

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2026] SGHC 188

Criminal Case No 9 of 2026

Between

Public Prosecutor

And

DEK

JUDGMENT

[Criminal Law — Offences — Sexual offences]

[Criminal Procedure and Sentencing — Sentencing — Principles — Judicial
mercy]

[Criminal Procedure and Sentencing — Sentencing — Principles — Totality
principle]

TABLE OF CONTENTS

INTRODUCTION.....	1
FACTS.....	7
FACTS PERTAINING TO V1 (1ST CHARGE, 9TH CHARGE AND 10TH CHARGE) ..	8
FACTS PERTAINING TO V2 (2ND CHARGE).....	10
FACTS PERTAINING TO V3 (3RD CHARGE, 17TH CHARGE AND 19TH CHARGE)	10
FACTS PERTAINING TO V4 (21ST CHARGE).....	12
FACTS PERTAINING TO V7 (25TH CHARGE).....	13
FACTS PERTAINING TO V8 (26TH CHARGE).....	14
FACTS PERTAINING TO THE ACCUSED’S ARREST.....	14
THE ACCUSED’S ANTECEDENTS	14
THE ACCUSED’S PAEDOPHILIA DIAGNOSIS	16
THE ACCUSED’S TERMINAL ILLNESS	16
PARTIES’ RESPECTIVE CASES.....	18
PROSECUTION’S ADDRESS ON SENTENCE.....	18
DEFENCE’S MITIGATION PLEA AND ADDRESS ON SENTENCE	22
ISSUES TO BE DETERMINED; GENERAL PRINCIPLES APPLICABLE	25
ISSUE 1: WHETHER THIS IS AN APPROPRIATE CASE FOR THE EXERCISE OF JUDICIAL MERCY	26
ISSUE 2: WHETHER THE ACCUSED’S TERMINAL ILLNESS SHOULD BE TREATED AS AN OFFENDER-SPECIFIC MITIGATING FACTOR IN SENTENCING	29

ISSUE 3: APPROPRIATE SENTENCE FOR EACH PROCEEDED CHARGE	34
THE 1ST CHARGE	35
THE 2ND AND 10TH CHARGES	39
THE 3RD AND 25TH CHARGES	44
THE 9TH CHARGE	47
THE 17TH AND 21ST CHARGES	50
THE 19TH CHARGE	52
THE 26TH CHARGE	54
ISSUE 4: APPLICATION OF THE TOTALITY PRINCIPLE	56
LIMB 1 OF THE TOTALITY PRINCIPLE	57
LIMB 2 OF THE TOTALITY PRINCIPLE	65
ISSUE 5: WHETHER ADDITIONAL TERM OF IMPRISONMENT SHOULD BE IMPOSED ON THE ACCUSED IN LIEU OF CANING ..	68
CONCLUSION	70

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Public Prosecutor

v

DEK

[2026] SGHC 188

General Division of the High Court — Criminal Case No 9 of 2026
Mavis Chionh Sze Chyi J
24 July 2026

17 September 2026

Judgment reserved.

Mavis Chionh J:

Introduction

1 This was a tragic case of persistent sexual offending by a diagnosed paedophile against his own family members and students who trusted him. Despite having been caught, prosecuted and punished on two separate occasions prior to these proceedings before me, the accused in this case (“Accused”) reoffended shortly after being released from his latest stint in prison. He is presently 71 years old. In late 2021, he was diagnosed with a terminal illness (myelofibrosis); and one of the key issues in sentencing in this case is whether – and if so, how – his age and medical condition are to be given any weight in the calibration of the appropriate sentence.

2 In the present proceedings, the Accused faces 33 charges of sexual offences committed over 33 years, the nature of which range from outrage of

modesty to rape. The 33 charges involve 11 victims, including his own daughter, nieces and granddaughters.

3 On 24 July 2026, the Accused was convicted of the ten proceeded charges (as per the Schedule of Charges) after pleading guilty to them and admitting to the Statement of Facts (“SOF”) without qualification.¹ With the Accused’s consent,² the remaining 23 charges were taken into consideration (“TIC”) for sentencing. The following table lists and summarises the 33 charges against the Accused:

Charge No.	Offence Provision	Description	Proceed/TIC
TRC-900493-2023 (“1st Charge”)	Section 376(2)(a) punishable under (“p/u”) s 376(4)(c) Penal Code 1871 (2020 Rev Ed) (“PC”)	Sometime in 2023 Sexual assault involving penetration (“SAP”) Digital-vaginal penetration of V1 (granddaughter), then seven years old, and whilst in a relationship exploitative of V1 .	Proceed
TRC-900498-2023 (“2nd Charge”)	Section 8(1)(a)(i) p/u s 8(10)(a) Children and Young Persons Act 1993 (2020 Rev Ed) (“CYPA”)	Sometime in 2023 Sexual exploitation of child Obscene act with V2 (granddaughter), then five years old, by rubbing her vagina over her panties with his fingers.	Proceed
TRC-900499-2023 (“3rd Charge”)	Section 6 Children and Young Persons Act (Cap 38, 1994 Rev Ed) (“CYPA 1994”)	Sometime in 2000 Sexual exploitation of child Obscene act with V3 (daughter), then 9 to 10 years old, by touching her breasts, touching her vagina, licking her vagina, making her lick his penis and digitally penetrating her vagina.	Proceed

¹ Transcript for 24 July 2026 (“NE”) at p 16 (lines 18–23).

² NE at p 16 (line 24) to p 17 (line 3).

TRC-900500-2023 (“4th Charge”)	Section 6 CYPA 1994	Sometime in April 1994 Sexual exploitation of child Obscene act with V4 (niece), then 9 to 10 years old, by touching and licking her vagina.	TIC
TRC-900501-2023 (“5th Charge”)	Section 6 CYPA 1994	Sometime between 2001 to 2002 Sexual exploitation of child Obscene act with V5 (niece), then 5 to 6 years old, by licking her vagina, rubbing his penis against her vagina and touching her breast.	TIC
TRC-900039-2025 (“6th Charge”)	Section 376ED(2) p/u s 376ED(3)(a) PC	Sometime in 2022 Sexual image in presence of minor below 16 years of age Showed V1 a pornographic video depicting penile-vaginal penetration.	TIC
TRC-900040-2025 (“7th Charge”)	Section 8(1)(a)(i) p/u s 8(10)(a) CYPA	Sometime in 2022 Sexual exploitation of child Obscene act with V1 , then 6 to 7 years old, by kissing her, licking her vagina and rubbing his penis against her vagina and anus.	TIC
TRC-900041-2025 (“8th Charge”)	Section 376(2)(a) p/u s 376(4)(c) PC	Sometime in 2022 SAP Digital-vaginal and digital-anal penetration of V1 , then 6 to 7 years old, and whilst in a relationship exploitative of V1 .	TIC
TRC-900042-2025 (“9th Charge”)	Section 376ED(2) p/u s 376ED(3)(a) PC	Sometime in 2023 Sexual image in presence of minor below 16 years of age Showed V1 a pornographic video depicting penile-vaginal penetration.	Proceed

TRC-900043-2025 (“10th Charge”)	Section 8(1)(a)(i) p/u s 8(10)(a) CYPA	Sometime in 2023 Sexual exploitation of child Obscene act with V1 , then seven years old, by kissing and licking her vagina and sucking her nipples.	Proceed
TRC-900044-2025 (“11th Charge”)	Section 376ED(2) p/u s 376ED(3)(a) PC	Sometime in 2023 Sexual image in presence of minor below 16 years of age Showed V1 a pornographic video depicting a naked man and woman.	TIC
TRC-900045-2025 (“12th Charge”)	Section 8(1)(a)(i) p/u s 8(10)(a) CYPA	Sometime in 2023 Sexual exploitation of child Obscene act with V1 , then seven years old, by licking her vagina and sucking her nipples.	TIC
TRC-900046-2025 (“13th Charge”)	Section 376(2)(a) p/u s 376(4)(c) PC	Sometime in 2023 SAP Digital-vaginal penetration of V1 , then seven years old, and whilst in a relationship exploitative of V1 .	TIC
TRC-900047-2025 (“14th Charge”)	Section 6 CYPA 1994	Sometime in 1997 Sexual exploitation of child Obscene act with V3 , then 6 to 7 years old, by rubbing her vagina over her clothes with his fingers.	TIC
TRC-900048-2025 (“15th Charge”)	Section 6 CYPA 1994	Sometime in 1997 Sexual exploitation of child Obscene act with V3 , then 6 to 7 years old, by touching and licking her vagina.	TIC
TRC-900049-2025	Section 293 Penal Code (Cap 224, 1985 Rev Ed) (“PC 1985”)	Sometime in 2000 Exhibition of obscene object to young person	TIC

("16th Charge")		Showed V3 pornographic videos.	
TRC-900050-2025 ("17th Charge")	Section 377 PC 1985	Sometime in 2000 Carnal intercourse Penile-oral intercourse with V3 , then 9 to 10 years old.	Proceed
TRC-900051-2025 ("18th Charge")	Section 293 PC 1985	Sometime in 2005 Exhibition of obscene object to young person Showed V3 pornographic videos.	TIC
TRC-900052-2025 ("19th Charge")	Section 375 p/u s 376(1) PC 1985	Sometime in 2005 Rape Penile-vaginal intercourse with V3 , then 15 years old, without her consent.	Proceed
TRC-900053-2025 ("20th Charge")	Section 293 PC 1985	Sometime between 1995 to 1996 Exhibition of obscene object to young person Showed V4 a pornographic comic book depicting penile-oral penetration.	TIC
TRC-900054-2025 ("21st Charge")	Section 377 PC 1985	Sometime between 1995 to 1996 Carnal intercourse Penile-oral intercourse with V4 , then 11 to 12 years old.	Proceed
TRC-900055-2025 ("22nd Charge")	Section 377 PC 1985	Sometime between 1995 to 1996 Carnal intercourse Penile-oral intercourse with V4 , then 11 to 12 years old.	TIC
TRC-900056-2025 ("23rd Charge")	Section 354(2) Penal Code (Cap 224, 2008 Rev Ed) ("PC 2008")	Sometime between 2010 to 2011 Outrage of modesty Touching and rubbing V6 's (enrichment centre student) breasts over her clothes, who was then 8 to 9 years old.	TIC

TRC-900057-2025 (“24th Charge”)	Section 354(2) PC 2008	Sometime in 2012 Outrage of modesty Touching and rubbing V6 ’s breasts over her clothes, who was then 10 years old.	TIC
TRC-900058-2025 (“25th Charge”)	Section 7 Children and Young Persons Act (Cap 38, 2001 Rev Ed) (“CYPA 2001”)	Sometime in 2006 Sexual exploitation of child Obscene act with V7 (enrichment centre student), then six years old, by touching her vagina over her clothes.	Proceed
TRC-900059-2025 (“26th Charge”)	Section 354(2) PC 2008	Sometime in 2010 Outrage of modesty Touching and stroking V8 ’s (enrichment centre student) breasts over her clothes, who was then 10 years old.	Proceed
TRC-900060-2025 (“27th Charge”)	Section 354(2) PC 2008	Sometime in 2010 Outrage of modesty Rubbing his penis against V8 ’s back over her clothes, who was then 10 years old.	TIC
TRC-900061-2025 (“28th Charge”)	Section 6 CYPA 1994	Sometime in 1998 Sexual exploitation of child Obscene act with V9 (enrichment centre student), then eight years old, by rubbing her vagina over her clothes.	TIC
TRC-900062-2025 (“29th Charge”)	Section 6 CYPA 1994	Sometime between 1994 and 1996 Sexual exploitation of child Obscene act with V10 (niece), then 6 to 8 years old, by touching her vagina and licking and sucking her nipples.	TIC
TRC-900063-2025	Section 6 CYPA 1994	Sometime between 1994 and 1996	TIC

("30th Charge")		Sexual exploitation of child Obscene act with V10 , then 6 to 8 years old, by rubbing his penis against her vagina and buttock cheeks and touching and licking her vagina.	
TRC-900064-2025 ("31st Charge")	Section 6 CYPA 1994	Sometime between 1997 and 1999 Sexual exploitation of child Obscene act with V10 , then 9 to 11 years old, by touching and licking her breast and penetrating her vagina with his finger.	TIC
TRC-900065-2025 ("32nd Charge")	Section 377 PC 1985	Sometime between 1997 to 1999 Carnal intercourse Penile-oral intercourse with V10 , then 9 to 11 years old.	TIC
TRC-900066-2025 ("33rd Charge")	Section 354 PC 1985	Sometime in 1990 Outrage of modesty Touching V11 's (niece) right thigh and using his fingers to caress her breast and nipple over her clothes.	TIC

4 Having considered parties' written and oral submissions, I sentence the Accused to a global sentence of 21 years' imprisonment for the ten proceeded charges. The reasons for my decision are set out below.

Facts

5 The Accused was born in 1955 and turned 71 years old in February this year.³

³ SOF at para 1.

6 Between 1997 and 2021, the Accused and his wife operated an enrichment centre (“Enrichment Centre”) for children. Prior to that, they had conducted tuition classes for primary school students, as well as other activities, in their house (“1st House”).⁴ From 1997 to 2005, the Accused stayed at [address redacted] (“2nd House”). From 2005 to 2008, the Accused and his family would alternate between staying at the 2nd House and [address redacted] (“3rd House”). The Enrichment Centre was operated out of the 3rd House. Subsequently, sometime in 2023, the Accused took up residence at yet another address (“4th House”). The exact location of each of the Accused’s residences is immaterial to the issues to be considered in sentencing.

