

**South Africa's largest ever rape study last month revealed that only one out of every 10 child rape cases reported to the police resulted in a conviction. "The sick reality" says Aubrey Pieterse, co founder of the Return to Roots Foundation (dealing with rape prevention and child abuse)**

***"is that out of 56 000 reported rapes and over 1 million unreported rapes in South Africa last year, only 400 resulted in convictions."***

***Addi Lang, founder member says with absolute disgust "this is a downright shame, for South Africa as a nation, including the justice system which is supposed to protect South Africa's child rape victims from the horror of facing their alleged abusers in court and we will continue to lobby and campaign until we see the change that is needed. I had the privilege to attend the birthday celebration of George Bizos - Human Rights Advocate (defended Nelson Mandela) and Aubrey and I will be meeting Mr Bizos and the Legal Resources Centre shortly to address the infringement of our human rights.***

**The justice department was to ask the Constitutional Court 6 November 2008 to overturn a Pretoria High Court ruling that compels its officials to reduce the trauma suffered by child rape victims when they testify against their accused rapists.**

High Court Judge Eberhard Bertelsmann incurred the department's ire after he found that the current law on the state's handling of child rape cases, or cases involving child witnesses, was unconstitutional. The judge ordered, among others, that courts must provide intermediaries to assist child rape victims or witnesses and ruled that criminal proceedings involving children be given top priority. *Delivering his ruling earlier this year, he said: "It is a sad fact that there is much that is left to be desired in the present state of our criminal justice system. In many instances, neither the courts nor their supporting institutions succeed in giving due recognition to the (paramount importance) of children's interests."*

Judge Bertelsmann's ruling followed acting National Prosecuting Authority (NPA) boss Mokotedi Mpshe's admission that intermediary services were available to only 14 percent of child rape victims, forcing 86 percent of children to face their accused rapists in court.

According to Mpshe, then justice minister Brigitte Mabandla's decision to halt the roll-out of "highly successful" specialised sexual offences courts in 2005, and her later call to integrate such courts within the mainstream court system, had damaged South Africa's ability to deal quickly and effectively with child rape cases.

"Instead of having made vast progress since 2000, dedicated (child rape) courts have declined in numbers; SAPS Family Violence, Child Protection and Sexual Offences Units have been redeployed; trained forensic social workers employed by the police have become scarce; (some) magistrates have become obstructive; the system of district surgeons was abolished (giving rise to a loss of expertise); and the need for training of all remains, with language barriers exacerbating every identified issue.

"The NPA's view on the advantages of specialised or dedicated courts, thus ensuring focused attention on, and improved handling of, particularly child victim matters, has not changed," he said. ***The justice department is however, adamant that it does not need a court to tell it how to deal with South Africa's child rape crisis. Its lawyers claim that Judge Bertelsmann had no power to make the "far-reaching" orders that he did, further adding that there was "no basis" for these rulings.***

In papers before the Constitutional Court, the department's lawyers argue that Judge Bertelsmann's orders are "calculated to hinder the work" of its newly formed Inter-Sectoral Committee for the Management of Sexual Matters and the development of this committee's policy. "In principle, the committee might reach the same conclusions as (those reached by Judge Bertelsmann), but it must be allowed the right to exercise its statutory powers without any constraints imposed in advance, especially in the absence of any indication that it is incapable of doing so, or is unwilling to do so." The department also points out that, at the time that Judge Bertelsmann heard argument on the cases that inspired his ruling, its committee had not been formed and was therefore unable to provide any input on the matters. "Orders have been issued that have a serious impact on the department and its development of policy on

the issues dealt with - without the department having had an opportunity of dealing with them," the lawyers said. This article was originally published on page 12 of [The Star](#) on November 06, 2008