

Category	Type of offence(s)	Existing laws/penalties	PCRC's recommendation	Proposed amendments and revised penalties
Enhancing protection for vulnerable victims	Offences committed against vulnerable victims	<p>In general, the vulnerability of the victim is considered during sentencing. The characteristics of the victim and the degree of exploitation by the offender are currently provided for within the current sentencing ranges for offences.</p> <p>Sentencing is a fact-sensitive exercise, and Courts typically consider all the facts and circumstances of the case before determining the most appropriate sentence.</p> <p>However, there is a case to be made for such vulnerability to be a specified aggravating factor in certain cases, where there is either a high degree of victim vulnerability, or a high degree of exploitation by the offender of the victim's circumstances. In such instances, there is scope to increase the maximum penalties for such offences, beyond current sentencing ranges. This reflects the egregious nature of offences that deliberately target vulnerable persons, on account of their vulnerabilities, and an offender who does so would be more morally culpable. There is thus a need to send a stronger deterrent signal that such acts will not be tolerated.</p>	<p>Enhance the maximum penalties for offences committed against children, vulnerable persons, and domestic maids, by up to two times the maximum punishment the offender would otherwise have been liable to, as follows:</p> <ul style="list-style-type: none"> (a) Enhance penalties for all offences in the Penal Code committed against children under 14 years of age (b) Enhance penalties for all offences in the Penal Code committed against vulnerable persons (c) Expand the list of specified offences and scope of offenders covered by s 73, and enhance penalties, for offences against domestic maids. <p>The recommendations of the PCRC take reference from the existing enhancement of penalties in s 73 of the Penal Code, which provide for enhanced penalties of up to one-and-a-half times the maximum punishments for a specified list of offences committed by an employer of a domestic maid or a member of the employer's household against their domestic maid.</p> <p>The PCRC recommends extending similar protection to children under the age of 14 and vulnerable persons, defined as a person who is, by reason of mental or physical infirmity, disability or incapacity, substantially unable to protect himself or herself from abuse, neglect or self-neglect.</p>	<p>The Government accepts the PCRC's recommendation.</p> <p>In response to feedback received on covering non-physical abuse, the Government will recognise injury to mental health as a form of abuse in the proposed offences of "Allowing neglect, physical or sexual abuse of a domestic worker or vulnerable person" and "Causing or allowing death of child under 14 years of age or vulnerable person in the same household". However, mere emotional injury will not be covered, so as to exclude less serious forms of injuries.</p> <p>In response to feedback raised on intimate partner violence, the Government will be introducing enhanced maximum punishments where the victim was in an "intimate relationship" with the offender.</p> <p>Enhanced maximum punishments will also be applicable where the victim was in a "close relationship" with the offender. This will cover situations that fall outside of the scope of an "intimate relationship".</p> <p>On the issue of whether elderly persons should be considered vulnerable victims due to their age, the Government is of the view that vulnerable elderly persons, such as those whose mental or physical</p>

			<p>The PCRC recommends further enhancing the existing protections for domestic workers as well.</p> <p>Beyond the groups highlighted above, the PCRC had considered imposing enhanced penalties for offences committed against the elderly and individuals who may not fall within the proposed vulnerable groups of victims identified in recommendation 47(a)-(c), but who were nevertheless vulnerable and susceptible to crime. The expansion of the scope of such enhanced punishment provisions would have had a stronger signalling effect in deterring crime against vulnerable victims in society. However, the PCRC is of the view that it is at present, not necessary to do so. Enhanced punishment should be reserved for the most egregious cases, and victims with lower level of vulnerabilities would still be protected through higher punishments within the current sentencing ranges for offences.</p>	<p>condition renders them substantially unable to protect themselves from harm, would fall within the definition of “vulnerable persons”. Accused persons who commit offences against them may be subject to enhanced punishments. If the elderly person is in a close relationship with the offender and is physically abused, the offender may also be subject to enhanced punishments.</p>
	<p>Offences relating to “child abuse material”</p>	<p>There are no specific offences involving child pornography, and a current patchwork of laws exist to address offences involving pornography.</p> <p>Generally, the definition of pornography is covered under s2(1) of the Films Act. Importantly, there is no distinction drawn between child pornography and other types of obscene films, and similar penalties are provided for these offences. The Films Act contains several offences relating to the</p>	<p>The current law was not designed for, and is inadequate to address the serious problems that the rise of the Internet has created for offences such as child pornography.</p> <p>The PCRC recommends introducing new offences relating to “child abuse material”. These offences will address the rapid development of several other technologies which has allowed for fast, widespread, and anonymous distribution of such exploitative and abusive material.</p>	<p>The Government accepts the PCRC’s recommendation to introduce new offences relating to child abuse material. The Government will take into account feedback relating to fictional child abuse material.¹</p> <p>Material will be considered “child abuse material” only where the child depicted in that material is indistinguishable from a real child</p>

¹ While child abuse material was considered to be unequivocally wrong by members of the public and all stakeholders consulted, some felt that fictional material (eg cartoons or comics) should not be criminalised given that no actual harm was inflicted on a real child in the production of such material.

