

**Ministerial Statement by the Minister for Foreign Affairs and Law,
Mr K Shanmugam**

***CHANGES TO THE APPLICATION OF THE MANDATORY DEATH PENALTY TO
HOMICIDE OFFENCES***

Mr Speaker, Sir

I. INTRODUCTORY REMARKS

1. As DPM Teo has mentioned, the Government has, over the years, periodically reviewed the way our criminal justice system operates, and the effectiveness of our laws.
2. DPM has explained some of the changes we intend to make after the latest review. He has spoken about enhancing our drug control framework. He has also informed the House of the Government's intention to make changes to the death penalty in its application to drug trafficking.
3. I will now explain the changes we propose to make, in respect of how the mandatory death penalty applies, to homicide cases amounting to murder.

II. THE CHANGES

4. Section 300 of the Penal Code provides that culpable homicide amounts to murder where:
 - (a) The act by which death is caused is done with the intention of causing death;
 - (b) The act is done with the intention of causing such bodily injury as the offender knows is likely to cause death;
 - (c) The act is done with the intention of causing bodily injury, and such bodily injury is sufficient in the ordinary course of nature to cause death; and
 - (d) The act is done with the knowledge that it is so imminently dangerous that it must in all probability cause death, and without any excuse for incurring the risk of death.
5. If any of these situations are proven beyond reasonable doubt, then section 302 provides for the mandatory imposition of the death penalty.
6. Based on the review that was undertaken, the Government intends for the mandatory death penalty to apply where there is an intention to kill within the meaning of section 300(a).

7. For cases falling within the other sub-sections of section 300, the mandatory death penalty will be removed. The courts will be given the discretion to order either life imprisonment or the death penalty. The drafting details are being worked out.

III. TRANSITIONAL PROVISIONS

8. Let me now explain how the changes will affect existing cases.
9. As DPM Teo mentioned, all executions have been suspended since July 2011, when the current review began. Executions will continue to be suspended until the proposed changes are enacted.
10. Once legislation has been put in place, all accused persons who meet the requirements can elect to be considered for resentencing under the new law. This will involve accused persons in ongoing cases, as well as convicted persons who have already exhausted their appeals and are currently awaiting execution.
11. While we have outlined the principle of the changes today, we ask that those giving legal advice to the accused persons should carefully study the legislation when it is enacted and properly understand the precise scope of the changes. In the meantime they should not make any assumptions or give misleading advice.
12. And let me reiterate, the court will have the discretion not to impose the death penalty only when an accused person satisfies the necessary criteria. For drug trafficking, the two criteria have been set out by DPM Teo. For murder, the accused must have been convicted under section 300(b), (c) or (d) of the Penal Code. In cases where the criteria are not satisfied, for example where the accused is convicted of murder under section 300(a) of the Penal Code, or where he is not just a drug courier, the death penalty will still apply and the law will take its course, and in the context of being a drug courier, the other conditions which DPM Teo has mentioned, have to be considered.

IV. WHY THESE CHANGES?

13. The changes announced today will result in the mandatory death penalty applying to a much narrower category of homicides, compared to the situation today.
14. Let me explain the considerations leading to these changes.
15. In deciding whether and how to apply the death penalty to a particular offence, several factors have to be considered. In particular I will mention, in broad terms, three interconnected factors:

