

JUVENILE OFFENDERS IN SINGAPORE

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Abstract

This article will examine the prevalence of crimes committed by juvenile offenders in Singapore, trace the measures taken to address such offenders (such as probation, community service, institutionalisation and so on), look at the success of such measures and, finally, comment on the recent spate of gang activities leading to severe injuries and the measures currently being considered.

Introduction

Singapore is no different from most, if not all, countries in the world which recognise that young persons are different from adults and that young offenders should be dealt with through special measures*. Singapore's former Chief Justice, Yong Pung How, in *Public Prosecutor v Mok Ping Wuen Maurice*, said:

Rehabilitation is the dominant consideration where the offender is 21 years and below. Young offenders are in their formative years and chances of reforming them into law-abiding adults are better. The corrupt influence of a prison environment and the bad effects of labelling and stigmatisation may not be desirable for young offenders. Compassion is often shown to young offenders on the assumption that the young 'don't know any better' and they may not have had enough experience to realise the full consequences of their actions on themselves and on others. Teens may also be slightly less responsible than older offenders, being more impressionable, more easily led and less controlled in their behaviour. (1998: paragraph 21)

A 'juvenile' in Singapore is defined in legislation as 'a male or female person who is 7 years of age or above and below the age of 16 years' (Children and Young Persons Act: section 2). Hence, only those who are between 7 and 16 years old may be brought before the Juvenile Court. Those who are between 16 and 21 years old, however, are considered as young adults and suitable consideration may be given to their youth in terms of sentencing by the adult criminal courts**.

* This is in fact required under the UN Convention on the Rights of the Child (1989), Article 40. Singapore and most countries in the world are parties to this Convention.

** A new Community Court was established within the adult court structure in 2006 to cater to those between 16 and 18 years old (as well as other categories of cases) in recognition that this group also requires a less punitive approach. It would appear that the Community Court adopts the same approach as the Juvenile Court towards these 'youthful offenders' but unfortunately the Community Court was not created by statute and therefore it can be easily terminated or its objectives changed.

In this article, only those juveniles who have committed a criminal offence and are admitted into the juvenile justice system or, exceptionally, have been diverted from it, are considered. It is beyond the scope of this article to consider the prevalence and issues of juvenile 'delinquency' which involve those who may exhibit behaviour which indicates criminality, such as persistent disregard for authority, dishonest behaviour (for example lying and cheating), predisposition to use of force (for example bullying) and undesirable social habits***.

A point to note is that those who are under 7 years old are immune from criminal liability in Singapore (Penal Code: section 82), while those between the ages of 7 and 12 years old have a defence of *doli incapax* or of 'not having attained sufficient maturity of understanding to judge the nature and consequence of his conduct on that occasion' (Penal Code: section 83). Unfortunately, the juvenile's age is calculated on the date when the Juvenile Court commences the hearing of the charge against him or her, not on the date when the offence is committed. Hence, it is possible for a juvenile who was 15 years old when he or she committed the offence to be charged in the adult court if the case is not heard until he or she has reached 16 years of age (Chan, 1994). This is so even if the delay may not be caused by the juvenile, such as by hiding from the authorities to evade arrest, or was justifiably caused, such as by seeking to hire a defence counsel. Academic and parliamentary criticism of this approach has not swayed the government to change the law (Chan, 1994; Chiang, 2001).

A brief demographic profile

Singapore was first founded as a trading outpost by the British in 1819. It became fully independent in 1965 after a short merger with Malaysia between 1963 and 1965. Singapore is a tiny island state lying at the tip of the Malaysian peninsula in South East Asia with a total land mass of approximately 700 square kilometres. It is one of the world's most prosperous countries today with a per capita gross domestic product (GDP) of S\$51,656 in 2009 (Ministry of Community Development, Youth and Sports, 2010).

Singapore's total population in 2010 was just over 5 million, with 17.4 per cent aged between 0 and 14 years old, and 13.5 per cent aged between 15 and 24 years old (Singapore Department of Statistics, 2010). The Chinese form a majority of the population at 74.1 per cent. Malays comprise 13.4 per cent, Indians 9.2 per cent and other ethnic groups 3.3 per cent (Singapore Department of Statistics, 2010). Population density was just over 7,000 per square kilometre.

