

Frankel 8 victory cements protection for sex crimes victims

A landmark judgment delivered by the Constitutional Court on Thursday will make way for victims of sexual abuse to lay and pursue criminal charges against their perpetrators, even 20 years after the crime was committed.



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The Constitutional Court on Thursday declared as unconstitutional section 18 of the Criminal Procedure Act which imposes a 20-year limit on prosecution for sexual assault.

The case was dubbed the Frankel 8 case in reference to a group of women who sought to lay criminal charges against the now late stockbroker Sidney Frankel, who they accused of being a paedophile.

A unanimous judgment found it to be “inconsistent with the Constitution and invalid to the extent that it bars in all circumstances, the right to institute a criminal prosecution for all sexual offences, other than rape or compelled rape, trafficking persons for sexual purposes and using a child or person who is mentally disabled for pornographic purposes, after the lapse of a period of 20 years from the time when the offence was committed”.

The court’s decision comes two weeks after an approval by Cabinet at its meeting held on 23 May to amend the Criminal Procedure Act 51 of 1977 (CPA) and introduce the Criminal Procedure Amendment Bill of 2018.



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24 May 2018

“Approval of the Criminal Procedure Amendment Bill will go a long way in tightening the tools that we have

put in place to make sure that people who have been involved in crimes against women and children go to jail.

“The bill in itself says that from now onwards, even if it’s 20 years later, you can choose to come out because there are various reasons some people die in silence and don’t report these crimes but at a later stage a person will be able to say ‘I was raped by a neighbour or by my cousin’,” said Cabinet spokesperson Phumla Williams at the time.

In addition, the court ruled that their decision should apply retrospectively to 27 April 1994, meaning victims whose cases date back to this period can take attackers to court.

“We appeal that people must familiarise themselves with this bill for the purposes of helping others,” said Williams.

Parliament given two years to amend law

The Constitutional Court has given Parliament 24 months to “cure the constitutional defect” in the Criminal Procedure Act.

“During the period of suspension, section 18(f) of the Criminal Procedure Act is to be read as though the words ‘and all other sexual offences whether in terms of common law or statute’ appear after the words ‘the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively,’” the judgment reads.

The Constitutional Court judges signalled that inaction by Members of Parliament would result in an automatic implementation of their ruling.

“Should Parliament fail to enact remedial legislation within the period of suspension, the interim reading-in remedy shall become final,” the judgment states.