



LAW SOCIETY
OF SOUTH AFRICA

PRESS RELEASE

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LAW SOCIETY CALLS FOR URGENT CONSIDERATION OF GUIDELINES TO PROMOTE CONSISTENCY IN SENTENCING BY THE COURTS

The Law Society of South Africa (LSSA) calls for greater consistency in sentencing by South African courts. This is particularly important in cases dealing with sentences imposed on rapists and sexual abusers of children.

There have been a number of judgments recently where the life sentences imposed on rapists for the rape of minors have been reduced by higher courts on appeal. These have received much coverage in the media leading to a perception that the courts are lenient on offenders and insensitive to the impact of the crime on the child victim and women.

‘The LSSA joins other organisations in expressing its abhorrence of sexual violence in general, but especially when this is against those that should receive the highest protection from society. The LSSA also respects and supports the principle of judicial discretion in relation to sentencing. However, this does not address the perceived unjustified and unacceptable disparity in sentences. This must be addressed in order for the judiciary to maintain the respect that it demands from the public at large,’ say LSSA Co-Chairpersons, Krish Govender and Jan Stemmett.

They add: ‘The time has come to reconsider the proposals for a Sentencing Council to be established to review legislation and sentencing guidelines. These proposals were made by the South African Law Reform Commission in 2000 with a view to promoting consistency in sentencing. The proposals were meant to address concerns that particular offences were not being treated with the appropriate degree of seriousness by the courts. In addition, the proposals promoted victim participation and restorative initiatives for the purpose of passing of sentences which the State could properly enforce in the long term.’

It is also important, that when judgments have the potential of attracting media and public interest, the courts should provide clear communication to the media and to the public explaining their reasoning in layman’s terms, particularly when the court may be seen to be deviating from the norm or especially when sentences are decreased and the minimum sentence is reduced.

'The constant criticism of sentences which have been reduced on appeal involving rapists and abusers of women and children must be better anticipated by members of the judiciary especially after the passage of the minimum sentencing legislation in sections 51 to 54 of the Criminal Law Amendment Act 105 of 1997,' say Mr Govender and Mr Stemmett.

ISSUED ON BEHALF OF THE CO-CHAIRPERSONS OF THE LAW SOCIETY OF SOUTH AFRICA, KRISH GOVENDER AND JAN STEMMETT

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Editor's note:

The Law Society of South Africa brings together its six constituent members – the Cape Law Society, the KwaZulu-Natal Law Society, the Law Society of the Free State, the Law Society of the Northern Provinces, the Black Lawyers Association and the National Association of Democratic Lawyers – in representing South Africa's 21 000 attorneys and 5 000 candidate attorneys.