Owing to delayed family formation and declining birth rates, the proportion of young people in Singapore has declined over the years. The proportion of children under 15 years old, for example, formed only 17.4 per cent of the resident population in 2010, as compared to 39.1 per cent in 1970 (Singapore Department of Statistics, 2010). The median age in 2010 was 37.4 years

***Some undesirable behaviour may of course be criminalised, such as underage smoking and drinking, in which case the juvenile will be brought within the juvenile justice system. An early attempt to identify the prevalence of juvenile offenders and juvenile delinquents in Singapore can be found in the Report of the Committee on Crime and Delinquency (Committee on Crime and Delinquency, 1974) although the use of terminology there was not precise.

as compared to 19.5 years in 1970 (Singapore Department of Statistics, 2010). Total fertility rate per woman in 2010 was provisionally estimated at 1.16,^{***} an all time low (Li, 2011).

Concerns have also been raised about the rise in divorce rates (see for example, Balakrishnan, 2011). In 2009, 7,386 divorces and annulments were recorded as compared to 1,721 in 1970 (Singapore Department of Statistics, 2010). The current level works out to a divorce rate of 7.7 per thousand married men and 7.3 per thousand married women, as compared to the divorce rate of 3.7 and 3.8 respectively in 1970 (Singapore Department of Statistics, 2010). Nearly all eligible students attend primary school, this was the case even before the law was enacted making it mandatory to do so (Compulsory Education Act). The literacy rate for residents aged 15 years and over was 96.3 per cent in 2010. Mean years of schooling was 9.7 years, and over 63 per cent had secondary or higher educational qualifications among resident non-students aged 25 years and over (Ministry of Community Development, Youth and Sports, 2010).^{****}

Statistical data on juvenile offenders

Statistical information on crime and criminal offenders is hard to come by in Singapore. The information presented in this section has been culled from the Annual Reports of the Singapore Police Force as well as Singapore's report to the UN Committee on the Rights of the Child. Unfortunately, more recent police data cannot be used, since the category of juveniles arrested by the police was changed to youths arrested by the police.^{*****} Different data sources being used also means that the data is incomplete, in such that no data for 2003 is available on juvenile arrests. A final word of caution is that the figures released each year may be revised in subsequent years. Care was taken to incorporate updated figures where possible.

The total number of seizable offences^{*****} in Singapore fell steadily over the years, as can be seen from the trendline (table 1). It should be noted that the total population in Singapore increased over the same period, such that the crime rate actually fell faster: the crime rate was 1,549 per 100,000 resident population in 1996 (Singapore Police Force, 1997/1998) as compared to 843 in 2005 (Singapore Police Force, 2006). At its lowest point, it was 693 per 100,000 resident population in 2001 (Singapore Police Force, 2001/2002).

^{***} The total fertility rate refers to the number of live births each woman would have during her reproductive years.

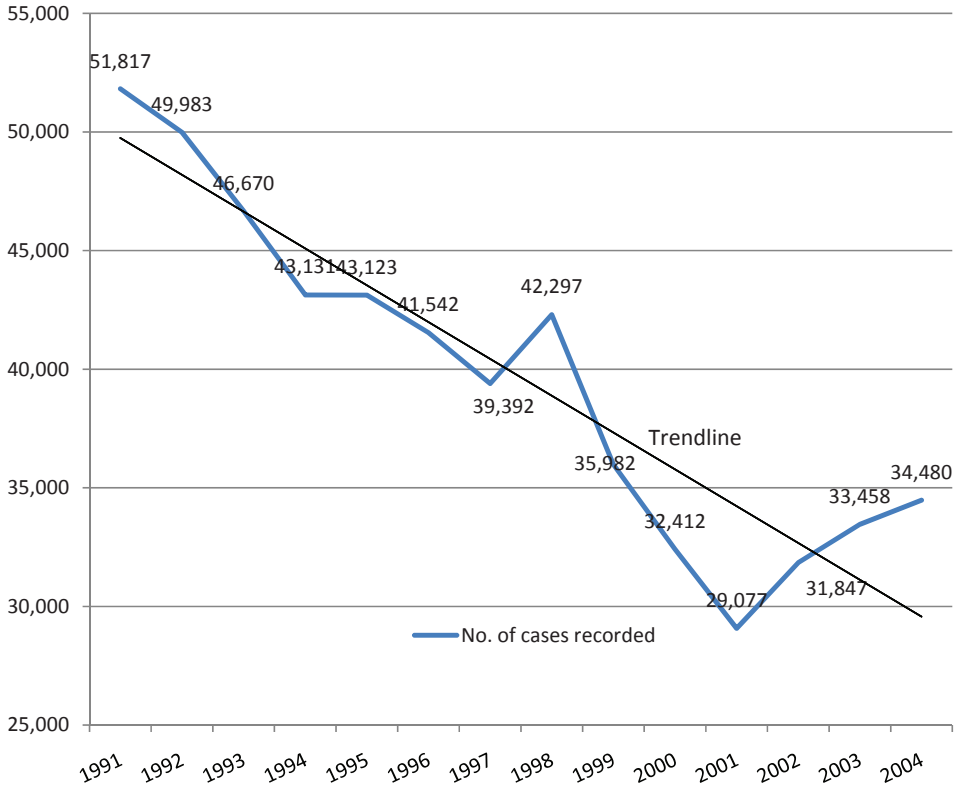
^{****} The general divorce rate is calculated based on the number of divorces and annulments granted to the married population aged 20 years and above during the year out of every thousand unmarried population in the same age group. Annulments form a very small number of the total marriages dissolved each year.