		<p>possession, making, importation, and distribution (among other things) of "obscene films".</p> <p>Section 292 of the Penal Code contains several offences relating to the sale, distribution, importation, and advertisement (among other things) of any "obscene object". These offences are punishable with imprisonment which may extend to three months, or with a fine, or both.</p> <p>Section 11 of the Undesirable Publications Act contains offences involving "obscene publications". These offences pertain to the making, reproduction, importation, and sale (among other things) of obscene publications. The offences are punishable, on conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding two years or to both.</p>	<p>There should be sufficient offences to deal with the entire ecosystem of offences perpetrated in the production, distribution, and consumption of such material, taking into account the rapid development of technology and the Internet.</p> <p>The PCRC has taken reference from the schema of the Films Act and offences available in the jurisdictions surveyed, and proposes the creation of the following offences:</p> <ul style="list-style-type: none"> (a) Using or involving a child in the making of such material. (b) Making of such material. (c) Distribution, selling, transmitting, etc., and possession of such material for these purposes. (d) Advertising or the seeking of such material. (e) Accessing and possession simpliciter. <p>The PCRC has recommended the application of specific defences for these offences as well.</p>	<p>Otherwise, material depicting imaginary or fictional children will be excluded from the definition of "child abuse material". The distribution and sale of fictional child abuse material will continue to be criminalised as "obscene material" in the Penal Code and will be subject to enhanced penalties.</p> <p>In response to the increasing availability of child sex-dolls which are visually and anatomically realistic, the Government will also be introducing a new offence that criminalises importing, exporting, conveying, selling, letting to hire, distributing, putting into circulation, making, producing or possessing a child sex-doll.</p>
	<p>Exploitative sexual activity with minors</p>	<p>Apart from commercial sexual exploitation of minors in s376B of the Penal Code, there are currently no laws relating to penetrative sexual activity with minors arising from exploitation and manipulation by the offender in the Penal Code.</p> <p>Such exploitation typically arises in the context of a relationship between the offender and the minor. While the minor may not have resisted the sexual activity, the quality of her</p>	<p>The PCRC recommends that a new offence of "exploitative penetrative sexual activity" should be created, and cover a larger group of minors.</p> <p>The offences should provide for more severe punishments in cases where penetrative sexual activity with minors is obtained through exploitation and manipulation by the offender, in the context of an existing relationship.</p>	<p>The Government accepts the PCRC's recommendation.</p> <p>The law will set out that the Court, in deciding whether the relationship is exploitative of the minor, will have regard of the following non-exhaustive factors:</p> <ul style="list-style-type: none"> (a) the age of the minor, (b) the difference between the age of the accused and the minor,

		<p>consent may well have been compromised due to exploitation or manipulation by the offender.</p> <p>Whilst this is currently not recognised in legislation, it is an aggravating factor in case law, and the Courts have enhanced punishments for offenders in such circumstances.</p>	<p>The PCRC is of the view that while a list of specified relationships (similar to the approach in the United Kingdom and some states in Australia) will provide clarity, a closed and exhaustive list of such relationships would not cover the myriad of relationships that could develop between young persons and offenders. It is not the form of the relationship, but the quality and substance of the interactions within the relationship which are crucial to proving exploitation. This would mirror the current fact-sensitive approach taken by the courts.</p> <p>Hence, the PCRC recommends that the Canadian definition of “exploitative relationship” should be adopted, which sufficiently sets out the factors for the courts to consider to determine whether exploitation was present in each case. These factors are:</p> <ul style="list-style-type: none"> (a) the age of the minor; (b) the age difference between the offender and the minor; (c) the nature of the relationship; and (d) the degree of control or influence by the offender over the minor. <p>To provide clarity to the law, a specified list of relationships should be included in the new provision. Where these relationships exist between the offender and the minor, this would trigger a rebuttable presumption of an exploitative relationship. The presumption can be rebutted if the offender proves, on a balance of probabilities, that the relationship was not exploitative. It should</p>	<ul style="list-style-type: none"> (c) the nature of the relationship, and (d) the degree of control or influence exercised by the accused over the minor. <p>There will also be a list of relationships which are presumptively exploitative, such as the relationship between:</p> <ul style="list-style-type: none"> (a) parent and child, (b) teacher and student, (c) doctor and patient, or (d) lawyer and client. <p>The presumption is not conclusive, but rebuttable, and allows for the accused to adduce evidence that he did not exploit the minor.</p>
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			be made clear that apart from the listed relationships, the courts continue to have the discretion to assess the circumstances of the relationship between the offender and the minor to determine if exploitation was present.	
