IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2017] SGHC 02

Criminal Case No 2 of 2016

Between

Public Prosecutor

And

Goh Jun Guan

GROUNDS OF DECISION

[Criminal Procedure and Sentencing] — [Sentencing] — [Benchmark sentences]

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Public Prosecutor
v
Goh Jun Guan

[2017] SGHC 02

High Court — Criminal Case No 2 of 2016
Woo Bih Li J
31 March; 18 November 2016

6 January 2017

Woo Bih Li J:

Introduction

1 The accused, Goh Jun Guan ("Goh") committed multiple sexual offences against ten boys aged between ten and 15 at the material time and over a span of some three years. Goh was between the age of 23 and 25 when he committed the offences.

2 On 18 November 2016, Goh pleaded guilty to the following nine charges:

(a) two counts of sexual penetration of a minor (causing a boy below the age of 14 to fellate him) under s 376A(1)(*a*) and punishable under s 376A(3) of the Penal Code (Cap 224, 2008 Rev Ed);

(b) three counts of sexual penetration of a minor (fellating a boy below the age of 14) under s 376A(1)(*c*) and punishable under s 376A(3) of the Penal Code;

(c) two counts of committing an obscene act with a child under s 7(*a*) of the Children and Young Persons Act (Cap 38, 2001 Rev Ed) ("CYPA"); and

(d) two counts of procuring a child to commit an obscene act under s 7(*b*) of the CYPA.

3 After admitting to the Statement of Facts without qualification, Goh consented for the following 21 charges to be taken into consideration for the purposes of sentencing:

(a) two counts of sexual penetration of a minor (causing a boy below the age of 14 to fellate him) under s 376A(1)(*a*) and punishable under s 376A(3) of the Penal Code;

(b) four counts of sexual penetration of a minor (fellating a boy below the age of 14) under s 376A(1)(*c*) and punishable under s 376A(3) of the Penal Code;

(c) one count of committing an obscene act with a child under s 7(*a*) of the CYPA;

(d) ten counts of procuring a child to commit an obscene act under s 7(*b*) of the CYPA;

(e) three counts of transmitting obscene material to a person below the age of 21 under s 293 of the Penal Code; and

(f) one count of possessing obscene films under s 30 of the Films Act (Cap 107, 1998 Rev Ed).

4 Goh was arrested on 16 October 2014.

5 I convicted Goh of the nine charges and sentenced him as follows:

1st charge	Under s 376A(1)(*c*) and s 376A(3) of the Penal Code	Six years and three strokes of the cane.
3rd charge	Under s 376A(1)(*a*) and s 376A(3) of the Penal Code	Six years and three strokes of the cane.
5th charge	Under s 376A(1)(*c)* and s 376A(3) of the Penal Code	Six years and three strokes of the cane.
9th charge	Under s 376A(1)(*a*) and s 376A(3) of the Penal Code	Six years and three strokes of the cane.
12th charge	Under s 376A(1)(*c*) and s 376A(3) of the Penal Code	Six years and three strokes of the cane.
18th charge	Under s 7(*b*) of the CYPA.	Four months.
19th charge	Under s 7(*a*) of the CYPA.	Six months.
24th charge	Under s 7(*a*) of the CYPA.	12 months.
27th charge	Under s 7(*b*) of the CYPA.	Four months.

(a) The sentence of imprisonment for the 1st charge was to commence from 16 October 2014.

(b) The sentences of imprisonment for the 5th and the 19th charges were to run consecutively after the sentence for the 1st charge.

(c) The rest of the sentences were to run concurrently with the sentence for the 1st charge.

6 The total number of years of imprisonment was 12 years and six months. The total number of strokes of the cane was 15.

7 The Public Prosecutor has filed an appeal against my decision on sentencing.

8 For the purpose of protecting the identities of the victims, I will refer to them by number, *eg*, V1.

First information report

9 On 28 August 2014, V4 informed a Senior Investigation Officer Jereld Xu Jin Wei ("SIO Xu") of the Criminal Investigation Department ("CID") that he had been exchanging photos and videos of his private parts with one "Terry" via Facebook. During the course of investigations, SIO Xu discovered that V4 was communicating with "Terry" and that their communication was sexual in nature. "Terry" was later established to be Goh. SIO Xu thus lodged a First Information Report ("FIR") dated 27 August 2014.