^{*****} The publicly available crime statistics for 2003 onwards from the police was changed from 'juveniles' to 'youths' arrested such that it was no longer possible to examine historical trends. Youths are defined as persons aged between 7 and 19 years old, and those in the 16 to 19 year old age group inflate the numbers. For example, in 2002, the number of youths arrested was 4,441 as compared with the number of juveniles arrested which was 2,203 (Singapore Police Force, 2003, 2004).

^{*****} A seizable offence under Singapore law is one where the police may make an arrest without a warrant of arrest being issued. Such offences are the more serious offences and may be called 'arrestable offences' in other jurisdictions.

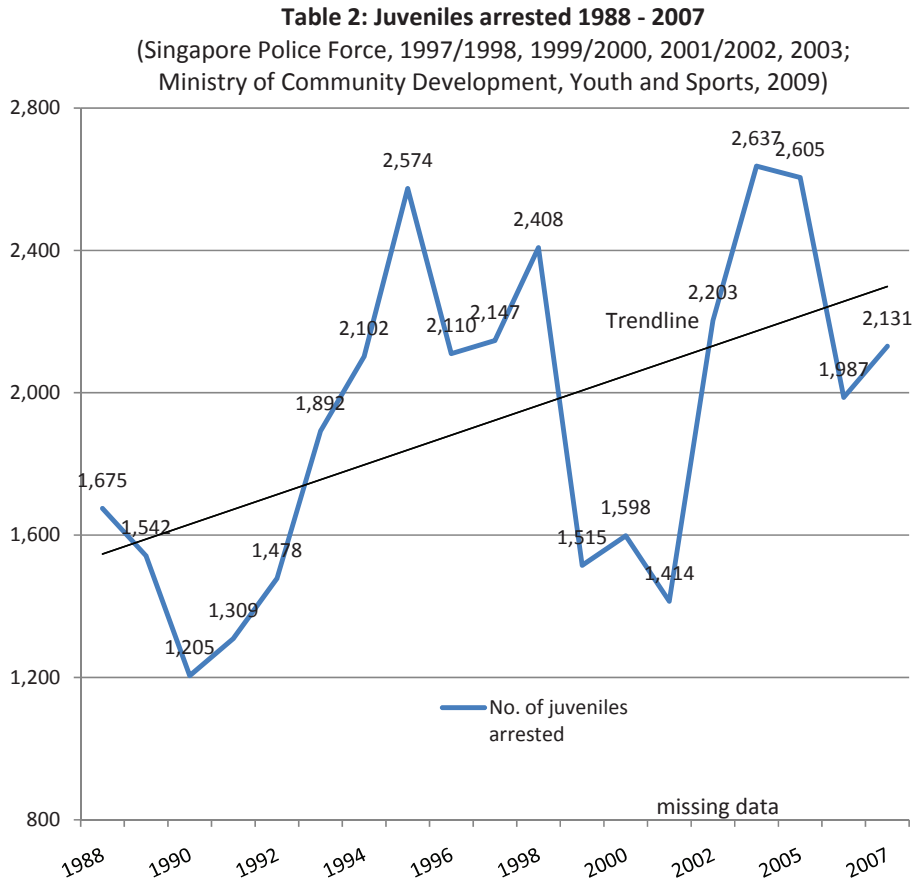
Table 1: Total seizable offences 1991 - 2004

