

Prosecution's Skeletal Submissions on Sentencing

1. At the outset, it is critical to reiterate what this case is about. It is most certainly not about the freedom of speech and the diversity of views. It is about the abuse of these freedoms. Unbridled speech without limits does not exist in any known society. Each society defines its own values and protects them. Religious harmony remains a key value in our society. So too is public decency. **Under our laws, lines are drawn against acts that deliberately wound religious feelings and against the publication of images that have a tendency to deprave and corrupt. Amos Yee crossed those lines with deliberation and calculation. His actions led to his conviction.**
2. **Just as Amos Yee's intentional actions led to his conviction, so too did his intentional actions lead to his remand.** Mention has been made by his counsel and by the media of the period spent by Amos in remand. **What has been omitted from such mention is the fact that the period spent by Amos in remand has been entirely the result of his own decisions.**
3. First, at the prosecution's suggestion, bail was offered since Amos was charged on 31 March 2015. But Amos deliberately breached bail conditions, which caused two sets of bailors (his parents and later a counsellor) to withdraw bail.
4. Secondly, at the prosecution's suggestion, probation was offered as an option upon Amos' conviction on 12 May 2015. Bail conditions were relaxed to allow him to go on bail for assessment by probation officers – but despite having agreed to be assessed for probation, he changed his mind and rejected probation.
5. Thirdly, the prosecution had also earlier suggested at the bail review hearing in the High Court on 6 May 2015 that he consider voluntarily continuing with psychiatric evaluation and / or counselling that he had started at IMH. Again, Amos spurned the suggestion. Had he voluntarily continued with the psychiatric evaluation and counselling, the last two weeks in remand in IMH ordered by your Honour (which order defence counsel had not objected to) could have been avoided.
6. The full details of Amos' conduct may be found in the chronology of events annexed at **Annex A**. Suffice to say that at every turn in these proceedings, **Amos chose a course of action which led to remand and then prolonged that remand. This was despite the benefit of access to legal advice throughout the proceedings.**

7. Finally, Amos persisted in re-posting the offensive materials which he was told by this Court to remove after his conviction, and unequivocally indicated his intention to keep the re-posting up indefinitely. The recalcitrance and persistent lack of remorse shown in this last act prompted the Prosecution's suggestion for an RTC suitability report. It appeared at that point that the structured discipline of the RTC regime provided the only solution to his recalcitrance as he insisted that he intended to continue posting the offending material.
8. Since then there have been material changes which merit consideration in assessing the appropriate sentencing response.
9. **First, at the hearing on 23 June 2015, Amos voluntarily removed the offending materials which he had re-posted and gave the Court a written undertaking not to re-post** (see exhibit D7 at Annex B). This was no less than a significant repudiation of his previous posturing. It was an important acknowledgment that he finally accepted the gravity of what he had done and was willing to make amends by undoing it. The immediate catalyst for our initial request for an RTC report – that is, the recalcitrant re-posting of the offending materials and the avowed intention to maintain these re-postings – no longer exists.
10. **Secondly, the prosecution now has the benefit of the report by Dr Cai Yi Ming who interviewed and observed Amos over the course of the last two weeks. Dr Cai has concluded that Amos has no mental disorder.**
11. **Crucially, Dr Cai reports that Amos has now admitted to him that he “would admit to his guilt and promised not to reoffend as he has realised what he did was against the law and could disrupt social harmony” and that he used his intelligence “in the wrong ways”.**
12. Dr Cai has also explained how early access to the Internet and early fame or success led to over-confidence and self-centredness on Amos' part. Dr Cai added, that Amos thinks highly of himself and “shows scant regard to the feelings of others and focuses on his needs most of the time”. He has commented on how Amos has to learn to make decisions wisely to stay within the law.
13. **These developments disclose material attitudinal shifts which are now relevant to your Honour's consideration of an appropriate sentence.**

DPPs Hay Hung Chun, Hon Yi, Kelvin Kow and Andre Chong
6 July 2015

Chronology of Events (Annex A)