10 The case was referred to SIO Jakki Lim ("SIO Lim") of Jurong Police Division and was classified as a case of 'Sexual Exploitation of a Child' under Section 7(*a*) of the CYPA.

Arrest and seizure

11 Pursuant to the FIR, on 16 October 2014, police officers went to Goh's flat at Block 705 Jurong West Street 71, #05-90, Singapore ('the Flat") to

arrest him. Goh granted the police officers access to his handphone, which was found to contain 41 photos of male genitalia, and two photos of oral sex. He was thus placed under arrest.

12 Police officers also seized Goh's handphone and laptop for investigations. The laptop was not sent for forensic examination as nothing incriminating was found. However, the handphone was sent to the Technology Crime Forensic Branch of the CID for forensic analysis.

Goh's initial admission

13 Goh was subsequently interviewed by officers from the Serious Sexual Crimes Branch. He revealed that he found it difficult to stop thinking about young boys in a sexual way. According to him, when he was about 12 years of age, he had realised that he was sexually attracted to boys aged between 11 and 14. However, he did not act on his perverse impulses until 2011. Thereafter, Goh had befriended young boys. He would tease them and talk to them about exchanging photos of each other's genitalia.

14 Goh admitted that he had asked four or five boys to send him photos of their genitalia and exchanged photos of genitalia with two other boys. He also admitted to exchanging videos of himself masturbating with V4 and to having performed oral sex on three boys.

Background facts

15 Between 2012 and 2014, Goh committed sexual offences against not less than ten boys aged between ten and 15. Most of these offences involved the following sexual acts, all of which were performed without the protection of a condom:

(a) penetration of his victims' mouths with Goh's penis;

(b) penetration of Goh's mouth with the victim's penis;

(c) touching the genitalia of his victims;

(d) requesting that his victims send him photos of their genitalia or videos of them masturbating; and

(e) sending photos of his genitalia and videos of himself masturbating to his victims.

16 Goh admitted to asking young boys for photographs of their genitalia as he wanted to assess their reactions and whether they would have the courage to share such photographs. If the victims were willing to share such photographs, he would take it as an indication that the victims could be cajoled to allow him to touch them. He also stated that he was curious and wished to receive such photographs because each person's genitalia looked different.

Facts pertaining to the 1st charge involving V1

17 V1 was ten years old at the time of the offence. Both V1 and Goh were avid 'Vanguard' players. 'Vanguard' is a type of trading card game that is extremely popular internationally. Players acquire cards in the form of box-sets and rare cards are often hidden in a small number of these box-sets. The objective of the game is to build a strong deck of cards in the form of a 'clan'. In order to do so, players will have to purchase box-sets or trade cards. The foiling and artwork on 'Vanguard' cards is extremely detailed and distinctive, such that 'Vanguard' cards are much more attractive than those in other trading card games.

18 In 2013, V1 used to patronise a game shop at Jurong Point. V1 would go to a student care centre after school each day. Thereafter, he would proceed to the game shop and remain there until 7pm.

19 Sometime in May 2013, V1 became acquainted with Goh at the game shop. Goh had introduced himself as 'Terry' and informed V1 that he was 25 years old. Goh also asked V1 for his age. V1 informed Goh that he was nine years old and a primary four student. They lost touch thereafter.

20 A few months later, V1 met Goh at another game shop in Pioneer Mall. Goh had been working at the game shop and V1 had gone up to say hello to him. V1 had dinner with Goh and a few of Goh's friends and Goh had walked V1 back home thereafter. After that day, Goh went to the game shop on a daily basis. He would play 'Vanguard' with V1 at the game shop and sometimes treat V1 to meals after their game.

21 Goh started to meet V1 more regularly and acknowledged V1 as his 'younger god-brother'. During their meet-ups, he would tease V1 and ask V1 to show his genitals to him. V1 would reject the requests.