Updating the Penal Code	Attempted suicide	<p>Attempting to commit suicide is an offence in Singapore under s309 of the Penal Code:</p> <p>Attempt to commit suicide 309. Whoever attempts to commit suicide, and does any act towards the commission of such offence, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.</p>	<p>While society remains opposed to suicide, there is growing recognition that treatment, not prosecution, is the appropriate response to persons who are so distressed that they attempt to take their own lives. Our current law enforcement practice proceeds on this basis, as can be seen from the extremely low rates of prosecution under s 309, coupled with SPF's referrals of persons who have attempted suicide to a hospital or IMH for assessment. Since the criminal justice system is not suited for the care and treatment of persons who have attempted suicide, repealing s 309 would allow such persons to be more appropriately managed primarily by the healthcare and social assistance systems.</p> <p>Internationally, the majority of countries criminalise only the abetment of suicide, and not the act of attempted suicide. Attempting suicide is not a crime in the United Kingdom, Canada, Australia, New Zealand and most of Europe. According to the World Health Organisation's 2014 World Suicide Report, only 25 of the 192 countries and states surveyed have laws and punishments for attempted suicide. Singapore, along with Malaysia and Bangladesh, is among the minority of states in which attempting suicide is illegal and punishable.</p>	<p>The Government accepts the PCRC's recommendation to repeal s309.</p> <p>The Government agrees that persons who attempt suicide should be provided with help, rather than regarded as criminals.</p> <p>The repeal of the offence of attempted suicide does not mean that the Government has shifted its position on the sanctity of life. Therefore, the abetment of attempted suicide continues to remain an offence.</p>

			<p>The criminal justice system is not ideal for managing cases of attempted suicide, as those who attempt suicide are typically distressed individuals who require medical help and may not be deterred by punishment. There is also a global shift towards the decriminalisation of suicide. With this in mind, the PCRC recommends that s 309 be repealed, subject to the following policy objectives being achieved:</p> <ul style="list-style-type: none">(a) Police and SCDF officers must be empowered, in situations where the suicidal person may be a danger to himself or others, to immediately intervene to prevent harm or loss of life;(b) Police officers must be empowered to arrest and take persons who have attempted suicide to a medical practitioner for assessment, while medical practitioners and the courts should be able to compel treatment if necessary;(c) The public should be encouraged to report attempted suicides, although there is no need to impose a mandatory reporting requirement;(d) Police officers must be empowered to seize evidence in cases of attempted suicide where harm is caused, as such evidence would be needed if the person subsequently passes away and a Coroner's Inquiry is launched; and(e) The abetment of attempted suicide must remain a crime. While the person who attempted suicide may not be morally culpable, the abettor who voluntarily facilitates in the	
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			ending of a life should. This is in line with the general policy of penal culpability for homicide and the causing of death.	