- (1) The seriousness of the offence, both in terms of the harm that the commission of the offence is likely to cause to the victim and to society, and the personal culpability of the accused;
 - (2) How frequent or widespread an offence is; and
 - (3) Deterrence.
16. These three factors must be considered in their totality. For example, the fact that an offence is not widespread or that incidence is low may not, by itself, be a decisive factor. The overarching aim of the Government is to ensure the safety and security of Singapore, while maintaining a fair and just criminal justice system.
17. For murder falling within section 300 of the Penal Code, our assessment is this:
 - (1) Intentional killing within the meaning of 300(a) is one of the most serious offences in our books. Put simply, this is a case where the offender intends the death of the victim. It is right to punish such offenders with the most severe penalty. It is right to provide for the most powerful deterrent against such offences. It is right, therefore, that the mandatory death penalty should continue to apply to such intentional killing.
 - (2) In respect of the other categories of murder, under sections 300(b) to (d), there could be different degrees of intention, and these offences are committed in a variety of situations. In some cases, the culpability of the offender is serious, but additional considerations may come into play. Today, that is something considered by the Public Prosecutor when he decides the appropriate charge in each case. The factors he considers include the precise intention of the accused, the manner in which the homicide occurred and the deterrent effect a charge may have on others. We want to move towards a framework where the Court also has the discretion, to take the same factors into account during sentencing.
 - (3) This change will ensure that our sentencing framework properly balances the various objectives: justice to the victim, justice to society, justice to the accused, and mercy in appropriate cases. This is a matter of judgment and the approach being taken is not without risks. But we believe this is a step we can take. We now have a relatively low incidence of homicides – last year we had 16 recorded homicides, or about 0.3 per 100,000 population. As our society becomes safer, less violent, and more mature, we believe that today's changes are a right step to take.
18. For those who agree with the imposition of the death penalty, its application to murder will be largely uncontroversial, though some may still

question whether it should be mandatory even for cases falling within section 300(a). For those who are opposed in principle to the imposition of the death penalty for any offence, these reforms will not be fully satisfactory. We hear and take note of these views, but ultimately we have to do what we believe is right for Singapore.

19. I should also mention our assessment for firearms offences, which also carry the mandatory death penalty. Our conclusion is that such offences are a serious threat against law and order, against which we must continue to maintain a highly deterrent posture. The mandatory death penalty will therefore continue to apply to firearms offences.

V. CONCLUSION

20. Sir, to sum up, capital punishment will continue to remain an integral part of our criminal justice system. It will continue to apply to all offences to which it now applies. At the same time, the courts will be given more discretion in its application.

21. For drug couriers, the courts may decide not to impose the death penalty if two tightly defined conditions are satisfied. As DPM Teo explained, first, where the accused's only role was that of a courier; and second, if the accused has either cooperated with the Central Narcotics Bureau in a substantive way, or has a mental disability which substantially impairs his appreciation of the gravity of his acts. Where these two conditions are satisfied, the court may decide to impose life imprisonment, with caning, instead of the death penalty.

22. For murder, the mandatory death penalty will continue to apply where the killing is intentional, within the meaning of section 300(a). For murder falling within section 300(b), (c), and (d), where there is no outright intention to kill, the courts will be given the discretion to impose either the death sentence or life imprisonment.

23. In making the changes today, the Government seeks to achieve and balance two broad objectives.

24. First is to continue to take a strong stance on crime. Where many other countries have failed, we have succeeded in keeping the drug menace under control. Singapore's homicide rate is one of the lowest in the world, and we believe that the deterrent effect of the death penalty has played an important part in this. Our tough approach to crime has resulted in crime rates which are significantly lower than many other major cities. Young children can take public transport by themselves. Women can move around the city freely. We have no gun violence, no protection rackets, no drug pushers on the streets, no inner city ghettos. Citizens and visitors alike feel safe, in and out of home, at all hours of the day. This is

something enjoyed by few cities in the world, and that is something we should seek to preserve.

25. The second is the refinement of our approach towards sentencing offenders. Our cardinal objectives remain the same. Crime must be deterred. Society must be protected against criminals. But justice can be tempered with mercy and where appropriate, offenders should be given a second chance.
26. How these objectives are achieved and balanced depend on the values and expectations of society, as it evolves and matures. We believe that the proposed changes strike the right balance for Singapore today. They will ensure that our criminal justice system continues to provide the framework for a safe and secure Singapore, while meeting the need for fairness and justice in each case.
27. Draft legislation implementing the changes outlined today will be introduced later this year.
28. Sir, I seek your permission to distribute copies of my Statement to Members. DPM Teo and I will now take any clarifications which Members may seek.