22 Sometime in December 2013, Goh suggested that they meet. V1 agreed. Goh sent an SMS to V1 to meet him at Jurong Point where they played 'Vanguard' at a game shop until about 7pm. Goh then informed V1 that his parents were going out and asked if V1 would like to go to his home so that they could continue playing 'Vanguard'. V1 agreed and they took a bus to the Flat. This was the first time that V1 had gone to the Flat.

23 On entering the Flat, V1 noticed that no one was around. Goh cooked noodles for V1. Subsequently, Goh told V1 to go into his bedroom where

there were two single beds. V1 noticed many 'Vanguard' cards lying all over the floor and helped to pack the cards. Thereafter, they played a few rounds of 'Vanguard'.

24 In the midst of playing 'Vanguard', Goh took off V1's shorts and underwear and started to fondle V1's genitalia. Goh also used his mouth to fellate V1 for three to five minutes. V1 did not ejaculate. V1 told Goh that he did not want to do this anymore, in reference to the sexual acts that Goh had performed, whereupon Goh stopped. They then continued to play 'Vanguard'. At about 10pm, Goh sent V1 home. V1 did not inform anyone about this incident as he was afraid.

Facts pertaining to the 3rd charge involving V1

25 V1 was ten years old at the time of the offence.

26 Following the first sexual encounter in December 2013, Goh continued to meet V1. On this particular occasion, which happened sometime on 5 June 2014, V1 had gone to the Flat. Goh had instructed V1 to perform fellatio on him and V1 complied. Goh also took a photograph of V1 fellating him.

27 Goh did not ejaculate inside V1's mouth.

28 Subsequently, V1 went online to read up about sexual matters, and realised that the acts he had engaged in were wrong. V1 thus informed Goh that he would stop fellating or receiving fellatio from Goh. V1 also rejected Goh's invitations to go to the Flat thereafter.

Facts pertaining to the 5th charge involving V2

29 V2 was 12 years old at the time of the offence.

30 Both V2 and Goh were avid 'Vanguard' players. Sometime in June 2012, V2 became acquainted with Goh after they met at a game shop in Jurong Point. Goh introduced himself as 'Terry' and asked V2 for his age. V2 informed Goh that he was 12 years old.

31 From June 2012 to June 2013, V2 and Goh developed a close friendship. They would often dine together with other players at the game shop.

32 Goh had informed V2 that he would only train V2 in 'Vanguard' if V2 allowed him to remove his shorts and underwear and touch his genitalia.

33 Sometime in June or July 2012, Goh invited V2 to the Flat to check out some 'Vanguard' cards. V2 showed up at the Flat and Goh's mother was present at that time. Goh brought V2 to his bedroom and locked the door.

34 On this occasion, V2 and Goh played a few rounds of 'Vanguard' and V2 lost. Goh said that to punish V2 for his 'losses', he would remove V2's clothes and fellate him. According to V2, he was shocked but did not know what to do and thus went along with it. Goh then took off V2's clothes and underwear and used his mouth to fellate V2 for one to three minutes. V2 did not ejaculate.

35 Goh asked V2 to perform fellatio on him but V2 declined.

36 After that, V2 requested to go home and left the Flat. V2 did not tell anyone about the incident as he was ashamed.

37 In the course of investigations, V2 said that he had allowed Goh to commit the commit the sexual acts on him as he felt that he could not run away. V2 also said that Goh had persuaded and cajoled him into performing the sexual acts in question. He was too afraid to approach anyone for assistance as they might not have believed him.

Facts pertaining to the 9th charge involving V2

38 V2 was 13 years old at the time of the offence.

39 After the incident in June or July 2012, V2 refused to follow Goh back to the Flat.

40 Thereafter, sometime in 2013, V2 had gone to the game shop to play 'Vanguard' with Goh. He lost once again. Goh informed V2 that he 'owed him', and instructed V2 to follow him to a handicapped toilet at Pioneer Mall located at 639 Jurong West Street 61, Singapore. There, Goh removed V2's clothing and requested that V2 perform fellatio on him. V2 initially refused but after repeated persuasion from Goh, V2 eventually relented and performed fellatio on Goh.

