng as the fact remains that, outraged by Mr Siew Kum Hong's open Petition, many of my concerned constituents and friends have come forward to voice out their extreme unease about how this issue might evolve. And they feel that it is about time they let their stand be made known. They have come out more forcefully to make their views known and the Tampines GRC MPs have promised to express some of these views for them, the hitherto silent majority.

I would like to quote from one of my residents from my GRC, Miss Samantha Wong of Tampines Street 81:

"I cannot imagine the repercussions it [repeal of section 377A] would have on the morality of the society. This is a place where my children and children's children would grow up in. Thus I plead that this decision [the Government's decision in not changing section 377A] would not change for the sake of upholding the moral standards and family values in this nation. In no way does this petition [Mr Siew Kum Hong's petition] serve the interests of Singapore or us as Singaporeans, but only a small portion pushing to serve their own personal interests/agenda."

Sir, whether section 377A should be repealed or retained is an emotive issue that has aroused much debate. It has forced us to examine our beliefs and convictions against the context of changing perceptions and values that have happened over time. Judging by the number of signatures that the two opposing websites - "Repeal377A" and "Keep377A" - have amassed, it has compelled many of us to make a stand for what we believe in.

The true crux of the matter is whether Singaporeans are ready to openly accept homosexuality into mainstream society. Although a vocal segment of society has garnered much support for the repeal of section 377A, the majority of Singaporeans have unequivocally rejected these cries to decriminalise homosexuality. The overwhelming sentiment of Singaporeans is that they are not prepared to compromise their conservative family values by opening up to alternative sexual behaviour, nor allowing it to permeate across time honoured boundaries into the conventional family sanctity.

Sir, I would like to thank Prof. Thio for giving me a history lesson yesterday on how the concept of marriage and modern-day family came about. The family unit has been acknowledged as the building block of society, praised as the foundation of social order and exalted as the bastion of civilisation. It is the family that nurtures our children. It is the family that inspires us to contribute to our community. It is the family that believes in working towards a future. Every nation is fully cognisant of the importance of the family as the primary source of stability and growth. Singapore is no different. Our Government has demonstrated its commitment to preserve and strengthen the family structure

through pro-family laws and policies. I believe that a great majority are keen to preserve the family unit as we know it - a family unit that consists of a father, a mother and their children.

In a fast-changing world, the traditional family unit is already vulnerable to various encroachments such as rising divorce rates, the increase in the number of single-parent households and work pressures. We must do all we can to support the integrity of the family and keep it safe from further challenges. By promoting homosexuality, we are effectively initiating a shift in the definition of the family unit. I gravely fear that repealing section 377A will lead to calls for further integration of homosexuality into our society. Singaporeans are simply not ready to change their family values at this point in time. Encouraging homosexuality will undermine the traditional family institution and weaken our social fabric. Let the family unit not be compromised.

The majority of Singaporeans want their children to grow up in a traditional environment that espouses healthy and wholesome traditional family values. We do not want the homosexual lifestyle to be promoted or celebrated.

Sir, my next point touches on section 292. Every society will have to set its own values, standards and norms. Take the Japanese, for example. My Japanese friends tell me they are shy to answer their mobile phones and talk loudly while travelling in a commuter train because that is simply "bad manners", but paradoxically I have witnessed Japanese men very openly and nonchalantly reading sexually explicit anime magazines while riding in those same commuter trains. Singaporeans, on the other hand, might not care much for people around them when they talk loudly on their mobile phones, but the majority of us would be embarrassed and offended by blatant displays of pornographic materials. Our society is such that the possession of obscene materials is considered morally wrong and the open display of them viewed as socially distasteful. People who do possess obscene materials of any kind tend to do so furtively and at their own risk of being found out and shamed.

I would like to commend the Government for making its position on obscene materials very clear through the existing section 292 of the Penal Code and the proposed amendments to bring it in sync with modern technology. But in spite of this succinct statement of the law, I do not think the Government

does, in practice, actively raid people's cupboards for *Playboy* magazines nor conduct spot checks on computer hard disks to ensure that they are free of obscene materials. However, the reason of the Government not being proactive in enforcing this law against possession of obscene materials does not make it redundant or run "the risk of bringing the law into disrepute", a phrase borrowed from the Law Society.

Sir, my next point relates to racial and religious harmony. Many nations regard Singapore with some envy, as one of the most peaceful and harmonious multi-cultural societies in the world. Many people, especially those who live in countries where religious violence often rears its frightful head, marvel at how Singaporeans of diverse faiths and ethnic backgrounds are able to get along with one another.

Foreigners from lands as diverse as India, China, the Middle East and Europe coming to Singapore have found to their delight and perhaps relief that they can very easily assimilate into our society due to our long understanding and practice of cultures similar to theirs. This has worked in our favour, attracting tourists, talent and investments to Singapore.

I am therefore all in favour of further strengthening our legislation to safeguard racial and religious order in Singapore, but I wonder if the proposed amendment to section 298 and the proposed introduction of section 298A will go far enough. Even with the proposed amendment, section 298 will require the offender to possess the "deliberate intention of wounding the religious or racial feelings of any person". And the new section 298A requires that the offender "knowingly promotes or attempts to promote, on grounds of religion or race, disharmony or feelings of enmity, hatred or ill-will between different religious or racial groups, or commits any act which he knows is prejudicial to the maintenance of harmony between different religious or racial groups and which disturbs or is likely to disturb the public tranquility".

But learning from the recent Danish cartoon controversy, I would like to ask the Senior Minister of State whether these sections go far enough to address cases where the author draws cartoons or paints pictures innocently, ignorantly or under the guise of freedom of expression without deliberate intention to provoke nor knowledge that it will lead to disharmony.

Nevertheless, I recognise that we need to strike a balance because if we are too strict, there is a danger of swinging to the other extreme. My family and I were in California, USA, on a holiday in late December one year and we were advised that we should not greet others with "Merry Christmas" as that was deemed to be a religious greeting, and if the recipient of the greeting was of another religion, he might take offence. We were told instead to use "Happy Holidays" which is neutral. So we did not hear the usual "Merry Christmas" from sales girls and cashiers, and our holiday was not as happy as it could have been. I compare that to our local heartlands where we organise multi-racial harmony events and hold joint celebrations like "Gong Xi Raya". On one occasion, I even wished my residents "Selamat Hari Raya Adilfitri", "Happy Deepavali" and "Merry Christmas" all in the same function as these festivities happened to be all around that period.

Sir, my next point relates to section 336 on rash or negligent act. I would like to comment on clause 59 of the Bill which seeks to make a distinction in the maximum punishment for a rash act and for a negligent act, as set out in section 336 of the Penal Code. First, let me explain that if one drives a vehicle negligently, without due care and knocks down someone on a public road, the Road Traffic Act will apply and, if found to be at fault, he will be investigated by the Traffic Police and charged under the Road Traffic Act, which is not criminal in nature. However, if he drives a vehicle negligently in such a way that he endangers the personal safety of another or knocks down that person in a private property, for example, within a condominium or the carpark of a shopping complex, or within the compounds of Changi Airport, the Road Traffic Act will not apply because the accident occurred within a private area. And, if the victim makes a police report and the police have to investigate the case and prosecute the offender, they would have to rely on this section 336 for an offence of rash or negligent act. The problem with prosecuting a traffic accident under section 336 is that it becomes criminal in nature, the police may ordinarily arrest without warrant and the offence is not compoundable, and the maximum punishment may be imprisonment for up to three or six months, or fine, or both. I would like to ask the Senior Minister of State whether, for such civilian accidents caused by negligent acts without any criminal intent, another section of the law can be employed instead of section 336.

Sir, my next point relates to section 376E on sexual grooming. With due respect, although the proposed section 376E is related to sexual grooming, it in fact does not create an offence of sexual grooming itself. Sexual grooming has been defined as a process whereby an adult with a sexual interest in children seeks to prepare or "groom" a child for sexual abuse. In Wikipedia, it is referred to as "child grooming" and it refers to "actions deliberately undertaken

with the aim of befriending and establishing emotional control over a child in order to lower the child's inhibitions in preparation to sexually abuse or rape the child".

The proposed section 376E does not make provision for the process of grooming. As far as section 376E is concerned, any act committed before the meeting or travelling with the intention of meeting is irrelevant until the meeting or the commencement of travelling with the intention of meeting takes place. To be precise, section 376E seems to really only provide for the end result of sexual grooming - when the offender meets or is on the way to meet his victim.

Sir, between 2001 and 2006, 124 cases of females becoming victims of sex crimes as a result of knowing the offenders through the Internet were reported. Since those under 16 are most vulnerable, they require protection for falling into the clutches of online predators from the moment they are hooked onto the Internet so that an undesirable situation may be nipped in the bud before there is any chance for the subject of a meeting to be broached.

Sir, lastly, on a less serious note, I refer to clause 62 of the Bill which seeks to amend section 350 of the Penal Code by deleting illustrations (b) and (c) and the reference to "chariot" and "horse carriage", and substituting the following illustrations: I quote,

"(b) Z is riding a horse. A lashes Z's horse, and thereby causes it to quicken its pace. [And it goes on.]

(c) Z is riding a horse. A, intending to cause hurt to Z, seizes the horse and stops it. [And the illustration goes on to more detail.]"

Although these illustrations may have limited application at our Turf Club and Polo Club, I wonder how many of us present-day residents of Singapore ride a horse or even know how to ride. Surely, the draftsmen could have used more current and relevant illustrations that more Singaporeans would find

useful and could identify with, maybe something to do with golf buggies or motor cars, or why not just simply dispense with these outdated illustrations?

Sir, I support the Penal Code (Amendment) Bill.

3.37 pm

Mdm Cynthia Phua: Mr Speaker, Sir, the amendment to the Penal Code with the addition of section 376E is timely. With 78% of households in Singapore having access to one or more computers at home in 2006, out of which 71% also having access to the Internet, our young children are continually exposed to the Internet. We know that children as young as four or five years old are accessing the Internet with minimum supervision. In addition, with the advancement of technology and the need for global communication, many computers are now equipped with many electronic devices that encourage seamless communication, for example, cameras and Voice Over Internet Protocol (VOIP). Many unscrupulous persons are using this technology to lurk behind the screen of anonymity on the Internet and take advantage of the innocence of the young and, for some, their gullibility.

The amendment to the Penal Code to cover this Internet sexual offence is indeed timely. I would like to congratulate both the Ministries of Home Affairs and Law for the timely amendment. The Ministries have indeed taken into account our repeated appeals in Parliament. I fully support the amendments and hope the Minister will further look into the following concerns.

Heavier penalties for offences against young victims

Firstly, the section does not differentiate the age of the victims. There should be heavier penalties for persons who accosted young children, the younger the age of the victim, the more serious the offence. I have seen cases where 18-year-old girls are unable to escape the enticement of older men. More vulnerable will be a 12-year-old child pitted against the wit and cunning, and constant pestering and lies of persons much older. What chance does this

12-year-old have against these wolves in sheep skin? We need to impose heavier penalties, especially when these offenders who perpetrated the crimes and lay in wait in the chatrooms. At 12 years, it is the age when they start to dream and idolise the opposite sex and are most vulnerable. They are still very childish in their thoughts but physically may look mature because of the good standard of living and the good nutrition they enjoy. Under the earlier sections on sexual offences, the punishment has made a difference for offenders when the victim is below the age of 14 and 16 years. The punishment is double, that is, 20 years, instead of 10 years respectively. Here, under this sexual grooming section, there is no differentiation made to the punishment for younger victims. The maximum is three years' imprisonment for all ages of victims. It was reported that between 2001 and 2006, there were 124 reported cases of females becoming victims of sex crimes as a result of them knowing the offenders through the Internet. This was also quoted by Mr Ong Kian Min just now. But two-thirds of these cases, or about 80 victims, were below the age of 16 years of age. And we must put a stop to this!