Repeal of Marital immunity for rape	of	<p>In 2007, Singapore’s Penal Code was amended to withdraw marital immunity under circumstances which signalled a breakdown in the marriage.</p> <p>The number of marital rape reports thus far remains low. From August 2008 to December 2015, the Police received 23 reports under s375(4) and no reports under s376A(5), made by wives against their husbands. The Police investigated all reports, and there have been no prosecutions under the marital rape provisions to date. However, it should be noted that these statistics describe cases which fall within the exceptions to marital immunity set out in s375(4), and do not cover instances where marital immunity was exercised.</p> <p>The origin of marital immunity is attributed to a pronouncement in 1736 by then UK Chief Justice Matthew Hale that through marriage, a wife had irrevocably surrendered herself to sexual intercourse with her husband. Matrimonial consent to sexual intercourse given by the wife was taken to be irrevocable while the contract of marriage existed.</p>	<p>The majority of the PCRC is of the view that marital immunity for rape should be fully repealed. Some Committee Members had differing views, primarily to honour the sanctity and intimacy of a marriage. Nevertheless, the PCRC recommends a full, unqualified repeal of marital immunity for rape.</p> <p>Repealing marital immunity for rape will provide equal access to protection for sexually abused wives. Although married persons have conjugal rights over each other, such rights should be exercised reasonably. Married women whose husbands no longer exercise reasonable conjugal behaviour and inflict sexual violence/serious harm on them should have the same access to protection as unmarried women.</p> <p>Concerns about false accusations of rape by vindictive wives should not be reasons to maintain marital immunity. The risk of false accusations of rape is equally present where the complainant and defendant are not married. Existing safeguards in the form of evidentiary requirements, prosecutorial discretion and judicial scrutiny are in place to prevent the miscarriage of justice for all other types of rape accusations.</p> <p>Finally, the repeal of marital immunity for rape will also ensure consistency with other sexual offences. For example, there is</p>	<p>The Government accepts the PCRC’s recommendation to repeal s375(4) which provides for marital immunity.</p> <p>The Government agrees with the PCRC that “[a]lthough married persons have conjugal rights over each other, such rights should be exercised reasonably”. With regard to the concerns about false allegations, the Government’s position is that all cases of rape are subject to the same level of evidential rigor, and that there are relevant offences that adequately address and deter false reporting.</p>

			currently no marital immunity for the offence of sexual assault by penetration (s 376 of the Penal Code). In fact, this provision carries the same punishments as rape, and it is already possible for vindictive wives to make false accusations of sexual assault. The fact that there is no known history of such accusations suggests that the link between a repeal of marital immunity for rape and increase in false accusations is tenuous at best.	
Rape	Currently, rape is defined in s375 as the penetration of a woman's vagina with a man's penis without her consent, or regardless of her consent when she is below 14 years of age. This means that only women can be victims of rape. Other forms of penetrative sexual activity are covered in s376 (Sexual assault by penetration). Both s375 and s376 provide for similar maximum prescribed punishments. Therefore, a person who is convicted of an offence under s375 or s376 shall be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to a fine or to caning.	<p>The PCRC recommends that the definition of rape be expanded to include penile penetration of the anus (in addition to penile penetration of the vagina). The expansion of the definition of rape provides an appropriate label for forced penile-anal penetration, which, like penile penetration of the vagina, carries with it the dangers of forced transmission of sexually transmitted diseases.</p> <p>The extension of the definition of rape would mean that in Singapore, a man can be prosecuted for rape if he engaged in non-consensual anal sex with another man or woman. This is consistent with the practice in jurisdictions that have expanded the scope of rape. These jurisdictions have found no reasons why male and female victims of penile assault should be treated differently.</p> <p>The PCRC notes that the Singapore High Court has found that forced penile-oral penetration would probably be "more disgusting" than forced penile-anal penetration, because it involves the victim's mouth. Semen is also ejaculated into the front end of the alimentary system. Forced</p>	<p>The Government accepts the PCRC's recommendation.</p> <p>It also accepts the public feedback to expand the definition of rape to include non-consensual penile-oral penetration.</p>	

			<p>penile-oral penetration also carries the dangers of transmission of sexually transmitted diseases, and involves the invasion of the body with the penis.</p> <p>However, the PCRC anticipates that it may be difficult to achieve public consensus in Singapore that non-consensual penile-oral penetration is equivalent in gravity to non-consensual penile-vaginal penetration or non-consensual penile-anal penetration. Therefore, the PCRC proposes not to include non-consensual penile penetration of the mouth in the definition of rape.</p>	
	Sexual assault by penetration	<p>Currently, “sexual assault by penetration” in s376 deals with situations where a female forces a male to penetrate her vagina with other body parts (eg tongue, finger), excluding his penis. The relevant excerpt from s376 is set out below:</p> <p style="text-align: center;">Sexual assault by penetration</p> <p>376. – (2) Any person (A) who –</p> <p style="padding-left: 2em;">(a) sexually penetrates, with a part of A’s body (other than A’s penis) or anything else, the vagina or anus, as the case may be, of another person (B);</p> <p style="padding-left: 2em;">(b) causes a man (B) to penetrate, with B’s penis, the vagina, anus or mouth, as the case may be, of another person (C); or</p> <p style="padding-left: 2em;">(c) causes another person (B), to sexually penetrate, with a part of B’s body (other than B’s penis) or</p>	<p>The possibility of an adult male being forced into engaging in penetrative sex against his will is covered in the Penal Code as follows:</p> <p style="padding-left: 4em;">(a) The forcing of a man to penetrate, with his penis, a corpse (s377(3)); and</p> <p style="padding-left: 4em;">(b) The forcing of a man to penetrate, with his penis, an animal (s377B(3)(a)).</p> <p>Since the Penal Code envisions a possibility where an adult male may be coerced into sexual penetration against his will (insofar as corpses and animals are concerned), there is no reason why the possibility of an adult male being forced to penetrate a woman with his penis against his will should also not be covered by the Code.</p> <p>The PCRC recommends to criminalise the actions of a female (A) who causes a man (B) to penetrate, with B’s penis, the vagina, anus, or mouth, of A as sexual assault</p>	The Government accepts the PCRC’s recommendation.

