

COMPUTER LAW & INVESTIGATION

CRIMINAL LAW & POLICY 1



Criminal Law & Policy

- In the previous lecture on the Singapore Legal System, it was mentioned that one of the main purpose and unique feature of criminal law is to impose punishment on the accused once he is adjudged (decided by judicial opinion) or found guilty.
- What are the various forms of punishment imposed?
- What are the objectives and functions of punishment?

Types of Punishment

Punishment may consist of several forms including:

1. Death
2. Preventive detention (7 to 20 years for those above 30 years old, in prison before)
3. Caning (only for men below 50 years old)
4. Imprisonment
5. Fine
6. Reformatory Training (severe punishment for young offenders between 14 to 21 years old, emphasis on rehabilitation)
7. Corrective Training (for offenders above 18 years old, must be fit to undergo corrective training, for repeat offenders)
8. Probation (usually do not count as criminal conviction; rehabilitation of young offenders between 16 to 21 years old)
9. Compensation order to the victim (imprisonment if payment not made)
10. Disqualification from driving
11. Community sentences (e.g. psychiatric treatment, community work orders)

➤ See: [Understanding Legal Processes - Sentencing in Singapore \(AGC\)](https://www.agc.gov.sg/docs/default-source/legal-processes/sentencing-in-singapore.pdf)

<https://www.agc.gov.sg/docs/default-source/legal-processes/sentencing-in-singapore.pdf>

Types of Punishment

Sheng Siong kidnapping: Accused asked to be given death penalty in letter to court



2 of 2 Lee Sze Yong (in red) was brought back to Sembawang Park for police investigations on Jan 1, 2014.
PHOTO: ST FILE

<https://www.straitstimes.com/singapore/courts-crime/sheng-siong-kidnapping-accused-asked-to-be-given-death-penalty-in-letter-to>

The Functions and Objectives of Punishment

Traditionally, society has put forward four (4) objectives or reasons for punishment, these are:

1. Retribution
2. Deterrence
3. Prevention i.e.
incapacitation/incarceration
4. Reformation and
Rehabilitation



Punishment: Retribution

- **Retribution** (act of punishing for wrongdoing)
 - This is a theory suggesting that within society there is a “social equilibrium” of duties, responsibilities and interests
 - The theory regards anyone who disturbs this balance of duties and interests should be held responsible for their actions. A criminal is thought to disturb this balance and must be dealt with severely
 - Basically, it connotes society’s “hatred” of criminal behavior.
- => Offender should be **suitably punished** according to his **culpability** and **seriousness of crime** committed

**AN EYE
FOR AN
EYE AND
THE WHOLE
WORLD WOULD
BE BLIND**

Punishment: Retribution

For capital offences such
as murder.

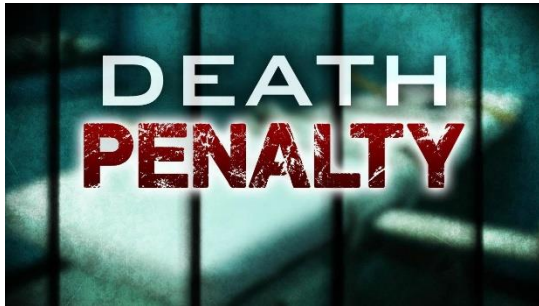


Photo by: <https://tinyurl.com/y6jxroxx>

Photo by: <https://tinyurl.com/y5umjb5c>

Punishment: Deterrence

- **Deter** (to discourage, restrain)
- Essentially, the purpose here is to discourage the commission of similar crimes/offences in future
- It may be specific as applying to that particular offender/criminal to discourage him from reoffending
- In a wider perspective, it may also be general as applying to society or the public as a whole

Punishment: Deterrence

Eg; drink driving, drugs



<https://www.todayonline.com/singapore/laws-passed-impose-harsher-penalties-drink-driver-motorists-who-drive-dangerously>

Punishment: Prevention

Incarceration & Incapacitation

- **Incarcerate** (to confine); **incapacitate** (to deprive or to make incapable)
 - This objective emphasizes the protection of society from criminals
 - As such it necessitates the confinement of such criminals away from mainstream society.
- ⇒ Offender is locked away so that he cannot cause any further harm
- Query - Is there a need for “preventive detention”?