Facts pertaining to V1 (1st Charge, 9th Charge and 10th Charge)

7 V1 is the Accused’s granddaughter and the victim of the offences in the 1st, 9th and 10th Charges.⁵ These offences took place sometime in 2023 when the Accused was staying with V1’s family at their house (“V1’s House”) after selling the 3rd House and before moving into the 4th House. At the material time, V1 was seven years old and the Accused was 68 years old. I note that the 1st Charge and the SOF state that the Accused was “in a relationship that [was] exploitative of [V1]” at the material time.⁶ Under s 377CA(1) PC, the factors to be considered in determining whether an accused’s relationship with a minor is exploitative of the latter comprise (a) the age of the minor; (b) the difference between the ages of the accused and the minor; (c) the nature of the relationship; and (d) the degree of control or influence exercised by the accused over the minor. Beyond stating in the SOF the ages of the Accused and V1 as well as their familial relationship, the Prosecution did not elaborate on the exploitative

⁴ SOF at para 2.

⁵ SOF at para 3(a).

⁶ SOF at para 8.

nature of the relationship in this case, but in any event, the Accused has – in admitting to the SOF without qualification – accepted that this element is made out for the purposes of the 1st Charge.

8 The offences in the 1st, 9th and 10th Charges were committed on an occasion when V1 was sleeping alone in one of the bedrooms in V1’s House while the rest of her family were outside. The Accused went into the room and locked the door. He then showed V1 a video of a man and woman having penile-vaginal intercourse: this formed the basis of the 9th Charge. After showing V1 the video, the Accused pulled down her pants and panties, and proceeded to kiss and lick her vagina. He also lifted her shirt and sucked her nipples.⁷ These acts formed the basis of the 10th Charge.

9 The Accused next put his finger into V1’s vagina twice. She felt pain and told the Accused. This formed the basis of the 1st Charge. The Accused also took his penis out from his pants and masturbated in front of V1 until he ejaculated onto a tissue.⁸

10 Before leaving the room, the Accused told V1 not to tell anyone about what happened, otherwise she would not be his favourite grandchild. As V1 wanted to be his favourite grandchild, she followed his instructions. Subsequently, in the course of police investigations, the Accused admitted in his investigative statement that he had feelings for V1 and she was “just the right urge” for him.⁹

⁷ SOF at paras 9–10.

⁸ SOF at paras 11–12.

⁹ SOF at paras 13–14.

11 V1 was seen at the Child Guidance Clinic of the Institute of Mental Health (“IMH”) on 29 August 2023. She reported that she was too afraid of the Accused to ask him to stop, and she felt angry with him for what he had done. She also reported that she had nightly nightmares about the above incidents. Dr Lim Choon Guan (“Dr Choon Guan”) of IMH stated in his report (“V1’s IMH Report”)¹⁰ that V1 experienced some symptoms of post-traumatic stress, although she did not meet the criteria for post-traumatic stress disorder.

Facts pertaining to V2 (2nd Charge)

12 V2 is another of the Accused’s granddaughters and the victim of the offence in the 2nd Charge. She is the younger sister of V1.¹¹ The offence against V2 was committed by the Accused sometime in 2023, when she was five years old and the Accused was 68 years old. At the material time, the Accused was staying at V1’s House. While V2 was watching television on the sofa with the Accused, he placed his hands into her pants and touched her vagina over her panties. This formed the basis of the 2nd Charge.¹²

Facts pertaining to V3 (3rd Charge, 17th Charge and 19th Charge)

13 V3 is the Accused’s daughter and the victim of the offences in the 3rd, 17th and 19th Charges.¹³ In fact, V3 was sexually assaulted by the Accused between 1997 and 2005. The sexual assaults started with the Accused rubbing V3’s vagina over her clothes and escalated over time to his touching her vagina skin-on-skin and licking her vagina.¹⁴ This further escalated into making V3

¹⁰ SOF at para 16; Tab A of SOF.

¹¹ SOF at para 3(b).

¹² SOF at paras 18–19.

¹³ SOF at para 3(c).

¹⁴ SOF at para 22.

watch pornography with him, making her lick his penis, digitally penetrating her vagina, inserting his penis into her mouth, and eventually rape.¹⁵ The Accused kept telling V3 not to tell anyone what he was doing to her as the family would “split up” if she did so and it would then be her fault that her siblings did not have a family. This scared V3; and she did not dare to tell anyone what the Accused was doing to her.¹⁶

14 Sometime in 2000, when V3 was nine to ten years old and the Accused was 45 years old, the Accused told her to go to the master bedroom of the 2nd House (where they were then staying). The Accused removed her underwear and made her lie on the bed beside him to watch pornography with him. These acts formed the basis of the 16th Charge, which was TIC for sentencing.¹⁷

15 The Accused, who was naked at the material time, then touched V3’s breasts and vagina skin-on-skin, licked her vagina and made her lick his penis. After touching her for some time, the Accused inserted his finger into V3’s vagina: this formed the basis of the 3rd Charge. He also inserted his penis into V3’s mouth: this formed the basis of the 17th Charge. Finally, he masturbated himself in front of her until he ejaculated.¹⁸

16 The offence in the 19th Charge took place on a separate occasion in 2005, when V3 was 15 years old and the Accused was 50 years old. At the material time, V3 was sitting alone on the sofa of the 3rd House. The Accused went to the sofa and asked V3 to lie down and face upwards. The Accused then pulled her pants and panties down to her knee before inserting his finger into

¹⁵ SOF at para 23.

¹⁶ SOF at para 24.

¹⁷ SOF at para 28.

¹⁸ SOF at paras 28–29.

her vagina. The Accused then pulled down his pants before going on top of V3 and inserting his penis into her vagina. V3 felt that this was very painful. Her vagina bled and she was in shock. She kept crying and asked the Accused why he had done that to her. After kicking him away, she ran to the toilet to shower and to clean up the blood. V3 did not consent to the Accused inserting his penis into her vagina. The Accused kept apologising to V3 after he saw her bleeding.¹⁹ This offence marked the last time that the Accused sexually assaulted V3.

Facts pertaining to V4 (21st Charge)

17 V4 is the Accused's niece and the victim of the offence stated in the 21st Charge.²⁰ In fact, she was sexually assaulted by the Accused between 1994 and 1996, when she attended tuition classes taught by the Accused and his wife at the 1st House. The sexual assaults started with the Accused touching V4's vagina skin-on-skin and licking her vagina, and escalated to his asking V4 to perform oral sex on him. On one occasion after the Accused got V4 to perform oral sex on him, he gave her \$50 when he saw that she was crying and told her not to tell anyone what had happened.²¹ V4 felt uncomfortable with the Accused's actions and came up with excuses not to go for tuition. Eventually, in 1996, she stopped going for tuition.²²

18 The offence in the 21st Charge took place on a Saturday sometime between 1995 and 1996, when V4 was 11 to 12 years old and the Accused was 40 to 41 years old. On that occasion, V4 was left alone with the Accused at the 1st House. The Accused asked V4 to follow him to the kitchen toilet; and when

¹⁹ SOF at paras 31–32.

²⁰ SOF at para 3(d).

²¹ SOF at para 35.

²² SOF at para 36.

she did so, he locked the toilet door and showed her a comic which had drawings of naked men and women engaging in sexual acts.²³ This formed the basis of the 20th Charge which is TIC for sentencing.

19 The Accused flipped to a page of the comic which showed a woman sucking a man's penis. He then pulled his pants down to his knees, asked V4 to suck his penis, and guided her head back and forth before ejaculating into her mouth. V4 did not like the taste of semen and he told her that it was "white cream".²⁴ These acts formed the basis of the 21st Charge.

20 Following the discovery of the Accused's offences in 2023, V4 – now an adult – was seen at IMH by Dr Lim Cui Xi ("Dr Cui Xi"). In her report ("V4's IMH Report"),²⁵ Dr Cui Xi stated that V4 likely had post-traumatic stress disorder with delayed expression, as her symptoms were more pronounced when she was in Secondary 4. Presently, her symptoms have resolved, and she does not have any mental illness.

Facts pertaining to V7 (25th Charge)

21 V7, the victim of the 25th Charge, attended classes at the Enrichment Centre from around 2006 to 2012. On an occasion in 2006, when V7 was 6 years old, the Accused pulled her close to him while speaking to her during a class. He then touched her vagina over her clothes while still talking to her. V7 felt "weird" at the material time but did not know that what the Accused did was wrong.²⁶ This formed the basis of the 25th Charge.

²³ SOF at para 39.

²⁴ SOF at para 39.

²⁵ SOF at para 40; Tab B of SOF.

²⁶ SOF at paras 42–43.

Facts pertaining to V8 (26th Charge)

22 V8, the victim of the 26th Charge, started attending classes at the Enrichment Centre in 2010. On one occasion in 2010, when V8 was ten years old, she was chatting with her friends at watercooler area in the Enrichment Centre when the Accused went over to chat with them. While standing behind her, the Accused placed his hands on each side of her arm pit, with his thumb resting on her arm pit. He then used his other fingers to touch her breasts and to stroke her nipples over her clothes. V8 was shocked by the Accused's actions and did not know how to react.²⁷ This formed the basis of the 26th Charge.

Facts pertaining to the Accused's arrest

23 The Accused's multiple offences eventually came to light when V1's and V2's mother found out from V2 on 4 August 2023 that the Accused had touched V2's vagina. When V1's and V2's mother asked the other children if the Accused had touched them, V1 disclosed that the Accused had shown her pornography, licked her vagina and penetrated her vagina with his finger. V1's and V2's mother lodged a police report²⁸ which led to the Accused being arrested and charged accordingly.

The Accused's antecedents

24 Upon the Accused pleading guilty to the proceeded charges and admitting to the SOF, it was disclosed that he had previous convictions for various offences committed between 1974 and 2020.²⁹ For present purposes, the relevant antecedents were:

²⁷ SOF at para 46.

²⁸ SOF at para 15.

²⁹ Tab 5 of the Prosecution's Bundle of Documents ("PBOD") at pp 17–20.

(a) A conviction on 6 August 1999 for outrage of modesty under s 354 PC 1985. Two other charges of outrage of modesty were TIC for sentencing. The Accused was sentenced to 10 months' imprisonment and three strokes of the cane.³⁰ In oral submissions, the Prosecution informed me that these charges involved a single female victim (then seven years old) to whom the Accused was then giving tuition.³¹

(b) Convictions on 3 March 2020 for two charges of outrage of modesty under s 354 PC 2008 and one charge of sexual exploitation of child under s 7 CYPA 2001. Two other charges of outrage of modesty were TIC for sentencing. The Accused was sentenced to 20 months' imprisonment (and four strokes of the cane) for one of the outrage of modesty charges, 15 months' imprisonment for the other outrage of modesty charge, and six months' imprisonment for the s 7 CYPA 2001 charge. The 20-month sentence of imprisonment was ordered to run consecutively to the six-month sentence of imprisonment, such that the global sentence was 26 months' imprisonment and four strokes of the cane.³² In oral submissions, the Prosecution informed that these offences were committed against three sisters, aged between five and seven years old, who were students at the Enrichment Centre.³³

25 In oral submissions, the Prosecution also highlighted that the Accused was released from prison on 18 September 2021. Having regard to the dates of the offences stated in the 33 charges against him, this would mean that the Accused had reoffended just one year after being released from prison: the

³⁰ S/N 14, at p 19 of PBOD.

³¹ NE at p 19 (lines 4–13).

³² S/N 16–20, at pp 19–20 of PBOD.

³³ NE at p 18 (lines 10–13).

offences in the 6th to 8th Charges (which were TIC for sentencing) were committed in 2022, while the offences in the 1st, 2nd, 9th and 10th Charges were committed in 2023.

26 The Accused admitted to the above antecedents and also to the additional details provided by the Prosecution in oral submissions.³⁴

The Accused's paedophilia diagnosis

27 According to a report prepared by Dr Koh Wun Wu Kenneth Gerard ("Dr Koh") of IMH ("Accused's IMH Report")³⁵, the Accused has paedophilic disorder with sexual attraction to pre-pubescent girls. Dr Koh noted that the Accused had offended on multiple occasions against many children, including his own children and grandchildren; that he had reoffended despite having been imprisoned twice for such offences; and that he had taken advantage of his position in the Enrichment Centre to victimize the children there. In Dr Koh's opinion, the Accused is a danger to children.

The Accused's terminal illness

28 Several medical reports relating to the Accused's health were tendered in court. In sum, the Accused was diagnosed with myelofibrosis in September 2021. Myelofibrosis "is a form of haematological malignancy" that involves the bone marrow directly.³⁶ Simply put, this is "a chronic type of bone

³⁴ NE at p 19 (line 16) to p 20 (line 4).

³⁵ SOF at para 48; Tab C of SOF.