		<p>anything else, the vagina or anus, as the case may be, of any person including A or B,</p> <p>shall be guilty of an offence if B did not consent to the penetration.</p> <p>It is likely that cases involving males 16 years and above who are forced to penetrate a woman’s vagina, mouth or anus with his penis would be prosecuted under s 354 (Outrage of modesty) instead. In contrast, males under 16 years of age are protected from a female assailant who forces them to penetrate her vagina, mouth or anus with his penis. Section 376A(1)(c) provides that it is an offence for any person (A) who “causes a man under 16 years of age (B) to penetrate, with B’s penis, the vagina, anus, or mouth, as the case may be, or another person including A”, with or without B’s consent. The need for s 376A(1)(c) was explained during the second reading of the Penal Code (Amendment) Bill: the Government had received feedback regarding female sexual abuse of male minors, and accepted that younger male children could be exploited by older women.</p>	<p>involving penetration under s 376. The principle should be that a woman who violates a man’s sexual autonomy by forcing the man to penetrate her vagina, anus, or mouth with his penis, as the case may be, is guilty of sexual assault. Consequently, the title of s 376 should be amended to read “Sexual assault involving penetration”, given that the assault is not by penetration.</p>	
Rationalise the general principles, explanations and defences in the Penal Code	Minimum Age of Criminal Responsibility	The defence of infancy in the Penal Code operates to protect a child still in his developmental years from the damage that might otherwise result from an early entry in the criminal justice system, by setting a minimum age at which a child can be held criminally responsible. The underlying rationale for the defence is that children under a certain age, no matter what their backgrounds might be, are insufficiently developed to fully understand the physical nature and consequences of their conduct.	<p>The PCRC recommends raising the MACR under s82 of the Penal Code from 7 to 10 years old.</p> <p>The PCRC makes this recommendation for the following reasons:</p> <p>(a) Although there is no scientific consensus on when a child is mature enough to appreciate right and wrong and/or the natural consequences of his actions, there is some authority that a 10-year-old</p>	<p>The Government accepts the PCRC’s recommendation to raise the MACR to 10 years of age.</p> <p>There is no international or scientific consensus on when a person should no longer be regarded as a child.</p> <p>In Singapore, the statistics show that the number of arrests of juveniles between 7 and 9 years of age is small, but there is an appreciable increase in</p>

		<p>Under the Penal Code, there are two age-groups of children that are protected under the defence of infancy:</p> <p>(a) Those who are under 7 years of age are deemed by law to be doli incapax (incapable of crime) (s 82);</p> <p>(b) When a child is above 7 years of age, and under 12 years of age, his incapacity to commit an offence only arises where it can be proved that he had not attained sufficient maturity to judge of the nature and consequences of his conduct on that occasion (s 83).</p>	<p>is generally able to appreciate the importance of law and order concerns.</p> <p>(b) As international trends go, there is no consensus on what age to set the MACR at. A MACR of 7 years old is, however, the lowest age-point amongst states which have a MACR.</p> <p>(c) From a community-protection perspective, conferring immunity from criminal liability on 7 to 9-year-olds would not present a significant risk in Singapore, as the number of children arrested from this age-group is small. There is however, a marked increase in the number of juveniles arrested from age 10 onwards, and there is therefore a need to have a means to intervene via the criminal justice system for the age-group of 10 years old and above.</p> <p>The PCRC recommends putting in place a framework to address offending behaviour in children below the MACR (where necessary) and offenders found to not have attained sufficient maturity of understanding to judge of the nature and consequence of their conduct by virtue of s83.</p> <p>The PCRC is of the view that although the children below the MACR and those who have not attained sufficient maturity of understanding cannot be criminally liable for their actions, there is still offending behaviour that has to be addressed from two perspectives:</p>	<p>the number of arrests of juveniles 10 years of age and above.</p> <p>The Government also accepts the PCRC's recommendation on the mechanism and is studying the mechanism that can be used to deal with such offenders. Until the mechanism has been put in place, the amendments relating to the raising of the MACR will not come into force.</p>