Act swiftly against sexual grooming

In addition, the amendment requires that there must be two meetings. If there is a clear intention of sexual grooming even in the first meeting, for example, the languages in the Internet, SMS and email or physical actions like kissing and holding hands, then why wait till there is a second meeting before the clear intention is assumed? The damage could have been done by the second meeting. For a young child, such damage is permanent, whether physically or psychologically. The prosecution process for such sexual grooming offences must be swift, if not sexual crime would have taken place. Time is of the essence. The Ministry should weigh more in favour of the interest and well-being of the young victims than the offenders, without fearing that the law will be too draconian.

Lower the age group on offenders

Thirdly, the new amendment stated that the offender must be 21 years of age and above. We are beginning to see sex offenders getting younger and younger. We have allowed Singaporeans to apply for a driver's licence and require males to do National Service from the age of 18 years. For other sexual offences, a person as young as 16 years of age is liable for punishment. Therefore, in this instance, can the Ministry lower the offender's age limit to 18

years old or even 16 years old, instead of 21 years old? At 16 or 18, the offenders should know what they are doing and be responsible for their actions.

Many countries have criminalised sexual grooming of children in their national legislation - Australia, Canada, United Kingdom and USA. The law in these countries made it a felony for anyone to communicate with persons under the age of 18 via computer system, through the Internet with the intention to groom or lure a child for sexual abuse.

Posting of salacious photographs

In addition, I would like the Ministry to make it an offence more easily for anyone who threatens to expose or upload salacious photographs of individuals on the web pages, so that the victims would not be coerced into submission by such threats. Many sexual abuses arise from such threats. The penalty for such an offence should be heavier if the photographs were taken without the knowledge of the victims and, for young victims, it should also be similarly imposed even if the offenders have their consent. Phone cameras are so easily and conveniently available, and many have misused these devices.

Psychological rehabilitation and tagging offenders

Sexual offenders are a group of people who need help to correct their state of mind and require psychological treatment and rehabilitation, instead of just spending a term in prison, or even caning. We should introduce laws requiring these offenders to go for mental examination and psychological counselling. The other advantage from this would be for the medical experts to carry out research so that they can map out more accurately the profile of a sexual offender in the context of our Singapore society. We should have a clear picture of these offenders, their profiles, behaviour patterns, family environment, and so forth. We need to study their characteristics to better prepare ourselves on how to tackle the problem in future, instead of relying on western profiles.

With the growth in population and technological enhancement, I can foresee an exponential rise in the number of such offenders. I believe the cultural make-up and the environment may be factors that exert different influences on such offenders. It may well be time for us to have the first-mover advantage to look into the minds of these offenders, given some insights, so that we can pre-empt the problem before they become unmanageable. While I am not advocating at this point that we adopt the measures taken by some US states, eg, Washington, where there is a community registration process for sexual offenders, we may well take heed of what other countries are doing to keep abreast of how the problem is being tackled elsewhere.

Section 377A

Sir, I would also like to state that I support the retention of section 377A. I agree totally with what Deputy Prime Minister and Minister for Law, Professor S Jayakumar, who recently presented this perspective when he spoke at the Rule of Law Symposium. In the application of the rule of law, it has to be in accordance with the social, cultural and political values of each society. I quote:

"Asian societies like Singapore generally give greater importance to the larger interests of the community in arriving at this balance. In western societies, the tilt is towards more emphasis on the rights of the individual."

In Singapore, we must continue to protect and uphold the traditional core family structure and values.

Definition of rape under section 375

I support Mr Alvin Yeo, our hon. Member, who spoke on this matter earlier. I would like the Ministry to review the definition of rape in marriages. A rape indeed arises if a man forces himself on a woman without her consent.

A rape is a rape. We should not allow a man to hide behind the screen of marriage to cause hurt and harm to his wife.

With these comments, Sir, I support the amendments to the Penal Code.

Mr Speaker: Order. I propose to take the break now. I suspend the Sitting and will take the Chair again at 4.05 pm.

Sitting accordingly suspended

at 3.45 pm until 4.05 pm.

Sitting resumed at 4.05 pm

[Mr Speaker in the Chair]

PENAL CODE (AMENDMENT) BILL

Debate resumed.

Dr Muhammad Faishal Ibrahim (Marine Parade): Mr Speaker, Sir, I rise in support of the proposed amendments to the Penal Code.

Sir, the Penal Code is a vital component of our judiciary system. It has ensured Singapore's success and will continue to do so as we turn the next chapter of the Singapore story, a city of possibilities. As we open up and

globalise, we must be wary of the challenges ahead and the continued need to align our process to the current times, a process which should also reflect present realities and meeting the needs of the nation. If I may quote Prof. Jayakumar, Deputy Prime Minister and Minister for Law's comments in the press during the recent conference of the International Bar Association, where he said: "Each society has to find a right balance and operate the rule of law to achieve good governance."

Sir, it is in the light of this spirit that I welcome the move for the review and the proposed amendments to the Penal Code and I would like to focus my speech on three issues, namely, terrorism, racial harmony and the Petition to repeal section 377A of the Penal Code.

Firstly, the issue of terrorism. Sir, globalisation has resulted in the evolution of new modes and channels of communications, a cosmopolitan society, and putting Singapore on the crossroads of international travel, movement of information, goods and services. Inadvertently, it has also put us on the map of terrorism.

Mr Speaker, Sir, while we have been swift in our actions on groups like Jemaah Islamiah in the past, we must continue to equip our security forces to act decisively and confidently within the law to protect our land. We must never rest on our laurels. Thus, I am pleased to note that the key intent of the amendment made to sections 79 and 81 drives home the message that there is continued clear and present danger beyond our shores. The amendments serve to strengthen our laws to meet these challenges and will give more bite to our security forces to take decisive measures when they are called to do so. It also sends a clear signal to potential threats that we will never allow terrorists to test Singapore's social fabric that we have painstakingly weaved over the years.

Sir, I would however like to caution that in our message of finding a balance we should continue to evaluate every issue or matter pertaining to terrorism discerningly and that the courts should assess and accord the rights of every citizen based on the facts and defences made accordingly. As such, I would like to propagate that the whole process of managing issues like that of terrorism should have a holistic approach that covers both proactive and preventive measures. If I may quote the essence of Ambassador Kesavapany's speech delivered as part of International Writers' Festival, he said: "It is the people who defeat terrorism and not just through laws."

Building upon our national programmes, such as the Community Engagement Programme, I would like to suggest that we continue to engage our youths, particularly the P65 generation, in addressing the issue of managing terrorism.

Firstly, I strongly believe that there is a need to continue to engage our people, especially the youths, to better understand the rationale and reasons for the amendments to sections 79 and 81. We must continue to create platforms to engage them to better understand the threats of terrorism. I am pleased to note that organisations, such as Taman Bacaan and the *Madrasah* Convention in July this year, are amongst the many others who have taken initiatives to engage youths on this issue.

Secondly, being just aware of the issue may not be enough; the young should take proactive measures and take ownership of their actions on the issue. I have in the past promoted the concept of Peer Leadership - a youth leading youth process working closely together to take the leadership to deliberate on issues and acting upon them responsibly. I believe that active peer leadership in a common youth space is a powerful tool of self-expression where young Singaporeans in a concerted voice take a stand against religious extremism. Peer leadership adds credible weight to their voices and promotes greater active citizenry. Peer leadership is impactful as youths listen most to their peers and often turn to each other for mutual acceptance and support. Given the proper learning environment, youth leaders have the potential to become visible and influential leaders among their peers.

Thirdly, we should continue to tap on existing platforms, such as the Religious Rehabilitation Group (RRG), to engage youths on terrorism-related issues and concerns. In addition, it is important that we enrich these existing platforms by increasing the level of participation from all segments of the society to ensure that we have the capabilities to engage the ever-changing needs of the different groups of the society. For example, I have visited the RRG website. I am encouraged by the content of the website, especially where it provides avenues for people to have ideological responses with regard to the various concepts that people may have in their lives. I also note that there are

tips provided for youths in understanding terrorism-related issues. I strongly believe that we must continue this good effort and enhance our understanding of the needs of youths and their "Internet living environment". For example, community partners, such as the RRG, need to continuously enhance their capabilities and contents of their engagement tools so that it remains relevant to youths who often refer to websites as part of their knowledge-seeking process and direction for their lives.

Mr Speaker, Sir, let me continue my speech on the issue of racial harmony in Malay.

*(In Malay): [For vernacular speech, please refer to [Appendix A](#) *.]* Mr Speaker, regarding the second issue, I am happy to see reviews that include items related to racial and religious harmony which is an important basis to preserve our country's social cohesion.

To me, this is the main reason for our survival. It differentiates Singapore from other countries and makes us who we are now. Like terrorism, we must always be concerned with future challenges. New communication platforms like the Internet are examples that will really test the status of our harmony.

Mr Speaker, therefore, I support the reviews to section 298 to include racial affront, and insults through media like the Internet, as part of this process. However, while these reviews bolster the punishment aspect on those whose words or actions can affect social harmony, I would like to issue a reminder of the need to have a balanced and correct approach in accordance with our objective to make Singapore a city of possibilities. In doing this, we need to understand and continue listening to the voices from certain segments of our society.

Sir, the group I would like to focus on is the youths, especially the post-independence generation - that is P65 generation - and how we interact with and engage them, so that they further understand and appreciate deeply the concept of racial harmony and tolerance and the real message related to the Penal Code amendments. They need more support as they make up a larger section of the population that interacts and communicates through new media platforms like the Internet.

Mr Speaker, I would like to say that although these changes will give the legislature more choices to deal with potential offenders in the future, I am happy that our judicial process practises a framework that involves the

engagement of such offenders. At the same time, we must continue to improve our approach and I would like to make some suggestions.

First, we should increase the level of interaction amongst youths in the arena of Internet websites like Singapore United. This website must continue to further engage and interact with the young, by having healthy discussions on issues, apart from making a firm stand against racial insults. This is akin to what the RRG is doing, to counter the wrong teachings in Islam.

Second, religious and voluntary organisations must continue to organise activities involving youths from all races with the main message to make a united stand, saying "no" to racial discrimination and insults. Peer leadership can be practised and when this united message is continuously promoted among the young, the message will be further reinforced within them.

Thirdly, the media can play an influential role in this process through advertisements or promotions which encourage the message of religious harmony targeted at the youths. They can also take steps to secure popular personalities who can be ambassadors for racial harmony.

Our main challenge is to get more youths to join this Internet platform and to continue interacting and guiding those who are already using this platform as part of our proactive step to deal with this issue.

I would like to continue my speech in English.

*Cols. 2469-2472.

(In English): Mr Speaker, Sir, before I end my speech, I would like to be heard on my views on the Petition to repeal section 377A of the Penal Code that has been brought to this House for debate.