³⁶ Medical Report from Singapore General Hospital dated 20 October 2023 ("SGH 20 October 2023 Medical Report"), Tab 1 of PBOD at p 4.

marrow cancer” which “carries the potential risk of progressing to bone marrow failure or transforming into acute leukaemia”.³⁷

29 Allogeneic stem cell transplantation is the only means of curative treatment for myelofibrosis. This treatment option was discussed with the Accused during his initial diagnosis, but the Accused refused treatment. As of 6 November 2025, the Accused has been assessed not to be a suitable candidate for such treatment, as the risks outweigh potential benefits for him.³⁸ It has also been assessed that “there is no clear evidence of acute progression of myelofibrosis to acute myeloid leukaemia”. Nonetheless, the Accused “remains at high risks of progression given the adverse profile of his underlying disease”.³⁹ Without curative treatment, the Accused’s 5-year overall survival from the time of diagnosis is in the range of 34% and his 10-year overall survival is in the range of 13%.⁴⁰

30 I note that in their written submissions, the Prosecution submitted that the Accused was not suffering from a terminal illness.⁴¹ This submission was apparently made in reliance on the fact that there was no evidence of progression in the Accused’s myelofibrosis and that the Accused’s condition is clinically stable.⁴² It should be pointed out, however, that when asked to clarify whether the Accused suffers from any terminal illnesses, Dr Edwin Lymen Vethamony

³⁷ Clarification Report from Singapore Prison Service dated 21 October 2025 (“SPS Clarificatory Report”), Tab 3 of PBOD at p 10.

³⁸ Medical Report from Singapore General Hospital dated 6 November 2025 (“SGH 6 November 2025 Medical Report”), Tab 4 of PBOD at p 13.

³⁹ SGH 6 November 2025 Medical Report, Tab 4 of PBOD at p 14.

⁴⁰ SGH 20 October 2023 Medical Report, Tab 1 of PBOD at p 4; SGH 6 November 2025 Medical Report, Tab 4 of PBOD at p 13.

⁴¹ PAS at para 54.

⁴² Prosecution’s Address on Sentence (“PAS”) at para 51.

(“Dr Edwin”) stated unambiguously that “[m]yelofibrosis is a terminal disease”.⁴³ In light of Dr Edwin’s clarification, the Prosecution acknowledged in oral submissions that the Accused was indeed suffering from a terminal illness.⁴⁴

Parties’ respective cases

31 I next summarise the key points made by the Prosecution and the Defence in their submissions on sentence.

Prosecution’s address on sentence

32 First, on the issue of what weight (if any) the Accused’s terminal illness should be given in sentencing, the Prosecution submitted that this was not an appropriate case for the exercise of judicial mercy in light of the overwhelming countervailing public interest considerations. Pointing to the egregious and heinous nature of the Accused’s offences, the Prosecution submitted that there was strong public interest in ensuring that the sentence meted out to him met the objectives of retribution and deterrence (both specific and general).⁴⁵ In addition to considerations of retribution and deterrence, there was an element of public protection in this case because the Accused was a diagnosed paedophile who had been found to be a danger to children.⁴⁶

33 Second, the Prosecution submitted that not only was this an unsuitable case for the exercise of judicial mercy, no mitigating weight ought to be given to the Accused’s ill health either, in view of the absence of any evidence to show

⁴³ SPS Clarificatory Report, Tab 3 of PBOD at p 10.

⁴⁴ NE at p 22 (line 29) to p 23 (line 6).

⁴⁵ NE at p 24 (line 21) to p 25 (line 31).

⁴⁶ NE at p 26 (lines 1–27).

that an imprisonment term would cause disproportionate suffering to the Accused on account of his illness.⁴⁷ *Per* the Prosecution’s submissions, the sole mitigating factor in this case was the Accused’s early plea of guilt. In this connection, it is not disputed that the Accused’s plea of guilt comes within Stage 1 of the Sentencing Advisory Panel’s Guidelines on Reduction in Sentences for Guilty Pleas (“PG Guidelines”), for which a sentencing discount of up to 30% is applicable.

34 Third, the Prosecution argued that a global imprisonment term of 32 to 36 years was needed in order to reflect the Accused’s overall criminality.⁴⁸ The Prosecution has not sought an additional imprisonment term in lieu of the caning which the Accused will avoid by reason of his age.⁴⁹ The following table summarises the Prosecution’s position in respect of each of the ten proceeded charges.⁵⁰

Charge	Description	Statutory punishment range	Prosecution’s position
1st Charge	Sometime in 2023 Sexual assault involving penetration (“SAP”) Digital-vaginal penetration of V1, then seven years old, and whilst in a relationship exploitative of V1.	8 to 20 years’ imprisonment, with at least 12 strokes of the cane	10 to 11 years’ imprisonment (consecutive)

⁴⁷ NE at p 29 (lines 1–12).

⁴⁸ PAS at para 3.

⁴⁹ PAS at para 42.

⁵⁰ PAS at para 4.

2nd Charge	Sometime in 2023 Sexual exploitation of child Obscene act with V2, then five years old, by rubbing her vagina over her panties with his fingers.	Fine of up to \$20,000 or imprisonment term of up to 10 years or both	15 to 18 months' imprisonment (concurrent)
3rd Charge	Sometime in 2000 Sexual exploitation of child Obscene act with V3, then 9 to 10 years old, by touching her breasts, touching her vagina, licking her vagina, making her lick his penis and digitally penetrating her vagina.	Fine of up to \$10,000 or imprisonment term of up to 4 years or both	15 to 17 months' imprisonment (concurrent)
9th Charge	Sometime in 2023 Sexual image in presence of minor below 16 years of age Showed V1 a pornographic video depicting penile-vaginal penetration.	Imprisonment term of up to 3 years, or fine, or both	11 to 13 months' imprisonment (concurrent)
10th Charge	Sometime in 2023 Sexual exploitation of child Obscene act with V1, then seven years old, by kissing and licking her vagina and sucking her nipples.	Fine of up to \$20,000 or imprisonment term of up to 10 years or both	24 to 26 months' imprisonment (concurrent)
17th Charge	Sometime in 2000 Carnal intercourse Penile-oral intercourse with V3, then 9 to 10 years old.	Life imprisonment, or imprisonment term of up to 10 years, and shall also be liable to fine	6 to 7 years' imprisonment (consecutive)
19th Charge	Sometime in 2005 Rape Penile-vaginal intercourse with V3, then 15 years old, without her consent.	Imprisonment term of up to 20 years, and shall also be liable to fine or to caning	10 to 11 years' imprisonment (consecutive)

21st Charge	Sometime between 1995 to 1996 Carnal intercourse Penile-oral intercourse with V4, then 11 to 12 years old.	Life imprisonment, or imprisonment term of up to 10 years, and shall also be liable to fine	6 to 7 years' imprisonment (consecutive)
25th Charge	Sometime in 2006 Sexual exploitation of child Obscene act with V7, then six years old, by touching her vagina over her clothes.	Fine of up to \$10,000 or imprisonment term of up to 4 years or to both	8 to 10 months' imprisonment (concurrent)
26th Charge	Sometime in 2010 Outrage of modesty Touching and stroking V8's breasts over her clothes, who was then 10 years old.	Imprisonment term of up to 5 years, or fine, or caning, or with any combination of such punishments	19 to 21 months' imprisonment
Global sentence:			32 to 36 years' imprisonment

35 Fourth, the Prosecution acknowledged that a global imprisonment term of 32 to 36 years would breach the first limb of the totality principle, in that it would be significantly higher than the normal sentence imposed for the most serious of the Accused's offences. Nevertheless, the Prosecution maintained that a global imprisonment term of this length was justifiable because it was wholly proportionate to the overall criminality of the Accused.⁵¹

36 Fifth, in respect of the second limb of the totality principle, the Prosecution acknowledged that a global sentence of 32 to 36 years' imprisonment might *prima facie* be regarded as being crushing in view of the Accused's advanced age. Nevertheless, the Prosecution contended that a global sentence of this length was warranted on the facts of the present case: *inter alia*,

⁵¹ PAS at paras 43–44.

the Accused was traced for relevant antecedents, reoffended against his own granddaughters shortly after being released from incarceration, and stopped offending only because he was arrested.⁵²

Defence’s mitigation plea and address on sentence

37 As for the Defence’s sentencing position, it was first argued in their written submissions that the sentencing court should exercise its discretion so as to extend judicial mercy to the Accused.⁵³ In oral submissions, however, the Defence very fairly conceded that there were strong countervailing public interest considerations in this case which would militate against the exercise of judicial mercy.⁵⁴

38 Second, the Defence also submitted in their written submissions that the Accused’s ill health constituted a significant mitigating factor.⁵⁵ According to the Defence, the “realities of advanced age and severe ill health mean that any term of imprisonment will be experienced with a degree of hardship far exceeding that faced by a healthy offender”.⁵⁶

39 Third, following their submissions on the significant mitigating weight to be attributed to the Accused’s ill health, the Defence argued that the appropriate global sentence should be 15 years’ imprisonment. The following

⁵² NE at p 35 (line 11) to p 36 (line 4).

⁵³ Defence’s Mitigation Plea (“MP”) at paras 14 and 24–38.

⁵⁴ NE at p 38 (lines 8–13).

⁵⁵ MP at para 39.

⁵⁶ MP at para 42.

table summarises the Defence's position on the individual sentences for the ten proceeded charges.⁵⁷

Charge	Statutory punishment range	Defence's notional sentence (<i>ie</i>, before ill health is accorded mitigating weight)	Defence's position if ill health is accorded significant mitigating weight
1st Charge	8 to 20 years' imprisonment, with at least 12 strokes of the cane	13 years' imprisonment	10 years' imprisonment (consecutive)
2nd Charge	Fine of up to \$20,000 or imprisonment term of up to 10 years or both	22 months' imprisonment	13 months' imprisonment (concurrent)
3rd Charge	Fine of up to \$10,000 or imprisonment term of up to 4 years or both	16 months' imprisonment	9 months' imprisonment (concurrent)
9th Charge	Imprisonment term of up to 3 years, or fine, or both	10 months' imprisonment	6 months' imprisonment (concurrent)
10th Charge	Fine of up to \$20,000 or imprisonment term of up to 10 years or both	28 months' imprisonment	18 months' imprisonment (concurrent)
17th Charge	Life imprisonment, or imprisonment term of up to 10 years, and shall also be liable to fine	8 years' imprisonment	5 years' imprisonment (consecutive)

⁵⁷ Annex-1 of MP, at pp 44–45.

19th Charge	Imprisonment term of up to 20 years, and shall also be liable to fine or to caning	16 years' imprisonment	9 years' imprisonment (consecutive)
21st Charge	Life imprisonment, or imprisonment term of up to 10 years, and shall also be liable to fine	8 years' imprisonment	5 years' imprisonment (consecutive)
25th Charge	Fine of up to \$10,000 or imprisonment term of up to 4 years or to both	10 months' imprisonment	6 months' imprisonment (concurrent)
26th Charge	Imprisonment term of up to 5 years, or fine, or caning, or with any combination of such punishments	22 months' imprisonment	13 months' imprisonment
Global sentence:			15 years' imprisonment

40 Fourth, in respect of the totality principle, the Defence conceded that the Accused was a “multiple offender who [had] committed offences involving different victims and different incidents”.⁵⁸ These facts notwithstanding, the Defence submitted that “[a]n aggregate sentence extending well beyond [the Accused’s] realistic life expectancy may cease to serve any meaningful sentencing purpose beyond that already achieved through the substantial punishment represented by the individual sentences and the consecutive terms imposed”.⁵⁹

⁵⁸ MP at para 128.

⁵⁹ MP at para 130.

Issues to be determined; general principles applicable

41 As I noted at the start of this written judgment, a key question in this case is whether this court should consider the Accused's terminal illness in determining the appropriate sentence, and if so, how this should be accounted for.

42 As a matter of general principle, "ill health is relevant to sentencing in two ways. First, it is a ground for the exercise of judicial mercy. ... Secondly, it exists as a mitigating factor": *Chew Soo Chun v Public Prosecutor* [2016] 2 SLR 78 ("*Chew Soo Chun*") at [38].

43 If judicial mercy is to be exercised in the present case, it will be moot to consider the individual sentences to be imposed for each of the ten proceeded charges. This is because "[t]he effect of mercy is that the court displaces the culpability of the offender as one of the central considerations in its determination of the appropriate sentence by considerations of humanity and where benchmark sentences will effectively play no part": *Chew Soo Chun* at [23]. Indeed, "[t]he result of exercising judicial mercy is a substantial reduction in the sentence to be imposed, *ie*, it should lead to no imprisonment, or a nominal imprisonment, or the statutory minimum": *Chew Soo Chun* at [28].

44 If the court declines to exercise its discretion to extend judicial mercy to the Accused but finds that his terminal illness should be given weight either as a mitigating factor or as a relevant factor in considering the totality principle, then the court should proceed with the usual sentencing analysis for each proceeded charge and account for the Accused's terminal illness at the appropriate stage(s).

45 The main issues to be determined in this case are therefore as follows:

- (a) Should the court exercise its discretion to extend judicial mercy to the Accused?
- (b) If not, does the Accused's terminal illness nevertheless constitute an offender-specific mitigating factor in sentencing?
- (c) What should the indicative starting sentence be for each of the ten proceeded charges? And taking into account offender-specific aggravating and mitigating factors (and depending on whether the Accused's terminal illness is regarded as a mitigating factor), how should the indicative starting sentence for each of the ten proceeded charges then be calibrated?
- (d) If the Accused's terminal illness is not taken into account as a mitigating factor, should it nevertheless be accounted for at the final stage of the sentencing process when the court considers the application of the totality principle? And should the Accused's age also be considered at this stage of the sentencing process? If so, what should the appropriate global sentence be?
- (e) Should an additional term of imprisonment be imposed on the Accused in lieu of the caning he avoids by reason of his age?