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	Definition of “consent” for sexual offences	The term “consent” is not defined in the Penal Code, but s90 sets out a list of circumstances when consent will not be regarded as consent, i.e. consent is vitiated.	<p>The PCRC recognized that it was not possible to list exhaustively all the types of misconceptions of fact that would vitiate consent. Listing only the most obvious ones would also serve little utility in guiding the Courts or the public.</p> <p>As we have functioned well enough with the current definition of consent in s90, as clarified by case law such as <i>Siew Yit Beng</i>, the PCRC recommends maintaining the status quo and making no amendments to s90.</p> <p>In particular, we may continue to rely on the judicious exercise of prosecutorial discretion in not pursuing trivial forms of deceptions/misconceptions under serious offences (such as rape), and fall back on intermediate offences such as cheating to punish less egregious forms of deceptions.</p>	<p>In the context of sexual offences, a new section to set out the types of misconceptions of fact that can vitiate consent will be added. The types of misconception of fact that will be capable of vitiating consent are those relating to the</p> <ul style="list-style-type: none"> (a) sexual nature of the act, (b) sexual purpose of the act, and (c) identity of the person doing the act. <p>This will give greater clarity to the scope of consent in the context of sexual offences, which is the area in which issues of consent arise most often.</p> <p>In addition, the Government proposes introducing a new offence of procurement of sexual activity by deception or false representation. The offence will criminalise the obtaining</p>

				<p>of consent by means of deception or false representation regarding</p> <ul style="list-style-type: none"> (a) the use or manner of use of a sexually protective device, or (b) whether one is suffering from a sexually transmitted disease. <p>In such cases, while consent is not legally vitiated (as the deception does not relate to the sexual nature of the act, the sexual purpose of the act, or the identity of the person doing the act), the consent obtained is compromised and poses a physical risk to the victim.</p>
Tackling emerging crime trends	Voyeuristic activity	<p>The observance and recording of someone who is engaged in circumstances of undress or intimacy or of someone who has a reasonable expectation of privacy is one aspect of voyeuristic behaviour. Another aspect involves the possession and distribution of images taken in such circumstances. Neither aspect is addressed by a specific provision in current law. Depending on the offending behaviour and gender of the victim, the provisions that are most commonly used to address voyeuristic behaviour are set out below:</p> <p>Section 509, Penal Code (insult of modesty) Insulting the modesty of a woman Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, intrudes upon the privacy of such woman, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.</p>	<p>The existing law is inadequate to address the serious problems that technology has created. There is a bustling market online for "upskirt" videos and photos but the current law neither acknowledges nor is adequate to address this phenomenon. A patchwork of laws has to be relied on to deal with the many components involved in the market for voyeuristic content.</p> <p>An obvious lacuna is the absence of any provision to deal with the possession of voyeuristic still images (ie not films or videos). While several jurisdictions like the UK (England and Wales), New Zealand, Scotland, and Australian states (like Victoria and the New South Wales) have introduced new criminal offences to deal with these challenges, Singapore has not done so yet.</p> <p>The PCRC recommends the creation of an offence to cover the conventional "Peeping Tom" who observes another person in circumstances where the person could reasonably expect privacy. Therefore, it will</p>	<p>The Government accepts the PCRC's recommendation to create a specific offence involving the observation or recording of a person in circumstances where the person could reasonably expect privacy.</p> <p>The Government accepts the PCRC's recommendation to create specific offences involving the making, distribution, possession and accessing voyeuristic recordings, and to introduce a presumption such that in cases where someone makes a recording of an individual who is in circumstances where he can reasonably expect privacy, the individual depicted in the recording is presumed not to have given consent to the recording.</p> <p>The Government agrees that the inclusion of a presumption, that the individual depicted in the recording is presumed not to have given consent to</p>

		<p>Section 29, Films Act (making of obscene films) Offences involving dealings in obscene films Any person who makes or reproduces any obscene film (whether or not for the purposes of exhibition or distribution to any other person), knowing or having reasonable cause to believe the film to be obscene shall be guilty of an offence and shall be liable on conviction —</p> <p>(a) to a fine of not less than \$20,000 but not more than \$40,000 or to imprisonment for a term not exceeding 2 years or to both; and (b) in the case of a second or subsequent conviction, to a fine of not less than \$40,000 but not more than \$100,000 or to imprisonment for a term not exceeding 2 years or to both.</p> <p>Section 30, FA (possession of obscene films) Possession of obscene films (1) Any person who has in his possession any obscene film shall be guilty of an offence and shall be liable on conviction to a fine of not less than \$500 for each such film he had in his possession (but not to exceed in the aggregate \$20,000) or to imprisonment for a term not exceeding 6 months or to both. (2) Any person who has in his possession any obscene film knowing or having reasonable cause to believe the film to be obscene shall be guilty of an offence and shall be liable on conviction:</p> <p>(a) to a fine of \$1,000 for each such film in his possession (but not to exceed in the aggregate \$40,000) or</p>	<p>be an offence for any person to intentionally observe another person in circumstances where he can reasonably expect privacy without the consent of that person.