THE PROSECUTOR'S ROLE AS GUARDIAN OF THE PUBLIC INTEREST IN SENTENCING

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I. Welcome and Introduction

1. On the second of March 2017, Joshua Robinson, a Mixed Martial Arts instructor, was sentenced to four years' imprisonment for having underage sex with two 15-year-old girls. A huge public uproar followed. Members of the public denounced the sentence as unduly lenient and unacceptable. The Prosecution was criticised for not asking for a longer sentence. A petition calling on the Prosecution to file an appeal to ask for a harsher sentence was soon circulating. It was my second day of work in the AGC.

2. The case presents a stark illustration of the importance of the Public Prosecutor's role in sentencing, and the public's views of how that role should be performed.

3. It is not clear when the Public Prosecutor's role in sentencing crystallised in the common law. Historically, the English courts started with the view that the prosecutor performed a *passive* role on sentencing. In more recent times, prosecutors in England have become more active and comfortable in making specific sentencing submissions to the Court. Prosecutors in other Commonwealth jurisdictions have also developed their own practices. In Canada, for example, it is common for prosecutors to suggest a sentence at the top of, or even above, a benchmark sentencing range. Australia is at the opposite end of the spectrum. Following the High Court of Australia's's decision in *Barbaro v The Queen*[1], the Prosecution has no role in informing the judge about the sentence to be imposed. The High Court cited with approval an earlier pronouncement in the Supreme Court of Victoria case of *R v MacNeil-Brown*[2] that to expect the prosecution to give an opinion on the exact range of appropriate sentences would be to "enlist counsel as a surrogate judge".

[1] [2014] HCA 2.

[2] [2008] VSCA 190.

4. What about in Singapore? In his opening address at the 2014 Sentencing Conference[3], Chief Justice Sundaresh Menon stated in no uncertain terms that the Prosecution's duty to the Court extends to the sentencing stage. The Prosecution should place all the relevant facts of the sentence and the offender before the Court, and should *always* be prepared to assist the Court on any sentencing issues. This is because the Prosecution acts in the public interest, and the public interest must extend to securing the *appropriate* sentence. As CJ Menon explained, this, in practical terms, calls for the Prosecution to reflect on why it takes a particular view of what sentence is called for in a given case, and to articulate those considerations so that the sentencing judge can assess and assign the appropriate weight to them. Likewise, the High Court in *Ghazali bin Mohamed Rasul v PP*[4] reiterated that "the Prosecution, no less than defence counsel, stand as officers of the court, and have an obligation to make submissions that are fair, measured and in the public interest, but always with due regard to the circumstances of the case."[5]

5. This reflects the longstanding philosophy of the AGC as well. Just last week, the Honourable Attorney-General Lucien Wong spoke at the Singapore Law Review Lecture about how prosecuting in the public interest also extends to submitting on sentence in the public interest.[6] While the Court is the final arbiter of the sentence to be imposed in any given case, it is incumbent on the Prosecution to assist the Court to calibrate the sentence appropriately, taking into account the facts of the case and the broader public interest.

6. Today, I will expand on three main ways in which our prosecutors seek to advance the public interest during sentencing. Our ultimate goal is to assist the Court in arriving at a **just sentence**, and we do so by:

   (a) First, giving the Court a deeper understanding of the legislative intent and policies underlying the offences;
   (b) Second, bringing to the Court's attention specific threats to the broader society that may warrant stiffer sentences for both specific and general deterrence; and
   (c) Finally, highlighting all the relevant facts of the case (including mitigating factors) to ensure that sentences handed down to offenders are firm, fair and appropriate.

II. Understanding the legislative intent and policies underlying offences.

[3] Singapore Law Gazette (February 2012).

[4] [2014] 4 SLR 57.

[5] At [77].

[6] See the Paper presented by A-G Lucien Wong S.C. on "Prosecution in the Public Interest" at the Singapore Law Review Lecture 2017.

7. First, as lawyers, our immediate task at the sentencing stage is to consider the legislative intent and policies underlying the offences in question.