Sir, the Petition brought forward by Mr Siew Kum Hong, in recent weeks, has attracted widespread attention and debate in both mainstream media channels as well as on the Internet. I have been following this debate, trying to understand what both sides of the coin present.

Mr Speaker, Sir, I have mentioned earlier that the Penal Code is a vital component of our judiciary system. It sets both the economic and social direction that our society would take in realising our vision for the nation while, at the same time, protecting the interests and rights of our society.

In recent weeks, I have heard many voices in both mainstream media and others that have called for the retention of section 377A. In private, I have personally received strong disapproval from my residents who have submitted their own petitions to retain section 377A. Feedback from the ground suggests that the majority of my constituents feel the same way too. Like the hon. Mr Zaqy Mohamad, MP for Hong Kah GRC, I received similar feedback from my engagement with the members of the Malay community. In fact, in addition to the delicious *rendang* and *ketupat*, section 377A became a topic of discussion during my Hari Raya visits and gathering.

One feedback I received in particular was from a concerned parent, a mother in fact, whose son would be entering National Service soon which would put him in a male-oriented environment. She is concerned on how her son would have to manage this issue during his National Service. How would he and his fellow NS mates' focus be affected when their main objective was to protect our nation? And she is concerned that her son's sexual orientation may be influenced. Though pro-petitioners to repeal section 377A could always have a counter argument against her concerns, I feel that it is still a genuine worry of many parents and reflects the sentiments of the society towards this issue. She further claimed that many of her friends and relatives are concerned about this issue and hope that the outcome of our debate would address their concerns.

Sir, I recognise that gay Singaporeans have contributed to our nation-building process and, like most Singaporeans, been loyal to our nation. However, I do feel that the act to repeal section 377A is against the mainstream approval of most Singaporeans.

Singapore is that unique Asian society that still embodies strong cultural traditions and religious roots while at the same time is also immersing itself in new cosmopolitan lifestyles and values. However, what makes us different is that we are discerning in our approach to find the right balance that meets the needs and aspirations of our people. I am not certain that repealing section 377A at this moment serves the larger interests of our nation.

On the issue of infringing the rights of gay Singaporeans, I do not think the community's rights are being put under the microscope. The gay community in the past and present has its private space in Singapore and, like other citizens, the rights to vote and enjoy the benefits that most Singaporeans are accorded.

Sir, the essence of my argument is to engage in a speech that the purpose of the Penal Code is in serving our society and nation in this ever complex world. To me, the Penal Code serves the interest of the community at large. The message that I heard loud and clear is that the majority of Singaporeans are not ready for open homosexuality acts to be part of our way of life yet.

Mr Speaker, Sir, I would like to record my strong support that section 377A be retained in the Penal Code.

Mr Speaker, Sir, if I may sum up my arguments. The proposed amendments are well-intentioned and the need for balance is just as important as keeping as our core vision for the nation and ensuring that our shores are safe. The proposed amendments are also timely as when the Penal Code was last revised in 1984, the challenges then were different where the impact of computers, Internet and mobile phones was very insignificant.

As such, I would like to encourage that we continue practising a discerning approach in our management of the amended Penal Code and take into perspective the diversity of the different segments of our society, especially the young or others who may be affected by it. We should continue the dialogue process even after the passing of the Bill so that more segments of the population would better understand the essence and the application of the proposed amendments.

Finally, in view of the fast pace and ever-changing economic, social and political landscape, it is important that the Penal Code is reviewed at regular intervals to keep it updated and relevant to the needs and challenges of the society.

On that note, I support the Bill.

4.25 pm

The Prime Minister and Minister for Finance (Mr Lee Hsien Loong):
Mr Speaker, Sir, this parliamentary debate is on the amendments to the Penal Code, but the hottest debate is on one section which is not being amended - section 377A. Both Mr Siew Kum Hong and Prof. Thio Li-ann quoted me with approval in their speeches yesterday, so I think I should state my position and the Government's position on this matter.

Because of the review of the Penal Code and the amendments, I think the gay community and the activists have staged a push to get the Government to open this subject and to abolish section 377A. They have written an open letter to me as Prime Minister, they have also petitioned Parliament on this issue on the grounds of constitutional validity, and the constitutional argument was made by Mr Siew Kum Hong yesterday in Parliament. I do not have to go into the details. It was rebutted very cogently by Ms Indranee Rajah and very passionately by Prof. Thio Li-ann. They are not my legal advisers. I take my legal advice from the Attorney-General, and his advice to the Government is quite clear.

The continued retention of section 377A would not be a contravention of the Constitution.

The Government has not taken this matter lightly. We had a long discussion amongst the Ministers. We had an extensive public consultation on the Penal Code amendments and we decided on this issue - to leave things be.

Let me, today, focus on the policy issue - what we want the law to be, and explain our thinking, our considerations, why we came to this conclusion. I would ask these questions: what is our attitude towards homosexuality? "Our", meaning the Government's attitude and Singaporeans' attitude too. How should these attitudes and these values be reflected in our legislation?

Many Members have said this, but it is true and it is worth saying again. Singapore is basically a conservative society. The family is the basic building block of our society. It has been so and, by policy, we have reinforced this and we want to keep it so. And by "family" in Singapore, we mean one man one woman, marrying, having children and bringing up children within that framework of a stable family unit.

If we look at the way our Housing and Development Board flats are, our neighbourhoods, our new towns, they are, by and large, the way Singaporeans live. It is not so in other countries, particularly in the West, anymore, but it is here.

I acknowledge that not everybody fits into this mould. Some are single, some have more colourful lifestyles, some are gay. But a heterosexual stable family is a social norm. It is what we teach in schools. It is also what parents want their children to see as their children grow up, to set their expectations and encourage them to develop in this direction. I think the vast majority of Singaporeans want to keep it this way. They want to keep our society like this, and so does the Government.

But, at the same time, we should recognise that homosexuals are part of our society. They are our kith and kin. This is not just in Singapore. This is so in every society, in every period of history, back to pre-historic times, or at least as long as there have been records - biblical times and probably before.

What makes a person gay or homosexual? Well, partly, it could be the social environment. If we look at the ancient Greeks and Romans, it was quite normal for men to have homosexual relationships - an older man with a young boy. It does not mean that that was all they did - they had wives and children. But, socially, that was the practice. So, I think, the social environment has something to do with it. But there is growing scientific evidence that sexual orientation is something which is substantially inborn. I know that some will strongly disagree with this, but the evidence is accumulating. We can read the arguments and the debates on the Internet. Just to take one provocative fact, homosexual behaviour is not observed only amongst human beings but also amongst many species of mammals.

So, too, in Singapore, there is a small percentage of people, both male and female, who have homosexual orientations. They include people "who are often responsible, invaluable, and highly respected contributing members of society". I quote from the open letter which the petitioners have written to me, and it is true. They include people who are responsible and valuable, highly respected contributing members of society. And I would add that among them are some of our friends, our relatives, our colleagues, our brothers and sisters, or some of our children.

They, too, must have a place in this society, and they, too, are entitled to their private lives. We should not make it harder than it already is for them to grow up and to live in a society where they are different from most Singaporeans. And we also do not want them to leave Singapore to go to more congenial places to live. But homosexuals should not set the tone for Singapore society. Nor do we consider homosexuals a minority, in the sense that we consider, say, Malays and Indians as minorities, with minority rights protected under the law - languages taught in schools, cultures celebrated by all races, representation guaranteed in Parliament through GRCs and so on. And this is the point which Ms Indranee Rajah made yesterday in a different way.

This is the way Singapore society is today. This is the way the majority of Singaporeans want it to be. So, we should strive to maintain a balance, to uphold a stable society with traditional, heterosexual family values, but with space for homosexuals to live their lives and contribute to the society.

We have gradually been making progress towards achieving a closer approximation to this balance over the years. I do not think we will ever get a perfect balance, but I think we have a better arrangement now than was the case 10 or 20 years ago.

Homosexuals work in all sectors, all over the economy, in the public sector and in the civil service as well. They are free to lead their lives, free to pursue their social activities. But there are restraints and we do not approve of them actively promoting their lifestyles to others, or setting the tone for mainstream society. They live their lives. That is their personal life, it is their space. But the tone of the overall society, I think, remains conventional, it remains straight, and we want it to remain so.

So, for example, the recent case of Mr Otto Fong, who is a teacher in Raffles Institution. He is gay and he is a good teacher by all accounts. He put up a blog which described his own sexual inclinations, and explained how he was gay. He circulated to his colleagues and it became public. So MOE looked at this. The school spoke to the teacher. The teacher understood that this was beyond the limit, because how he lives is his own thing. But what he disseminates comes very close to promoting a lifestyle. So, they spoke to him, he took down his blog. He posted an explanation, he apologised for what he had done, and he continues teaching in RI today. So there is space, and there are limits.

De facto, gays have a lot of space in Singapore. Gay groups hold public discussions. They publish websites. I have visited some of them. There are films and plays on gay themes. In fact, sometimes people ask, "Why are there so many? Aren't there other subjects in the world?" But since we have allowed

it in the last few years, maybe this is a letting off of pressure. Eventually, we will find a better balance.

There are gay bars and clubs. They exist. We know where they are. Everybody knows where they are. They do not have to go underground. We do not harass gays. The Government does not act as moral policemen. And we do not proactively enforce section 377A on them.

But this does not mean that we have reached a broad social consensus, that this is a happy state of affairs, because there are still very different views amongst Singaporeans on whether homosexuality is acceptable or morally right. And we heard these views aired in Parliament over these last two days.

Some are convinced, passionately so, that homosexuality is an abomination, to quote Prof. Thio Li-ann's words yesterday. Others, probably many more, are uncomfortable with homosexuals, more so with public display of homosexual behaviour. Yet others are more tolerant and accepting.

There is a range of views. There is also a range of degrees to which people are seized with this issue. Many people are not that seized with this issue. And speaking candidly, I think the people who are very seized with this issue are a minority. For the majority of Singaporeans - this is something that they are aware of but it is not the top of their consciousness - including, I would say, amongst them a significant number of gays themselves. But, also, I would say, amongst the Chinese-speaking community in Singapore. The Chinese-speaking Singaporeans are not strongly engaged, either for removing section 377A or against removing section 377A. Their attitude is: live and let live. So, even in this debate in these two days, Members would have noticed that there have been very few speeches made in Parliament in Mandarin on this subject. I know Mr Baey Yam Keng made one this afternoon, but Mr Low Thia Khiang did not. It reflects the focus of the Chinese-speaking ground and their mindsets. So, for the majority of Singaporeans, their attitude is a pragmatic one. We live and let live.

The current legal position in Singapore reflects these social norms and attitudes, as Ms Indranee Rajah and Mr Hri Kumar explained yesterday. It is not legally neat and tidy. Mr Hri Kumar gave a very professional explanation of how untidy it is, but it is a practical arrangement that has evolved out of our historical circumstances. We are not starting from a blank slate, trying to design an ideal arrangement; neither are we proposing new laws against homosexuality. We have what we have inherited and what we have adapted to our circumstances. And as Mr Hri Kumar pointed out, we inherited section 377A from the British, imported from English Victorian law - Victorian from the period of Queen Victoria in the 19th century - via the Indian Penal Code, via the Straits Settlements Penal Code, into Singapore law.