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(Singapore Police Force, 2000/2001, 2005)



On the other hand, the number of juvenile arrests made by the police showed a gradual upward trend, reaching a peak in 1995, 1998, 2004 and 2005 (table 2). The last trough in the number of juvenile arrests was in 2001, which was at a level last seen a decade earlier.

Table 2: Juveniles arrested 1988 - 2007



Juveniles accounted for about 8 per cent of the total offenders arrested in 1997 (Singapore Police Force, 1997/1998) and 10 per cent of the total offenders arrested in 2002 (Singapore Police Force, 2003). This is just slightly less than their proportion in the resident population of Singapore at 13 per cent (Leow, 2001).*

Among juveniles arrested in 1997, those aged between 14 and 15 years of age accounted for 69 per cent; and the most common offences committed by them were shoplifting (41 per cent) and simple theft (16 per cent) (Singapore Police Force, 1997/1998). The incidence of these two types of crimes increased in prevalence among the juveniles to range between slightly more than 60 per cent and slightly more than three-quarters of juveniles arrested (Ministry of Community Development, Youth and Sports, 2009; Singapore Police Force, 2000/2001, 2003; see also Choi and Lo, 2004).

* However, this is not true of youths arrested by the police which accounted for 23 per cent of the total number of persons arrested. This exceeded the proportion of youths in Singapore (16 per cent) (Singapore Police Force, 2005).

In terms of gender, juvenile criminal activity is predominantly a male activity. Female juveniles constituted 29 per cent of juveniles arrested in 1999, which was mainly for shoplifting (77 per cent) (Singapore Police Force, 1999/2000). In 2000, females increased to 35 per cent of juveniles arrested (Singapore Police Force, 2000/2001). The rise in proportion of female juvenile offenders during this period of falling numbers of juvenile arrests is a matter of concern.*

Increase in gang activity, particularly fighting in public by secret society members, emerged as a concern in the 1990s (Singapore Police Force, 1997/1998) and has continued in the 2000s (Tan, 2004; Ng, 2005). They are commonly charged with offences such as extortion, affray, criminal intimidation, unlawful assembly, robbery, voluntarily causing grievous hurt, murder, rioting, possession of offensive weapons and mischief (Choi and Lo, 2004). However, it should be noted that many of these juveniles may not actually be secret society members; some may claim to have secret society connections 'just to scare off their rivals' (Tan, 2004), or are merely members of 'street corner gangs' (Ng, 2005). Fights frequently start by one member of a gang accusing another of staring at him or knocking into him.

During the periods when the number of juvenile arrests increased sharply, questions have been raised about what led to the increases and what can be done about it (Inter-Ministry Committee on Dysfunctional Families, Juvenile Delinquency and Drug Abuse, 1995; Quek, 2004; Ng, 2005). In order to monitor and steer the implementation of new measures to tackle juvenile delinquency, an Inter-Ministry committee was set up in 1995, involving various government Ministries and departments, as well as the police, prisons department and the courts. In 2007, this committee was renamed the National Committee on Youth Guidance and Rehabilitation to better reflect its broader scope in devising upstream measures, positive youth development and prevention strategies (Ministry of Community Development, Youth and Sports, 2009).

Diversionsary measures

A juvenile offender who is not charged in court for having committed an offence may be let off by the police after being given a warning. This may be seen as an inadequate approach as there is little follow-up and underlying issues are not resolved (Inter-Ministry Committee on Dysfunctional Families, Juvenile Delinquency and Drug Abuse, 1995). To this end, two programmes have been devised: the Guidance Programme and the StreetWise programme.**

* *The rise in the proportion of female juvenile offenders was also noted in earlier periods where there was a rise in the number of juvenile arrests between 1990 and 1999 (Choi and Lo, 2004). The rise in female juvenile offenders can also be seen in other jurisdictions such as the USA, see for example Hoyt and Scherer (1998); Jenson, Potter and Howard (2001).*

