

Following on from yesterday's thread, I'd like to talk a bit about the clemency process in [#Singapore](#) in relation to the [#deathpenalty](#).

<https://t.co/U5ilQfWOW4>

Under Article 22P of the Constitution of [#Singapore](#), the President is able to, on the advice of the Cabinet (this bit is important), grant clemency to death row inmates. This is usually understood to mean that the President will commute the death sentence to life imprisonment. <https://t.co/kCZ1IEHA9W>

**Grant of pardon, etc.**

22P.—(1) The President, as occasion shall arise, may, on the advice of the Cabinet —

- (a) grant a pardon to any accomplice in any offence who gives information which leads to the conviction of the principal offender or any one of the principal offenders, if more than one;
- (b) grant to any offender convicted of any offence in any court in Singapore, a pardon, free or subject to lawful conditions, or any reprieve or respite, either indefinite or for such period as the President may think fit, of the execution of any sentence pronounced on such offender; or
- (c) remit the whole or any part of such sentence or of any penalty or forfeiture imposed by law.

(2) Where any offender has been condemned to death by the sentence of any court and in the event of an appeal such sentence has been confirmed by the appellate court, the President shall cause the reports which are made to him by the Judge who tried the case and the Chief Justice or other presiding Judge of the appellate court to be forwarded to the Attorney-General with instructions that, after the Attorney-General has given his opinion thereon, the reports shall be sent, together with the Attorney-General's opinion, to the Cabinet so that the Cabinet may advise the President on the exercise of the power conferred on him by clause (1).

[12/2004 wef 15/05/2004]

There's a catch: the words "on the advice of the Cabinet". In 2011, the Court of Appeal ruled that this means the President must act according to what the Cabinet says. Essentially, while it is known as a presidential pardon, it is actually the Cabinet of [#Singapore](#) that decides.

For those who enjoy reading legal arguments, you can dive into the court's grounds of decision here: <https://t.co/Y8nKaFfloZ>

If interested in further reading, here's a paper by an academic dissecting the decision: <https://t.co/5wKycgLyyK>

This was a matter of controversy in 2010/2011 in relation to the case of Yong Vui Kong, a young Sabahan who was on death row for drug trafficking. In 2010, while Yong's case was still before the Court of Appeal, Law Minister K Shanmugam said this: <https://t.co/CT9QcyzZdW>

"People assume you can have this safety and security without this framework of the law; that you can change it, and yet your safety and security will not be affected," he said. "But there are always trade-offs. The difficulty the Government has sometimes in explaining this is that the trade-offs are not apparent. The damage to a large number of others is not obvious.

*"You save one life here, but 10 other lives will be gone. What will your choice be?"*

*If [the Appellant] escapes the death penalty, drug barons will think the signal is that young and vulnerable traffickers will be spared and can be used as drug mules, argued Mr Shanmugam.*

"Then you'll get 10 more. There'll be an unstoppable stream of such people coming through as long as we say we won't enforce our laws," he said during his ministerial community visit to Joo Chiat.

At the time, Yong's lawyer, M Ravi, argued that these comments were sub judice and had "poisoned" his client's case with "biasedness". After the Court of Appeal decision that the President has to act according to the Cabinet's decision in clemency cases, we had more concerns.

Where the law ends, mercy begins. The president's power to grant a pardon should be the final check on the system — and it is especially important when the punishment is as grave and \*irreversible\* as the [#deathpenalty](#).

But this check is completely undermined if the president can't consider a case and decide independently. [#Singapore's](#) ministers often defend the [#deathpenalty](#), domestically & abroad. Look at Shanmugam's comment on whether Yong should get clemency, and what MinLaw said about it: <https://t.co/reRk6tGGg3>

In reply to media queries, the Ministry of Law said: "The Government has made clear its policy and philosophy on having the mandatory death penalty for a number of offences, such as drug trafficking.

"Minister Shanmugam, in response to a specific question ... reiterated the policy and philosophy behind the death penalty and why Singapore adopted a tough stance."

How independent and fair is the process if the Cabinet, including a minister like Shanmugam, is then the one considering Yong (or any other inmate)'s clemency plea, and telling the President what to do about it?

Why is the President just a rubber stamp in such a serious matter?

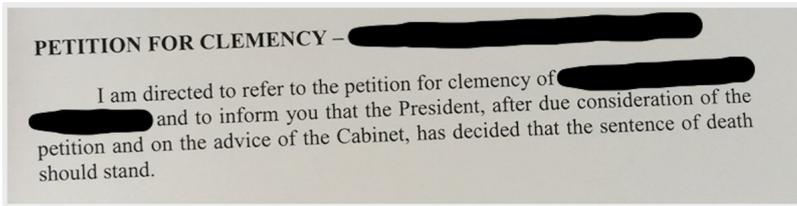
Every death row inmate has the right to submit an appeal to the President. I've accompanied multiple families to the Istana so they can submit their own pleas on behalf of their loved ones. These families have knelt on tarmac, stood under the hot sun, been drenched by rain. <https://t.co/LKjJntX9x0>



In the 10 years I've been involved in the **#deathpenalty** issue in **#Singapore**, I've never seen a successful clemency application (although we always try anyway).

Actually, there's been no clemency granted since 1998.

This is an example of a response. In my experience, the letter is signed by the President's Principal Private Secretary, not by the President. After this response, the prison authorities are free to schedule the hanging. **#deathpenalty**  
**#Singapore** <https://t.co/kYffTgYm3e>



There was a clemency case in 2018, an inmate who was 15 when convicted of a capital offence. I haven't counted this as a case **#deathpenalty** clemency, since his age at conviction meant he was detained at the president's pleasure rather than on death row. <https://t.co/XEFvviA8sM>