Date	Event
27/3/15	Amos Yee ("Amos") posted the subject video on YouTube. Announces on Facebook ("Fb").
28/3/15	Amos posted the obscene image on his Wordpress blog. Announces on Fb.
31/3/15	Amos was charged. Offending posts were privatised.
3/4/15	Third appointment with Institute of Mental Health ("IMH") fixed, but Amos refused to attend
13/4/15	Offending posts were made public again.
17/4/15	Pre-trial conference ("PTC"): Amos admitted that he had breached social media condition. Daily reporting condition also imposed. The Prosecution requested that court not impose condition that only Amos's parents could stand as bailor. The Court agreed.
21/4/15	Bail review - Dodwell & Co + Ervin instructed. Amos bailed out by Mr Vincent Law ("bailor"). Before he was bailed out, he privatised the offending posts.
30/4/15	Amos deliberately breached his bail condition again, by un-privatising the offending video and obscene image. He also made a series of Fb posts, which included the comment "with all due respect, fuck you prosecutor, fuck you judge and fuck you, [Investigating Officer]".
30/4/15	Pre-trial Conference Amos admitted that he had re-publicised the offending posts in breach of bail conditions, and said he would not rectify that. Bail offered at \$30,000, no bailor came forward.
6/5/15	Defence filed a Criminal Motion for Bail Review in the High Court. Prosecution stated that the Police had just discovered on 5 May 2015 that Amos had seen a psychiatrist, and would benefit from continued psychiatric attention. Thus, the Prosecution was prepared for bail to be reduced to \$10,000 and to do away with the daily reporting requirement, but the amended social media condition was to remain. Counsel said Amos attended IMH to prove that nothing was wrong with him, and was not a concession that he was not well. It did not mean that he was sick.
7-8/5/15	Trial
12/5/15	Verdict (Convictions) The Prosecution submitted that a probation report should be called so as to facilitate Amos's rehabilitation. Amos at first declined probation and requested a backdated imprisonment sentence. When it was pointed out to him that he would then be left with a criminal record, he reconsidered and agreed to be evaluated for probation. The Prosecution also suggested that the court call for a Mandatory Treatment Order ("MTO") report, but Defence rejected this. The Prosecution asked the court for the bail quantum to be reduced to S\$10,000 WOS, and for the previously imposed conditions (for him to report daily to the

Chronology of Events (Annex A)

	<p>police and for him not to post any content on any social media) to be lifted. The order was granted. Amos was bailed out by his mother (\$10,000).</p> <p>After the verdict was given, Amos privatised the posts at home.</p>
20/5/15	Designated probation officer spoke to Amos and parents over phone on 20 May 2015. He confirmed that he did not want to be placed on probation. Parents opined he was not ready to commit to probation conditions. They felt no need to meet with designated probation officer since he was not keen on probation.
21/5/15	IO observed that the offending material had been un-privatised.
27/5/15	<p>Court hearing (in chambers) after Amos told the designated probation officer that he did not want to be put on probation.</p> <p>Prosecution stated Reformative Training would be sought. Defence wanted time to prepare submissions.</p>
1/6/15	Amos reposts the "buttfucking" image on Fb, labelled "The Immaculate Conception".
2/6/15	<p>Sentencing Mention in Court 7 at 9.30AM</p> <p>Prosecution reiterated that rehabilitation has always been the primary consideration. Prosecution noted that Amos had re-offended by un-privatising the offending material, and reposting the obscene image captioned "The Immaculate Conception". Prosecution submitted that a fine or a term of imprisonment would have no impact on him because he lacked insight and self-control. Prosecution further submitted that a term of reformative training would provide the necessary structure and discipline that would be conducive to his rehabilitation.</p> <p>Counsel argued that Reformative Training had never been broached, and was disproportionate to the offences. Counsel also argued that the Amos's post-conviction conduct was irrelevant. Counsel submitted for a jail term proportionate to the offence in question.</p> <p>The Court remarked that the predominant sentencing consideration when sentencing young offenders was rehabilitation. Probation was not an option as the Amos had refused it. Reformative training provided the middle ground. The Court called for a reformative report to assess the physical and mental suitability of Amos to undergo such a sentence. The Court thus remanded Amos for three weeks, for such a report to be prepared.</p>
23/6/15	<p>Sentencing Mention in Court 7 at 9.30AM</p> <p>Amos privatised the subject video, and his blog post containing the obscene image. He also privatised a related Facebook post of 28 March 2015 which included a link to the image and a preview of the same.</p> <p>Court remanded Amos in IMH for 2 weeks under s 339(6)(a) CPC to assess his suitability for an MTO¹. Sentencing adjourned to 6 July 2015, 2.30 pm.</p>

¹ Prosecution noted that it made two previous applications for Amos to be psychiatrically assessed (6 May at bail review in High Court, and 12 May after conviction)

Chronology of Events (Annex A)

3/7/15	<p>MTO suitability report prepared by Dr Cai Yiming of IMH was sent to court and served on parties.</p> <p>Report states that Amos "does not suffer from ASD or any other mental disorder".</p> <p>Report also states that Amos "would admit to his guilt and promised not to re-offend as he realized what he did was against the law and could disrupt social harmony".</p>
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I Amos Yee (S9836967H) hereby agree to the following:

a) I hereby agree to privatize the offending post and all references to the offending post

b) I confirm that I will not repost these posts or images or videos in any subsequent posts in any social media sites or on the world wide web such that any member of the public or my friends will be able to ~~access~~ access it

c) I will not circulate these said posts through any other medium whatsoever, to any other person after I have removed it today.

That is all

23/6/15 A