** *Although a system of family conferencing exists, this is not used as a diversionsary measure like in New Zealand. Family conferences are only convened in Singapore after the juvenile has been charged in the Juvenile Court and has either admitted or is found to have committed the offence (Chan, 2003). It is perhaps to underline the different way in which family conferences are used in Singapore that they are now renamed 'juvenile case conferences' (Children and Young Persons (Amendment) Act 2011).*

The Guidance Programme is a 6-month diversionary programme for first-time juvenile offenders who have committed minor offences. The programme aims to help the juvenile to develop better self-control, take responsibility for his or her actions and acquire life skills, with the active involvement of his or her parents. Upon successful completion of the programme, the juvenile is not charged for the offence(s) committed, but let off with a police warning. The programme involves counselling and group work, community service, outdoor activities and educational trips to the prisons and drug rehabilitation centres. Parents are involved in the activities through family counselling, parenting talks and parents' support groups.

Statistics show that that between 95 and 97 per cent of juveniles successfully complete this programme and the recidivism rate (calculated on a 3-year time frame) ranged between 13.0 and 17.6 per cent (Ministry of Community Development, Youth and Sports, n.d. (a)). Before the programme was introduced in 1997, about 30 per cent of young offenders who got off with a stern police warning returned to crime within 2 years (Tan, 2005).*** With the success of the Guidance Programme (GP) for juveniles, GP Plus was introduced in 2003 to extend the programme to young offenders in the 16 to 19 year old age group (Ministry of Community Development, Youth and Sports, 2009).

The StreetWise Programme is aimed at changing the behaviour of young people who have unwittingly drifted into gangs. It is a 6-month programme involving counselling, family conferencing, peer support, recreation and academic activities. Referrals to the programme may come from the police for non-offenders, the Juvenile Court for those placed on probation for committing gang-related offences, or from the juveniles themselves. It aims to help the young disassociate themselves from gangs.

Court intervention

The Juvenile Court structure and the special disposal methods for juvenile offenders in Singapore was created by legislation in 1949 (Children and Young Persons Ordinance), closely following the 1933 UK model (Children and Young Persons Act (UK)). The juvenile justice system in Singapore has remained structurally the same over the years, despite the legislation having been amended periodically over time.****

If the decision is taken to bring a juvenile offender to court, the case will be heard by the Juvenile Court (Children and Young Persons Act: sections 33 (1)).***** The only exceptions are where:

*** *Too much weight should not be given to the exact percentages as they are calculated on different time frames and possibly different definitions of what amounts to recidivism.*

**** *The Children and Young Persons Act was in fact repealed and replaced by an Act of the same name in 1993. For comment, see Chan (1994). The most recent revision was in 2011 by the Children and Young Persons (Amendment) Act 2011.*

***** *The Juvenile Court also deals with juveniles who are in need of 'care or protection' and those who are 'beyond parental control' (Children and Young Persons Act: sections 49 and 50)*

- i. the juvenile is charged with an offence triable only by the High Court, such as one which carries a death penalty; and
- ii. the juvenile is jointly charged with another person aged 16 years or above.

In relation to the first exception, it should be noted that a person who is below 18 years old at the time when the capital offence was committed will not be sentenced to death even if convicted but sentenced to life imprisonment instead (Criminal Procedure Code, section 314). Furthermore, the juvenile may nevertheless be tried in the Juvenile Court if the Public Prosecutor applies to the Juvenile Court to do so and the legal representative of the juvenile consents to the offence being tried in the Juvenile Court. The main advantages of the case being tried in the Juvenile Court are panel advisers giving input on the appropriate sanction; restrictions on those who may be present in court; and, the special procedure available to make sure that the juvenile understands the substance of the allegations made against him or her and help in putting forward his or her defence (Children and Young Persons Act: sections 32, 34, 42). In deciding the appropriate orders to be made, the Juvenile Court usually calls for a pre-sentence report to be made.

If the case is tried by a court other than the Juvenile Court, the court may either remit the case to the Juvenile Court to be dealt with or it may exercise those powers available to the Juvenile Court only (Children and Young Persons Act: sections 40 and 85).