Punishment: Prevention, Incarceration & Incapacitation

Lifetime driving ban:

<https://www.straitstimes.com/politics/parliament-recalcitrant-drink-drivers-to-face-lifetime-driving-ban-under-stiffer-penalties>

<https://www.facebook.com/TheStraitsTimes/videos/2487916514568165/>



Punishment: Reformation and Rehabilitation

- This objective of punishment considers the **reform** and **rehabilitation** of the offender.
 - To reform a person means to persuade or help the person to improve or amend, relinquish or to give up (to stop) what was wrong.
 - To rehabilitate a person means to help the wrongdoer stop his criminal ways (to change/restore to a good condition).
 - ✓ Punishment must be sufficient and targeted
 - ✓ Offender might pretend that he has made progress in the treatment

Punishment: Reformation and Rehabilitation

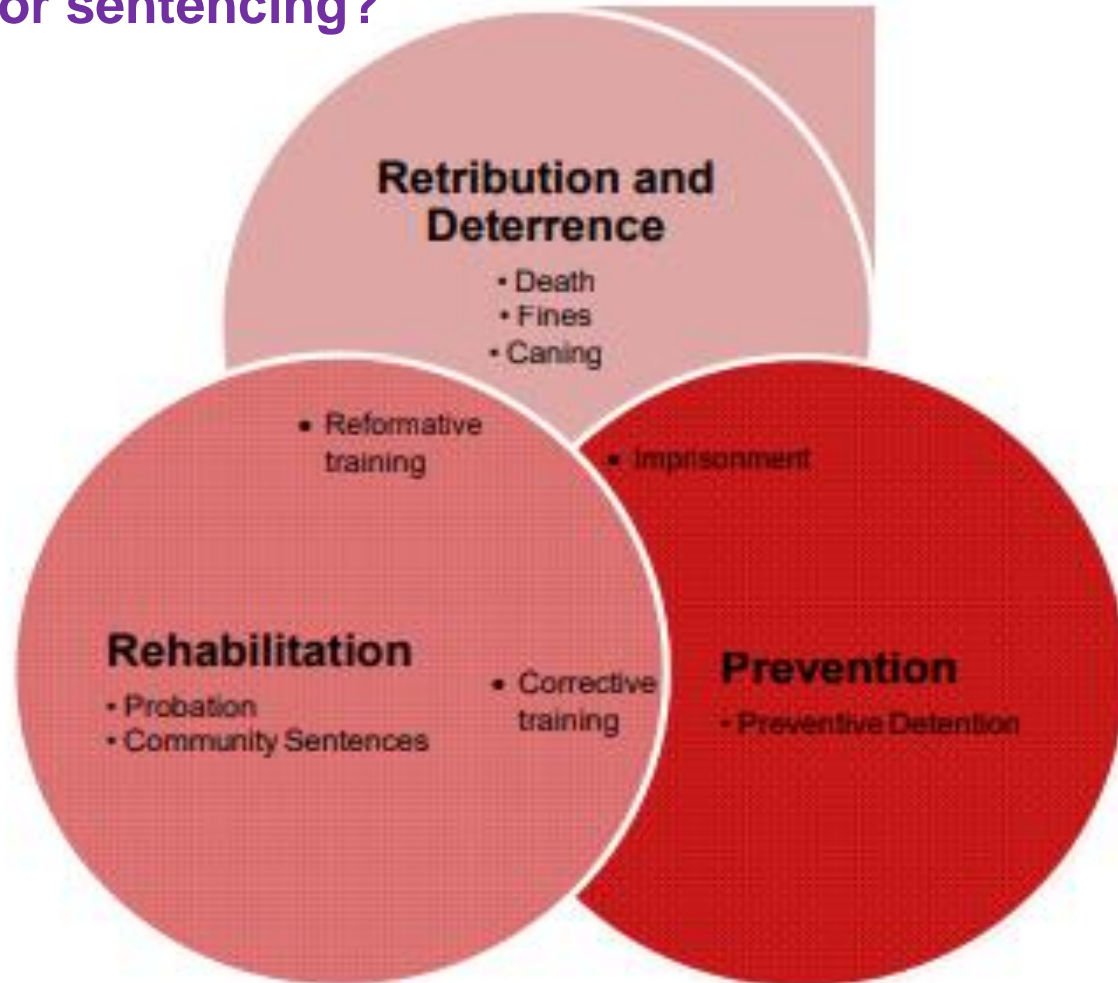
- The idea being that once the criminal realizes the errors of his ways and is prepared to change for the better, he can resume a normal and useful role in society after he has paid the penalty for his crime.
 - Query – Is this approach too idealistic? Can a “leopard ever change its spots”?
 - The “Yellow Ribbon” Project – any comments?