46 I address each of these issues in turn.

Issue 1: Whether this is an appropriate case for the exercise of judicial mercy

47 The *locus classicus* on judicial mercy is the judgment of the three-judge court of the High Court in *Chew Soo Chun*. As the court explained in that case, judicial mercy is “borne out of a humanitarian concern, one which reacts to the

suffering of the offender of ‘some grave misfortune which will be cruelly exacerbated by the infliction in full measure of his just deserts’’: at [21]. Without precluding other situations which might also call for the exercise of mercy, the court noted that there were typically two situations in which judicial mercy had been exercised: (a) where the offender was suffering from terminal illness; and (b) where the offender was so ill that a sentence of imprisonment would carry a high risk of endangering his life: at [22]. Importantly, the court pointed out that judicial mercy was “an exceptional jurisdiction”. Given the “wide and varied nature of human conditions”, the court held that it would not be possible to state exhaustively all the circumstances that could qualify as “exceptional”. The court noted at [23], however, that for judicial mercy to be exercised, “there must be *exceptional circumstances from which humanitarian considerations arise, outweighing the public interests in having the offender punished for what he had done wrong against the law*” (emphasis added).

48 In this connection, the court held that there were generally “very weighty public interests in ensuring that those who are guilty of an offence be punished appropriately” (at [24]). These were:

(a) Retributive justice. “Any sentence imposed must reflect public abhorrence of the crime committed and redress the grievance suffered by the victim, his friends and relatives” (citing *R v Chan Kui Sheng* [1996] 3 HKC 279). The more heinous the crime, the greater the public interest in condemning the crime, and the more likely it would be that a court will hold that the sentence for that crime cannot countenance reduction on account of ill health.

(b) Protection of society from the particular offender. In cases involving “extremely grave offences”, it could be said that “a court

would be failing in its duty to the public if it did not impose heavy deterrent sentence” (citing *Yip Kai Foon v HKSAR* [2000] 1 HKC 335 at 338).

(c) Deterrence. There could be a risk that the offender would repeat his wrongdoing if he were at large; and if the risks are high enough, public interest must be prioritised – which clearly militates against mercy: in such cases, the scales would tip towards imprisoning the offender in order to prevent him and deter others from committing similar offences (citing *R v Gerrard Michael Stark (1992)* 13 Cr App R(S) 548 at 550 and *Chng Yew Chin v PP* [2006] 4 SLR(R) 124 at [59(d)]).

49 As I noted earlier, while the Defence had in their written submissions called for judicial mercy to be extended to the Accused, counsel very fairly acknowledged during oral submissions that there were strong public interests weighing against the exercise of judicial mercy in this case. Indeed, the offences committed by the Accused were particularly heinous. The ten proceeded charges involved multiple sexual offences committed between 1995 and 2023 against six different victims – including his own daughter, his granddaughters, and his niece. When the offences in the TIC charges are factored in, the full extent of the Accused’s offending is appalling. Between 1990 and 2023, the Accused repeatedly and brazenly committed serious sexual abuse of a total of 11 victims. Some of his victims were as young as five to six years old or seven years old. Even worse, in between the commission of the 33 offences detailed in the charges against him, the Accused was actually incarcerated twice – in 1999 and 2020 – for similar sexual offences against minors: in other words, he continued to offend even after each of his two stints in prison. Neither the Accused’s age (68 years in 2023) nor the diagnosis of myelofibrosis (in 2021)

put a stop to his depraved criminal conduct: the latest set of offences were committed in 2023; and it is clear that his serial sexual offending came to an end only because he was caught by the police in August 2023. *Per* Dr Koh's diagnosis, he is a paedophile with sexual attraction to pre-pubescent girls and a danger to children.

50 In short, therefore, the present case is one where the relevant public interests – retribution, protection of the public, and deterrence (both specific and general) – weigh heavily in favour of ensuring appropriate punishment of an offender. This is not a case where the humanitarian considerations supporting the exercise of judicial mercy should prevail over the interests of society.

Issue 2: Whether the Accused's terminal illness should be treated as an offender-specific mitigating factor in sentencing

51 I next consider whether, in the present case, the Accused's terminal illness should be treated as an offender-specific mitigating factor for sentencing purposes.

52 In *Chew Soo Chun*, the court recognised that mitigating weight may be accorded to an accused person's ill health – in the sense that a sentence may be reduced on account of it – even if the court has chosen not to exercise judicial mercy. The court explained the rationale as follows:

29 Aside from cases falling within the realm of the exceptional, there are also cases *where a term of incarceration would cause an offender a greater and disproportional impact because of his ill health than it would on an ordinary person who is not suffering from the same medical condition*. The principle of proportionality will apply in such cases such that the court will need to consider how to adjust the sentence with a view to equalising the burden, even though the court cannot and will not exercise judicial mercy.

...

34 ... the question is very much one of whether the offender faces far greater suffering than the usual hardship in serving a term of imprisonment. This depends on the possible consequences of the offender's medical condition, which may, in turn, be contingent on other surrounding circumstances. But *generally, it is constituted by a risk of significant deterioration in health or a significant exacerbation of pain and suffering*. Where the impact on the offender does rise to such a sufficiently serious level, it causes the sentence that is otherwise appropriate with regard to the offence committed, to be out of line on the ground of proportionality. Consequently, the sentence ought to be mitigated, because other things being equal, offenders ought to be subject to the same impact.

35 At this juncture, we hasten to add that there is an apparent overlap in the test for invoking ill health as a mitigating factor and for the exercise of judicial mercy. A significant deterioration in the offender's condition may count towards either the mitigation of a sentence as a matter of equalising the burden on the prisoner or the exercise of judicial mercy as a matter of humanity. *The difference here is one of degree – it would take a greater extent of deterioration, to the point of endangering the offender's life, to warrant an exercise of mercy, as opposed to it being regarded as a point in mitigation.*

[emphasis added in italics]

53 In considering whether to give mitigating weight to the Accused's terminal illness in this case, I have to determine whether an imprisonment term would have a greater and disproportionate impact on the Accused, such as a risk of significant deterioration in health or a significant exacerbation of pain and suffering. The burden is on the Accused to "present at least *some* evidence directed towards suggesting specifically that *imprisonment* would have a significantly adverse impact on his health": *Goh Chin Soon v Public Prosecutor* [2020] SGHC 162 at [165]. I find that the Accused has not put forward such evidence, and I decline to accord any mitigating weight to the Accused's terminal illness.

54 As I alluded to earlier (at [29] above), after the Accused was diagnosed with myelofibrosis in 2021, his doctors at Singapore General Hospital ("SGH")

discussed with him the option of allogeneic stem cell transplantation (this being the only curative treatment for myelofibrosis).⁶⁰ The Accused refused to consider this treatment option. He was prescribed medication – ruxolitinib – to control his spleen size and improve quality of life, but he did not eventually take this medication and defaulted on further outpatient follow-up appointments between February 2022 and January 2023. During an in-patient stay at SGH in 2023, he again declined to consider the option of allogeneic stem cell transplantation and/or to take ruxolitinib. The latest medical report from SGH (dated 6 November 2025) states that as of now, he is “not a suitable candidate to be considered for a curative allogeneic stem cell transplantation, as the risks of transplantation outweigh potential benefit for him”.⁶¹ The Accused’s treatment is thus limited to “supportive management”. At present, his “main issue arising from myelofibrosis is that of transfusion-dependent anemia”, for which he has been prescribed medication (danazol). He is also “currently receiving fortnightly to 3-weekly blood transfusions to maintain a hemoglobin of 7g/dL”.⁶²

55 In addition to the SGH medical reports, two medical reports from the Singapore Prison Service were placed before me. These reports establish that the Accused’s treatment *can* continue while he is incarcerated, and there is no significant risk of deterioration in health or significant exacerbation of pain and suffering. Specifically, the Accused is being housed at the Complex Medical Centre (“CMC”) at institution A1 of the Changi Prison Complex on a permanent basis. CMC is a Ministry-of-Health-licensed medical premise. In the report

⁶⁰ SGH 20 October 2023 Medical Report, Tab 1 of PBOD at p 4

⁶¹ SGH 6 November 2025 Medical Report, Tab 4 of PBOD at p 13.

⁶² *Ibid.*

dated 21 October 2025, Dr Edwin provided the following information in response to the Prosecution's queries:⁶³

d. How is [the Accused] responding to the treatments?

He is clinically stable. There is no evidence of progression of his cancer. His vital signs are stable, and he is tolerating the current treatment regimen at CMC.

e. What measures does SPS have in place to ensure the accused does not undergo disproportionate suffering by reason of his medical condition?

The patient is under 24/7 monitoring with a medical team available for routine medical reporting and care. Specialist follow-up appointments at the hospital will continue as scheduled, whilst the medical treatment plan prescribed by the specialist will be followed by the CGH medical team. In the event of any clinical deterioration, the patient will be referred to CGH A&E via SCDF ambulance for immediate medical attention.

56 In short, the Accused's case contrasts starkly with cases where ill health was considered by the courts to be a mitigating factor in sentencing. For example, in *Public Prosecutor v Leck Kim Koon* [2020] SGDC 292 ("*Leck Kim Koon (SGDC)*"), the district judge reduced the 74-year-old offender's total imprisonment term on account of his terminal illness. The medical evidence before the district judge in that case showed that the offender suffered from Chronic Myelomonocytic Leukaemia ("CMML") which caused him to have a "suppressed immune system rendering him susceptible to infections". The median survival period for patients with such conditions was stated to be "less than 22 months from diagnosis". The offender required close specialist haematology input to manage his condition, and also needed to function in a clean and safe environment without crowds. According to the medical report, "(s)ignificant stress and poor nutrition [would] be of a significant adverse impact to his prognosis"; and an imprisonment sentence "for [the accused] at

⁶³ SPS Clarificatory Report, Tab 3 of PBOD at p 11.

his age, with his haematological condition (along with his associated medical conditions of diabetes and hypertension) [would] carry a significant negative impact on his survival”: at [298(b)]. Noting that these medical reports “made clear the possible serious difficulties that [the offender] would face from incarceration”, the district judge further pointed out that when asked whether the offender’s condition was such that being incarcerated would cause disproportionate suffering, the Singapore Prison Service was not able to give a definitive comment, other than stating that this was “a subjective matter” (at [315(e)]). As such, taking into account the offender’s ill health as a mitigating factor, the district judge adjusted his total imprisonment term from 42 months down to 36 months. The district judge’s decision in this respect was upheld on appeal: *Leck Kim Koon v Public Prosecutor* [2022] 3 SLR 1050 at [50].

57 As another example, in *Chew Soo Chun*, it was submitted on behalf of the offender that his ill health, particularly his mental disorders, would pose problems for him in prison. The three-judge court of the High Court noted that there were medical reports clearly evincing that certain of the offender’s conditions, namely, his major depression and claustrophobia, would deteriorate in prison and would also cause him disproportionate suffering (at [61]). The *coram* further noted that the “broad statement by the prisons authorities that they [could] manage the Offender’s condition [did] not quite contradict [those] medical reports, since it did not clearly state that they [could] prevent disproportionate suffering on the part of the Offender”. In the circumstances, the question before the court was “what [was] the appropriate discount which the court ought to give because of the added burden with the Offender [would] have to bear on account of his medical conditions”. On the facts of the case, the court held that the district judge did not err in giving a discount of two months’ imprisonment for each of the three charges running consecutively such that the offender obtained a cumulative discount of six months (at [64]).

58 In the present case, in contrast, not only is there no evidence that imprisonment will cause *disproportionate* suffering to the Accused, the medical reports from the Singapore Prison Service also establish that the Accused's condition is being closely, and effectively, managed at the CMC, with specialist follow-up appointments where necessary. He continues to receive blood transfusions "every 2–3 weeks at SGH outpatient haematology centre"; and in the event of "any clinical deterioration", he "will be referred to CGH A&E via SCDF ambulance for immediate medical attention".⁶⁴

59 Simply put, there is no evidence to show that imprisonment will result in "a risk of significant deterioration in [the Accused's] health or a significant exacerbation of pain and suffering". If anything, the fact that the Accused is housed at the CMC actually eliminates the risk of his defaulting on medication and follow-up appointments.

60 For the reasons set out above, therefore, I decline to give mitigating weight to the Accused's terminal illness in sentencing him.

Issue 3: Appropriate sentence for each proceeded charge

61 I next consider the appropriate sentence for each of the ten proceeded charges.

62 Generally, the sentencing court's approach for each proceeded charge is to determine the indicative starting sentence based on offence-specific factors, before calibrating the starting sentence to account for *offender*-specific aggravating and mitigating factors. Thereafter, where the offender has pleaded guilty, the sentencing court will apply the applicable reduction provided for

⁶⁴ SPS Clarificatory Report, Tab 3 of PBOD at p 11.

under the PG Guidelines, so as to arrive at the appropriate sentence. In cases where the offender is convicted of multiple charges, the sentencing court will then determine which, if any, of the sentences are to run consecutively. Finally, the sentencing court considers the totality principle to determine whether the global sentence thus derived should be adjusted in any way.

The 1st Charge

63 The 1st Charge involved an offence under s 376(2)(a) PC, for SAP of V1. As V1 was under 14 years of age and the Accused accepted that he was in a relationship that was exploitative of V1, the enhanced punishment under s 376(4)(c) applied; *ie*, imprisonment for a term of not less than eight years and not more than 20 years and caning of not less than 12 strokes.