</p> <p>The PCRC recommends the creation of an offence to cover situations:</p> <p>(a) where someone makes a recording of a person who is in circumstances where he can reasonably expect privacy; or (b) where a recording was made under a person's clothing for the purpose of viewing his genitals, pubic area, buttocks, or breasts.</p> <p>The PCRC considered whether consent should be presumed in cases where someone makes a recording of an individual who is in circumstances where he can reasonably expect privacy. Typically, voyeuristic recordings (such as "upskirt" photographs and recordings) do not capture features that can identify the person recorded. Even if they do, investigators will face an uphill task identifying and then locating the person depicted in the recordings.</p> <p>The PCRC is of the view that it is far easier for the person who made the recording to prove that he had the consent of the person depicted in the recording than for investigators to prove that the person depicted had not given such consent. Therefore, the PCRC is of the view that where a person is proven to have made a recording in circumstances where he or she can reasonably expect privacy, it will be</p>	<p>the recording, will strengthen the law. Often, voyeuristic recordings do not capture features that identify the person recorded. Investigators will face difficulties identifying and locating those depicted in such recordings. The presumption will only apply in cases where the accused made the voyeuristic recording himself. Therefore, the accused is in the best position to prove that he had made the recording with the consent of the person depicted.</p> <p>Defences will be created to ensure that acts that are necessary for legitimate purposes, such as ensuring someone's safety or for assisting with police investigations, are not criminalised.</p>
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	<p>Distribution of intimate image</p>	<p>The Penal Code does not have a specific offence that criminalises the distribution of nude, semi-nude, or other sexual images without consent. The provisions that are most commonly used to address such conduct are:</p> <p>Section 292(a) of the Penal Code Sale of obscene books etc.</p>	<p>The proliferation of the Internet and smart phones has made it extremely easy for images to be created, uploaded, and downloaded on various platforms, and very difficult for such images to be removed. Existing law should be updated to respond to this contemporary phenomenon. While several jurisdictions like the UK (England</p>	<p>The Government accepts the PCRC's recommendation, and will take in feedback to make the proposed offence arrestable.</p> <p>In addition, the Government proposes criminalising the possession and/or accessing of an intimate image or</p>

		<p>Whoever sells, lets to hire, distributes, transmits by electronic means, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, transmission, public exhibition or circulation, makes, produces, or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure, or any other obscene object whatsoever shall be punished with imprisonment for a term which may extend to 3 months, or with fine, or with both.</p> <p>Section 383 punishable under s384 of the Penal Code Extortion 383. Whoever intentionally puts any person in fear of any harm to that person or to any other person, in body, in mind, reputation or property, whether such harm is to be caused legally or illegally, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion".</p> <p>384. Whoever commits extortion shall be punished with imprisonment for a term of not less than 2 years and not more than 7 years and with caning.</p>	<p>and Wales), Canada, New Zealand, Scotland, and the majority of Australian states and territories (such as Victoria, New South Wales, and Australian Capital Territory) have introduced new criminal offences to deal with these challenges, Singapore has not done so yet.</p> <p>To overcome the difficulties presented by the current state of the law and to ensure consistency in how the law responds to conduct involving "revenge pornography", the PCRC recommends creating a new offence of "distributing or threatening to distribute an intimate image".</p> <p>The PCRC is of the view that the term, "revenge pornography", is neither appropriate nor accurate to describe the distribution of nude, semi-nude, or sexual images. For the law to condemn a private and intimate image as "obscene" (as it currently does under s 292(a) of the Penal Code) or "pornography" may further insult and humiliate the person depicted in those images.</p> <p>In addition, the distribution or threat to distribute such images may not necessarily be motivated by a demand for something in return.</p>	<p>recording where the possession of such an image or recording was:</p> <ol style="list-style-type: none"> a) without the consent of the person depicted; and b) where such possession will or is likely to cause humiliation, distress or alarm to the person depicted.