The Juvenile Court in Singapore adopts the 'restorative' model in seeking to restore or re-integrate the juvenile offender back into society. It seeks to do this by (Mesenas and Lim, 2003):

- i. holding the offender accountable for his or her behaviour and having him or her take responsibility for the consequences of the act;
- ii. allowing the victim, where appropriate, to confront the offender to make him or her aware of the harm caused by the act; and
- iii. requiring the parents to take responsibility for their child's behaviour and empowering them to play a greater role in the rehabilitation of the offender.

However, the legislative instruction to the courts in dealing with juveniles in conflict with the law remains as it was when it was first enacted in 1949, which is to 'have regard to the welfare of the [juvenile]' (Children and Young Persons Act: section 28 (1)). This approach is further emphasised by a new provision added in 2011 (Children and Young Persons Act: section 3A) that:

...in all matters relating to the administration or application of [the Children and Young Persons Act], the welfare and best interests of the [juvenile] shall be the first and paramount consideration.

This new provision arguably promotes the welfare approach in its importance since it is no longer one which the Juvenile Court has 'regard' for but must be the 'first and paramount consideration'.*

The welfare approach means that the focus of intervention is on the juveniles' needs rather than punishment for the offence. How offender accountability and victims' concerns can be accommodated within the welfare model has not been adequately explained. Perhaps the time has come to formally acknowledge that a pure welfare approach is insufficient to deal with the many other demands placed on the juvenile justice system, such as proportionate punishment for the offence committed and protection of the public from recalcitrant offenders. As can be seen above, the move from a purely welfare orientation has already been made by the Juvenile Court in Singapore in its aims.

The Juvenile Court is given a wide range of options to choose from in dealing with a juvenile offender under the Children and Young Persons Act (2001) and the Probation of Offenders Act (1985). It may order (arranged in increasing severity):

11. Absolute or conditional discharge:

This is used where the circumstances of the offence and the character of the offender are such that it is inexpedient to inflict punishment, such as it being highly unlikely that the offender will commit the offence again.

12. Community service:

A community service order may be imposed on its own or as a condition of a probation order for up to 240 hours. The order is meant to give the offender an opportunity to make amends for his or her offending behaviour through performing services to the community, in addition to depriving him or her of leisure time.

13. Probation (with or without conditions attached):

Probation may be ordered for between 6 months and 3 years. During this time, the offender must report regularly to a probation officer and take part in rehabilitation programmes. Some programmes may target specific behaviour, such as theft or violence. The offender's family, school or employer will be roped in to ensure a supportive network for the probationer. Conditions may also be imposed on the probation order. In some cases, probation may be ordered with residence in an approved institution of up to 12 months. For those who are not in school and are unemployed, a Periodic Training Order may be imposed as a condition of probation. Under this order, a probationer is required to report to a social service agency for a fixed number of hours to receive training in social skills and work preparation.

* *The language of the new provision may be contrasted with the somewhat weaker formulation in the UN Convention on the Rights of the Child (1989), Article 3, where 'the best interests of the child shall be a primary consideration'. In the case of Singapore, 'the welfare and best interests of the child or young person shall be the first and paramount consideration'.*

14. Weekend detention order / detention order:

A detention order may be imposed for up to 6 months on its own, or up to 3 months if used with a probation order. The latter is meant as a 'short, sharp shock' treatment to help juvenile offenders with conduct problems adjust to the requirements of rehabilitation so that they can successfully complete the term of probation.

A weekend detention order may be imposed on its own or in conjunction with a probation order or community service. A weekend detention order may be for up to 26 weekends.** During this time, the juvenile will go through exercise drills, supervised study and group work. The objective of the order is to instil in juveniles self-discipline and life skills through a structured programme.

15. Juvenile Rehabilitation Centre order:

An order may be imposed to send the juvenile to a Juvenile Rehabilitation Centre for up to 3 years.*** This is used where the background of the offender is such that a stay in a residential home would be conducive to his rehabilitation, such as the offender's home environment lacking a sufficiently supportive structure.

16. Reformatory training:

The Juvenile Court may order that the offender be brought before a District Court for an order of reformatory training to be made. The Juvenile Court judge must be satisfied that the time spent in a reformatory training centre**** will aid his reformation. Offenders are typically aged between 16 and 21 years old; but for those who are between 14 and 16 years old, they may also be sent for reformatory training if they have committed a previous offence for which they were sent to a Juvenile Rehabilitation Centre before.