64 It was not disputed that the applicable sentencing framework in respect of the 1st Charge was that set out by the Court of Appeal in *Pram Nair v Public Prosecutor* [2017] 2 SLR 1015 (“*Pram Nair*”). This framework requires the court to first identify and consider the offence-specific aggravating factors (see *Pram Nair* at [158]) in the case. Second, the court determines which of the sentencing bands, and where precisely within that band, the present offence falls under, so as to derive the indicative starting sentence. Third, the court considers the offender-specific aggravating and mitigating factors so as to calibrate the appropriate sentence for that offender.

65 In the *Pram Nair* framework, the sentencing bands are as follows (see *Pram Nair* at [159]):

Band	Description	Sentence
1	Cases featuring no offence-specific aggravating factors or cases where these factors are only present to a very limited extent and therefore have a limited impact on sentence	7 to 10 years' imprisonment, with four strokes of the cane
2	Cases usually containing two or more offence-specific aggravating factors	10 to 15 years' imprisonment, with eight strokes of the cane
3	Cases which, by reason of the number and intensity of the aggravating factors, present themselves as extremely serious cases of rape. They often feature victims with particularly high degrees of vulnerability and/or serious levels of violence attended with perversities	15 to 20 years' imprisonment, with 12 strokes of the cane

66 The court in *Pram Nair* explained, at [160], that where any of the statutory aggravating factors in (the then-in-force) s 376(4) was present (*ie*, where there was use of actual or threatened violence, or where the offence was committed against a person under 14 years of age), the case would fall within Band 2 (or even Band 3 if there are additional aggravating factors). The court pointed out that it had said the same in *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 (“*Terence Ng*”) in relation to the identical statutory aggravating factors for rape: it “considered these statutory aggravating factors to be part of the list of offence-specific aggravating factors to consider in determining which sentencing band a particular offence falls under... and that where any of the statutory aggravating factors are present, the case would almost invariably fall within Band 2” (*Pram Nair* at [160]). While the provision for enhanced punishment in s 376(4)(c) PC (*ie*, where the offence was committed against a person below 14 years of age with whom the offender is in a

relationship that is exploitative of that person) was enacted *after* the judgment in *Pram Nair*, the same reasoning should in principle apply to all statutorily prescribed aggravating factors. If it were otherwise, there would be an unprincipled distinction between ss 376(4)(a) and 376(4)(b) from s 376(4)(c) - which cannot be right.

67 In the present case, apart from the statutory aggravating factor under s 376(4)(c), the Prosecution submitted that the following constituted further aggravating factors:⁶⁵

- (a) the abuse of a position of trust: trust was reposed in the Accused, as V1's grandfather, such that he was allowed to be in close contact with V1 when staying temporarily at her house, but he abused that trust by committing the offence against V1 "right in the sanctity of [her] own home";
- (b) V1 was especially vulnerable as she was only seven years old at the material time;
- (c) there was severe harm caused to V1: even though she does not meet the criteria for a diagnosis of post-traumatic stress disorder, she experiences some symptoms of post-traumatic stress (including having "nightmares about it every night"⁶⁶).

68 In their written submissions, the Defence expressly acknowledged that there was an abuse of position of trust by the Accused vis-à-vis V1. In oral submissions, the Defence accepted as well that the harm caused to V1 amounted

⁶⁵ PAS at para 10.

⁶⁶ V1's IMH Report at Tab A of SOF.

to an offence-specific aggravating factor.⁶⁷ As for the second of the further aggravating factors set out at [67(b)] above, it cannot be disputed that V1's age – seven years – was significantly under the age ceiling of 14 years old for offences punishable under s 376(4)(c) PC.

69 In the circumstances, I find that the offence in the 1st Charge should be placed at the highest end of Band 2, with an indicative starting sentence of 15 years' imprisonment. In respect of the 1st Charge and also those other charges punishable with caning, I deal with the issue of caning separately at [139] below.

70 At the second stage of the *Pram Nair* framework, I agree with the Prosecution that the following offender-specific aggravating factors warrant the indicative sentence being calibrated upwards: namely, (a) the presence of multiple TIC Charges for other sexual offences; (b) the Accused's antecedents for similar sexual offences; and (c) the fact that he reoffended within just two years after being released from prison for similar offences. In this connection, I bear in mind the fact that these offender-specific aggravating factors will be equally relevant for the other proceeded charges, and that at least two of the sentences will run consecutively (s 307(1) of the Criminal Procedure Code 2010 (2020 Rev Ed) ("CPC")). I am therefore mindful of the need to moderate the aggravating weight accorded to these aggravating factors, so as to guard against the effects of potential double counting. In my view, an uplift at this stage to 16 years' imprisonment would be appropriate.

71 The only relevant offender-specific mitigating factor at this stage is the Accused's early plea of guilty within Stage 1 of the PG Guidelines. Applying

⁶⁷ NE at p 37 (line 5) to p 37 (line 22).

the maximum 30% reduction, I arrive at a sentence of 11 years 2 months' imprisonment.

The 2nd and 10th Charges

72 The 2nd and 10th Charges involve offences under s 8(1)(a)(i) CYPA (punishable under s 8(10)(a) CYPA), for sexual exploitation of V2 and V1 respectively.

73 The key sentencing considerations for such offences were set out in *AQW v Public Prosecutor* [2015] 4 SLR 150 ("*AQW*") at [13]–[21]:

(a) Vulnerability of the minor. The more vulnerable the minor is, the more protection he or she will require, and the more reprehensible will be the conduct of an offender in exploiting him or her for the offender's own gratification. Some of the factors that go towards the vulnerability of a minor include:

(i) The minor's age. The younger the minor, the more vulnerable he or she will likely be found to be.

(ii) The minor's "personal circumstances" – *eg*, physical infirmity, intellectual disability, and psychological and/or emotional problems afflicting the minor.

(iii) "Situational circumstances not inherent to the minor himself or herself", *eg*, where there is some form of relationship between the offender and the minor that places the latter in a position of special vulnerability with respect to the former, for instance where the offender is the minor's teacher, spiritual guide or caregiver, and in that capacity there exists a degree of trust and confidence; or where the minor has become more

vulnerable through the consumption of alcohol or drugs; or where the offender acted in concert with other people in committing the offence.

(b) Degree of exploitation to which the accused has subjected the minor. A non-exhaustive list of the relevant factors includes:

- (i) Nature of sexual contact. The greater the invasion of bodily integrity and privacy, the greater the degree of exploitation inflicted on the minor, and the harsher the sentence which should be imposed. Generally, penetrative sexual activity is the most egregious form of sexual contact, and can be further distinguished between penile penetrative acts and non-penile penetrative acts. The touching or exposure of naked genitalia or breasts will also be more egregious than the touching of such private parts where they are not exposed.
- (ii) Violence or threat of violence.
- (iii) Penetration using large or dangerous objects.
- (iv) Abduction and/or prolonged detention.
- (v) Forced entry into the minor's home.
- (vi) Any additional degradation or humiliation.
- (vii) Recording, retaining and/or sharing sexual images and/or using such images to blackmail the minor.
- (viii) Abuse of trust placed in the accused by the minor.
- (ix) Cruelty, sex slavery or sadomasochistic practices.

74 I note that in *AQW*, the court listed abuse of trust as a potential factor in the determination of the degree of exploitation of the minor: at [21]. However, as the court in that case also explained, where the offender’s relationship to the minor is in such a capacity that exists a degree of trust or confidence, the *vulnerability* of the victim might be more pronounced: at [18]. In such a scenario, if abuse of trust were to be also included as a factor going towards aggravation of the *degree of exploitation*, there may be a risk of some double counting, which the sentencing court will have to be alive to in order to make adjustments where necessary.

75 In *AQW*, the court held that “a sentence of between six and eight months’ imprisonment would be appropriate where (a) the sexual act that took place between the offender and the minor involved touching of naked genitalia, regardless of whose genitalia it was, (b) the minor is 14 years old or above, and does 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” (*AQW* at [50]). Three observations need to be made about this. First, the benchmark sentence indicated by the court in *AQW* appears to have been intended to apply to cases where the accused person has pleaded guilty. In *AQW*, the offender had pleaded guilty. On appeal, the court sentenced him to six months’ imprisonment for each of his two CYPA offences, without applying a discount on account of his plea of guilt. Second, the offender in *AQW* was a first offender. Third, the offences in *AQW* were committed in December 2012, when the maximum imprisonment term for the offence under the version of the CYPA then in force was five years’ imprisonment for a first-time offender and seven years’ imprisonment for a repeat offender. Presently, under s 8(10)(a) CYPA, the prescribed punishment for a first offender is a fine of up to \$10,000 or imprisonment of up to seven years or both, while the prescribed

punishment for a repeat offender is a fine of up to \$20,000 or imprisonment of up to ten years or both.

76 The repeat-offender punishment applies in the present case. The Accused is a repeat offender as he was convicted of a s 7 CYPA 2001 charge on 3 March 2020 (see [24(b)] above).

77 In respect of the 2nd Charge, which was committed against V2, the following factors indicate a high degree of vulnerability on V2's part:

(a) V2 was five years old at the material time. This is significantly lower than the threshold of 14 years old assumed in the benchmark sentence set out in *AQW* (at [50]). The younger the victim, the more vulnerable she is likely to be (*AQW* at [16]). V2's extremely young age thus constitutes a particularly grave aggravating factor;

(b) The fact that the Accused is V2's grandfather placed her in a position of special vulnerability with respect to the Accused.

78 On the other hand, for the 2nd Charge in this case, the Accused had rubbed V2's vagina over her panties. This was a lesser degree of exploitation compared to cases such as *AQW* where the touching of naked genitalia was involved.

79 I also take into account the presence of the TIC charges for similar offences while reiterating my earlier observations (at [70]) about the need to moderate the aggravating weight accorded to this factor.

80 Having regard to the above factors, I consider that for the 2nd Charge in this case, the benchmark sentence indicated in *AQW* should be calibrated

upwards to 20 months' imprisonment. As the benchmark sentence indicated at [50] in *AQW* appears to account for the offender's plea of guilt, I do not find it necessary to further calibrate this sentence of 20 months' imprisonment to account for the Accused's plea of guilt. I should add that this does *not* represent a departure *per se* from the PG Guidelines because the PG Guidelines expressly provide that they are "not intended to apply *over and above* the existing sentencing guidelines or precedents in cases where the offender has pleaded guilty" (at para 10). I should also emphasise that the sentence imposed on the Accused is specific to the facts of this case. For present purposes, it is not necessary for me to set out any benchmark sentences for the offences under the current s 8(10) CYPA; nor is it appropriate to seek to do so, given the absence of submissions from the parties on the formulation of benchmark sentences.

81 In respect of the 10th Charge, which was committed against V1, the following factors are relevant to the issue of V1's vulnerability:

- (a) V1 was only seven years old at the material time: her extremely young age is again a significant aggravating factor.
- (b) The fact that the Accused is V1's grandfather placed her in a position of special vulnerability with respect to the Accused.

82 The degree of exploitation in the 10th Charge was higher, as the nature of sexual contact went beyond mere touching: the Accused had kissed and licked V1's vagina.

83 Similarly, for the 10th Charge, some aggravating weight is due on account of the presence of similar TIC offences – subject to my observations at [70] above. I add that as the psychiatric harm suffered by V1 (in the form of post-traumatic stress symptoms) has already been accounted for as an

offence-specific aggravating factor for the 1st Charge, I likewise moderate the aggravating weight to be ascribed to this factor in relation to the 10th Charge, so as to guard against the effects of double-counting.

84 Having regard to the above factors, I consider that for the 10th Charge in this case, the benchmark sentence indicated in *AQW* should be calibrated upwards to 22 months' imprisonment. For the reasons explained earlier at [80], no further reduction is applied on account of the Accused's plea of guilt.

The 3rd and 25th Charges

85 The 3rd and 25th Charges are, like the 2nd and 10th Charges, also charges of sexual exploitation of a child. The 3rd Charge, committed against V3 sometime in 2000, is punishable under s 6 CYPA 1994; whereas the 25th Charge, committed against V7 sometime in 2006, is punishable under s 7 CYPA 2001 instead. Nevertheless, both charges can be dealt with together as the statutorily prescribed maximum punishment for both charges is identical: a fine of up to \$5,000 or an imprisonment term of up to two years or both for a first-time offender; and in the case of a second or subsequent conviction, a fine of up to \$10,000 or an imprisonment term of up to four years or both.

86 A preliminary issue arises on the facts of this case. While the offences in the 3rd and 25th Charges were committed in 2000 and 2006 respectively (*ie, before* the Accused's conviction of a s 7 CYPA 2001 offence on 3 March 2020), the Accused pleaded guilty to and was convicted of the 3rd and 25th Charges on 24 July 2026 (*ie, after* his previous conviction for a similar offence). The issue, therefore, is whether, in respect of the 3rd and 25th Charges, the provision for enhanced punishment for repeat offenders should apply to the Accused.

87 In their written submissions, the Prosecution appeared to take the position that the Accused should *not* be considered as a repeat offender in relation to the 3rd and 25th Charges, as they submitted that the maximum punishment for these charges would be an imprisonment term of up to two years.⁶⁸ The Defence’s mitigation plea is silent on this issue.