Asian societies do not have such laws, not in Japan, China and Taiwan. But it is part of our landscape. We have retained it over the years. So, the question is: what do we want to do about it now? Do we want to do anything about it now? If we retain it, we are not enforcing it proactively. Nobody has argued for it to be enforced very vigorously in this House. If we abolish it, we may be sending the wrong signal that our stance has changed, and the rules have shifted.

But because of the Penal Code amendments, section 377A has become a symbolic issue, a point for both opponents and proponents to tussle around. The gayactivists want it removed. Those who are against gay values and lifestyle argue strongly to retain it. And both sides have mobilised to campaign for their causes. There was a Petition to remove section 377A. It accumulated a couple of thousand signatures which were presented to this House. Therefore, there was a counter-petition to retain it, which collected 15,000 signatures - at least, according to the newspapers. I have not counted the signatures - 16,000.

An hon. Member: 15,560.

The Prime Minister: 15,560 signatures. It has probably gone up since we last started speaking. There was also an open letter to me. The Ministers and I have received many emails and letters on this subject. I have received emails too in my mail box, very well written, all following a certain model answer style.

So it is a very well organised campaign. And not only writing letters, but constituents have visited MPs at meet-the-people sessions to see the MP, not because there is anything they want done, but to congratulate the MP on what a good Government this is, that we are keeping section 377A, and please stay a good Government, and please do not change it.

I do not doubt the depth of the sentiments and the breadth of the support but it is also a very well organised pressure campaign. But I am not surprised that this issue is still contentious, because even in the West, even where they have liberalised, homosexuality still remains a very contentious issue. They decriminalised homosexual acts decades ago, in the 1960s, 1970s, and they have gone a long way towards accepting gays in society. They not only have gays in prominent places, but if you want to have a complete Cabinet or a complete line-up when you go for elections, you must have some on your list

so that you are seen to have been inclusive. This is certainly so in Europe, also true in America.

But still the issue is bitterly disputed. So in America, there are fierce debates over gay rights and same-sex marriages. And the conservatives in America are pushing back. President George Bush has been calling for a constitutional amendment to define marriage as a union between a man and a woman, and not between a man and a man, or a woman and a woman. This is in America. So the issue is still joined. Even within the churches, it is a hot subject. The Anglican Church, Church of England, the Archbishop of Canterbury, Rowan Williams, had liberal views on gay issues. He became the Archbishop. He has moderated his views, because he has to reflect the Church as a whole. And even within the church, the Church in England, and the Church in America have a very serious disagreement with the Anglican churches in Asia and in Africa, who almost split away on this issue of ordination of gay people as bishops. And they have patched up in a compromise recently in America and the Archbishop of Canterbury, who is head of the church, had to plead with his community to come to some understanding so that they maintain the Anglican communion.

So, this is not an issue where we can reach happy consensus and abolishing section 377A, were we to do this, is not going to end the argument in Singapore. Among the conservative Singaporeans, the deep concerns over the moral values of society will remain and, among the gay rights' activists, abolition is not going to give them what they want because what they want is not just to be freed from section 377A, but more space and full acceptance by other Singaporeans. And they have said so. So, supposing we move on 377A, I think the gay activists would push for more, following the example of other *avant garde* countries in Europe and America, to change what is taught in the schools, to advocate same-sex marriages and parenting, to ask for, to quote from their letter, "...exactly the same rights as a straight man or woman." This is quoting from the open letter which the petitioners wrote to me. And when it comes to these issues, the majority of Singaporeans will strenuously oppose these follow-up moves by the gay campaigners and many who are not anti-gay will be against this agenda, and I think for good reason.

Therefore, we have decided to keep the status quo on section 377A. It is better to accept the legal untidiness and the ambiguity. It works, do not disturb it. Mr Stewart Koe, who is one of the petitioners, was interviewed yesterday and he said he wanted the Government to remove the ambiguity and clarify matters. He said the current situation is like, I quote him, "Having a gun put to

your head and not pulling the trigger. Either put the gun down or pull the trigger." First of all, I do not think it is like that, and secondly, I do not think it is wise to try to force the issue. If you try and force the issue and settle the matter definitively, one way or the other, we are never going to reach an agreement within Singapore society. People on both sides hold strong views. People who are presently willing to live and let live will get polarised and no views will change, because many of the people who oppose it do so on very deeply held religious convictions, particularly the Christians and the Muslims and those who propose it on the other side, they also want this as a matter of deeply felt fundamental principles. So, discussion and debate is not going to bring them closer together. And instead of forging a consensus, we will divide and polarise our society.

I should therefore say that as a matter of reality, the more the gay activists push this agenda, the stronger will be the push back from conservative forces in our society, as we are beginning to see already in this debate and over the last few weeks and months. And the result will be counter productive because it is going to lead to less space for the gay community in Singapore. So it is better to let the situation evolve gradually. We are a completely open society. Members have talked about it - the Internet, travel, full exposure. We cannot be impervious to what is happening elsewhere. As attitudes around the world change, this will influence the attitude of Singaporeans. As developments around the world happen, we must watch carefully and decide what we do about it. When it comes to issues like the economy, technology, education, we better stay ahead of the game, watch where people are moving and adapt faster than others, ahead of the curve, leading the pack. And when necessary on such issues, we will move even if the issue is unpopular or controversial. So we are moving on CPF changes, we are moving on so many economic restructuring changes. We moved on IRs - it is a difficult subject, not everybody supports the Government, but we decide this is right, we move.

On issues of moral values with consequences to the wider society, first we should also decide what is right for ourselves, but secondly, before we are carried away by what other societies do, I think it is wiser for us to observe the impact of radical departures from the traditional norms on early movers. These are changes which have very long lead times before the impact works through, before you see whether it is wise or unwise. Is this positive? Does it help you to adapt better? Does it lead to a more successful, happier, more harmonious society?

So, we will let others take the lead, we will stay one step behind the frontline of change; watch how things work out elsewhere before we make any irrevocable moves. We were right to uphold the family unit when western countries went for experimental lifestyles in the 1960s - the hippies, free love, all the rage, we tried to keep it out. It was easier then, all you had were LPs and 45 RPM records, not this cable vision, the Internet and travel today. But I am glad we did that, because today if you look at Western Europe, the marriage as an institution is dead. Families have broken down, the majority of children are born out of wedlock and live in families where the father and the mother are not the husband and wife living together and bringing them up. And we have kept the way we are. I think that has been right.

I think we have also been right to adapt, to accommodate homosexuals in our society, but not to allow or encourage activists to champion gay rights as they do in the West. So I suggest, Mr Speaker, and I suggest to the Members of the House, we keep this balance, leave section 377A alone. I think there is space in Singapore and room for us to live harmoniously and practically, all as Singapore citizens together. Thank you very much.
[Applause.]

4.55 pm

Mr Charles Chong (Pasir Ris-Punggol): Mr Speaker, Sir, I am always delighted to speak immediately after the Prime Minister, because most likely he would have covered everything that I wanted to say and in a more eloquent way as well.

Sir, I first raised the issue of a review of the Penal Code in the Budget debate in 2002. While it has taken some time for the present Amendment Bill to be tabled, I am delighted that we have finally come to the stage where the primary legislation on criminal law is on the brink of being revised.

Sir, the Amendment Bill has done much to update our penal laws and I would like to commend the various agencies that were involved in this exercise, including the Ministry of Home Affairs, Ministry of Law, the Attorney-General's Chambers and the organisations and individuals who have given their views on the amendments. It has been an arduous task and much thought and effort must have been expended in putting this Bill together.

Much heat and debate has been generated on a few of the proposed amendments, especially on section 377A. But the amendments are significantly more than just the few of the controversial sections.

Sex tourism/racial and religious offences

Bold initiatives, such as the proposed criminalisation of sex tourism, must be commended as very forward-thinking and reflective of the issues affecting society in the present day.

Likewise, enhanced penalties for racially or religiously aggravated offences are, in my view, extremely appropriate for this day and age, and I am sure, will have no detractors.

Gender neutrality

Sir, the Amendment Bill seeks to make our penal laws more gender-neutral. The proposed repeal of section 498 – under which only men can be charged for an offence that both men and women are quite capable of committing – is a good example of how we have made progress on this front.

Sir, some years ago, I had asked for a review of this section as it did not seem right that only a man could be imprisoned for up to two years and be fined for enticing a married woman away from her husband. However, a woman who entices a married man away from his wife, (which I think is more often the case) committed no crime. Perhaps she would have earned a bad reputation, but she was not guilty of any offence under the Penal Code.

Sir, other steps in the same direction include the substitution of “spouse” for “wife” and “child” for “son” in various provisions of the Code.

What puzzles me is why this exercise of “gender-neutralisation” was not taken further, with the Code applying equally to women as it does to men - to the extent that is physiologically appropriate for it to do so. Sir, the retention of sections 366, 377A, 493 and 509 “as is” is a blemish on what would otherwise have been a very successful exercise in having a Code that treats women and men equally. For example, section 493 makes it an offence for every man who, by deceit, causes any woman who is not legally married to him, to believe that she is married to him and to cohabit and to have sexual intercourse with him.

An offender under this section is liable to imprisonment of up to 10 years and will be subject to a fine. However, a woman who commits the same act in respect to any man will not have committed any offence. Sir, section 493, as it stands, implies that only women can be duped by men into believing that they are married to them, while men are never fooled. It is somewhat insulting to women and perhaps gives men a little too much credit.

Sir, section 509 makes it an offence - punishable by imprisonment of up to one year and a fine – to intentionally insult the modesty of a woman by uttering any word, making any sound, showing any gesture or exhibiting any object. However, it is not

an offence if the victim is a man. It implies that men are less modest and can never be insulted by words, sounds, gestures or objects.

So, in the same vein, while Chapter VII on Offences relating to the Armed Forces may, by virtue of the interpretation of the word "serviceman" in the SAF Act, be construed to apply to women as well as to men serving in the Armed Forces, the "Exception" in the Penal Code, section 136 is currently not gender equal.

Section 136 refers to punishment of up to two years' imprisonment or a fine for harbouring a deserter. This provision does not apply to a wife who gives harbour to a deserter husband. On the other hand, a husband who gives harbour to his wife, who is a SAF deserter, is subject to punishment under the law. Perhaps, the exception should be made applicable to both husbands and wives, rather than limited only to wives.

Sir, it is not completely outrageous to conceive of the offences under the sections that I have mentioned being committed by both men and women, and I would have thought that it would have been an opportune time to amend the language of these sections in the same way that other previously gender-biased provisions were reviewed.

"Thought crimes"

Sir, I would now like to address what appears to be Orwellian "thought crimes" in the Penal Code. Section 121A of the Code stipulates the death penalty and a fine for anyone who imagines harm to, or the death or imprisonment of the President. Section 121B provides for the imprisonment for life and a fine for whoever who imagines the deprivation or the deposition of the President from the sovereignty of Singapore or the overthrow of the Government by criminal force.

Sir, this may be part of our colonial legacy and can, I believe, trace its roots to the United Kingdom's Treason Act, which I was told was passed in 1351 - more than 6 1/2 centuries ago.

Sir, the use of the word "imagine" in those sections is unfortunate as the modern meaning of the word detracts from the meaning it used to have. The Shorter Oxford English Dictionary, in referring to precisely the type of archaic language set out in sections 121A and 121B, says that "imagine" in this context means "to devise, plot or plan". It is of course right that anyone who plots, plans or actually takes action against the person or the Office of the President ought to be punished, but merely "imagining" any of these - should this really be on our books?

