

THE VIABILITY AND CONSTITUTIONALITY OF THE SOUTH AFRICAN NATIONAL REGISTER FOR SEX OFFENDERS: A COMPARATIVE STUDY

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SUMMARY

Section 42 of the *Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007* established a National Register for Sex Offenders where the particulars of all offenders guilty of sexual transgressions against children or mentally-ill persons have to be included, regardless of whether they were found guilty before or after the coming into force of the Act. Although the purpose of the Act clearly is to protect and promote the constitutional rights of victims and society in general, it is apparent that the register may infringe on the rights of sexual offenders. The inclusion of the personal details of sex offenders in a register without their permission and sometimes without their knowledge amounts to a violation amongst other rights of the right to privacy stipulated in section 14 of the *Constitution of the Republic of South Africa, 1996*. In this article the constitutionality of the South African register will be examined by means of a comparative study with the United States and United Kingdom, where similar registers are already in place. This legislative assessment will also provide answers as to the viability of the South African register. It is argued that South Africa's sex offender registration system may not fulfil the function it was designed for because of misconceptions as well as serious implementation and administrative issues; and that alternative solutions may be more suitable in this regard.

KEYWORDS: Sex offender; register; notification; human rights

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