<https://www.channelnewsasia.com/news/singapore/yellow-ribbon-run-anti-death-penalty-t-shirts-police-investigate-11914002>
<https://www.straitstimes.com/singapore/it-programme-helps-ex-offenders-gain-employment-after-serving-time>



The Functions and Objectives of Punishment

Which types of punishment falls within each of the 4 guiding principles for sentencing?



The Functions and Objectives of Punishment

Teen who raped and robbed prostitute gets jail & caning.

- Prosecution sought longer jail term due to seriousness of crimes committed with **deterrence** as main sentencing consideration.
- Defence sought **reformatory training** due to age of offender.



<https://sg.news.yahoo.com/teen-admits-to-rape-robbery-of-53-yearold-prostitute-075426954.html>



CRIME SCENE DO NOT CROSS

Definition of a Crime

A **crime** is any act, default (failure to act) or conduct deemed unacceptable to society as a whole; and which constitutes an offence and is punishable by law.

- Proceedings are instituted by the state resulting in a prosecution in a court of law.
- The accused is liable to punishment, once his guilt is proven beyond a reasonable doubt.

Do You Know Singapore's Laws?



Photo by: <https://tinyurl.com/y2qdq3ao>

<https://www.youtube.com/watch?v=H3zbQTnCdp0&t=120s>

Classification of Criminal Law

Criminal Law may be classified into 2 specific aspects, these are:

- Substantive Criminal Law
- Procedural Criminal Law

Substantive Criminal Law



Photo by: <https://tinyurl.com/y4w2t25u>

- This is regarded as the actual rules of law that forbids the act, default or conduct considered a crime, the breach of which attracts the imposing of punishment
- In Singapore, such rules are principally contained in the [Penal Code Cap 224](#), as well as other statutes like the [Computer Misuse Act Cap 50A](#) and [Cybersecurity Act 2018 \(No. 9 of 2018\)](#)
- For instance, assessing a computer system without authorization is an offence under Computer Misuse Act.

<https://www.straitstimes.com/singapore/courts-crime/prison-officer-fined-4k-for-computer-misuse>

Procedural Criminal Law

- This usually consists of a body of rules outlining and detailing the formal steps or process to be taken on any criminal action in a court of law. It may also embody the rules of evidence dictating what evidence is admissible and what is unacceptable (**focus is on procedure**)
- For instance, when can an arrest be made without a need for a warrant? Hearsay evidence being inadmissible, etc.
- Such rules are generally contained in the [Criminal Procedure Code Cap 68](#) and the [Evidence Act Cap 97](#)

Sources of Criminal Law

The major “sources” of criminal law are:

- The Penal Code Cap 224 (together with other minor sources like the Computer Misuse Act and Cybersecurity Act etc.) – **Substantive Law**
- The Criminal Procedure Code Cap 68 and the Evidence Act Cap 97 – **Procedural Law**
- Case-law precedents deriving from Singapore superior courts are binding. Indian and some English cases are highly persuasive. These cases apply to both substantive law and procedural law.