88 In my view, the enhanced punishment for repeat offenders ought to apply to the Accused. The phrase used in s 6 CYPA 1994 and s 7 CYPA 2001 is “second or subsequent conviction”. It is clear from the plain language of the statute that the critical inquiry is the time of the *conviction* for the present offences, rather than the time of the *commission* of the same. In the present edition of the CYPA, the term “repeat offender” is now defined in s 8(12) CYPA; and the definition expressly points to the *date of conviction* for “the current offence” as the operative date for triggering the enhanced punishment provision:

In subsections (10) and (11), “repeat offender”, in relation to an offence under subsection (1)(a) or (b), (2) or (3), means a person who is convicted or found guilty of that offence (called the current offence) and who was *previously convicted or found guilty of* — [the predecessor of s 8 CYPA, *eg*, s 6 CYPA 1994 and s 7 CYPA 2001] *on at least one previous occasion before the date on which the person is convicted or found guilty of the current offence.* [emphasis added in italics and bold italics]

89 Indeed, a contrary approach would result in perverse outcomes, since it would allow a repeat offender to escape the enhanced punishment provision simply by virtue of the fact that the more dated offences were discovered later. Such an offender escapes the repeat offender punishment at first instance (for offences committed later) but also escapes the enhanced punishment in later

⁶⁸ PAS at para 34.

convictions (for offences which were committed earlier but discovered later). This sort of outcome would surely be inimical to the deterrent and retributive objectives behind a regime of enhanced punishment for repeat offenders.

90 For these reasons, I am of the view that in respect of the 3rd Charge and the 25th Charge, the Accused is liable to the enhanced punishment of a fine of up to \$10,000 or an imprisonment term of up to *four* years or both. *However*, I stress that the views I express above are strictly *obiter* because this issue is, strictly speaking, academic in the present case. This is because neither the Prosecution nor the Defence has submitted for the sentence for the 3rd Charge and/or the 25th Charge to run consecutively. The sentences for the 1st Charge and the 19th Charge would inevitably outstrip the sentences for the 3rd and 25th Charges. In other words, the sentences imposed for the 3rd and 25th Charges have no practical effect on the Accused's global sentence. Further and in any event, as I explain below, the sentences I impose in respect of the 3rd and 25th Charges do *not* exceed two years.

91 In respect of the 3rd Charge, which was committed against V3, the following factors indicate a high degree of vulnerability on V3's part:

- (a) V3 was only nine to ten years old at the material time.
- (b) The fact that the Accused is V3's father placed her in a position of special vulnerability with respect to the Accused.

92 The degree of exploitation in the 3rd Charge was high: the Accused licked V3's vagina, made V3 lick his penis and digitally penetrated V3's vagina. In addition, there is some aggravating weight to be ascribed to the presence of TIC charges, though I repeat my observations at [70] above.

93 Having regard to the above factors, I consider that for the 3rd Charge in this case, the benchmark sentence indicated in *AQW* should be calibrated upwards to 12 months' imprisonment. For the reasons explained earlier at [80], no further reduction is applied on account of the Accused's plea of guilt.

94 In respect of the 25th charge, which was committed against V7, the following factors indicate a high degree of vulnerability on V7's part:

(a) V7 was only six years old at the material time. Like the 2nd Charge (where V2 was five years old at the material time), I consider V7's young age to be a particularly grave aggravating factor.

(b) The fact that the Accused was V7's teacher at the Enrichment Centre where she attended classes placed V7 in a position of special vulnerability with respect to the Accused.

95 On the other hand, the degree of exploitation involved in the 25th Charge was relatively lower, as the Accused had touched V7's vagina over her panties. As for the presence of TIC charges, some aggravating weight should be ascribed to them, subject to my observations at [70] above.

96 Having regard to the above factors, I consider that for the 25th Charge, the benchmark sentence indicated in *AQW* should be calibrated to nine months' imprisonment. Again, as explained at [80] above, there is no need to further reduce the sentence on account of the Accused's plea of guilt.

The 9th Charge

97 The 9th Charge relates to the Accused's act of showing V1 a pornographic video depicting penile-vaginal penetration. This is an offence under s 376ED(2) PC and is punishable under s 376ED(3)(a) PC as the Accused

knew that V1 was below 14 years of age at the material time. The statutorily prescribed punishment is an imprisonment term of up to three years or a fine or both.

98 There is no reported High Court sentencing precedent for this offence. The case of *Public Prosecutor v Loh Jiahui Kenneth* [2024] SGMC 2 (“*Kenneth Loh*”) was cited by both the Prosecution and the Defence in their written submissions. In *Kenneth Loh*, the offender followed a 12-year-old boy to the lift lobby where he lived. He entered the lift with the boy and showed him a video of a naked woman with her legs spread and a vibrator inside her vagina. The offender persisted in showing the boy the video despite the latter’s attempts to move away. The DJ held that taking into account “the levels of harm and culpability”, the appropriate starting point for sentencing – before adjustments for offender-specific factors – should be eight months’ imprisonment: at [97].

99 *Per* their written submissions, both the Prosecution and the Defence are agreed that the present case is more serious than *Kenneth Loh*. I accept their submissions. First, I find the following offence-specific factors relevant:

(a) Objective harm:

(i) I accept that the degree of objective harm caused in this case fell on the higher end of the scale, as the video shown by the Accused to V1 depicted a man and a woman engaging in *penile-vaginal intercourse*. I do not, however, accept the Prosecution’s argument that “[g]iven the nature of the video, it could not have been a negligible duration”. There is no factual basis for this argument, as the SOF does not specify the duration for which the video was shown to V1.

(ii) I accept that V1 was a particularly vulnerable victim, as her age at the material time (seven years old) was significantly lower than the age ceiling of 16 years for this offence.

(b) Subjective harm: Psychiatric harm was indisputably caused to V1 as she experienced some symptoms of post-traumatic stress. In this connection, I repeat my observations at [83] about moderating the aggravating weight ascribed to this factor in order to guard against double counting.

(c) Culpability:

(i) In committing the offence against V1, the Accused abused the trust reposed in him as her grandfather.

(ii) I accept the Prosecution's submission that there was an attempt by the Accused to prevent detection of his offence: the Accused told V1 not to tell anyone about what happened; otherwise, she would not be his favourite grandchild. While this may not seem like a particularly sophisticated ruse, it has to be seen in context: V1 was a seven-year-old child; and there was plainly an element of emotional manipulation involved.

100 Having regard to the above offence-specific factors, I find an indicative starting sentence of 14 months' imprisonment to be appropriate. I next consider the offender-specific factors. In this connection, while some aggravating weight should be accorded to the TIC charges for similar or related offences, this will be considerably moderated to guard against double-counting for the effect of the TIC charges: see my observations at [70] above. Finally, the Accused having pleaded guilty within Stage 1, I accord him the full 30% reduction in sentence

available under the PG Guidelines. I then arrive at the final sentence of 10 months' imprisonment for the 9th Charge.

The 17th and 21st Charges

101 The 17th and 21st Charges concern offences for voluntarily having carnal intercourse against the order of nature (fellatio). These charges relate to the Accused's act of penetrating V3's and V4's mouths with his penis. V3 is the Accused's daughter and V4 is his niece. These offences are punishable under s 377 PC 1985 with imprisonment for life, or imprisonment for a term of up to 10 years, and a fine.

102 The Prosecution referred me to the decision of the Court of Appeal in *Adam bin Darsin v Public Prosecutor* [2001] 1 SLR(R) 709 ("*Adam bin Darsin*"). However, I do not find this case particularly relevant as a sentencing precedent for the offences in the 17th and 21st Charges. I note that *Adam bin Darsin* was a case where the offender performed fellatio on his young victims: the Court of Appeal held that the offender's act of performing fellatio on his victim was less grave than a case where the offender "coerced or cajoled a young victim to perform the revolting act of fellatio on him" – which, in turn, was less grave than a case where the offender engaged in anal intercourse with the victim (at [21] of *Adam bin Darsin*).

103 The Defence referred me to two cases: *Public Prosecutor v ABJ* [2010] 2 SLR 377 ("*ABJ*") and *Public Prosecutor v Mohamed Noh Hafiz bin Osman* [2003] 4 SLR(R) 281 ("*Mohamed Hafiz*"). As *ABJ* is a case involving anal intercourse, I also do not find it particularly relevant to the 17th and 21st Charges. I find *Mohamed Hafiz* more helpful. In that case, the 17-year-old offender had – between 13 February 2003 and 29 March 2003 – committed a series of serious sexual offences against young girls aged between eight and 12

years old in housing estates: he would follow his victims into the lift as they were heading home alone; and when they emerged from the lift, he would attack them from behind, cover their mouths with his hand, pull them to the staircase landings, and sexually assault them. The offender's reign of terror ceased only when he was identified by the police and arrested following a violent struggle. He eventually pleaded guilty to ten charges, with another 19 TIC for sentencing. All in, he was found to have attacked and sexually assaulted 11 young female victims. Of the ten charges he pleaded guilty to, three were charges under s 377 PC 1985 for pushing three victims' heads towards his exposed penis and forcing them to suck it. In one instance, he ejaculated into the girl's mouth: at [2].

104 In *Mohamed Hafiz*, Tay Yong Kwang J (as he then was) noted the offender's youth, but held that reformatory training was inappropriate in light of the number and nature of the offences committed as well as the shocking audacity of the offender in committing most of the offences in the day, near the homes of his victims. Tay J sentenced the offender to eight years' imprisonment for each of the s 377 PC 1985 charges, but ordered these sentences to run concurrently to the offender's two consecutive sentences of ten years' imprisonment each for aggravated rape. The offender's eventual global sentence was 20 years' imprisonment and 24 strokes of the cane.

105 The present case, while serious, was less aggravated than *Mohamed Hafiz*. For the 17th Charge, the SOF stated that the Accused had inserted his penis into V3's mouth on the same occasion as the offence in the 3rd Charge, and that he had masturbated in front of V3 until he ejaculated.⁶⁹ While the offence here was aggravated by the fact that the Accused had abused his position

⁶⁹ SOF at para 28.

of trust as V3's father, this was still a less aggravated case than *Mohamed Hafiz*, where the offender resorted to the use of violence and carried out a campaign of sexual terror on unsuspecting young victims in public housing estates.

106 After factoring in the discount available to the Accused for his plea of guilt, I find a sentence of eight years' imprisonment to be appropriate for the 17th Charge.

107 As for the 21st Charge, this was more aggravated than the 17th Charge as the Accused had ejaculated *into V4's mouth* – an act which, in my view, inflicted further degradation and humiliation on V4 on top of the physical violation arising from the Accused's act of penetrating her mouth with his penis. There was, moreover, evidence of severe harm suffered by her, as V4's IMH Report stated that "[V4] was likely to have post-traumatic stress disorder with delayed expression as the symptoms were more pronounced in Secondary 4".⁷⁰

108 After factoring in the discount available to the Accused for his plea of guilt, I find a sentence of nine years' imprisonment to be appropriate for the 21st Charge.

The 19th Charge

109 The 19th Charge involves the Accused's rape of V3. This is punishable under s 376(1) PC 1985, which provides for an imprisonment term of up to 20 years and fine or caning.

110 The sentencing framework for rape offences is set out in *Terence Ng*. The *Pram Nair* sentencing framework for SAP offences – which I set out earlier

⁷⁰ Tab B of SOF, V4's IMH Report at para 27(a).

at [64]–[66] – was adopted from *Terence Ng*; and the two frameworks are substantially similar, save that the sentencing bands in *Terence Ng* have a higher sentencing range to account for the fact that rape is generally considered to be a more serious offence. The sentencing bands for rape set out at [47] of *Terence Ng* are:

Band	Description	Sentence
1	Cases featuring no offence-specific aggravating factors or cases where these factors are only present to a very limited extent and therefore have a limited impact on sentence	10 to 13 years’ imprisonment, with six strokes of the cane
2	Cases usually containing two or more offence-specific aggravating factors	13 to 17 years’ imprisonment, with 12 strokes of the cane
3	Cases which, by reason of the number and intensity of the aggravating factors, present themselves as extremely serious cases of rape. They often feature victims with particularly high degrees of vulnerability and/or serious levels of violence attended with perversities	17 to 20 years’ imprisonment, with 18 strokes of the cane

111 In *Terence Ng*, the Court of Appeal held (at [53]) that a “paradigmatic example of a band 2 case would be the rape of a particularly vulnerable victim coupled with evidence of an abuse of position (such as where the rape took place in a familial context)”. The Defence and Prosecution agree – and I accept – that the following offence-specific aggravating factors would place the offence in the 19th Charge at the mid-point of the Band 2 range:

- (a) There was an abuse of trust as the Accused is V3’s father.
- (b) V3 was only 15 years old at the material time.

112 Following from the above, I find that the indicative starting sentence for the 19th Charge should be 15 years' imprisonment. I then calibrate this upwards to 16 years' imprisonment to account for the (moderated) aggravating weight accorded to the TIC charges and the Accused's relevant antecedents.

113 Finally, applying a 30% reduction for the Accused's plea of guilt, I arrive at the final sentence of 11 years 2 months' imprisonment for the 19th Charge. This offence is also punishable with caning, but as with the 1st Charge, the Accused cannot be caned on account of his age. I consider separately at [139] below the question of whether an additional term of imprisonment should be imposed on him in lieu of caning under s 325(2) CPC.