8. Parliament does not criminalise acts in a vacuum. It does so to achieve certain societal objectives and curb undesirable behaviour. A proper appreciation of the relevant statutory intent and policy underlying the offence enables the Courts to implement the right sentencing objectives and achieve a result that furthers our national and societal interests.[7]

9. As the guardian of the public interest, the Public Prosecutor is in a unique position to assist the Court on the operational and policy concerns undergirding specific penal sanctions, especially as these may not always be readily apparent.

10. Moreover, because of our common law system, Courts often make reference to the sentences imposed in previous cases, even if these may be outdated or inconsistent with the relevant policy intent. Indeed, that very concern arose in Australia just this month. The High Court of Australia ruled that a 3½-year jail sentence handed to a man who sexually abused and impregnated his 13-year-old stepdaughter was "manifestly inadequate".[8] What is significant is that the case arose on appeal from the Victorian Court of Appeal, which also found that the sentence was "not a proportionate response to the objective gravity of the offence", but declined to increase it because it was consistent with precedent. But the High Court found those precedents had been "anomalously low" for at least 30 years.

11. It is therefore the job of the Prosecutor to do the necessary research and present the Court with all the relevant material, to ensure that the sentences meted out are consistent with the overall legislative scheme and the broader policy underlying the relevant legislation.[9]

12. There are two further points I wish to make on this. First, while the independence of the Prosecutor has been highlighted in various forums, independence does not mean isolation. While the Prosecutor exercises his discretion without fear or favour, he cannot sit in an ivory tower. His is not an academic role. In order to better understand and advance the public interest underlying the offences he or she prosecutes, the Prosecutor must work closely with law enforcement and other public agencies.[10] In fact, the views and concerns of the regulatory or enforcement agencies often lend nuance and context to Parliament's

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[7] See *Mohammed Ibrahim s/o Hamzah v PP* [2015] 1 SLR 1081 at [21].

[8] See "High Court shames slack sentencing in Victoria", The Australian (13 October 2017); see also *DPP v Dalgliesh* (a pseudonym) [2017] HCA 41.

[9] See *Mehra Radhika v PP* [2015] 1 SLR 96 at [28].

[10] See Justice Steven Chong's (as he then was) speech at the 2014 Sentencing Conference, "Perspectives on Sentencing", at [25].

intention. Dialogue between the Prosecution and public agencies also helps the Prosecution to situate its understanding of the legislative intent against a broader context and awareness of the realities and challenges on the ground.

13. The second point is that the need to calibrate and refine sentencing benchmarks to ensure fidelity with the wider social objectives of any legislation must be a continuing one. It does not end the moment there is a High Court or Court of Appeal decision on the matter. The Prosecutor must remain alive to the downstream effects that any sentencing pronouncements may have on broader policy imperatives.

14. A good example of this principle in action is the case of *Sakthikanesh s/o Chidambaram and other appeals and another matter*[11] ("*Sakthikanesh*"). This was a consolidation of three appeals by the Prosecution against the sentences imposed for offences under the Enlistment Act. The appeals raised the question of the adequacy of sentences imposed on offenders who default on their National Service ("NS") obligations, and the sentencing benchmarks which would best give effect to the compelling national policies underpinning the institution of NS. Prior to *Sakthikanesh*, there were a number of reported High Court decisions touching on this issue, the most recent of which was *PP v Chow Chian Yow Joseph Brian*[12] ("*JBC*"). In *JBC*, the Prosecution had urged the High Court to impose custodial terms as a starting point to give full effect to Singapore's uncompromising stance against NS defaulters. The High Court enhanced the sentence from a fine to a 1.5-month custodial term. It was an important judgment, as it affirmed that a custodial sentence would be imposed where the NS defaulter have defaulted for more than 2 years and set out a sentencing framework which provided some clarity in an otherwise inconsistent area of sentencing law.