The Penal Code



INDIAN
PENAL CODE
1860

Photo by: <https://tinyurl.com/yxurcdvn>

- **Singapore's Penal Code Cap 224** is based on the Indian Penal Code of 1860, which itself is based on the English Criminal Law of that period. In total, the Penal Code consists of 23 parts and these are further subdivided into 511 sections.
- As far as substantive Criminal Law is concerned, the Penal Code is the single major source of substantive criminal law in Singapore.
- Let's examine some of its more prominent offences

The Penal Code



Some of the more prominent offences dealt with and punishable under the Code are:

- Offences affecting the body including murder, culpable homicide, criminal force and assault
 - What is the difference between culpable homicide and murder?
 - <https://www.straitstimes.com/singapore/courts-crime/man-says-he-never-meant-to-cause-upskirt-video-accuseds-death>
- Offences relating to property including theft, robbery, extortion and cheating
- Incomplete offences like attempts and criminal participation like abetment and conspiracy
- Others miscellaneous offences like offences relating to religion or race, public health, decency and morals etc.

<https://sso.agc.gov.sg/Act/PC1871>

https://www.straitstimes.com/asia/se-asia/malaysian-convicted-of-murder-executed-in-singapore&utm_source=STSmartphone&utm_medium=share&utm_term=2019-10-07+18%3A29%3A13

The Penal Code

The Penal Code also provides for various circumstances which act as “defences” to criminal offences (to negate elements – criminal act & intent – of a crime). Some of these defences include:

- Private defence
- Consent of the victim
- Necessity
- Accident
- Duress
- Unsoundness of mind
- Intoxication

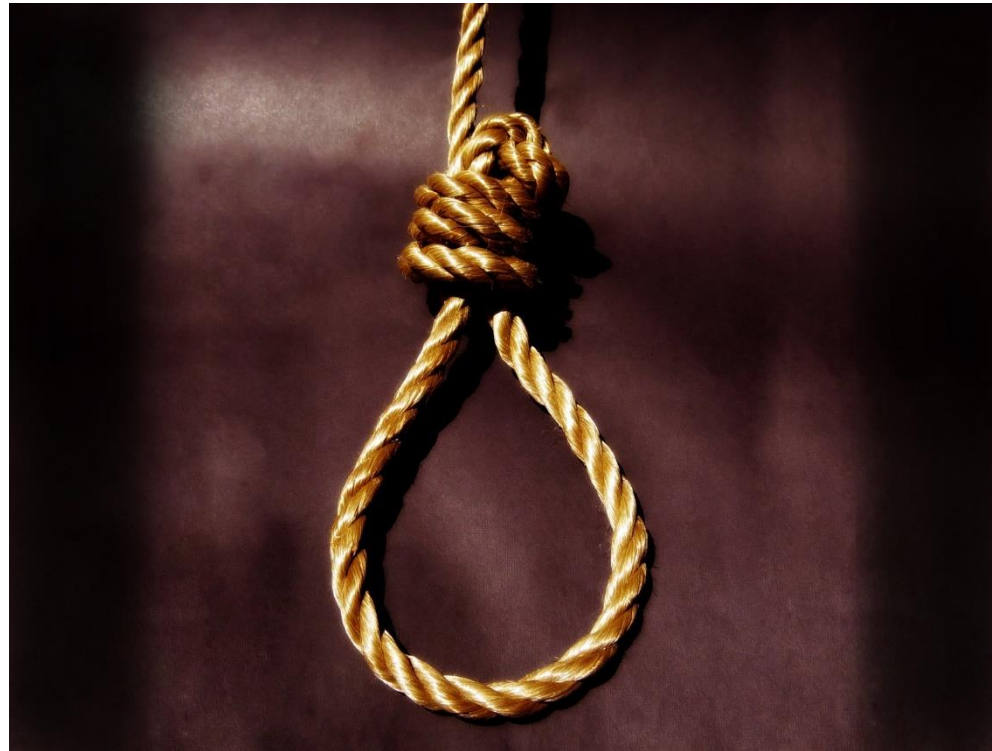


Photo by: <https://tinyurl.com/y4yx7e4a>

<https://www.channelnewsasia.com/news/singapore/apex-court-dismisses-appeals-by-malaysian-man-on-death-row-for-9-11569176>

The Penal Code

Man caught entering Singapore with drugs strapped to his thigh. He tried to argue the defence of duress – i.e. he had to deliver the bundle of drugs as his friend allegedly assaulted him and threatened to kill his girlfriend. Defence rejected by Court.