41 V2 revealed that he had received sex education classes in school and knew that Goh's request for fellatio was a sexual act and wrong. However, he had complied because he felt pressured and that he had no choice.

Facts pertaining to the 12th charge involving V3

42 V3 was 12 years old at the time of the offence.

43 Both V3 and Goh were avid 'Vanguard' players. Sometime in 2012, V3 became acquainted with Goh after they met at a game shop in Jurong Point. Goh chatted with V3 on Facebook and V3 informed him that he would play 'Vanguard' at Jurong East and Jurong Point. Goh requested that V3 play 'Vanguard' at Jurong Point more often. Thereafter, V3 and Goh developed a close friendship and often dined together with other players at the game shop.

44 Goh informed V3 that he would only train V3 in 'Vanguard' if V3 allowed him to touch his genitalia. Sometime in 2012, on the second occasion, Goh brought V3 to the men's toilet at Jurong West Public Library, located at 60 Jurong West Central 3, Singapore to extract a 'penalty' from V3, as part of his conditions of training. Goh brought V3 into one of the cubicles and proceeded to remove V3's shorts and underwear. He then used his hands to touch V3's genitalia before fellating V3 for about five minutes. V3 did not ejaculate. Goh then asked V3 if he wanted to fellate Goh but V3 declined.

45 V3 subsequently changed his residence and lost contact with Goh.

Facts pertaining to the 18th charge involving V5

46 V5 was 11 years old at the time of the offence.

47 Both V5 and Goh were avid 'Vanguard' players. V5 became acquainted with Goh after they met at a game shop in Jurong Point.

48 Sometime in 2013 but before June 2013, Goh suggested to V5 that he could teach V5 some new 'Vanguard' tricks on condition that V5 send him a digital photo of his genitalia. V5 thus took a photograph of his genitalia and digitally transmitted it to Goh's handphone via WhatsApp.

49 V5 later stopped playing 'Vanguard' as he decided to focus on his studies. V5 thus lost contact with Goh.

Facts pertaining to the 19th charge involving V6

50 V6 was 14 years old at the time of the offence.

51 V6 became acquainted with Goh when the latter tried to sell his 'Vanguard' cards online. V6 purchased 'Vanguard' cards from Goh and they developed a friendship and exchanged handphone numbers.

52 Sometime in 2012, Goh had messaged V6 and suggested that they meet. They met up and Goh brought V6 to a toilet located at the third floor of Jurong West Public Library. Goh directed V6 into one of the cubicles, where he kissed and fondled V6's genitalia from outside his shorts. V6 found it weird and asked Goh to stop. They then left the toilet.

Facts pertaining to the 24th charge involving V7

53 V7 was 12 years old at the time of the offence.

54 V7 became acquainted with Goh through a friend when they went to a game shop at Pioneer Mall. Goh promised to help V7 upgrade his 'Vanguard' cards but said that V7 would have to comply with his conditions before he would perform the upgrade.

55 Sometime in March 2013, V7 asked Goh what the 'conditions' were. Goh did not elaborate and simply told V7 to follow him to the toilet located at the second floor of Pioneer Mall. There, Goh brought V7 into one of the cubicles where he made V7 pull down his shorts and underwear. Goh then used his left hand to touch V7's genitalia, took a photo of V7's genitalia with his handphone and then rubbed V7's penis with his left thumb and pointer finger. Goh also instructed V7 to touch his penis. V7 complied. They later left the toilet.

Facts pertaining to the 27th charge involving V8

56 V8 was 11 years old at the time of the offence.

57 Sometime in early 2014, V8 became acquainted with Goh at a game shop at Jurong Point. They played 'Vanguard' together at the game shop, as well as V8's home. On one of the occasions, Goh said that he trained people to become better 'Vanguard' players. At this juncture, V8 indicated his interest in becoming Goh's student. Goh then informed V8 that V8 did not have to pay any fees, but would have to show that he possessed 'courage'. Goh then told V8 to send him photographs of V8's own genitalia to demonstrate that he was endowed with such 'courage'. At first, V8 declined to do so on the basis that he needed to focus on his revision for the Primary School Leaving Exams.