The 26th Charge

114 The 26th Charge concerns an offence of aggravated outrage of modesty punishable under s 354(2) PC 2008: when V8 was 10 years old, the Accused touched and stroked V8's breast over her clothes.

115 The applicable sentencing framework for offences under s 354(2) PC 2008 was set out by See Kee Oon J (as he then was) in *GBR v Public Prosecutor* [2018] 3 SLR 1048 ("*GBR*"). Much like the sentencing framework set out in *Pram Nair* and *Terence Ng*, the *GBR* sentencing framework too involves two steps. At the first step, the court determines the starting sentence by identifying which sentencing band, and where specifically in that band, the case at hand falls into, having regard to the offence-specific aggravating factors. At the second step, the court calibrates the starting sentence so as to account for the offender-specific aggravating and mitigating factors. The sentencing bands are as follows (*GBR* at [31]):

Band	Description	Sentence
1	None or at most one aggravating factor Usually a fleeting touch or a touch over the clothes of the victim, that does not involve the intrusion into the victim's private parts.	Less than one year's imprisonment Caning is <i>generally</i> not imposed
2	Two or more aggravating factors Lower end cases would involve absence of skin-to-skin contact with the victim's private parts. Higher end cases would involve skin-to-skin touching of the victim's private parts or sexual organs.	One to three years' imprisonment Caning will <i>nearly always</i> be imposed, with at least three strokes of the cane
3	Several aggravating factors Usually cases involving the exploitation of a particularly vulnerable victim, serious abuse of position of trust, and/or use of violence or force.	Three to five years' imprisonment Caning <i>ought</i> to be imposed, with at least six strokes of the cane

116 In the present case, while the Accused did touch V8's breast, there was no skin-to-skin contact. There was, however, an abuse of trust by the Accused, as V8 was then his student at the Enrichment Centre. Additionally, V8 – at 10 years old – was materially younger than the stipulated age ceiling of 14 years old (*GBR* at [29(f)]). Taking these two together, I would place this case at the mid-point of Band 2, with a starting sentence of 21 months' imprisonment. I then apply an uplift of three months to account for the (moderated) aggravating weight due to the TIC charges and the Accused's related antecedents. Finally, applying the 30% discount available to the Accused under the PG Guidelines, I arrive at the final sentence of 17 months' imprisonment.

117 In *GBR*, See J held that for s 354(2) offences falling within Band 2, caning would “nearly always be imposed, and the suggested starting point

would be at least three strokes of the cane” (at [33] of *GBR*). I consider separately at [139] below the question of whether an additional term of imprisonment should be imposed on the Accused in lieu of caning under s 325(2) CPC.

Issue 4: Application of the totality principle

118 I summarise in the table below the individual sentences imposed for the ten proceeded charges:

Charge	Description	Sentence
1st Charge	Section 376(2)(a) p/u s 376(4)(c) PC	11 years 2 months’ imprisonment
2nd Charge	Section 8(1)(a)(i) p/u s 8(10)(a) CYPA	20 months’ imprisonment
3rd Charge	Section 6 CYPA 1994	12 months’ imprisonment
9th Charge	Section 376ED(2) p/u s 376ED(3)(a) PC	10 months’ imprisonment
10th Charge	Section 8(1)(a)(i) p/u s 8(10)(a) CYPA	22 months’ imprisonment
17th Charge	Section 377 PC 1985	8 years’ imprisonment
19th Charge	Section 375 p/u s 376(1) PC 1985	11 years 2 months’ imprisonment
21st Charge	Section 377 PC 1985	9 years’ imprisonment
25th Charge	Section 7 CYPA 2001	9 months’ imprisonment
26th Charge	Section 354(2) PC 2008	17 months’ imprisonment

119 At the next stage of the sentencing process, the determination of the appropriate global sentence requires me to apply the totality principle. In this connection, the Prosecution has submitted for a global sentence of 32 to 36 years' imprisonment. The Defence, on the other hand, submitted that a global sentence "in the region of 15 years' imprisonment" would be fair and just in the circumstances.

120 With respect, I find that neither the Prosecution's nor the Defence's position on the proposed global sentence correctly applies the totality principle. I say this for the following reasons.

121 The totality principle comprises two limbs. The first limb requires the sentencing court to examine whether the global sentence it contemplates is substantially above the normal level of sentences for the most serious of the individual offences committed. The second limb involves consideration of whether the effect of the global sentence on the offender is crushing and not in keeping with his past record and his future prospects: *Mohamed Shouffee bin Adam v Public Prosecutor* [2014] 2 SLR 998 ("*Shouffee*") at [54] and [57].

Limb 1 of the totality principle

122 Applying the first limb of the totality principle, I note that the Prosecution has acknowledged that its proposed global sentence of 32 to 36 years' imprisonment *is* substantially higher than the normal sentence for the most serious offence – in this case, the offence of SAP in the 1st Charge, which is punishable with an imprisonment term of between 8 and 20 years. Indeed, not only is the Prosecution's proposed global sentence substantially higher than the normal sentences for such offences, it also exceeds the statutorily prescribed *maximum* punishment by more than 160%.

123 In *Logachev Vladislav v Public Prosecutor* [2018] SGHC 12, Sundaresh Menon CJ held that a provisional aggregate sentence which was almost double the longest individual sentence imposed on the Appellant “offend[ed] the first limb of the totality principle...and therefore indicate[d] the need for a downward adjustment to the aggregate sentence” (at [110]). In that case, Menon CJ adjusted the provisional aggregate sentence of 46 months’ imprisonment downwards to an aggregate 38 months’ imprisonment (at [112]). In contrast, in the present case, the longest individual sentence proposed by the Prosecution is 10 to 11 years’ imprisonment (in respect of the 1st and 19th Charges) – yet their proposed global sentence is more than *triple* that.

124 In oral submissions, the Prosecution accepted that the first limb of the totality principle was offended, but argued that it was entirely appropriate to breach the first limb of the totality principle in this case because of the overall criminality of the Accused. In making this argument, the Prosecution relied on *Public Prosecutor v Juandi bin Pungot* [2022] 5 SLR 470 (“*Juandi*”) – a case where the global sentence imposed on the offender was almost twice the length of the prescribed maximum punishment for the most serious of the 36 charges he pleaded guilty to (*ie*, criminal breach of trust (“CBT”) as a servant).

125 I do not find that *Juandi* supports the Prosecution’s submission for a global sentence of 32 to 36 years’ imprisonment in the present case. As the court in *Juandi* (at [94]) made amply clear, the totality principle seeks to ensure that the aggregate sentence is sufficient and *proportionate to the offender’s overall criminality*. In *Juandi*, the global sentence of 29 years’ imprisonment was imposed in respect of a total of 36 charges which the offender pleaded guilty to, with 49 other charges TIC for sentencing. The 36 proceeded charges included offences of CBT, conspiracy to commit CBT, and corruption, which were committed over a period of more than a decade. In gist, the offender was an

officer of Shell Eastern Petroleum Pte Ltd (“Shell”) who was part of a conspiracy with his co-conspirators to dishonestly misappropriate gas oil from Shell’s largest petrochemical production and export centre in the Asia-Pacific region. The offences were premeditated and sophisticated in nature; they were committed as part of a criminal syndicate, with the involvement of a transnational element; and they hurt a strategic industry which was a pillar of Singapore’s economy. The offender in *Juandi* played the role of a key mastermind behind the criminal scheme. In all, the value of the gas oil misappropriated in the CBT offences came to more than \$93 million; and through this criminal scheme, the offender obtained criminal benefits of at least \$5.63 million. It was in this context that the court held at [94] that “[a]though the global sentence [was] almost twice in length of the prescribed maximum punishment for the most serious of the offences... it [was] wholly proportionate to the overall criminality of the [offender]”.

126 In the present case, in putting forward the proposed aggregate sentence of 32 to 36 years’ imprisonment, the Prosecution referenced – in their oral submissions – the aggregate sentence passed on the offender in *Public Prosecutor v Isham bin Kayubi* [2020] SGHC 44 (“*Isham bin Kayubi*”). In *Isham bin Kayubi*, the offender was sentenced to a global sentence of 32 years’ imprisonment for a total of four counts of rape and two counts of SAP. The offender’s sentence was affirmed by the Court of Appeal in *Isham bin Kayubi v Public Prosecutor* [2020] SGCA 42.

127 I do not find that *Isham bin Kayubi* provides support for the Prosecution’s proposed global sentence of 32 to 36 years’ imprisonment in the present case. First, the offender in *Isham bin Kayubi* was convicted after trial. In oral submissions, the Prosecution accepted that if the offender in *Isham bin Kayubi* had pleaded guilty and the case had been dealt with under the PG

Guidelines, the offender's global sentence would have been 22 years' imprisonment. Second, while both the offender in *Isham bin Kayubi* and the Accused were traced for related antecedents, it appears that the antecedents of the offender in *Isham bin Kayubi* were more serious. His previous convictions, as set out at [98] of the judgment, consisted of:

four charges of carnal intercourse against the order of nature under s 377 of the Penal Code, and three charges of having unlawful carnal connection with a girl below the age of 16 years except by marriage under s 140(1)(i) of the Women's Charter (Cap 353, 1997 Rev Ed). The charges related to four separate victims, three of whom were under the age of 16. The accused's modus operandi for these offences bore substantial similarities with the present case. In each set of offences, the accused reached out to young girls and used various pretexts to bring them to a location where he could commit sexual acts against them. Furthermore, the accused almost always used his mobile phone to take photographs and/or videos of these sexual acts.

128 Third, while the present case does involve a lengthier period of offending, more victims, and younger victims, the bulk of the Accused's charges involved offences of outrage of modesty, sexual exploitation of child, and exhibiting sexual images or obscene object to a minor. In comparison, the offences in *Isham bin Kayubi* were more serious, as the offender there faced *four* counts of rape and *two* counts of SAP, *all* of which were punishable with a maximum sentence of 20 years' imprisonment.

129 While I have no doubt that the present case is a most egregious one and that the Accused's conduct was reprehensible, the Prosecution's proposed global sentence of 32 years to 36 years' imprisonment is disproportionate to the Accused's overall criminality, especially when compared with like cases. I have set out above the differences between the Accused's case and that of *Isham bin Kayubi*. In addition, I have considered the following two other cases, which also involved prolonged sexual offending against multiple young victims.

(a) In *Public Prosecutor v BVJ* [2022] SGHC 59 (“*BVJ*”), the 45-year-old offender faced 33 charges involving sexual offences against his four biological young daughters. His serial offending began in 2004 with the eldest daughter and ceased only in 2018 when the youngest of the four victims reported him to the police. As the court put it at [1], “[h]e had defiled, debased and egregiously molested four out of five of his daughters on multiple occasions. Only the youngest daughter was spared. Of the four daughters that he used as his sex objects, three of them were raped on multiple occasions over a long period of time. The sexual exploitation began with the oldest daughter when she was only six to seven years old.” The offender had originally claimed trial, but on the first day of trial, he elected to plead guilty to seven charges involving only one of the daughters. These were three charges for aggravated rape, one charge for aggravated SAP, two charges for aggravated outrage of modesty and one charge of ill-treatment of a child: at [2]. The remaining 26 charges were TIC for sentencing: at [41]. Of the 26 TIC charges, four were for penile-vaginal rape of his other two daughters, and three were for digital-vaginal penetration of these two daughters. The TIC charges also involved several charges of causing hurt and ill-treatment of children, which simply showed the extent of the physical abuse suffered by the offender’s children *on top of the repeated sexual assaults*. No sentencing discount was accorded to the offender’s late plea of guilt, as this was not borne out of genuine remorse, and the victim had to undergo numerous trial preparation interviews where she was forced to relieve the trauma: at [111]–[114]. Given the serial offending, no weight was given to his lack of antecedents either, since he could not be regarded as a first offender in the true sense. In imposing a global sentence of 33

years 2 months' imprisonment (including seven months' imprisonment in lieu of caning), the court explained:

140 The global sentence of 33 years and two months' imprisonment and 24 strokes of the cane is consistent with the totality principle. First, the sentence does not have a crushing effect on the accused, given the number and gravity of the offences and when viewed against the possibility that he would be 63 to 64 years old when released ... Further, while I note that there are additional aggravating factors in *AOM* that are absent in this case, namely, the victim's contraction of Chlamydia, there are still numerous aggravating factors in the present case. Some of these were echoed in *AOM*, such as the offender's unprotected sex with the victim and the use of deception. It is already bad to rape a girl. But to rape three young innocent biological children on multiple occasions over a prolonged period is monstrously heinous beyond any description. Further, he egregiously outraged the modesty of four out of five of his daughters and committed crimes against almost every member of his family. As if all these were not enough, he attempted to pervert the course of justice so that he would not face the music. This is a deserving case for the book to be thrown at the accused. ...

141 Further, the global sentence of 33 years and two months' imprisonment and 24 strokes of the cane reflects and befits the seriousness of the accused's crimes. In this regard, the victim impact statements make clear that the accused's sexual abuse has left them with lasting trauma and painful wounds. As it was the final assault of the victim that led to the police report, the victim expressed how there were times when she blamed herself that her siblings no longer had a father. Despite her family's support, she could not help but feel that she was fighting this emotional battle alone. She also stated that she would still have nightmares about the incidents at least once a month and has since lost trust in men. V2 stated that she remained silent about the abuse as she was afraid to break up her family, and that keeping silent was very painful for her. V4 fears ever having a father figure in their home again, as it would serve as a reminder of the accused's deeds. Though nothing can restore the victims' innocence or compensate for their suffering, a global sentence of 33 years and two months' imprisonment and 24 strokes of the cane appropriately reflects the atrocities committed against them and

deters would-be offenders from venturing down the same path.