15. However, there were aspects of *JBC* which we believed did not fully accord with the relevant sentencing principles of deterrence and retribution, and also the broader principles underpinning NS, namely: national security, universality and equity. We were concerned in particular with the pre-set sentencing discounts for exceptional NS performance. The culpability of NS defaulters lies in the unfair advantage they have gained over their law-abiding counterparts by being able to pursue personal goals while their peers were serving their NS. In our view, treating exceptional NS performance as a mitigating factor would fuel feelings of inequity in those who had made the necessary personal sacrifices to serve their NS obligation. Left to fester, this could lead to perceptions of preferential treatment and – more fundamentally – the loss of public support for NS and the very principles that it stood for. At a more granular level, this could also have placed those who are less physically fit in a disadvantaged position, as they would not be able to perform as well to obtain such a sentencing discount, through

[11] [2017] SGHC 178.

[12] [2016] 2 SLR 335.

no fault of their own. After engaging closely with the Ministry of Defence to better understand the policy repercussions, we argued strongly against exceptional NS performance as a mitigating factor in our submissions.

16. After a careful review of the issues, a three-judge panel of the High Court set out the appropriate starting points for NS defaulters and rejected the giving of discounts for exceptional NS performance. This sent a clear message to all would-be NS defaulters and also reinforced the underlying legislative intent to the public at large – NS was of critical national importance, and one could not choose to defer this obligation and try to make up for it later by performing well, especially since it was the duty of *every* NS man to do his best in his NS.

III. Bringing specific societal threats to the Court's attention for appropriate sentencing calibration.

17. Apart from considering the legislative intent underlying the offence, the Prosecutor must also display social awareness and a broad understanding of the issues facing Singapore society, because sentencing positions are taken not just within the narrow confines of a particular case, but also to vindicate larger social objectives.

18. What does this mean exactly? Save for a few exceptions, the definition of what society considers criminal behaviour has not changed much over time. It is in *sentencing* where a society's attitude towards particular crimes has seen a more noticeable shift to reflect changing values and priorities. Some of the more prominent examples include the reforms in the death penalty regime, the development of community-based sentencing as well as enhanced punishments for maid abuse cases.

19. As Singapore's society changes and its demographics shift, certain crimes will become more prevalent and pose specific dangers to our country. Prosecutors must be vigilant in monitoring crime trends and other broader societal developments, so as to proactively highlight to the Court's attention crimes which require closer sentencing attention because of the specific harm posed to the public interest.

20. Where certain types of conduct have a potential to cause great harm to our society, our laws and our courts must ensure that the punishment imposed is "certain and unrelenting", so as to create awareness in the public and deter potential offenders from engaging in similar conduct.[13]

[13] *PP v Law Aik Meng* [2007] 2 SLR(R) 814 at [26] – [27].

21. Sentencing is therefore never a static exercise, and the Prosecutor bears the responsibility of assisting the courts to calibrate sentences in response to specific societal harms or threats.

22. Let me illustrate this with two categories of cases where this aspect of the Prosecutor's sentencing responsibility has come into especial focus.

(a) Protecting vulnerable groups

23. One such category is crimes which target vulnerable groups in society, such as the elderly.

24. The Government has highlighted the inevitability of a greying population – a silver tsunami will soon be upon us. This will bring with it particular economic and social challenges, one of which is the vulnerability of our elderly to crime.

25. The case of Yang Yin[14] may be a sign of things to come. Yang was a Chinese tour guide who had become acquainted with a wealthy 89-year-old widow, Mdm Chung. They became closer after Mdm Chung engaged Yang Yin as a private tour guide for a trip to China. Over time, he invaded her home and life as a parasite would do with a host. Yang Yin preyed on the vulnerability of Mdm Chung and duped her into entrusting him with substantial sums of monies for purposes that he never intended to fulfil. He ended up misappropriating $1.1 million from Mdm Chung.

26. Apart from the innate reprehensibility of Yang Yin's actions, our larger concern was that such offences would become more prevalent with a rapidly-aging population. After all, many senior Singaporeans today have amassed substantial savings, and also own homes which have greatly appreciated in value. These assets are tempting targets for unscrupulous, sweet-talking criminals.