58 However, V8 later relented because he wished to become Goh's student. V8 thus went online and downloaded a photograph of a male's genitalia ("the Photograph"). Thereafter, on 30 May 2014, at about 3.53pm, V8 sent Goh the Photograph.

Psychiatric reports

59 The prosecution relied on reports from Dr Vanessa Mok Wai Ling ("Dr Mok"), a Registrar with the Department of General and Forensic Psychiatry at the Institute of Mental Health ("IMH").

60 In her reports, Dr Mok diagnosed Goh as suffering from pedophilic disorder (DSM V 302.2), non-exclusive type, sexually attracted to both. Goh did not have impulse control disorder. His risk of reoffending was at least moderate.

61 The defence relied on reports from Dr Julia CY Lam, a forensic psychologist and Dr Munidasa Winslow, a senior consultant psychiatrist. They were also of the view that Goh had pedophilic disorder and was not suffering from an impulse control disorder. However, they were of the view that the risk of re-offending was low to moderate.

62 The reason for the difference in the assessments of the risk of re-offending was that Dr Lam and Dr Winslow used a ten-item actuarial assessment tool for the assessment, *ie*, Static-99R which was developed by a Canadian research team in 1999. On the other hand, Dr Mok did not use any such tool and instead used a clinical assessment of Goh.

63 Dr Lam and Dr Winslow were of the view that while the clinical approach was useful to obtain important details about an offender's personal circumstances, it was costly, time-consuming, subjective and inconsistent. Actuarial tools were more objective.

64 Dr Mok, however, was of the view that Static-99R only takes into account static risk factors without dynamic risk factors. She noted that Goh had chosen to work at a gaming shop frequented by pre-pubescent males and had multiple victims. Also a pedophilic disorder was associated with higher risk of recidivism. However, she noted that Goh demonstrated fair insight into his symptoms of deviant sexual behaviour and was keen to seek psychiatric treatment.

Submissions and the court's decision

65 The prosecution submitted that deterrence, retribution and prevention should take centre stage. The prosecution also submitted that the following were aggravating factors in addition to the risk of reoffending which was at least moderate:

(a) premeditation by Goh;

(b) Goh had breached the victims' trust and confidence;

(c) the offences were perpetrated on ten young boys over three years;

(d) Goh had created and retained photographs of sexual abuse; and

(e) the similarity of the charges to be taken into consideration demonstrated the extent of Goh's culpability.

66 The prosecution also submitted that the fact that Goh had pleaded guilty and had no antecedent were not mitigating factors in the circumstances.

67 The prosecution submitted that the following sentences should be imposed:

(a) seven years' imprisonment and five strokes of the cane for each offence punishable under s 376A(3) of the Penal Code; and

(b) between four to 15 months' imprisonment for each offence under s 7 of the CYPA.

68 The defence submitted the following as mitigating factors:

(a) Goh was a first offender and had fully co-operated with the police in their investigation;

(b) Goh had pleaded guilty, preventing the young victims from having to testify in Court;

(c) Goh had admitted that he had succumbed to his sexual urges and made unwise decisions;

(d) Goh had acknowledged his condition and was motivated to change for the better; and

(e) Goh had resolved to take all efforts to deal with his condition so as not to re-offend in the future.

69 The defence also submitted that Goh's admission to the offences and his willingness to exercise responsibility and self-control showed that he was genuinely remorseful and his risk of reoffending was low to moderate. Also, he had immediately stopped when a victim asked him to do so.

70 The defence submitted that the following sentences should be imposed:

(a) not more than five years' imprisonment and two strokes of the cane for each offence punishable under s 376A(3) of the Penal Code; and

(b) between three to six months for each offence under s 7 of the CYPA.

71 The prosecution also submitted that the sentences for three of the most serious offences, *ie*, punishable under s 376A(3) of the Penal Code, should run consecutively. This would mean an aggregate of 21 years' imprisonment and 15 strokes of the cane as five of the charges proceeded with by the prosecution were punishable under s 376A(3) of the Penal Code.