Marital rape

Sir, the amendment Bill also addresses the issue of marital rape. While I note that a slight headway has been made in diluting the blanket marital rape exemption, I share the disappointment with many other Members who spoke before me that we have chosen not to adopt the same enlightened position that countries such as the United Kingdom and even conservative India have taken in criminalising marital rape without exemption.

At the supernational level, the United Nations Declaration on the Elimination of Violence against Women specifically refers to marital rape as a form of violence against women. It therefore baffles me that the amendment Bill seeks to disapply the marital rape exemption only when certain conditions apply.

We have moved beyond the outdated thinking that a woman gives her husband her irrevocable consent to engage in intercourse with her at any time. And I do not recall ever seen in any marriage vows where the bride explicitly gives such a consent.

Sir, intercourse against a woman's consent is rape, whatever the context. Let us get this straight, no "ifs", no "buts". It is no less deplorable because the parties are married to each other and are not subject to any matrimonial or judicial proceedings.

My opinion is that the inclusion of the proposed sections 375(4) and 376(5) will do us a great disservice, and I am really hard-pressed to understand how we can justify Neanderthal-like behaviour in this day and age.

Section 377A

Sir, another provision that has generated much controversy is section 377A. Much has already been said on this section, and I am not sure if I can add anything that has not already been said. I shudder at the thought of adding more of it because of the passion that has been shown in this House. But I think I would be remiss as a legislator if I merely hid behind the views of the "conservative majority" and maintain the *status quo*, which of course would be the least inconvenient thing to do if you were not gay.

Sir, I am not convinced that there would be drastic consequences in our society if we do not repeal section 377A, as the section has been in the Penal Code since the Code was adopted in, I think, 1871. Neither am I convinced that we will all rapidly slip down the slippery road if we were to repeal section 377A, as suggested by some Members. The slippery road argument has less of an impact on me these days, as I have heard that sort of arguments used many times before.

Some years ago, a senior politician (who shall remain unnamed) argued his case as eloquently and as convincingly as some of our NMPs did yesterday, in retaining an archaic regulation. The removal of such a regulation, it was said, would have led to conflicts, fights and murders, if it were to be abolished. Well, we have abolished that archaic regulation and permitted bar-top dancing for some years already, and the world has not come to an end yet.

Sir, if the experts and MM and PM are indeed correct (and some of our MPs wrong) that some of us are indeed born with different sexual orientations, then it would be quite wrong for us to criminalise and persecute those that are born different from us, regardless of how conservative a society we claim to be, especially if their actions do not cause harm to third parties.

Sir, we also claim to be a secular and inclusive society. We should therefore respect the private space of those who are born different from us as much as we expect them to respect our common space. Therefore, if we do retain section 377A, which is most likely the case, as the Prime Minister has said so already, then we should exclude criminalising acts done in private between consenting adults of full capacity. Enforcing section 377A for acts done in private would be onerous if we do not have the equivalent of religious vigilantes that some of our neighbouring countries have to spy on what takes place in the bedrooms and hotel rooms.

Is it really the business of Government to regulate acts between consenting adults born with different sexual orientations in the privacy of their bedrooms?

Sir, if we have intended the retention of section 377A in the Penal Code as an expression of our conservative values, rather than to be proactively enforced, as some have suggested, then I think we have come out short even in this respect. The section criminalises act of gross indecency in public and in private only if it is engaged between men. Surely, the Minister must acknowledge that women are as capable as men of committing such acts. Is section 377A therefore, as it stands, a correct statement of our values and principles? Or are there no lesbians in Singapore?

Sir, it would simply not be realistic to expect the majority of Singaporeans to ever reach a position of being pro-homosexuality or where they would actively seek to repeal section 377A as a matter of priority. Even if heterosexual Singaporeans are apathetic towards homosexuality, it would be much easier just to maintain the *status quo* than to take steps to modify or even expunge section 377A from the Penal Code.

Having said all this, section 377A is useful in one regard as it is currently an offence for a man to "procure or attempt to procure the commission" of an act of gross indecency with another man. This gives some protection to men who are subject to unwanted sexual advances of other men and should continue to be an offence whether these advances are made in public or in private. The section should however be extended to protect women who face the same sort of harassment from other women.

This is a rare case of the Penal Code providing more protection to men than it does to women. It is unfair and may even be unconstitutional that women do not, in this respect, currently have the same sort of protection that men have under the law.

So, ultimately, my question, as asked by the other Members, is: if we did not have section 377A in the Penal Code today, would we think it fit and proper to enact a provision in exactly the same terms? Would we not be seen as being narrow-minded, perhaps even bigoted in our philosophy towards people who are born different and engage in practices not approved by the majority, even if no harm is done to others?

If we would not, then I think we should show leadership and convince the majority to do what is fair, just and representative of the age in which we live. And that it does not make sense to have a law we do not intend to proactively enforce and that intimate relations with the consenting adults in the privacy of one's bedroom are not the business of the Government.

Finally, Sir, I support the many changes made in the Penal Code, not only to expunge archaic laws and terms - I am delighted to hear the Senior Minister of State say that there are no more terms of "bullock", "ice-house" and "horse carriages" in the Penal Code - but also to bring the existing laws up to date with our present day situation. Although in several areas I think we could have done better, overall, it was quite a commendable effort and I hope the Minister would continue to refine the provisions further in the very near future and to seriously consider expunging laws that we have no intention to enforce.

5.07 pm

Mr Lim Biow Chuan: Mr Speaker, Sir, I rise in support of the amendment Bill on the Penal Code.

According to the 2006 Annual Report of the Subordinate Courts, the Courts dealt with about 62,500 criminal-related cases last year. Although the figure cited include cases from MOM, MPA, NPB and NS cases, a large bulk of these

cases involve people being charged in court for criminal offences or breach of the Penal Code.

The Penal Code was last reviewed in 1984. It is timely for a comprehensive review of the Act 23 years later. I wish to applaud the Ministry of Home Affairs for its receptiveness to the feedback given after the public consultation exercise. And I understand that quite a number of sections were amended after taking into account the views of the members of the public. Sir, there are various amendments to the Penal Code and I would just like to touch on a few areas which I am concerned with.

Section 298 - offences relating to religion or race

Section 298 has been amended by inserting the word "or racial" after the word "religious". A new section 298A has also been introduced to make it an offence for any person to promote enmity between different groups on grounds of religion or race and doing of acts prejudicial to the maintenance of harmony.

Sir, Singapore is a multi-racial and multi-religious society. We take great pains to preserve the racial and religious harmony amongst the different races and religions in this country. Any insensitive or inconsiderate action by a small minority can easily result in racial riots as Singapore had experienced in the Maria Hertogh riots and in the 1969 racial riots.

I support the changes to these sections as the intent of the change is to preserve the social fabric of the country and to penalise persons who deliberately wound the religious and racial feelings of others.

Sexual offences

Next, Sir, sexual offences. I support the Government's move to protect minors and persons with mental disability from being victims of sexual

offences. It is indeed important to send the message that the young and the vulnerable should be protected from sexual predators.

[Mr Deputy Speaker (Mr Matthias Yao Chih) in the Chair]

5.13 pm

I also support the new sections (sections 376B and 376C) which would make it an offence for a person to pay for the sexual services of a minor who is under 18 years of age. It is important for the Government to recognise that there is the possibility of young impressionable persons who are prepared to sell their sexual services just to earn some extra income. For some of them, they are simply immature or vulnerable. For others, they may need money but do not know where to turn to for financial help. And there may be others who may have succumbed to the craving for the ownership of luxury material goods.

We should not allow such young and impressionable persons to be exploited by sexual predators. Nor should we allow these sexual predators to exploit other young and vulnerable persons from other countries who, for whatever reasons, and I suspect in this case mostly poverty, are compelled to trade their sexual services for commercial consideration. It would be hypocritical of us to enact laws to protect the young in Singapore and turn a blind eye to sexual predators in Singapore going overseas to our neighbouring countries to seek such gratification.

I support the changes made and the introduction of sections 376A to 376G of the Penal Code.

Amendments to the penalties

Sir, I applaud the Government's move to give the courts greater flexibility and discretion in sentencing. Many times, the hands of judges are tied because

of the minimum sentences imposed by legislation. There are also times when the courts may feel that a higher fine should be imposed in lieu of imprisonment but the Penal Code had imposed a cap on the offence.

Sir, I am of the view that the judges are in a better position to determine at their discretion what would be appropriate sentences. This is better than having Parliament fixed a mandatory sentence thereby taking away such discretion.

However, I would like to seek the Minister's affirmation that by amending the range of penalties prescribed,

the intention of Parliament is not for the judges to automatically increase the punishment nor should the courts interpret the setting of a higher limit to mean that the crime has become more serious.

In the textbook *Sentencing Practice in the Subordinate Courts* (second edition) written by judicial officers, the authors stated that judges do look at the maximum and minimum sentences imposed by Parliament for an indication of the gravity of the offence.

However, Sir, in this current set of amendments which are not specific to any particular offence, the intention of Parliament surely must be simply to allow the courts to have greater sentencing options to mete out appropriate sentences. Heavier penalties should thus be imposed by the courts only where there are aggravating factors and there should not be a rise in the punishment across the board for all offences simply because of this amendment.

Sir, I also urge the Government to consider removing the mandatory death penalty and to allow the courts to have the discretion not to impose capital punishment if there are exceptional mitigating factors whereby the death penalty should not be imposed. Currently, this discretion is held by the Attorney-General's Chambers where the Public Prosecutor decides whether to

frame a charge which carries the death penalty. There is no reason, Sir, why someone of high standing or prominence like a High Court Judge cannot make the judgment call whether the death penalty should be imposed. Let a High Court Judge, as opposed to a jury, decide whether the mitigating factors are such that the accused person deserves a reprieve from the death penalty.

Intent of amendments

Sir, I also urge the Minister to state clearly the purpose for each amendment to the Penal Code. The courts have often referred to Parliamentary debates when trying to understand the purpose of a particular legislation. I urge the Minister to ensure that the prosecuting officers also understand the purpose of legislation. Anecdotal evidence from the criminal bar, ie, criminal lawyers, suggests that, sometimes, police prosecutors are too keen to seek a conviction simply to close a case. Sometimes, the police prosecutors levy so many multiple charges against an accused person which makes it difficult for any accused person to defend himself. In the process, there would be accused persons who would feel so pressurised by the many charges and simply throw in the towel for fear of incurring huge legal costs or for fear of having a heavier sentence imposed. Do we want to secure such a conviction because an accused person feels pressured to plead guilty?

I accept that most of the time, the police are justified in their actions in charging an accused person. But I urge the Minister to remind the police or the prosecution that every conviction of an accused person carries huge repercussions for that person. He or she ends up with a criminal record and this would have an adverse repercussion on his or her future for the rest of their lives. The police should thus consider the purpose of Parliament each time a charge is framed. They should consider whether charging a person would achieve the purpose of legislation. I know this is not easy. But, when in doubt, the police can always seek the advice of the Deputy Public Prosecutors.

