



Inhuman sentencing of children in Singapore

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Introduction

Persons convicted of an offence committed under the age of 18 cannot be sentenced to capital punishment but may be sentenced to corporal punishment and life imprisonment.

The main laws governing juvenile justice are the Children and Young Persons Act 1993, the Penal Code 1872 and the Criminal Procedure Code 2010. The Penal Code sets the minimum age of criminal responsibility at 7.¹ The Children and Young Persons Act defines a child as under 14, a young person as 14-15.² The Criminal Procedure Code defines a juvenile as from 7 to 15.³ Persons aged 16-17 are tried as adults.

Legality of inhuman sentencing

Death penalty

Capital punishment is unlawful for child offenders. Article 314 of the Criminal Procedure Code states: “A sentence of death must not be passed or recorded against an accused convicted of an offence if the court has reason to believe that, at the time the offence was committed, he was below the age of 18 years, but instead the court must sentence him to life imprisonment.”

Corporal punishment

Corporal punishment is lawful as a sentence for juvenile offenders. Under the Children and Young Persons Act, children aged 7-15 are tried by the Juvenile Court, with the exception of offences triable only by the High Court, such as murder, rape, drug trafficking or armed robbery.⁴ The High Court, but not the Juvenile Court, may sentence the child to be caned.⁵ Persons aged 16-17 are tried as adults. They may be sentenced to caning: up to 12 strokes by a District Court, up to six strokes by a Magistrate’s Court, and by a High Court to any sentence prescribed in law.⁶ Many offences in the Penal Code and other laws are punishable by caning.⁷

¹Article 82 ; see also Cipriani, D. (2009), *Children’s Rights and the Minimum Age of Criminal Responsibility : A Global Perspective*, Farnham : Ashgate Publishing Limited

²Article 2

³Article 2

⁴Article 33; see also Singapore’s second/third periodic report to the Committee on the Rights of the Child (2009), para. 9.3

⁵Article 37

⁶Criminal Procedure Code, article 303

⁷Other laws providing for the punishment of corporal punishment include the Misuse of Drugs Act 1973, the Armed Offences Act 1973, the Corrosive and Explosive Substances and Offensive Weapons Act 1973, the Vandalism Act 1966, the Immigration Act 1989, the Dangerous Fireworks Act 1988, the Kidnapping Act 1961, the Women’s Charter 1871, the Arms Offences Act 1952, the Explosive Substances Act 1970, the Public Order (Preservation) Act 1958, the Railways Act 1905 and the Road Traffic Act 1993 (<http://www.corpun.com/sjjur2.htm>, accessed 21 May 2010)

The Criminal Procedure Code specifies how and when the punishment should be carried out.⁸ Children aged 7-15 should be caned up to 10 strokes with a light rattan, older young people up to 24 strokes with a rattan up to 1.27cm in diameter.⁹ A medical officer must be present and must certify that the offender is fit to receive the caning.¹⁰ Females may not be caned.¹¹

Life imprisonment

Persons convicted of crimes committed under the age of 18 may be sentenced to life imprisonment.

Article 314 of the Criminal Procedure Code states: “A sentence of death must not be passed or recorded against an accused convicted of an offence if the court has reason to believe that, at the time the offence was committed, he was below the age of 18 years, but instead the court must sentence him to life imprisonment.”

In relation to children aged 7-15, the Children and Young Persons Act states that for certain grave crimes, including culpable homicide not amounting to murder, attempted murder, and voluntarily causing grievous hurt, the court may sentence the offender to be detained for the duration specified in the sentence.¹² The Penal Code punishes culpable homicide and attempted murder with life imprisonment.¹³ Persons aged 16-17 are tried as adults, for which a wider range of crimes are punishable by life imprisonment under the Penal Code.

Inhuman sentencing in practice

The Government reported in 2009 that 76 juvenile offenders (i.e. aged under 16) were sentenced to judicial caning with a light cane between 2003 and June 2007; no figures were given for 16-17 year olds.¹⁴ According to the U.S. Bureau of Democracy, Human Rights and Labor, from January to November 2009, 4,228 convicted persons were sentenced to caning, with 99.8% carried out; from January to September 2008, 4,078 were sentenced to caning, with 98.7% carried out; in 2007, 6,404 were sentenced to caning, with 95% carried out; in 2006, 5,984 persons were sentenced to caning, with 95% carried out.¹⁵

We have been unable to obtain statistical information relating to sentencing to life imprisonment and detention “during the President’s pleasure”. The written replies to the Committee on the Rights of the Child in 2003 give figures for sentencing but do not include corporal punishment or life imprisonment.¹⁶

Progress towards prohibition and elimination

Law reform needed

⁸ Criminal Procedure Code, Division 2

⁹ Articles 328 and 329

¹⁰ Article 331

¹¹ Article 325

¹² Article 38

¹³ Articles 304 and 307

¹⁴ Singapore’s second/third periodic report to the Committee on the Rights of the Child (2009), para. 9.3

¹⁵ <http://www.state.gov/g/drl/rls/hrrpt/>, accessed 21 May 2010. The annual reports mistakenly state that under 16s are exempt from judicial caning.