72 The defence submitted that there should be no more than two consecutive sentences punishable under s 376A(3) with one more consecutive sentence for a CYPA offence. The aggregate should therefore not be more than 11 years' imprisonment with ten strokes of the cane.

73 In *Public Prosecutor v Yap Weng Wah* [2015] 3 SLR 297 ("*Yap Weng Wah*"), I had suggested (at [64]) that for offences involving fellatio which are punishable under s 376A(3) of the Penal Code, the benchmark should be six to seven years' imprisonment in the absence of aggravating or mitigating circumstances.

74 In *Public Prosecutor v Sim Wei Liang Benjamin* [2015] SGHC 240 ("*Benjamin Sim*"), there were four female victims. The accused pleaded guilty to eight charges and consented to 15 other charges to be taken into consideration for sentencing. The eight charges which he pleaded guilty to included:

(a) two charges for statutory rape, an offence under s 375(1)(*b*) and punishable under s 375(2) of the Penal Code; and

(b) three charges for aggravated sexual penetration by penetrating a victim's vagina with his finger or penetrating a victim's mouth with his penis, an offence under s 376A(1)(*b*) and s 376A(1)(*c*) respectively and punishable under s 376A(3) of the Penal Code.

75 The offences which were taken into consideration included one charge of statutory rape and ten charges of aggravated sexual penetration.

76 In that case, the defence had relied on *AQW v Public Prosecutor* [2015] 4 SLR 150 ("*AQW*"). There, the accused had committed various sexual acts against one victim. One of the acts he performed was fellatio on the victim who was 15 years of age. This was an offence under s 376A(1)(*c*) of the Penal Code. A district court had sentenced the accused to 15 months' imprisonment for that offence.

77 On appeal by the accused, Sundaresh Menon CJ suggested (at [41]) that a sentence of between ten and 12 months' imprisonment was the appropriate starting point where:

(a) the sexual act was fellatio, regardless of which party performed and which received the fellatio;

(b) the minor was 14 years old and above and did not appear to be particularly vulnerable;

(c) the offender did not coerce or pressure the minor into participating in the sexual act; and

(d) there was no element of abuse of trust.

78 After considering that the offences appeared to have been committed without premeditation and that the accused had demonstrated good prospects of rehabilitation, Menon CJ reduced the sentence to ten months' imprisonment.

79 Accordingly, the defence in *Benjamin Sim* was suggesting that my decision in *Yap Weng Wah* was not consonant with *AQW*. However, Tay Yong Kwang J did not agree with that submission. He mentioned (at [32]) that my suggested benchmark of six to seven years' imprisonment was for an aggravated offence of penis-mouth penetration, *ie*, fellatio, under s 376A(3) of the Penal Code where the victim was below the age of 14 at the time of the offence. Tay J then imposed a sentence of five years' imprisonment and two strokes of the cane for each of the two offences involving the commission of fellatio.

80 However, for the statutory rape offences, Tay J imposed a sentence of ten years' imprisonment each. The aggregate sentence there was 20 years and six months comprising the following consecutive sentences:

(a) one sentence of ten years' imprisonment for statutory rape;

(b) one sentence of ten years' imprisonment for statutory rape; and

(c) one sentence of six months' imprisonment for digital penetration of a victim's vagina.

81 The accused's appeal to the Court of Appeal was dismissed.

82 Accordingly, taking into account my decision in *Yap Weng Wah* and Tay J's decision in *Benjamin Sim*, which was upheld on appeal, the range for fellatio involving a victim under 14 years of age is between five to seven years' imprisonment where there is no aggravating or mitigating factor. In *Yap Weng Wah*, I imposed four strokes of the cane for fellatio because of the aggravating factors there. In *Benjamin Sim*, Tay J imposed two strokes of the cane.

83 I agreed that there was some premeditation on Goh's part. Although Dr Mok said that he was opportunistic, what she meant was that he had planned for the opportunities to encounter pre-pubescent boys. This was not a case whereby he happened to come across a young boy and then seized the opportunity to commit the offence. He had planned to work in or visit a game shop which such boys would visit and he had planned to make their acquaintance using their mutual interest in 'Vanguard' and gain their friendship and trust. In so doing, he had breached their trust and confidence but it was not a relationship of trust like in the case of a stepfather and stepson or one of teacher and student.