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	Flashing	<p>Currently, the following laws may be used to punish such conduct:</p> <p>Section 27A(1), MOA Appearing nude in public or private place</p>	<p>The current patchwork of laws presents the following challenges:</p> <p>(a) The <i>mens rea</i> for the provisions currently used to prosecute such conduct, particularly s27 of the</p>	<p>The Government accepts the PCRC’s recommendation. It also accepts feedback to criminalise “cyber-flashing” to cover situations where images of genitalia are sent to recipients without their consent, and</p>

		<p>Any person who appears nude – (a) in a public place; or (b) in a private place and is exposed to public view, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 3 months or to both.</p> <p>Section 294(a), Penal Code Obscene songs Whoever, to the annoyance of others – – (a) does any obscene act in any public place; or (b) sings, recites or utters any obscene song, ballad, or words in or near any public place, shall be punished with imprisonment for a term which may extend to 3 months, or with fine, or with both.</p> <p>Section 509, Penal Code Word or gesture intended to insult the modesty of a woman Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, or intrudes upon the privacy of such woman, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.</p>	<p>MOA and s294(a) of the Penal Code, does not capture sexual or malicious motives.</p> <p>(b) The prescribed punishments are too low and do not capture the essence of the wrongdoing.</p> <p>(c) Section 27A of the MOA and s294(a) of the Penal Code do not apply where the offender exposes his genitals in a private place. In such a situation, only prosecution under s509 of the Penal Code is possible, but there are conceptual difficulties with using the broad wording in s509 of the Penal Code to cover such a wide spectrum of conduct.</p> <p>(d) “Sexual exposure” is a sexual offence, and ought to be listed under Chapter XVI of the Penal Code (in the sub-Chapter on Sexual Offences), instead of Chapter XIV (Offences affecting the public tranquillity, public health, safety, convenience, decency and morals) or Chapter XXII (Criminal intimidation, insult and annoyance).</p> <p>To overcome the difficulties presented by the current state of the law and to ensure consistency in how the law responds to conduct involving sexual exposure, the PCRC recommends creating a new offence of sexual exposure.</p>	<p>with the intention to cause humiliation, distress or alarm.</p>
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	<p>Fraud</p>	<p>Generally, in the common law, fraud-related offences fall into one of two categories:</p> <ul style="list-style-type: none"> a) those that focus on the intent of the accused person to cause loss or gain, or increase the risk of loss; and b) those that focus on the effect of an accused person’s representation (ie whether the victim was deceived and whether this in turn led to a loss or gain). <p>Cheating is the most common general-use offence governing fraudulent acts:</p> <p>Section 415, Penal Code Cheating</p> <p>415. Whoever, by deceiving any person, whether or not such deception was the sole or main inducement, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit to do if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to any person in body, mind, reputation or property, is said to “cheat”.</p>	<p>The PCRC recommended introducing a new offence of fraud, which focuses on the dishonest or fraudulent intent to deceive a victim, rather than the effect of the deception of the victim. This offence addresses novel or sophisticated deceptive schemes in which wrongful gain or loss was intended without an identifiable victim being deceived. One example is the manipulation of the London Interbank Offered Rate (or LIBOR, a rate often used as a benchmark for other financial products) via false submissions by banks, where it was difficult to identify any specific person who suffered loss but it was possible to say that the manipulators had benefited.</p> <p>The PCRC considered that in recent years, major common law jurisdictions – UK and some states in Australia – have introduced statutory reform of their fraud-related offences to focus on the intent of the accused person rather than the effects of a deception on the victim. Bearing this in mind, the PCRC recommends creating a new offence of fraud.</p> <p>The proposed new offence is committed by any person who, fraudulently or dishonestly,</p> <ul style="list-style-type: none"> a) makes a representation; b) fails to disclose information which he is under a legal duty to disclose, or c) abuses, whether by act or omission, a position he occupies in which he is expected to safeguard, or not to act against, the financial interests of another person. 	<p>The Government accepts the PCRC’s recommendation to create a new offence of fraud.</p> <p>The Government also accepts the PCRC’s recommendation to set the maximum prescribed punishment for this offence at 20 years’ imprisonment, or a fine, or both. Although the maximum penalty is high, this is to address single charges of fraud that may involve serious betrayal of trust, multiple victims, and/or substantial loss. In addition, there is no mandatory minimum sentence applicable and the Courts have full discretion to take into account all the facts of the case in determining the appropriate sentence.</p>
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