In practice, about 7 in 10 juvenile offenders are placed on probation by the Juvenile Court. Probation orders may be reinforced by concurrent orders, such as detention orders, weekend detention orders and community service orders. Probation orders may also be strengthened by imposing conditions, such as time curfews and restricted access to areas where gang activities are prevalent. The juvenile's parents may also be bonded for a sum of money to exercise proper care and guardianship.

Furthermore, in order to fulfil the aim of reintegrating the juvenile offender to his or her family, the Juvenile Court is empowered to order the juvenile's parents to undergo counselling, psychotherapy or other programmes to assist in the rehabilitation of the juveniles. This is particularly important in cases where there are relationship problems between the juvenile and the parent or if the parent requires help in managing the juvenile.

Recent data on recidivism rates for juveniles given each type of order is not publicly available. The Government Ministry which is in charge of juvenile welfare in Singapore gave the recidivism rate as between 18.3 and 23.9 per cent of cases, calculated on a 3-year time frame. However, this figure included cases which were on the Guidance Programme, probation or sent to one of the Ministry-run juvenile homes (Ministry for Community Development, Youth and Sports, n.d. (b)).

In a study of those who completed their probation in 1995, it was found that 15.2 per cent had their probation terminated for breaking the conditions of probation or getting into further trouble with the law. Those who re-offended within 3 years of completing probation successfully amounted to 17.6 per cent (Rehabilitation and Protection Division, 1999).

Difficult cases

The ability to give adequate weight to the welfare of the juvenile offender is severely tested when dealing with juveniles who have committed serious offences. In such cases, deterrence is often emphasised and rehabilitation given a back seat. In one Singapore case, it has been said that (Public Prosecutor v Mohammad Al-Ansari bin Basri, 2008: paragraphs 77 and 101):

If the offence is particularly heinous...then reform and rehabilitation may not even be possible or relevant, notwithstanding the youth of the offender.

...

[R]ehabilitative aims does not and cannot mean that young offenders who commit serious offences are left largely untouched by the customary penal consequences. While I acknowledged the relevance and applicability of rehabilitative efforts to the respondent...I came to the view that the realisation of such aims cannot preclude the general necessity of deterrence as serious offences had been committed.

Similarly, in a Malaysian case,^{****} it was said that (Public Prosecutor v Mohd Turmizy bin Mahdzir, 2007: paragraph 28):

It is important to stress that [claiming that one is a] child or youth cannot be used as a 'cloak of convenience' in order to shelter from accepting proper responsibility for criminal behaviour... It is important to stress that where young offenders conduct themselves like adults and commit serious or grave crimes; they may attract less leniency in sentencing than their age might otherwise demand...

In another Malaysian case, it was further emphasised that (Tan Bok Yeng v Public Prosecutor, 1972: 215):

There has...emerged in recent years in our society certain species of crimes which the alacrity of mind and body, the dare, dash and defiance of youth alone is capable of performing and producing...The social needs of the times have to be met and effectively met. It is not merely the correction of the offender which is the prime object of the punishment. The considerations of public interest have also to be borne in mind. In certain types of offences a sentence has got to be deterrent so that others who are like-minded may be restrained from becoming a menace to society.

^{**} The limit used to be up to 52 weekends. It was amended by the Children and Young Persons (Amendment) Act 2011.

^{***} The Juvenile Rehabilitation Centre used to be called an Approved School. This was renamed by the Children and Young Persons (Amendment) Act 2011. The period of stay also no longer has a minimum term of 2 years.

^{****} The reformatory training centre is a different institution from the Juvenile Rehabilitation Centre. The former is based on the Borstal system practised in the UK in the past.

^{*****} Malaysian cases are often cited in the Singapore courts and vice versa considering the very similar legal systems in the two countries particularly in the area of criminal law and procedure.

Even where an order such as probation is given to young offenders who have committed serious offences like gang robbery, which would ordinarily receive harsh punishments for adult offenders, it has been emphasised that the case 'cannot by any means be regarded as a precedent' (Teo Siew Peng v Public Prosecutor, 1985: 130).