Section 377A

Finally, Sir, on the issue of section 377A, I wish to state my support for the Government's position of retaining section 377A of the Penal Code. I had originally not intended to speak on this topic. But in view of the Petition

presented by Nominated MP Mr Siew Kum Hong, I feel that I should state that not all MPs agree with Mr Siew's arguments. I do not agree, Sir, that the role of the criminal law is only to punish those who have caused harm to others. If that is the case, as my fellow MPs had said yesterday, why do we have laws on attempted suicide? Why do we have laws prohibiting the sale of obscene materials? Why do we have laws against incest? Should we be bothered whether a father decides to sleep with his adult daughter in the privacy of their own home? Why do we bother to make it an offence for someone to have sex with animals? This is in section 377B. In fact, with this current amendment Bill, Sir, we have just introduced a new offence of necrophilia, which is this abhorrent act of engaging in sex with a corpse. Does this offence harm society? Does it make Singapore unsafe or less secure?

Sir, the basic position of Parliament should be that we make laws to reflect the public morality of our times. In this situation, Sir, I agree with the views of Ms Indranee Rajah. I support the Government's stand because I do not agree with the practice of homosexuality. This is not just my personal view but also the views of many of my residents when I sought their opinion. With the greatest respect to the Prime Minister, I must state that I do not think that there is conclusive evidence that homosexual behaviour is inborn. The jury is out on this issue, and different scientists would have different views on the matter.

Let me state unequivocally, Sir, that I am not anti-gay. The fact that I disagree with the practice of homosexuality does not mean that I despise homosexuals. In fact, like the hon. Member, Mr Baey Yam Keng, I have friends who are gay, and my approach to them is simply that "I do not agree with your lifestyle. But I would respect you for who you are. So if you are a decent chap, an honest and hardworking person, your sexual orientation or preference does not affect the way I see you. I would treat and respect you as another fellow citizen." And I do not believe that any Member in this House would turn away a person who comes to him during a meet-the-people session seeking financial help simply on the ground that this person is a homosexual. I believe that the majority of Singaporeans do not condemn a homosexual or a gay simply because of his lifestyle. Nor do they wish to criminalise a homosexual. However, as my fellow MP, Mr Christopher de Souza, said, the messaging or signpost is important. As MPs, we have to send the message that Singapore is a conservative society whereby the family unit is still seen as the basic structure of society. I believe, Sir, we have not accused gays of being criminals, nor do I know of any petition to enforce section 377A.

Sir, in conclusion, I would like to state that I support the amendment Bill on the Penal Code.

5.21 pm

Mr Seah Kian Peng (Marine Parade): Mr Deputy Speaker, Sir, like Mr Charles Chong, I am delighted to speak after the Prime Minister has spoken, and I am even happier to be the 21st and last person to speak on this Bill.

Sir, many of the Members who have spoken on the Penal Code reforms have been lawyers - 11 to be precise. I am just an ordinary man - a father, a manager and an employee with the labour movement. I have an ordinary man's belief that laws reflect the moral norms of society. At the same time, I believe that, at times, we have to be ahead of the curve. That is to say we are legislating what we believe to be morally right, not merely what we believe to be the views of the majority. We make laws to reflect what we feel to be right, not just what is the case.

Sir, let me say that I will first be speaking about our laws against child prostitution and, later, about section 377A. For too long, we have taken a neutral, even, I am ashamed to say, indulgent view of the situation towards prostitution in general and child prostitution in particular. I am sure that, among the male MPs at least, we hear of some people who make regular trips to Batam, and it may not be for golf. When they speak of these trips, it is at times accompanied by raucous laughter. We have stood by and said nothing. In this House, at this time, we stand up and be counted. Passing the law is an easy thing. We press a button, make a speech, if we feel like it, and then we walk out and have a cup of coffee or tea.

But, Sir, this law is not like that. This law is about deterring Singapore paedophiles who now can get virgins for \$1,000 when they take a boat ride to some offshore islands. Each weekend, you can see ferry loads. I have taken a ride, and seen these men. Even if it is early in the day, some are clearly drinking already. They wear T-shirts and slippers. They joke and laugh. Newspaper reporters have asked them what they do. "Eat, gamble" they say. It is a lie, not a white one, but very black indeed. Many go to visit prostitutes. In

one island, I am told, there is a place known as the Villa. There, half of them are under 18 years old. For \$53, the men get what they are after.

Sir, the law will allow us to prosecute paedophiles who have sex with minors overseas. Our officers enforce it, we hope for a deterrent effect, but these two measures cannot solve the problem. Laws rely on the respect of those who naturally want to do the right thing, and fear from those who are tempted to do wrong.

Sir, some Singaporean men get calls from pimps, saying that "fresh fish" have arrived. They make bookings for girls. They disappear on weekends. We know this, and we say nothing. "They are there for cheap food, shopping," we say. Sir, they are there for sex, and we know it. I suggest that we take a firm stand against this and speak out each time we hear this, or hear of it. If we know of friends who do this, we should counsel them. If we hear of strangers who do this, we should report them. If we are told off-colour jokes, we do not laugh. And if we hear the sorry stories of child prostitution, we do not cry. Instead, we take action - each one of us, and each time we encounter this evil.

There are already many civic groups who are working in this area. We should contact all of them and let them know of this new law. In addition, we should have a hotline for whistle blowing. Let anyone who knows of such stories ring us. If the trail of money stops, I believe the abuse will too.

Sir, I have focused my speech on the changes relating to section 376. I support all that we can do to enhance protection of the vulnerable in our society. We need to weed out those guilty of such crimes and be hard nosed about it. No compassion required, period. As a society, as leaders, it is time to take a clear stand. We are number one in many areas. Let us strive to be number one in this too.

Sir, I made some reference to the normative nature of the law-making process at the start of this speech. With regard to section 377A, I have heard many stories and quotes that Mr Siew Kum Hong has related about homosexuals living in Singapore. It is difficult not to be moved by them. At the same time, I know that his accusations about the tyranny of the majority are false. This matter is one of principle and not of numbers. If we acted with the tyranny of the majority, why do we have the GRC system, where ethnic

minorities are protected? Or if we were truly trying to be on the side of numbers, why did we not go along with the Malaysians in 1963 when they asked us to be part of a Malay Malaysia? Or in the case of Myanmar, why do we not side with China or India, and take a completely "hands off approach"? The numbers are certainly there. Or why do we not be like the US or Europe? The number of people may be smaller but the guns are larger.

Sir, this is the real slippery slope. If we abdicate debate and discourse for mere accounting, we would not be upholding our role as Members of Parliament. I believe that this debate has given an airing to both sides of the argument. My own view is a simple one. I would be the mother who loves her gay son. I would be the man who loves his gay brother. I would be the first to stand up for a gay man's right to be treated as an equal under the law. Yet, I am a Member of Parliament who believes that, as a nation, our families are not ready to have an open acceptance of the gay lifestyle, including same-sex marriages and gay adoption of young children. I believe that these key institutions would be weakened by the repeal of section 377A. This view, like this debate, is a matter of principle, not of numbers.

Sir, I support the Bill.

5.28 pm

The Senior Minister of State for Home Affairs (Assoc. Prof. Ho Peng Kee): Mr Deputy Speaker, Sir, first, I want to thank all the Members who have spoken on the Bill. We have just heard the Prime Minister who has fully dealt with section 377A. So, it leaves me now to address the other issues which Members have raised.

First, marital immunity. Mdm Ho Geok Choo, Ms Eunice Olsen, Mr Charles Chong and Mr Siew Kum Hong have all argued passionately - I think Ms Indranee Rajah, too, though not quite the full part of her speech but she did say that she also felt that that should be the case - for the removal of marital immunity. But I am happy to note that Dr Teo Ho Pin, Chairman, GPC for Home Affairs and Law - and in a way, Ms Ellen Lee, although in a qualified way - did see some sense and understood the rationale for a calibrated and more balanced approach which seeks to strike the right balance, making changes to our position in a measured way. This is how I would describe our

approach in general. It is a calibrated approach seeking to strike the right balance and making changes to our current position in a measured way.

Let me just tell the House that we have deliberated long and hard over this issue, and we recognise it is a difficult one. A balance needs to be struck between various interests, such as protecting vulnerable women and preserving the institution of marriage. But the point to note is that we have moved. We may not have moved as far as some MPs would want us to move, but we have made significant movement.

We have widened the circumstances for withdrawing marital immunity considerably in view of the consultation feedback. Originally, we had three basic circumstances, we heard the ground, and as I have said in my Second Reading speech, we responded. I would show you why afterwards we have responded in a way that now makes it much easier for the abused wife to seek protection. Because all it takes for her to do is to file a PPO. She does not even have to wait for the PPO to be granted, but to take that step to file a PPO, which is even earlier than any court order. So it is not a divorce or nullity, but the filing of a PPO.

We believe that this approach empowers the wife by presenting her with clear choices and practical recourse. If the marriage is breaking down, she can take clear steps to signal the marital breakdown by taking one of the prescribed steps, and there is no second-guessing. I have explained yesterday how, in the context of a marriage, there can be second-guessing between man and wife. Because we are so close to each other, sometimes, our intentions are not clear and, sometimes, we may not state clearly what is in our heart. That can be dangerous, for example, in the case of marital rape. Because we do know of cases where a wife can cry foul after the event, although I know that Mdm Ho says that it is difficult to do that because she feels she will be raped a second time. But there are cases which have happened and we have got feedback from men whose marriages are also on the rocks, but who have sex and the wife may appear to consent. But afterwards, she may not cry "rape" to outside people, she can threaten that this has happened. Should that be a marital rape? That is the Damocles' sword hanging over him.

When she takes one of the prescribed steps, what essentially happens is that the husband is put on notice in an unambiguous way. We take this approach because we consider the relationship between husband and wife as a unique one. No others between two human beings are like that, and we should be careful about making laws that intrude into this relationship.

Several MPs have focused on the plight of the more vulnerable women - those who are less educated, those who are financially dependent on their husbands. I agree with them that these are folks do need help. Indeed, those of you who have been in the House for some time will know that 8-9 years ago, I was in this House and I was having a debate with Dr Kanwaljit Soin who had also championed the rights of battered women. As a result of this debate, we improved the protocols and processes by which abused wives can be protected, for example, helping them to lodge a complaint in the Magistrate's court or helping them to get a medical report from a hospital. So, we took that step, and now, the procedures are much better. AWARE was helping us to do that. So we worked with the relevant VWOs. I make this point because it is important to know the context of what we are doing, that we are not just saying, "OK, here it is, it is symbolic." One of the MPs just now said whether it will just be symbolic. It will not be symbolic. It will be a clear signal to the wife who is in trouble that she can take any of the steps mentioned and most of them, I suppose, will take out the PPO and that is where I think the community, and those of us who are MPs here, can do our part in helping this person.

The other significant point is this. Currently, any person who breaches the PPO can only be prosecuted for breach of PPO. But with our proposed amendments, once the PPO has been applied for, her husband will not be allowed to force himself on her for sex. And if he does, he can be charged for rape. So this is a key difference. In other words, if you were to put it in another way, we are introducing marital rape, but not when it is unclear whether or not the wife has, in the context of the marriage, withdrawn implicit consent to sex.

I would just want to reiterate that it is important that we are sincere in this effort, all that I have said in my speech of how we should help these wives, the network that should be built up. We empower her and we help her early enough. I think that is important. It is not true that only when violence is caused that a PPO can be applied for. Because, under the law, if a wife feels that she is in fear of hurt by the husband, or there is mental harassment, in fact, she can go to court for a PPO. That is also another key point.