27. With these broader concerns in mind, the Prosecution decided that firm action had to be taken against offenders like Yang Yin, to ensure that those who exploit vulnerable seniors are met with the full force of the law. We appealed against the sentence of six years' imprisonment imposed by the District Court, and urged the High Court to set a new benchmark for such crimes. The High Court agreed that such conduct must be denounced and deterred in the clearest and strongest terms. Yang's sentence was enhanced to nine years' imprisonment.

28. The elderly are not the only vulnerable group which we have sought to protect through the positions we take on sentencing. We have also paid special attention to crimes against

[14] MA 9238/2016/01, unreported.

children – both sexual and violent crimes. In a recent child abuse case[15], we appealed against the sentence of eight years' imprisonment imposed on a mother who had violently beaten her four-year-old son over a period of time due to his alleged academic difficulties. The boy died from a fractured skull after one particularly horrific beating. Apart from the disturbing nature of the crime, certain pronouncements made by the sentencing judge also gave us cause for concern. In particular, we disagreed with the view that the offender's "personality aberrations" and inability to cope with various stresses were mitigating factors. We appealed against the sentence imposed and argued that these could not possibly justify, excuse or mitigate the mother's use of violence against her defenceless young child. The Court of Appeal agreed, clarifying that the offender's actions were not "crimes of passion" and mitigating weight should not be given for her "personality aberrations". Her punishment was enhanced to 14 years' and six months' imprisonment.

29. As an aside, even as the Prosecution continues to take sentencing positions that serve to protect the most vulnerable in our society, it may be timely to consider if the prescribed sentences for offences against the elderly and minors should be reviewed. Legislation can be passed to increase the punishments for certain offences against these groups of victims, particularly those involving physical assaults, cheating or criminal breach of trust. We have done something similar in s.73 of the Penal Code, which enhances the prescribed sentences for maid abuse offences by one and a half times. This is of course a matter for the Legislature.

(a) Harmful behaviour that disrupts public order or safety

30. Another category of cases in which we have drawn the Court's attention to specific societal threats have been cases that involve harmful behaviour that disrupts public order or safety.

31. Just last month, I was involved in an appeal before a Court of Three Judges in *PP v Jeffrey Yeo Ek Boon*[16]. The offender had slapped a police officer. While some may suggest that a slap is a minor offence, we viewed it as a very serious case because of a larger policy objective – the pressing need to ensure the safety of public servants in general, and police officers in particular. We highlighted to the Court that our enforcement officers work in difficult and often dangerous circumstances. This included the startling statistic that there is, on average, more than one physical or verbal assault a day against a police officer. If such cases are not addressed with appropriate severe sentences, there would be grave implications on effective policing, public safety and not least, the morale of our police force. We therefore invited the Court to formulate a

[15] CCA 26/2016.

[16] MA 9112/2017/01.

sentencing framework to send a strong signal that such abuses will not be tolerated. The Court increased the offender's sentence from one to ten weeks' imprisonment and indicated that it will be releasing detailed grounds on this issue.

32. The Prosecution has also paid special attention to road traffic offences in recent years, as we have noticed a rising number of dangerous driving cases. Such behaviour also needs to be sternly addressed, to ensure the safety of all road-users.

33. In *PP v Koh Thiam Huat*[17], we urged the High Court to establish benchmarks and sentencing guidance for dangerous driving offences. We referenced Parliamentary Speeches and made arguments about the various situations where custodial sentences would be appropriate. The High Court has now set out a comprehensive framework for sentencing such offences. Likewise, in *PP v Chia Hyong Gyee*[18], the Prosecution appealed against the sentence imposed on a driver who, in a display of road rage, drove his car in a perilous manner and used it to intimidate a motorcyclist. Amongst other things, the driver repeatedly drove very close to the victim's motorcycle, causing him to swerve to avoid a collision, accelerated and weaved in and out of traffic without signalling, tailgated another motorcyclist to catch up with the victim, and cut into the victim's path in order to block him when traffic came to a standstill. We highlighted the importance of general deterrence in sentencing such offences, especially when coupled with the additional aggravating factor of having been committed in the context of road-rage. The High Court enhanced the offender's sentence from a fine to one week imprisonment and two years' disqualification from driving.