<https://www.channelnewsasia.com/news/singapore/apex-court-dismisses-appeals-by-malaysian-man-on-death-row-for-9-11569176>

The Penal Code



- Finally, the Code also prescribes the **punishment** that should be meted out to an accused who has been found guilty.
- As an illustration, let us consider the punishment prescribed for the following offences:
 - Murder – death penalty (discretionary)
 - Culpable homicide – up to 20 years or life imprisonment, caning or fine
 - Theft – 3 years imprisonment and/or fine
 - Extortion – 2-7 years imprisonment and caning
 - Cheating – 3 years imprisonment and/or fine

**in Computer Crime lecture, we will look at computer offences and punishments*

Updates to Penal Code



Updates to Penal Code (yet to be in force)

- Some examples of the changes include:
 - new category dealing with emerging crime of 'cyber-flashing';
 - voyeurism offences will be addressed directly e.g. upskirt photos;
 - men can be considered victims of rape and peeping Toms;
 - repeal of marital immunity for rapes; and
 - decriminalisation of suicide.
 - Abuse of vulnerable victims (eg <14 years old), disabled, mentally ill
 - Exploitation of minors (16-18 years old)

<https://www.todayonline.com/singapore/criminal-law-reform-bill-look-key-changes-penal-code>

<https://www.straitstimes.com/politics/parliament-proposed-changes-to-penal-code-allow-men-to-be-considered-rape-victims-and>

<https://www.straitstimes.com/singapore/penal-code-review-committee-punishment-not-the-answer-for-people-attempting-suicide>

The Criminal Procedure Code



- This statute contains the bulk of criminal procedure in Singapore
- The Code contains 22 distinct Parts subdivided into 429 Sections
- Let's consider some of the more important features of the Code.

Criminal Procedure Code

- When police first receive information or complaints concerning the commission of an offence, the Code requires them to file a “First Information Report” (usually a [police report](#)).
- This report triggers off [police investigation](#), however, not all complaints received results in criminal prosecutions as in relatively minor incidents e.g. neighbours quarreling police will not intervene and will usually refer the parties to private prosecution.
 - See Arrest & Court Procedure

The Criminal Procedure Code



- Next, the Code grants the **police powers of arrest, search and investigation**. Who is a police officer?
- It sets out in its First Schedule a list of offences under the Penal Code indicating which offences are “arrestable” or non-arrestable and which are “bailable” or non-bailable
- How does one distinguish these and why is the distinction between these terms important?

Who is the Police Officer?



Photo by: Singapore Police Force

- A "**police officer**" means any member of the Singapore Police Force.
- a person employed for police duties under any written law in force in Singapore relating to the raising or maintenance of a police force or invested under such written law with the powers of a police officer

Q: How about Commercial Affairs Officer? Auxilliary Police Officers such as CISO Police? Law enforcement officers such as CNB Officer? CPIB Officer? Off-Duty Police Officer? (Check Police Force Act Cap 235)

How Police Officers Investigate Crime



Photo by: AFP

https://www.youtube.com/watch?v=BQQ9xgf_nfc

Arrestable Offences



Photo by: Shin Min Daily News

Under the Code:

- Generally, arrestable offences are the more serious offences like murder or housebreaking.
- A police officer may, without a warrant of arrest, arrest any person whom he has reasonable grounds to have committed a “arrestable” offence.
- The police also have automatic powers of search if investigating a “arrestable” offence.
- Police are also empowered to compel witnesses to attend interviews and examine them without authorization from a magistrate