So, let us envelop these wives. Let us, after this exercise, inform them that there is help out there. PPOs are not hard to get - \$6 - and, in fact, no lawyer is required for that. Some of us feel the angst and I do feel that too if I know a battered wife who is as helpless as the one that Ms Ellen Lee has talked about, citing that case about the husband who is such a despicable person, perpetrating those acts on her. We want to do something, but what we are suggesting is something practical and workable that will still keep the institution of marriage intact. I may not convince you that this is a better way. But I say, let us give it a try. Like I have said in my Second Reading speech, at the end of it, we will monitor developments. We will monitor what we are doing and, if necessary, fine-tune our proposals.

Let me go on to another topic which is close to many Members' hearts, the protection of minors. First of all, I want to take on board Members' affirmation that what we are doing is correct, that minors are vulnerable and we want to protect them.

On sexual grooming, both Mdm Ho Geok Choo and Mdm Cynthia Phua suggest that we reduce the age of offenders from the proposed 21 years to 18 years which is, in fact, the age in the UK Sexual Offences Act. Let me say this. Again, it is a new offence. We have decided to adopt a cut-off, which is the age of majority at 21 years. The offence is targeted at adult sexual predators who themselves target vulnerable minors, not quite the experimenting teenagers or those who are not predators. I know that Mdm Cynthia Phua would say "Yes, there are those who are 18 years or 19 years old who are matured enough and who can be predators." Indeed, there have been cases like that. But like I have said, let us start with 21. We can monitor and, if the new law does not have that impact or does not have the maximum effect that it ought to have, we can consider lowering the age.

I think several Members also made a very good point for the need to educate the young on the pitfalls of the online environment. That is a preventive area and I fully agree. Indeed, this has been happening. I think Ms Ellen Lee alluded to the Internet and the Media Advisory Committee formed by MICA. I am not sure whether she is a member, but she knows about it very well. That has been introduced. Before that, we had other institutions and other organisations like PAGi. Those of us who are in that area will know PAGi. In fact, I was intimately involved as the Chairman of the IMYC, now called the NYGR - National Committee on Youth Guidance and Rehabilitation where six

years ago, in the early days, we launched a programme called Cyberspace Risks and where U Seek Help (CRuSH) together with TOUCH Community. We will continue to do that, and again, like I have said, working with MOE. Ms Ellen Lee said that we should work with MCYS. That has also been proposed. We will, together with the sexual grooming law, ensure that upfront, our young people are alerted to the dangers which are online.

Mr Zaqy is concerned about how the intent of someone engaged in sexual grooming can be proven and, in particular, whether there could be abuse on the part of the authorities. I think Mr Ong Kian Min also talked about it. This is an offence which does not target the grooming even though it is called sexual grooming. It does not target the communication although two communications or more are necessary as an element of the offence. But the key point is really, at the time when he begins to travel and, thereafter, did he intend to perpetrate a crime against the minor? After that, we look back at whether he has communicated with the minor and at least two times. I suppose that, in practice, law enforcement agencies will have to also gear up, as they will learn from the UK experience, and look at the requisite intent from all the circumstances of the case. For example, they will look at - I cannot pre-empt them - what he says to the child when they meet, or what he brings to her when he travels and meet the child or where he takes her when they meet. They will look at that in the context of the exchanges that have been made between them.

In practice, what will happen is a child who is being groomed will either inform a friend, or a parent or a sibling looks over her shoulders, finds out what is happening and then the Police is informed. If the Police is informed early enough, they will, in a way, guide the process along. The key point will be that Police will intervene early enough, but not too early, because the intent must be proven. I think Mr Christopher de Souza has asked whether someone travelling from overseas to Singapore to meet the victim, after two previous meetings or communications, could be caught under this provision. The answer is yes. So if somebody has been grooming a girl in Singapore, actually, when he starts travelling, the offence would have kicked in. But I do not suppose the Police will immediately nab the perpetrator. It is a matter of evidence gathering, ie, when is the best time to nab the perpetrator. Will innocent people be caught? I think Mr Zaqy must know that because this is a criminal offence, the burden of proof will still be on the prosecution to prove its case beyond reasonable doubt.

Let us make a start. I think all of us will agree that this is a good start. Let us see whether it has its effect here as it has in the UK. I have made the point in my speech on how in UK, there have been perpetrators and offenders who have been caught.

Mdm Phua asked whether tougher penalties can be introduced when victims are under 14 years. Like I have said, even though we have made a distinction for other offences, rape, for example, it is a statutory rape under 14, carnal connection under 16 and the punishments defer, here, we have taken a model from the UK Act. UK does not make a distinction. So let us again continue to monitor and, in particular, be mindful that there could be younger people who are targeted.

Mdm Phua asked why we need at least two communications. As I have said in my Second Reading speech, we are not there to catch the casual one-off meeting or communication. Actually, from the experience in other countries, we know that the grooming process normally takes quite some time, like several communications, sometimes 2-3 months where a young girl or young boy is softened. Basically, it is winning of the trust and confidence. It is a process. So I think two or more communications are about right. Otherwise, Mr Zaqy would say that we may catch innocent people if it is just one-off - if you are over-friendly once and then something happens after that.

Let me now go on to the law on commercial sex with minors overseas. First, let me assure Ms Olsen that we are not enacting this law as mere tokenism. I think she asked in her speech whether we are so worried about our drop in ranking from tier one to tier two in the US Trafficking in Persons report. Let me tell her that this is not the case. I think Ms Olsen knows the Government. Here, we have been considering it for some time. We did not jump into it because there are practical difficulties and practical difficulties will still remain. But, as a responsible member of the international community, it is the right thing to do because it is a scourge that all of us can play a part and, in particular, governments can enact laws.

She also makes the point, and others like her, that everybody can play a part. I like what Mr Seah Kian Peng has said, because where we are, we can also play a part. We can counsel friends, we can report strangers, we cannot

laugh at "colour" jokes. So, we all, in that sense, play a part. VWOs can play their part. Publicity can go out. Home countries must play their part. The law is not a panacea. But, here again, I think we have made a good start.

As for police, yes, the police is gearing up. She asked what we are doing about it. Police is gearing up, training is ongoing and, in particular, the reporting of crimes, either through the NPP physically; if not, they can report a crime on the SPF website, which is www.spf.gov.sg/epc. That is the ease with which if somebody who has something to report about a sex predator, they can do that. In addition, the police has got close links with regional neighbours and, when necessary, we will seek the assistance of the foreign enforcement agencies through Interpol channels.

Ms Indranee Rajah talked about the recent case of Christopher Paul Neil, and that, in a sense, gives us some hope, and a concrete example of how a predator, who had violated young boys and girls in Cambodia and Vietnam, was caught in Thailand, because everybody worked together.

Next, I want to commend Dr Faishal for his speech and also for his tough stance on terrorism. I cannot agree with him more. Security is indeed for everybody. Early in March, we had highlighted in Parliament the danger of our youths being self-radicalised. And I welcome Dr Faishal's suggestions on engaging them. So much has been done but, of course, more can be done. Agencies like Mendaki, Taman Bacaan, individuals like Ustaz Muhammad Hanif Hassan, all play their part. So, let us continue to do that. And that is the context in which the new illustrations for section 79 and section 81 have been put into the Act, because our security forces play an important role, and to give them operational confidence, these illustrations have been inserted.

Let me assure Ms Lim that it would not mean, therefore, that the security forces will be trigger happy. Because, as a former police officer herself, she would know that there are doctrines that apply in so far as use of force is concerned, in particular, lethal force. These doctrines will still apply. Indeed, we were very careful in drafting the illustrations, because Members will see that it is not to empower the security officer to shoot just on mere suspicion. If Members read the illustration very carefully - I do not have the time to do that - there are requirements to be satisfied. So, it is not just mere suspicion.

Next, I want to thank Dr Faishal, Mr Lim Biow Chuan and Mr Ong Kian Min for their support for the expansion in scope of existing section 298 to cover racially motivated words and gestures in online transmissions. Indeed, these amendments will go a long way in safeguarding racial and religious harmony in Singapore today.

Mr Ong Kian Min asked if the requirements of "deliberate intention" and "knowingly promotes" will unnecessarily constrict the operation of these two sections. Actually, as I explained in my speech, we had put in the words "knowingly promote" in section 298A as a result of feedback. And in my speech, I did mention those situations where this section will not apply. The words "deliberate intention" in section 298 had always been there. We expanded that section by adding the words "or racial" after the word "religious". Now, the two sections act in tandem. They complement one another, protecting individuals and targeting people who promote enmity, ill will, hatred between religious groups. The bar is set high. So Dr Teo Ho Pin's example of friends just bantering and joking without deliberate intention of causing insult in terms of racial or religious grounds will not be covered by this situation.

Now, let me talk about section 141. Ms Lim questions why the scope for section 141 has been expanded to include offences which do not affect the public tranquility. As I said in my Second Reading speech, we are really taking the opportunity to amend the section to bring it in line with the Court of Appeal's decision in *Tan Meng Khin v PP* decided by then Chief Justice Yong. We are therefore reflecting existing case law and taking the opportunity to clarify the scope of the section. There is no expansion of the provision in so far as this review is concerned. This makes sense, because the offence of unlawful assembly has a strong negative impact on the public's perception of safety and security. I think she should know that as a former police officer. We are talking of a gathering of people of five or more and, sometimes, it can go on to 10-20, and they are gathering with a common objective of committing an offence. The offence that they are thinking of committing or planning to commit may not be one that impacts public tranquility, but the gathering in itself with its attendant problems that are caused with its impact on public perception of people who are around the area or who see it happening. And sometimes - in fact, very often - the unlawful assembly can escalate into rioting or other violent offences. That is something that should enable the police to pre-emptively stop by making it an offence. Indeed, I am told that about 50% of these unlawful assembly cases had been reported by members of the public who felt threatened by the fact that they were gathering in such manner.

The numbers, thankfully, are not going up dramatically. We have, for the last three years, about 30-40 cases every year. But I am sure Members will agree with me, given the context of what I have explained, that every case is one too many. So, raising the maximum punishment from six months to two years is not unwarranted or unjustified. In fact, six months is probably too low for an offence like this. So, if we look at why we quadruple it, really, for an offence like this, two years as the maximum punishment, I think it is reasonable.

Once again, let me emphasise that the amendment to section 141 is not targeted at civil society groups. This is an important point. In fact, like I said in my Second Reading speech, the section would not apply to participants. It will apply to organisers, because organisers are punished six months and above. But civil society groups are worried of being unwittingly caught by this, if they are part of an assembly as a participant. I think we can draw a distinction between a participant and an organiser - somebody who organises an assembly under the Miscellaneous Offences Act, which is another Act, not this Act, who is then caught. Then this section will kick in if he is an organiser. But if he is a participant, it will not kick in. Of course, the key point also is that the prosecution must prove the common object of committing an offence.

Indeed, the punishment for rioting has also gone up, from five to seven years. Because, in a way, it is related to unlawful assembly. Like I have said, very often, one escalates to the other. Let me explain this, because this also shows the philosophy of our punishment regime, in particular, the raising of imprisonment terms. This has also been queried by Mr Chiam See Tong, Ms Sylvia Lim and Mr Siew Kum Hong. I have mentioned the factors that are taken into account when imprisonment terms are raised - the prevalence of the offence, the seriousness of the offence, the proportionality of the punishment to the offence, taking into account its seriousness and the relativity between offences which are similar and related. Then we work them in for every offence that we considered raising. It is not an exercise where we were trigger happy. That is why we did not raise the punishment for 60% of the sections. Mr Christopher de Souza catches the drift of what we have done. We have taken the pains to look at the entire punishment regime in the Act, and not just imprisonment per se. We have increased fines so that they reflect not just present-day values but also what the courts have commented, to give them greater latitude and flexibility to impose a proper fine so that the imprisonment term need not be so high, or no imprisonment term at all.