84 However, the fact that the offences were perpetuated on young boys was not an aggravating factor as that was the nature of the offence. The span of three years and the number of victims was more relevant to the second stage of sentencing as to how many and which of the sentences were to run consecutively.

85 The fact that Goh had photographs of the victims was an aggravating factor except where he had asked for an indecent photograph to be sent to him and that in itself constituted an offence under s 7 of the CYPA.

86 The argument about the similarity of the charges overlapped with the number of victims.

87 As for mitigating factors, I accepted that the fact that Goh had pleaded guilty and had no antecedent were not mitigating factors in the circumstances. When the police had seized his handphone, the game was up.

88 However, the fact that he did stop his conduct when asked to do so by various victims was a mitigating factor.

89 The fact that he had fair insight into his symptoms of deviant sexual behaviour and was keen to seek psychiatric treatment were also mitigating factors.

90 As for the risk of offending, there was not a wide gulf between the opinions of the professionals. It was low to moderate or at least moderate.

91 The aggravating factors did not appear to be of much more weight than the mitigating factors. Bearing in mind the range mentioned in [82] above, I was of the view that six years' imprisonment was appropriate for each offence punishable under s 376A(3).

92 As for the second stage of sentencing, *ie*, how many and which of the sentences should run consecutively, the prosecution submitted that three of the sentences for the most serious offence, *ie*, punishable under s 376A(3) ("the s 376A(3) offences") should run consecutively in view of all the aggravating factors.

93 However, the defence submitted that although there were ten victims, the s 376A(3) offences were committed against three victims only even after taking into account the charges which the prosecution was not proceeding with.

94 I was of the view that that was an important factor in the second stage of sentencing even though the s 376A(3) offences were committed more than once against each of the three victims. There is a difference, generally speaking, between an offence committed multiple times against the same victim and one committed multiple times against multiple victims. The higher the number of victims, the greater the need for deterrence, retribution and protection.

95 The overall number of ten victims for all the offences suggested that three of the sentences should run consecutively, as two was the statutory minimum. However, as there were three victims for the s 376A(3) offences, I was of the view that it would be excessive if the three sentences to run consecutively were all taken from the most serious charges. The offences against the rest of the victims which the prosecution proceeded with or which were taken into consideration were CYPA offences and one was under the Films Act (see [3]). I was of the view that it would be appropriate if two of the sentences for the s 376A(3) offences were to run consecutively with one for a CYPA offence.

96 If six years' imprisonment remained appropriate for the s 376A(3) offences, the aggregate for two of such offences would be twelve years.

97 As for the CYPA offences, I imposed a range of four to twelve months' imprisonment as set out at [5] above. To elaborate, the sentences were:

(a) four months for instructing the victim to take a photograph of his genitalia to be sent to Goh and a photo of the victim's genitalia or a male's genitalia was sent to Goh;

(b) six months for Goh's touching of a victim's genitalia through clothing; and

(c) twelve months for Goh's touching of a victim's naked genitalia.

98 The sentence of six months was a mid-point and I applied that as the third of the consecutive sentences.

99 The aggregate was 12 years and six months' imprisonment.

100 I could have adjusted the sentence for the s 376A(3) offences to seven years each so that the aggregate sentence was higher but I did not think it was appropriate to do so. Already two of the heaviest sentences were to run consecutively and, in my view, an aggregate of twelve years (and another six months) was not inadequate in all the circumstances.

101 As for the number of strokes of the cane, the prosecution was not able to elaborate why it was asking for five strokes of the cane for each of the s 376A(3) offences when in *Yap Weng Wah*, I had ordered four strokes of the cane for each of such offences. Moreover, the prosecution was not disputing that there were more aggravating factors in *Yap Weng Wah*. Accordingly, I ordered three strokes of the cane for Goh for each of the s 376A(3) offences.

Woo Bih Li
Judge

Charlene Tay Chia, Sruthi Boppana and Rajiv Rai (Attorney-General's Chambers) for the prosecution;
Richard Lim (Richard Lim & Co) for the accused.