On the other hand, there are examples where the individual circumstances of the offender, his or her character, antecedents and prospects are given due weight. For example, in the Malaysian case of Public Prosecutor v Low Hai Voon (2010), the offender was aged 14 years and 9 months at the time of the commission of the offence. He was originally charged with murder but the charge was later reduced to one of culpable homicide not amounting to murder, which does not carry the death penalty. He pleaded guilty to the reduced charge.

In mitigation, it was submitted by the defence counsel that he was a first offender, a non-smoker who was not involved in drug abuse and a school prefect. He had no disciplinary problems at home and in school. The probation officer also recommended that a lenient sentence be imposed since he was a 'responsible child'. Furthermore, he had rendered assistance to the deceased when the latter became unconscious by taking him to hospital and co-operated with the police on his arrest. On the other hand, the prosecution submitted that he had committed a serious offence and the public interest demanded that a deterrent sentence be imposed. In committing the crime, helmets were used as weapons to inflict injuries on the deceased.

In the end, the judge agreed with a remark made by another judge 55 years ago that young offenders should be kept out of prison (Tukiran bin Taib v Public Prosecutor, 1955). An order that the child be sent to an 'approved school' was made instead.

What should be the court's stance where Parliament has clearly enunciated a desire to be more punitive towards certain types of offences, which have become more rampant, in order to deter such offenders? In Nur Azilah Bte Ithnin v Public Prosecutor (2010), the offender was aged 16 years of age. She came from a family of five and was the youngest. She was physically abused by her father when she was young and her family's financial position was a constant struggle. She had to take on various jobs during the school holidays to support her family and herself. She got involved with unlicensed moneylenders in 2009 after she was forced to leave home when her parents discovered that she was suspended from school for poor performance. She continued to work for the unlicensed moneylenders even after she was allowed to return home. Her task was to harass debtors by splashing paint on the debtor's main door, defacing common property by writing statements that the debtor owed money and even setting fire to the debtor's main door, clothes and shoe rack.

The offender pleaded guilty to the charges against her. The District Judge sentenced her to imprisonment for 48 months in total, holding the view that deterrence must be the dominant consideration for moneylenders who use harassment techniques, notwithstanding

the relatively young age of the offender, since Parliament had enhanced the sentences for such behaviour. However, a different view was taken by the appeal judge who substituted the prison term with reformatory training instead (Nur Azilah Bte Ithnin v Public Prosecutor, 2010: paragraph 20):

[P]rima facie, the pre-dominant sentencing consideration in all cases of loan shark harassment, a fortiori acts of harassment where there was mischief by fire, must be deterrence. The Court must, however, especially where young offenders were involved, carefully assess the facts in each case...and not apply the general rule of deterrence as a matter of course. There are many facets to public interest...The rehabilitation of the young, who have gone astray, is a fundamental tenet of our society. If it is Parliament's intention to take away this option in relation to a particular offence or a category of offences, then, this intention must be made clear. Considering all the facts and circumstances in this case, including the nature and seriousness of the offence and the [offender's] potential for reform, it was my view that rehabilitation still remained as the pre-dominant sentencing consideration.

In reconciling the aim of rehabilitation with the interests of the public, we can perhaps no better than heed the following words made by a Singapore judge (Public Prosecutor v Mohammad Al-Ansari bin Basri, 2008: paragraphs 103 and 104):

The complex problem of youth crime and its causes is one that the courts must take pains to understand...The sentence must always fit the crime and the commission of a serious crime, especially those involving violence, necessarily merits a firm response. This is an area of sentencing that calls for firmness, fairness, sensitivity and an understanding of the various factors and circumstances that have led a young offender to commit the particular crime. It calls for an approach that in suitable cases requires the young offender to be punished with an appropriate sentence that could incorporate the objective of rehabilitation either through reformatory training or a probation order...The legitimate interests of both the offender and the community need to be appropriately assessed and balanced in each and every individual case.

Youth crime has become intractable in many countries. Left unchecked, it destroys the young offender's own futures, damages their families, scars the communities in which they live and threatens the welfare of society as a whole. In Singapore, it presents a nascent challenge and a deft and sensitive response is necessary to contain it. In this increasingly important area of crime control the courts play a vital role to ensure that youth crime does not take root in the community, become rampant and burgeon out of control. This role can be discharged through the judicious application of a formula leaning towards rehabilitation but laced with a strong dose of deterrence in cases where the nature of the offence calls for it.

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