34. Another example of behaviour that may pose a specific threat to public order is the infamous group of cases involving Sim Lim Square[19], where the Prosecution sought deterrent custodial sentences for rogue phone salesmen who cheated their customers and specifically preyed on foreign workers and tourists. Our motivation was to weed out dishonest retail practices which not only undermined public confidence in our laws and their enforcement, but also had the potential of affecting Singapore's reputation internationally. The most serious of these cases involved Jover Chew and his staff, who used fraudulent sales tactics to lure customers into paying bargain prices for gadgets which they never intended to sell, resulting in customers receiving nothing in return. We argued that the offenders – and Jover Chew especially – had abused the corporate structure by setting up a shop in a well-known shopping centre as a cover for their scheme. This had deleterious effects on Singapore's standing as an attractive tourist and shopping destination, and had brought disrepute to the integrity and reputation of these industries, which are vital segments of the Singapore economy. The Court agreed and imposed hefty

[17] [2017] SGHC 123.

[18] MA 1/2017/01.

[19] DAC 919820/2015 and ors.

sentences on the offenders. Jover Chew himself received a global sentence of 33 months' imprisonment.

35. Jover Chew's case also illustrates that the value of effective sentencing often extends beyond an individual case. On a broader level, it can also serve important deterrent and educative functions. Not only have such undesirable retail practices been reduced, consumers are also much more aware of their rights in the event that they fall victim to such schemes. Indeed, I am pleased to report that the Police has not received any fresh complaints from Sim Lim Square since.

IV. Ensuring that sentences are firm and fair, and that all offenders are appropriately punished.

36. I hope I have not given you the impression that the Prosecutor's role is only to push for the highest possible sentences. That is certainly not how public interest is defined in AGC.

37. After considering the legislative intent and broader social objectives, the Prosecutor must ultimately review the facts of the case and consider what a just sentence ought to be in the circumstances. As the AG stated last week, we are believers in even-handed justice. While our criminal justice system may be adversarial, the offender is not our adversary. Our job is to ensure that the sentences ultimately meted out by the Court are firm and fair, and that all offenders are *appropriately* punished.

Fairness to the offender

38. A just sentence is not just one that vindicates broader legislative and social objectives. It is also a sentence that is fair to the offender. In fact, the Prosecution has, on its own accord, sought *reductions* of sentences in cases where we considered the sentences imposed to be manifestly excessive when considered against the offender's criminality.

39. Some of you may remember the case of *PP v Lim Choon Teck*[20], which was described as a rather "unusual appeal". In that case, the Prosecution brought an appeal and urged the High Court to reduce the sentence imposed on an unrepresented offender, who had collided into a pedestrian while cycling. The lower court imposed a sentence of eight weeks' imprisonment, which was *four times* what the Prosecution had suggested in our submissions. The Prosecution took the view that the sentence imposed was "manifestly disproportionate" when considered against the offender's culpability, the harm caused, and the legislative intent. Accordingly, we brought an appeal to correct the sentence. This was particularly necessary as the offender did not have the benefit of legal advice or

[20] [2015] 5 SLR 1395.

counsel. In reducing the offender's sentence to three weeks' imprisonment, the High Court observed that the Public Prosecutor, as the guardian of the public interest, had advanced the public interest by helping to ensure that offenders are appropriately punished and that the correct benchmarks are set within the overall sentencing framework.[21]

40. *Lim Choon Teck* is by no means the only case where we have demonstrated our commitment to ensuring that offenders are fairly and appropriately punished. In a recent drug appeal, *Mohamed Jalalni bin Mohamed Amin v PP*[22], we did not object to the offender's appeal against his sentence as it was out of sync with the precedents and, in our view, manifestly excessive. The High Court allowed the appeal and reduced the global sentence of 28 months' imprisonment to 18 months' imprisonment.