With Warrant or Without Warrant



- "non-arrestable offence" means an offence for which, and "non-arrestable case" means a case in which, a police officer may not ordinarily arrest without warrant according to the **third column of First Schedule of the Criminal Procedure Code**
- "arrestable offence" means an offence for which, and "arrestable case" means a case in which, a police officer may ordinarily arrest without warrant according to the third column of First Schedule of CPC.
- Let's consider First Schedule of the CPC

First Schedule, CPC

Arrestable Offences – no warrant required	Non Arrestable Offences – warrant required
Offences with Capital Punishment e.g. murder s. 300	s.175 Penal Code - Intentionally omitting to produce a document or an electronic record to a public servant s.186 Penal Code - Obstructing public servant in discharge of his public functions
s. 121 Penal Code - Waging of war against the government	
s. 489A Penal Code - Forging or counterfeiting currency notes or bank notes	

NB: s.3, 4, 5, 6, 7, 8 CMA (s.16 CMA) – Arrest by Police without warrant

Arrestable Offences

Can police arrest without warrant those who commit non-arrestable offence against children, maids and the disabled ?

https://www.straitstimes.com/singapore/stiffer-punishments-for-crimes-against-vulnerable-people&utm_source=STSmartphone&utm_medium=share&utm_term=2019-10-08+07%3A34%3A47



Bailable and Non-bailable offences

- The accused is presumed to be innocent until proven guilty, thus the law attempts to preserve his liberty during the **pre-trial period** through the mechanism of **bail**
- Bail may be defined as the release of an accused person from the custody of the police on his giving security or accepting certain specified conditions

Bailable and Non-bailable offences

- The Criminal Procedure Code makes a distinction between ‘Bailable’ and ‘Non-bailable’ offences (see first schedule, 5th column)
 - **For bailable offences**, the accused is generally entitled to be released on bail.
 - **For non-bailable offences**, the police or the court has the discretion to decide whether to release an accused on bail.
 - However, regardless of whether an offence is bailable or non-bailable, accused persons **will not be able to be released on bail if the offence is punishable with death or life imprisonment.**
- The question of whether bail should be given is always at the discretion of the court

Bailable and Non-bailable offences

What if an accused “runs away” / leaves Singapore whilst on bail?



<https://www.channelnewsasia.com/news/singapore/ex-city-harvest-church-fund-manager-chew-eng-han-arrested-9977688>

<https://www.channelnewsasia.com/news/singapore/shell-station-robbery-suspect-arrested-missing-court-break-11923708>

Updates to Criminal Procedure Code

Criminal Procedure Code 2010 (Act 15 of 2010)

- The Criminal Procedure Code 2010 is the most significant amendment made to the CPC since the days of the Straits Settlements.
- The amendments then included establishing a formalised criminal discovery framework for certain criminal trials & the wide range of community-based sentencing options for judges - mandatory treatment order, a day reporting order and a short detention order.

Updates to Criminal Procedure Code

Criminal Procedure Code (recent amendments in past 2 years)

Examples of the amendments include:

1. Introduction of video-recorded statements of vulnerable victims
2. Better protection for victims of sexual crime / child abuse
3. Stricter requirements for re-opening concluded criminal cases
4. Expanding the community sentencing regime
5. Make jumping bail an offence
6. Changes to guidelines for criminal investigations and procedures for criminal hearings / sentencing e.g. selected law enforcement agencies such as CNB get investigative powers and removal of possibility of backdating reformatory training.

<https://www.straitstimes.com/singapore/9-key-proposed-changes-to-the-criminal-procedure-code-and-evidence-act>

<https://www.todayonline.com/singapore/further-refinements-criminal-procedure-code-introduced-parliament>

<https://www.tnp.sg/news/singapore/proposed-amendments-criminal-procedure-code>

<https://www.channelnewsasia.com/news/singapore/jumping-bail-will-be-an-offence-under-already-planned-changes-to-9981116>

End of Lecture Part I