¹⁶ 8 September 2003, CRC/C/RESP/43, Written replies by the Government of Singapore concerning the list of issues (CRC/C/Q/SGP/1) received by the Committee on the Rights of the Child relating to the consideration of the initial report of Singapore (CRC/C/51/Add.8)

All legal provisions specifically authorising judicial corporal punishment (caning) and life imprisonment for persons under the age of 18 at the time of the offence should be repealed, and these forms of punishment should be explicitly prohibited for children.

Law reform under way

A review of the Children and Young Persons Act was due to be completed in 2009.¹⁷ To our knowledge it did not address the issue of sentencing. The Government has stated that it has reconsidered its declarations and reservations to the Convention on the Rights of the Child (see below) and concludes they are still necessary; it does not consider corporal punishment as constituting violence against children.¹⁸

National and international law conflicting with inhuman sentencing

The Constitution

There is no prohibition in the Constitution (1965) of cruel, inhuman or degrading treatment or punishment.

International human rights treaties

Singapore has ratified or acceded to the following international treaties:

- Convention on the Elimination of All Forms of Discrimination Against Women (in 1995)
- Convention on the Rights of the Child (in 1995)
Declarations and Reservations: "... [Declaration] (2) The Republic of Singapore considers that articles 19 and 37 of the Convention do not prohibit – (a) the application of any prevailing measures prescribed by law for maintaining law and order in the Republic of Singapore; (b) measures and restrictions which are prescribed by law and which are necessary in the interests of national security, public safety, public order, the protection of public health or the protection of the rights and freedoms of others; or (c) the judicious application of corporal punishment in the best interest of the child. [Reservation] (3) The Constitution and the laws of the Republic of Singapore provide adequate protection and fundamental rights and liberties in the best interests of the child. The accession to the Convention by the Republic of Singapore does not imply the acceptance of obligations going beyond the limits prescribed by the Constitution of the Republic of Singapore nor the acceptance of any obligation to introduce any right beyond those prescribed under the Constitution...."

Singapore has not ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, the Second Optional Protocol on the ICCPR aiming at the abolition of the death penalty, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, or the Convention on the Rights of Persons with Disabilities.

Singapore has not ratified or acceded to any complaints/communications mechanisms.

Status of treaties

¹⁷ Singapore's second/third periodic report to the Committee on the Rights of the Child (2009), paras. 2.9 and 2.19

¹⁸ *ibid.*, paras. 2.27 and 9.6

The legal system in Singapore is based on English common law. Treaties become part of domestic law only when they have been expressly incorporated by legislation.¹⁹ The Government has stated that the Convention on the Rights of the Child is implemented in various statutes and subsidiary legislation.²⁰

Recommendations from human rights treaty monitoring bodies

Committee on the Rights of the Child

(27 October 2003, CRC/C/15/Add.220, Concluding observations on initial report, paras. 6, 7, 32, 33, 44 and 45)

“The Committee is concerned about the declarations on articles 12-17, 19 and 39 and reservations to articles 7, 9, 10, 22, 28 and 32 entered by the State party on its accession to the Convention.

“In light of the Vienna Declaration and Programme of Action of the 1993 World Conference on Human Rights, the Committee recommends that the State party withdraw its declarations on and reservations to the Convention.

“The Committee notes with concern that corporal punishment is permitted by law in the home, schools and institutions and as a form of punishment for male juvenile offenders.

“The Committee recommends that the State party amend its legislation to prohibit corporal punishment in the home, schools, institutions and the juvenile justice system. Furthermore, the Committee recommends that the State party conduct well-targeted public awareness campaigns on the negative impact corporal punishment has on children, and provide training for teachers and personnel working in institutions and youth detention centres on non-violent forms of discipline as an alternative to corporal punishment.

“The Committee is concerned that the minimum age of criminal responsibility is too low, that all persons in conflict with the law under 18 are not afforded special protection, and that corporal punishment and solitary confinement are used to discipline juvenile offenders.

“The Committee recommends that the State party:

- a) ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee’s day of general discussion on the administration of juvenile justice, held in 1995;
- b) raise the minimum age of criminal responsibility to an internationally acceptable level;
- c) amend the Children and Young Persons Act to ensure special protection for all offenders up to the age of 18;
- d) prohibit the use of corporal punishment, including whipping and caning, and solitary confinement in all detention institutions for juvenile offenders, including police stations;
- e) seek technical assistance from, among others, the Office of the United Nations High Commissioner for Human Rights in reforming the juvenile justice system, in particular with regard to juvenile detention and rehabilitation services.”

Universal Periodic Review

¹⁹ UNICEF (2007), *Law Reform and Implementation of the Convention on the Rights of the Child*, Florence: UNICEF Innocenti Research Centre

²⁰ CRC/C/51/Add.8, 17 March 2003, Initial state party report to the Committee on the Rights of the Child, para. 50

Singapore is due to be examined under the Universal Periodic Review process in 2011.