41. The Prosecution does not get it right all the time, but we will be sure to correct any errors that come to our attention. This was what happened in a recent Criminal Reference, *Muhammad Nur bin Abdullah v PP*[23]. The Reference raised the question of whether a probationer could be sentenced to Reformative Training if he had breached probation and was above 21 years of age at the time that he was to be re-sentenced. In previous cases, we had taken the position that this was possible. However, in preparing for this Reference, we reviewed the relevant provisions under the Probation of Offenders Act[24], the legislative history of the provisions and the jurisprudence in other jurisdictions. We realised that our position may not be correct as a matter of law. We ended up arguing that Reformative Training could not be imposed in cases where the offender was over 21 years of age at the time of sentencing. The Court of Appeal confirmed that this was the correct position, and we have since taken remedial steps by applying for Criminal Revisions in respect of two offenders who were previously sentenced to Reformative Training in similar circumstances.

Mental disorders

42. One category of cases where we are experiencing increasing challenges is in respect of those labouring under a mental disorder. Society does not punish for the sake of punishment alone. The culpability of an individual offender turns not only on what he has done, but also *why* he has done it. As the former Chief Justice and Attorney-General

[21] At [79].

[22] See, for example, *Mohamed Jalalni bin Mohamed Amin v PP* (MA 9169/2016).

[23] CRF 2/2017.

[24] Cap 252.

Chan Seng Keong aptly put it, the sentence must not only fit the offence, but also the offender.[25]

43. Mentally-disabled offenders pose a particular challenge to the sentencing process because of the tension between the principles of specific and general deterrence on the one hand, and rehabilitation on the other.[26] The Prosecutor bears the responsibility of addressing the court on the most appropriate sentencing option in such cases. Accordingly, the Prosecutor must perform a delicate balancing exercise, considering in particular whether our sentencing position needs to focus more strongly on the offender's rehabilitative prospects, to reduce the likelihood of future offending and facilitate his re-integration into society. This is an example of our solution-centric approach to crime.

44. Where less serious crimes are committed by those suffering from serious mental disorders, traditional sentencing options such as fines and incarceration may not adequately serve the needs of both the offender and society at large. In appropriate cases, the Prosecution has proceeded on reduced charges in order to ensure that more sentencing options are available to the courts. For instance, in *PP v Er Meng Joo*[27], the offender – a lecturer at a local university – had committed a series of thefts of low-value[28] items while labouring under a depressive episode, which the examining psychiatrist found to have contributed to his offending. The offender had otherwise been a law-abiding citizen, and his offences were a puzzling aberration on his otherwise unblemished record. The Prosecution ultimately took the view that this was not a case which necessitated the stigma of a permanent criminal record. We proceeded on reduced charges so that the offender could qualify for a community-based sentence,[29] and did not object to the imposition of an 18-month Mandatory Treatment Order.

45. The other challenge is the increasing deployment of psychiatric claims by the defence to ask for a withdrawal, dismissal or reduction of charges. Let me state emphatically here that the Prosecution will not unquestioningly accept psychiatric diagnoses of "mental disorders".

46. Often, these will turn on questions of fact: Is the offender indeed suffering from a mental disorder? If so, how severe was the disorder? Did the disorder have a causal link to the offence? How material was this link? On other occasions, it may turn on mixed questions

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[25] Opening Address at the Yellow Ribbon Conference 2006: Unlocking the Second Prison, by former Chief Justice Chan Sek Keong, at [5].

[26] *Lim Ghim Peow v PP* [2014] 4 SLR 1287 at [26]

[27] DAC-936899-2016 and others

[28] The items he had taken in each instance ranged from between about $24 and $133.70.

[29] If the Prosecution had proceeded on the original charges under s 380 of the Penal Code (Cap 224), s 337(h)(i) of the Criminal Procedure Code (Cap 65) would have precluded the Court from making a community order.

of law and fact: Were the circumstances of the offence so serious that deterrence and retribution must take precedence over considerations of rehabilitation? The Prosecutor must be vigilant against any attempts to misuse psychiatric evidence.

47. Such cases require a detailed assessment of the nature of the mental disorder *and* the offending. As Prosecutors, we are prepared to adduce all the necessary evidence and address the Court on the relevance of the psychiatric findings to the sentencing calculus.