We have removed four mandatory minimum punishments. We had three before the consultation. We added one more because, from the consultation, contributors felt that more mandatory punishments should be removed. Actually, I asked my officers to look at all the rest of the punishments with mandatory minimum punishment - and there are about 25 of them in the Penal Code - to see whether we could reduce more. And we did it for one more, and removed automatic disqualification of licence for one offence. Now, we have made it optional.

Life imprisonment has been removed for 13 offences as well. That is the totality of what we have done. I think it is not fair just to focus on imprisonment and say, "Oh, about 40% of imprisonment terms have been raised." Mr Chiam says "tyrannical"; others say, "trigger happy". I think that is not the case. Indeed, there are some people, like Dr Teo Ho Pin, who said that we should have higher punishment for sexual grooming.

Let me just cite one example of why there is a need to raise the punishment for some of the offences. Take section 308, for example. I do not know whether Ms Lim still remembers her law from her police officer days on attempt to commit culpable homicide under section 308 where hurt is caused. Currently, it only attracts a maximum prison term of seven years or with fine. That is grossly inadequate. So we raised it from seven years to 15 years and, at the same time, introduced the option of caning or any combination thereof.

Likewise, the offence of disobedience of quarantine rule. Members all know how important the quarantine process is after SARS. That also has been raised. Another offence that we have raised the punishment is for fouling the water of a reservoir. That also, especially in the context of terrorism, is something very serious. So, if Members go through all the offences where we have raised the imprisonment term/fine, they will see that it is justifiable based on the factors that I have mentioned.

Having said this, let me just say that we have exercised balance, prudence and perspective in this endeavour. It is not something that we have done willy-nilly. That is the first point.

The second point is that this entire exercise of raising punishments should also be seen in the context of what we have done over the last three to five years, which is a greater emphasis on rehabilitation. I think Mdm Ho Geok Choo asked about this. When we raise punishments, let us not forget rehabilitation. That is far from our minds. We will press on with the yellow ribbon effort. SCORE will continue to rehabilitate offenders. Those of you in the House who have been with us for some time will know that we introduced home detention about 4-5 years ago. About two years ago, we enhanced the scheme so that more people can now go for home detention. So, it is not our intention to jail more people. That is not the intention. And that is why our prison population, in fact, has come down from its high.

Ms Lim asked why is there a need to provide for a combination of penalties. Let me, first, clarify that it is basically for three or four provisions. I think she mentioned those provisions in her speech where, currently, it is jail or fine or caning, or with any of two such punishments. With the amendment, it is jail or fine or caning, or with any combination of such punishments. In fact, the Law Society has commended this approach, because they can see what we are doing, which is to give the courts greater flexibility, greater discretion, where in the appropriate case - and that is an important point - they can then mete out three punishments varying the quantum, varying the severity, to fit the crime.

Of course, punishment is for the courts to decide. I am not saying this to constrain the courts' approach in any case.

But if pressed to give an example, one example could be where grievous hurt is caused in an armed robbery where the robber has taken money, stashed it away, and the money cannot be recovered. So, what do you do? You can, of course, jail and cane him because he has caused grievous hurt. Armed robbery is a serious offence. But the courts can also now consider fining him so that he also feels the financial pinch. This is just one example.

But there, again, like I have said, we must leave it to the courts to mete out punishment. I think that is the least that we can do. This is the point that I want to address when Mr Lim Biow Chuan asks whether what we have done will lead automatically to fines or punishments going up. I do not think so. He

has mentioned, for example, the benchmarks, the sentencing guidelines, that the courts have. I think the guidelines will continue. It does not mean that automatically when the maximum punishment is raised, the punishment will go up. Because every punishment must depend on the facts of the case. And I think the new Chief Justice has mentioned that the punishment should fit the crime as well as the offender. So, let us see what happens.

Mr Chiam See Tong is not here. But I think Mr Chiam does not know that it is not this review that is increasing the tenure of life imprisonment. He thinks that it is because of what we are doing, that previously it was life imprisonment, the offender got 20 years, after remission it was 13 1/2 years, now it is for life. It was the former CJ in *Abdul Nasir's case* (1997) where he said that "life means life". So that is what we are basically doing now, reflecting what the courts have already decided. Indeed, after that decision, MHA was proactive and so we have instituted a Life Imprisonment Review Board, comprising Visiting Justices, where when an offender reaches 20 years, the Board meets to consider whether or not this is a suitable case for release. Even though "life means life", it does not mean that he will be in and the key will be thrown away. There will be opportunities for him if he is on good behaviour, if he shows that he has recanted, he is genuine and remorseful, that he can still be released.

Mr Charles Chong picked up a few favourite themes of his. Archaic terms is something that he has talked about. I think he has complimented us for taking care of the archaic terms, although Mr Ong Kian Min feels that the use of the horse example is not quite appropriate. Actually, we have replaced "carriage" with "horse". I think a carriage is more remote and it is just an illustration to show what it means to apply criminal force - motion. So you whip a horse, the horse goes. I think that is all right.

But his other point is on gender neutrality. That is another favourite theme of his. I do not know how many favourite themes he has. We look at the provisions and look at whether they ought to be made gender neutral. We have stated the position in this House before that we do not take the position that all our criminal offences should be gender neutral because of the psychological and physiological differences of men and women - I think that is a point that Mr Charles Chong also alluded to. I do not know how many male Members will agree with him or me when I say that we, who are males, are less likely to feel that our modesty has been insulted compared to our wives or girlfriends. So section 509 is kept only where women are victims - insulting the modesty of a woman. And there are also other offences where it is not gender neutral.

Rape is one. Marital immunity is to protect wives, not husbands. But having said this, we have also moved. Because, as I have said, we took the consultation period very seriously. We had feedback saying that for some offences, perhaps, a female adult predator who "exploits" a male minor should be liable, like sexual assault by penetration. And we agreed. So, that is now being proposed to be the law.

Sir, I think I have covered most of the grounds. Death penalty - I think Mr Chiam and Mr Lim Biow Chuan talked about it. I think this is not the place for a big debate on the death penalty. Certain of us may hold the view that the death penalty should be abolished. But in a survey done two years ago, reported in the *Straits Times*, 95% of Singaporeans feel that the death penalty should stay. This is something which has helped us to be safe and secure all these years and it is only reserved for a very few select offences. I think we should keep it.

Sir, I have answered most of the points. But I forgot Ms Lim's point on Select Committee. I think we have had quite a run of this process. We have gone on for about almost eight or nine months. Consultation period was in December. Although we had it only for one month, I publicly said that we would consider all inputs. Indeed, inputs were still coming in, till the very last. All these inputs were considered, including inputs from the professional groups. Ms Lim says a Select Committee would be better because then there is a public record of what is said. But let me say that we considered all the feedback. I have reflected the feedback in my speech and I am not sure whether all contributors will want to have their feedback posted online. Because some of the feedback may just be for us to know. Actually, in terms of the extent of the exercise, this public consultation process has resulted in a better Penal Code because many feedback were received and those which we feel can be supported and which will improve the Bill, we have taken them on board. I want to thank the Workers' Party and Ms Lim because they also made submissions, and we also considered them.

Finally, Sir, I know that my Minister is getting impatient, he wants to take his Bill. For once, I get to take my Bill before him. He has to wait for me; I know he is getting impatient. So, I shall end. I thank all MPs who have spoken in this debate, especially those who have supported the Bill. This review exercise of the Penal Code, the Mother of all Statutes, may be over but, like I said in my Second Reading speech, the work goes on because we will continue to monitor how our amendments work in practice and finetune them, if necessary.

Mr Lim Biow Chuan: Mr Deputy Speaker, I just want to raise a point of clarification. I did not call for the abolition of the death penalty. I only ask for discretion to be made. But I take the point made by the Senior Minister of State that this can be deferred for discussion at another point of time.

Ms Sylvia Lim (Non-Constituency Member): Sir, two supplementary questions for the Senior Minister of State. First, in his speech, when he was referring to section 141 on unlawful assembly, he mentioned that actually the number of cases is not going up, and this is the case with the current existing maximum jail term of six months. If that is the case, then what is the reason for us to quadruple the maximum jail term if the problem appears to be contained?

My second question: I do not think that he has adequately explained how the 110 offences where the maximum jail term is being increased were actually chosen. From what he has said, it appears that the Ministry officials, consulting perhaps other civil servants, looked at the offences and decided some of the punishments are too low. But being criminal legislation, I think when we fix maximum jail terms, it should reflect how society views that particular crime. And, secondly, perhaps if there is a rising trend in those crimes, then there is a justification to raise those. So, how far does the Ministry actually get feedback from society that these 110 offences were taken too lightly by Parliament? And were there statistics actually to justify raising the punishments in those 110 cases? Just to give some examples. Why is it necessary to increase the punishment for obstructing arrest from two years to five years, which is two-and-a-half times the punishment? For being drunk in public, it is going up from 10 days' jail to six months' jail. These are some examples.

Assoc. Prof. Ho Peng Kee: On Ms Sylvia Lim's first point, she talked about rioting cases. Yes, indeed, they have not gone up but have ranged between 30 and 40 cases per year. But that is only one factor, which is the prevalence of

the offence. There are other factors that are involved when you decide whether a punishment is appropriate. You consider the severity of the offence. You consider the proportionality of the offence to the punishment. And you consider the relativity in punishment between offences which are related. So, on unlawful assembly - I think if she had listened to me quite carefully - she will see the context which I have explained, that it is not just an offence on its own but how it relates to rioting, how it impacts public perception. So that is the context.

The other point is why do we not explain how the process takes place. Again, like I have said, we looked at all the provisions and we see whether for each provision, the punishment should be enhanced in accordance with the factors that I have just enumerated. It is a very serious exercise. Once you do that, you have to have coherence and consistency. And to find a proper relationship between the offences, we have to match them and ensure that we are not out of line, and not just with the Penal Code but also with other statutes too, like the Women's Charter and the Children and Young Persons Act. She mentioned being drunk in public, from 10 days to six months. Will 10 days be a deterrence? That is the key point. Is 10 days a reasonable punishment? That is another key point. So, you just cannot say whether it is doubled, tripled or quadrupled in some of the sections. But the start point must be whether or not the punishment in its original form really reflects, like I have said, the severity of the offence and has a deterrent effect.

Question put, and agreed to.

Bill accordingly read a Second time.

Mr Siew Kum Hong (Nominated Member): Mr Deputy Speaker, Sir, I wish to have my dissent recorded in the Votes and Proceedings and the Official Report.

Mr Deputy Speaker: Let it be so recorded.

Bill committed to a Committee of the whole House.

The House immediately resolved itself into a Committee on the Bill.–
[Assoc. Prof. Ho Peng Kee].

Bill considered in Committee; reported without amendment; read a Third time and passed.

Mr Siew Kum Hong: On the Third Reading, Sir, I wish my dissent to be recorded in the Votes and Proceedings and the Official Report.

Mr Deputy Speaker: Let it be so recorded.