(b) In *Public Prosecutor v Yap Weng Wah* [2015] 3 SLR 297 (“*Yap Weng Wah*”), the offender faced 76 charges for sexual offences committed against 30 boys aged between 11 and 15 over a period of more than two and a half years: at [4]. Of the 76 charges, 75 were brought under s 376A PC 2008, and one charge was brought under s 7(b) CYPA 2001. The offender pleaded guilty to 11 charges under s 376A(3) PC 2008 and one charge under s 376A(2) PC 2008, with the remaining 64 charges TIC for sentencing. The s 376A(3) PC 2008 charges were for sexual penetration of a minor below the age of 14, punishable with a maximum of 20 years’ imprisonment, while the s 376A(2) charge was for sexual penetration of a minor below the age of 16, punishable with a maximum of 10 years’ imprisonment. A global sentence of 30 years’ imprisonment and 24 strokes of the cane was imposed: at [102]–[103]. The offender committed the various offences in similar circumstances. He typically befriended his victims on Facebook, using different personas, and earned their trust by portraying himself as an elder brother or a mentor whom they were invited to share their problems with. After familiarising himself with his victims’ interests and hobbies, the offender would then use that knowledge to arrange meet-ups with the victims, whereupon he would cajole and persuade them to engage in sexual activities with him. He did so despite some of his victims expressing reluctance. On most occasions, the offender would use his mobile phone to film the sexual acts, with the victims’ knowledge. Although he assured some of the victims that he would delete the videos later, he did not do so and would instead upload the videos on his laptop to view them during masturbation: at [10]–[11]. In sentencing the offender, the court held that the following aggravating factors were

present: (a) premeditation by the offender, who planned and hunted for victims to satisfy his deviant urges; (b) penetration without protection; (c) the offender's conduct in creating and possessing videos of the sexual offences; (d) his exploitation of the Internet in order to widen his reach; and (e) the fact that his offences involved a large number of victims over a period of more than two and a half years: at [68]–[70]. The court gave “little weight” to the offender's plea of guilt as it did not spring from genuine remorse (at [71]–[73]). No weight was given to his lack of antecedents either, although the court noted that his culpability was not as grave as that of an accused with antecedents: at [75]. On the other hand, although the offender was diagnosed with hebephilia (*ie*, a conscious preference for pubescent individuals generally aged 11 to 14), the court held that there was “not much more evidence about this condition” and thus did not take this condition into account beyond the common ground that the offender was assessed to be at high risk of offending: at [84]–[85]. The court found a term of 12 years' imprisonment to be appropriate in respect of each offence of anal intercourse punishable under s 376A(3) PC 2008, but reduced each of these sentences to ten years' imprisonment on account of the totality principle. Three of the sentences were ordered to run consecutively such that the global sentence came to 30 years' imprisonment: at [80] and [91]. The offender was also sentenced to caning in respect of the charges punishable under s 376A(3) PC 2008, with the maximum number of strokes being limited to 24 strokes: at [96]–[97] and [103].

130 From the above summary of *BVJ* and *Yap Weng Wah*, it is plain that these two cases were significantly more serious than the present case. The former involved a biological father subjecting his four young daughters to physical and sexual abuse, over a period of 14 years. The latter involved a sexual

predator who actively hunted for victims on the Internet and who made recordings of the sexual acts he subjected them to. Both offenders engaged in *multiple* penetrative acts of sexual violence. The offenders in *BVJ* and *Yap Weng Wah* were also not given any reduction in sentence on account of their plea of guilt.

131 Having regard to the facts of this case and also comparing it with *BVJ* and *Yap Weng*, I am of the view that a global sentence of 26 years' imprisonment will be appropriate. This can be achieved by running the sentences for the 1st, the 17th and the 19th Charges consecutively, with a downward calibration to these individual sentences. However, as I explain below, a further reduction is warranted when the second limb of the totality principle is applied.

Limb 2 of the totality principle

132 Pursuant to the second limb, the sentencing court must consider whether the global sentence is crushing and not in keeping with the offender's past record and future prospects. In this connection, our courts have held that the sentence imposed on an offender should not effectively amount to a life sentence: see, eg, the judgment of the three-judge court of the High Court in *Chew Soo Chun* (at [31]) and the judgment of Menon CJ in *Yap Ah Lai v Public Prosecutor* [2014] 3 SLR 180 ("*Yap Ah Lai*") (at [91]). In this connection, both the three-judge court in *Chew Soo Chun* and Menon CJ in *Yap Ah Lai* noted that where the offender was elderly, a lengthy imprisonment term might mean the offender spending much of the rest of his life in prison. In both these cases, the courts relied on *Public Prosecutor v UI* [2008] 4 SLR(R) 500 ("*PP v UI*"), where the Court of Appeal explained, at [78], that:

In general, the mature age of the offender does not warrant a moderation of the punishment to be meted out (see *Krishan Chand v PP* [1995] 1 SLR(R) 737 at [8]). But, where the sentence

is a long term of imprisonment, the offender's age is a relevant factor as, unless the Legislature has prescribed a life sentence for the offence, the court should not impose a sentence that effectively amounts to a life sentence. Such a sentence would be regarded as *crushing* and would *breach the totality principle of sentencing*. [emphasis added]

133 In light of the above observations in *PP v UI*, my understanding is that when our courts express concern over the imposition of sentences that would effectively amount to a life sentence, this concern is really a response to “the requirement of proportionality that runs through the gamut of sentencing decisions” (*Shouffee* at [47]).

134 In considering whether the provisional aggregate sentence amounts effectively to a life sentence, the sentencing court will likely need to have regard *inter alia* to an offender's age. At the same time, the court's consideration of the offender's age is not complete unless it also takes into account any terminal illness that the offender might have, since such illness may reduce his life expectancy. For example, in *Leck Kim Koon (SGDC)*, the district judge considered that “in the context of the accused who has a terminal illness, and hence a reduced life expectancy, his advanced age was even more relevant”: at [315(d)].

135 In oral submissions, the Prosecution argued that the above principles were not immutable. In support of this argument, the Prosecution cited the case of *Ewe Pang Kooi v Public Prosecutor* [2020] 1 SLR 757 (“*Ewe Pang Kooi (SGCA)*”). With respect, however, the judgment in *Ewe Pang Kooi* has to be read in context. At [10] of its judgment, the Court of Appeal explained:

It was next suggested that the aggregate sentence should be adjusted downwards because, in effect, it could amount to a life sentence given the Appellant's advanced age and this would be crushing. We do not accept this. *First, the Judge took into account the advanced age of the Appellant and moderated the*

sentence as a result. In our judgment, while it is right that a sentencing court should be mindful of the real effect of a sentence on an offender of advanced age, as noted in *Public Prosecutor v UI* [2008] 4 SLR(R) 500 at [78], there are limits to this principle. Here, this was *simply a consequence of the period of time during which the Appellant was able to keep his fraudulent activities concealed.* As we pointed out in the course of the arguments, it would be perverse to suggest that if he had successfully continued with the fraud for another decade and been apprehended at the age of 70, the sentence should be *further* moderated on account of his remaining life expectancy at that point. [emphasis added]

136 As the Court of Appeal noted, therefore, the High Court – in sentencing the offender at first instance had already accounted for his advanced age: *Public Prosecutor v Ewe Pang Kooi* [2019] SGHC 166 (“*Ewe Pang Kooi (SGHC)*”) at [39]. At the time of sentencing before the High Court, the offender was aged 65 years old. The High Court had considered a global sentence of 28 years’ imprisonment to be appropriate: at [38]. Notwithstanding that the offence in *Ewe Pang Kooi* (under s 409 PC) could be punished with life imprisonment, the High Court held that a term of life imprisonment would be excessive; and to avoid giving a sentence tantamount to a life imprisonment term, the High Court calibrated the global sentence to 25.8 years’ imprisonment: at [40]. In its remarks at [10] of its judgment, therefore, the Court of Appeal was *not* rejecting or qualifying the proposition that a sentencing court ought generally to avoid giving a sentence that would effectively amount to a life sentence: instead, the Court of Appeal was making the point that a *further* reduction of the global sentence *on top of* what the High Court had ordered was inappropriate and unnecessary.

137 In the present case, the Accused is 71 years old. His life expectancy is reduced by his terminal illness. Based on the latest SGH medical report, the probability of his living past 2031 (ten years from the time of diagnosis) is in the range of 13% without curative treatment; and as noted earlier at [29], he is

not a suitable candidate for the only known curative treatment. To my mind, these considerations warrant a downward calibration of the Accused's global sentence such that the final imprisonment term is not crushing on him and does not amount to a life imprisonment term. At the same time, I do not think the downward calibration should be so substantial as to bring the provisional global sentence from 26 years' imprisonment to the 15 years' imprisonment suggested by the Defence. The Defence accepts, after all, that this was a highly egregious case involving rape and sexual assault of multiple young victims over a long stretch of time. This was also a case where the Accused ceased offending only because he was arrested. The most recent of his offences were committed in 2022 and 2023: this means that they were committed when he was 67 to 68 years old and *after* he had received the diagnosis of his terminal illness. In other words, the Accused's advanced age and terminal illness clearly did not preclude him from continuing his offending conduct.

138 Having regard to all the facts and circumstances of this case, I find **a global sentence of 21 years' imprisonment** to be appropriate. This can be achieved by adjusting the sentences for the 1st and 19th Charges downwards to 10 years 6 months' imprisonment each, and running these sentences consecutively. In my view, the final global sentence of 21 years' imprisonment sufficiently reflects the overall criminality of the Accused and satisfies both limbs of the totality principle.

Issue 5: Whether additional term of imprisonment should be imposed on the Accused in lieu of caning

139 Finally, I consider the question of whether an additional term of imprisonment should be imposed on the Accused in lieu of the caning he has avoided by reason of his age. Of the ten proceeded charges against him, three

charges are punishable with caning; indeed, the 1st Charge alone attracts a mandatory minimum of 12 strokes of the cane.

140 By way of general principle, the imposition of an additional term of imprisonment in lieu of caning is warranted where, on balance, there is a need to compensate for the deterrent and retributive effects of caning that are lost by operation of the exemption in s 325(1)(b) CPC, or to maintain parity among co-offenders: *Amin bin Abdullah v Public Prosecutor* [2017] 5 SLR 904 (“*Amin bin Abdullah*”), at [49]. However, even if these factors are present, it does not necessarily mean that an additional term of imprisonment in lieu of caning is warranted. Instead, the court should “consider the matter holistically and assess whether there are any factors which could militate against the imposition of an additional term of imprisonment” (at [50] of *Amin bin Abdullah*). A non-exhaustive list of such factors would include medical grounds; old age; compassionate grounds; the need for proportionality; and Parliamentary intention in enacting a sentencing regime for a given offence (at [60]).

141 The Prosecution in the present case did not submit for the imposition of an additional term of imprisonment in lieu of the caning avoided by the Accused. In *Amin bin Abdullah*, it was held (at [62]) that where an offender is exempted from caning, the court will generally find it helpful to first identify the principal sentencing objective(s) that underlie(s) the imposition of caning for the offence in question. Thus, for example, in cases where there are specific victims (as in the present case), retribution is likely to be the principal sentencing consideration, especially where violence has been visited upon the victim (at [63] of *Amin bin Abdullah*). On the other hand, deterrence is likely to be the dominant sentencing consideration behind the imposition of caning for offences that impact public order and social safety, such as serious drug and moneylending offences. In some cases, considerations of both retribution and

deterrence may simultaneously be engaged – for instance where serious injury has been caused to the victim of a moneylending offence (at [63] of *Amin bin Abdullah*).

142 In the present case, having regard to the presence of specific victims, the principal sentencing objective underlying the imposition of caning for the various offences will be retribution. However, given the Accused's age and terminal illness, as well as the final global sentence of 21 years' imprisonment I have arrived at, I doubt that an additional imprisonment term (which is limited to 12 months) will achieve meaningful retributive effect. I therefore do not find it appropriate to impose an additional imprisonment term in lieu of caning.

Conclusion

143 To sum up, the Accused is sentenced as follows for the 10 proceeded charges:

- (a) For the 1st Charge, 10 years 6 months' imprisonment.
- (b) For the 2nd Charge, 20 months' imprisonment.
- (c) For the 3rd Charge, 12 months' imprisonment.
- (d) For the 9th Charge, ten months' imprisonment.
- (e) For the 10th Charge, 22 months' imprisonment.
- (f) For the 17th Charge, eight years' imprisonment.
- (g) For the 19th Charge, 10 years 6 months' imprisonment.
- (h) For the 21st Charge, nine years' imprisonment.

- (i) For the 25th Charge, nine months' imprisonment.
- (j) For the 26th Charge, 17 months' imprisonment.

144 The sentences for the 1st and 19th Charges are to run consecutively. The global sentence is thus 21 years' imprisonment. I will hear parties on the issue of backdating.

Mavis Chionh Sze Chyi
Judge of the High Court

Jiang Ke-Yue and Ronnie Ang (Attorney-General's Chambers)
for the Prosecution.
Nakoorsa bin Abdul Kadir and Dwi Heryanni binte Mohammad
(Nakoorsa Law Corporation) for the Accused.