48. In *PP v Chong Hou En*[30], for example, the Prosecution played an instrumental role in clarifying the extent to which paraphilias of "voyeurism" and "fetishism" could influence an offender's sexual offending. The offender in question was convicted on five counts of insulting the modesty of a woman under s 509 of the Penal Code[31] for secretly taking videos of girls and women in various states of undress.[32] It was undisputed that the offender displayed conduct consistent with "voyeurism" and "fetishism", which were recognised psychiatric conditions under the Diagnostic and Statistical Manual of Mental Disorders (DSM). The lower court accorded mitigating weight to this diagnosis and sentenced the offender to probation.

49. The Prosecution appealed on the basis that rehabilitation, while important, should not override the other penal objectives of deterrence and retribution in this case. To assist the court's understanding of the offender's conditions, the Prosecution adduced expert psychiatric evidence, and addressed important questions about the nature of voyeurism and volitional control. A key plank of our appeal was that the offender retained an ability to control his actions. After an extensive review of the expert testimony, the High Court found that voyeurism is "a clinical description of what is essentially a perverse behavioural option and that it does not deprive a person of his self-control in the way that an impulse control disorder does".[33] Significantly, the High Court observed that while the existence of a mental disorder is always relevant in sentencing, the manner and extent of such relevance ultimately hinges on the circumstances of each case, especially the nature and severity of the disorder. The appellate Court agreed with the Prosecution that that the first-instance judge had placed too much weight on the psychiatric diagnosis, and enhanced the offender's sentence to a custodial one.

V. Conclusion

[30] [2015] 3 SLR 222

[31] Cap 224, 2008 Rev Ed.

[32] There was also an offence under s 30(1) of the Films Act (Cap 107, 1998 Rev Ed).

[33] At [61].

50. I started this speech by talking about my welcome to the AGC with the *Joshua Robinson* case. It is only fitting that I should also close with the case, for it illustrates the complex and multifaceted exercise that sentencing in the public interest entails for Prosecutors.

51. Although there was considerable public pressure placed on our office to appeal for an enhanced sentence, we did not do so. Why? Succumbing to the public pressure would have been the easy option, because this would have silenced those with the loudest voices in the debate. But what is in the public interest is not the same as what interests the public. There are established legal principles that we apply, and a broader sentencing philosophy that we subscribe to, precisely to ensure that our sentencing positions serve the public interest.

52. In *Joshua Robinson's* case, we did not appeal for two reasons. First, because his sentence fell within the range of sentences previously meted out for the offences he was charged with. Second, and just as importantly, we had previously indicated the sentence we would be seeking if he pleaded guilty, which he did. There was a distinct benefit in securing a guilty plea as it would save the young victims the trauma of testifying in Court. To change our position and file an appeal simply because some sections of the public were demanding that we do so would have been to subvert the public interest in the face of public pressure. Not only would this have undermined the credibility of the good-faith representations that our Prosecutors make every day, this would also have gone against the detailed sentencing framework that I have set out today.

53. The Prosecution believes firmly in sentencing in the public interest. To that end, we will continue to take sentencing positions that are fair to the offender, whilst being mindful of the underlying legislative intent, larger policy objectives and societal concerns.

54. Let me conclude with a quote from a Commentary: On Prosecutorial Ethics, which I think aptly summarises the unique responsibility of the Prosecutor in our legal system:

> *"The prosecutor… enters a courtroom to speak for the People and not just some of the People. The prosecutor speaks not solely for the victim, or the police, or those who support them, but for all the People. That body of 'The People' includes the defendant and his family and those who care about him. It also includes the vast majority of citizens who know nothing about a particular case, but who give over to the prosecutor the authority to seek a just result in their name."*[34]

55. Our office will continue to strive to speak for the People and assist the Courts in arriving at just outcomes and sentences, because that is what the public interest demands of us, and the public interest is the surest compass that we have to guide us.

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[34] Carol A. Corrigan, Commentary, On Prosecutorial Ethics, 13 Hastings Const. L.Q. 537 - 538 (1985 – 1986).

56. I thank you for the privilege of speaking and wish you all a very fruitful second day at this Sentencing Conference.

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