



My Dishonourable Learned Friends: Lawyers Who Steals and Frauds Their clients in South Africa

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<http://dx.doi.org/10.47814/ijssrr.v8i3.2524>

Abstract

Lawyers are reportedly stealing for their clients in South Africa instead of providing a legal representation service. They no longer want to practice law according to the provisions of the Legal Practice Act No.28 of 2014. Many have turned the legal profession into criminal gangs and fiefdoms, making away with vast amounts of millions of Rands stolen from their clients. Some clients have lost deposits from property conveyancing, road accidents victims are robbed of their compensation, the Road Accident Traffic fund have been abused for several years in some instances lawyers receives compensation payouts and do not inform their clients about it. Other lawyers are busy litigating their clients who have instructed them for legal representation. The Legal Practice Council has got a herculean task ahead in the coming years. The rate of attorneys being struck of list debarring them from practicing is not a new phenomenon, but the high numbers is at alarming rate. Lawyers by the position they occupy in society are supposed to be seen as members of a respectable and honorable profession [11]. Lawyers who steal from their clients are not lawyers but hoodlums and criminals hiding behind the legal profession. This research has three purposes: first, to highlight some of the disgraceful lawyers amongst the legal profession and providing an insight into their modus operandi. Second, to warn vulnerable citizens about these lawyers who may likely prey upon them. Third, to call on all lawyers to join hands together with the Legal Practice Council to rescue their noble profession from the hands of our dishonorable learned friends. Some of the findings are the legal profession needs to put a more rigorous vetting process, immediate custodial punishment for lawyers who commits theft or fraudulent practices against their client. The legal Practice Council is struggling to keep with the pace up criminal lawyers within the legal profession [12].

Keywords: *Attorneys; Legal Practice; Theft; Fraud; Clients; South Africa*

Introduction

In the introductory section of the article the researcher looks at the following: the Legal Practice Act No. 28 of 2014, definitional concepts, attorneys code of conduct, and the roll of dishonour.

The Legal Practice Act No.28 of 2014

This act provides the mandate governing all legal practitioners in South Africa. It states as follow:

To provide a legislative framework for the transformation and restructuring of the legal profession in line with constitutional imperatives so as to facilitate and enhance an independent legal profession that broadly reflects the diversity and demographics of the Republic; to provide for the establishment, powers and functions of a single South African Legal Practice Council and Provincial Councils in order to regulate the affairs of legal practitioners and to set norms and standards; to provide for the admission and enrolment of legal practitioners; to regulate the professional conduct of legal practitioners so as to ensure accountable conduct; to provide for the establishment of an Office of a Legal Services Ombud and for the appointment, powers and functions of a Legal Services Ombud; to provide for a Legal Practitioners' Fidelity Fund and a Board of Control for the Fidelity Fund; to provide for the establishment, powers and functions of a National Forum on the Legal Profession; and to provide for matters connected therewith [1], [13].

Definitional Concepts

- a. **Advocate** means a legal practitioner who is admitted and enrolled as such under this Act.
- b. **Attorney** means a legal practitioner who is admitted and enrolled as such under this Act.
- c. **High Court** means the High Court of South Africa established by section 6 of the Superior Courts Act, (Act No. 10 of 2013), or, if the context indicates otherwise, the Division thereof having jurisdiction.
- d. **Magistrates' court** means a regional court, or a district court established in terms of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944).

Attorneys Code of Code of Conduct (under section 36(1) of the Legal Practice Act, 28 of 2014)

The code of conduct serves as the prevailing standard of conduct, which legal practitioners, candidate legal practitioners and juristic entities must adhere to, and failure to do so constitutes misconduct. The Council must take all reasonable steps to—

- (a) Publicise the existence of the code of conduct [20].
- (b) Inform members of the public of the contents of the code of conduct, including its enforcement procedures; and
- (c) Inform members of the public of how and where to obtain a copy thereof. [19].

Section 3.3 - lawyers are mandated to treat the interests of their clients as paramount, provided that their conduct shall be subject always to: 3.3.1 their duty to the court; 3.3.2 the interests of justice.

3.3.3 observance of the law; and

Section 3.3.4 - the maintenance of the ethical standards prescribed by this code, and any ethical standards generally recognised by the profession.

Section 3.8 -account faithfully, accurately, and timeously for any of their clients' money which comes into their possession, keep such money separate from their own money, and retain such money for only as long as is strictly necessary [18].

The Author Added That All the Above Sections of the Act Does Not Appear to Have Been Adhered to by Rogue Lawyers.

Section 24 of the LPC Act No.28 of 2014: Admission and Enrolment

- (1) A person may only practise as a legal practitioner if he or she is admitted and enrolled to practise as such in terms of this Act.
- (2) The High Court must admit to practise and authorise to be enrolled as a legal practitioner, conveyancer or notary or any person who, upon application, satisfies the court that he or she—
 - (a) Is duly qualified as set out in section 26.
 - (b) Is a— (i) South African citizen; or (ii) permanent resident in the Republic.
 - (c) Is a fit and proper person to be so admitted; and
 - (d) Has served a copy of the application on the Council, containing the information as determined in the rules within the time determined in the rules.

Section 25 of the LPC Act No.28 of 2014: Right of Appearance of Legal Practitioners and Candidate Legal Practitioners. —

- (1) Any person who has been admitted and enrolled to practise as a legal practitioner in terms of this Act, is entitled to practise throughout the Republic, unless his or her name has been ordered to be struck off the Roll or he or she is subject to an order suspending him or her from practising

Section 31 of the LPC Act. No.28 of 2014: Cancellation and suspension of enrolment. —

- (1) (a) The Council must cancel or suspend the enrolment of a legal practitioner if the High Court orders that his or her name be struck off the Roll or that he or she be suspended from practice.

2. Roll call of Dishonor

Below is a list of the few out of the thousands of rogue lawyers recently struck of the list of attorneys practicing in South Africa. It is the tip of the iceberg. Their names cut across different races, sexes, and residential geographical locations. It shows that criminally minded lawyers are evenly spread across South Africa their presence is ubiquitous. The author opined that the Legal Practice Council is doing a sterling job for naming and shaming these rogue elements, giving a very bad name to their noble legal profession. It is very important that such efforts are sustained to weed out all the undesirables away from the legal profession [14]. South Africans deserved better protection from lawyers.

Name	Position	Sanction	Date	Province
Jarome Ashely Haywood	Attorney	Struck From Roll	22-02-2024	Western Cape
Hanro Erasmus Steffen	Attorney	Struck From Roll	20-02-2024	Western Cape
Sonette Van Loggerenberg	Attorney	Struck From Roll	15-02-2024	Western Cape
Mthunzi Patrick Magwaza	Attorney	Struck From Roll	06-02-2024	Kwa Zulu Natal
Clea Hattingh (Hex)	Attorney	Struck From Roll	06-02-2024	Mpumalanga
Johann Petrus Lois Grimbeck	Attorney	Struck From Roll	01-02-2024	Free State
Thandi Chrishnah Sima	Attorney	Struck From Roll	29-01-2024	Kwa Zulu Natal
Mthimkulu Andile Duba	Attorney	Struck From Roll	29-01-2024	Kwa Zulu Natal
Prince Sadike	Attorney	Struck From Roll		Free State
Johannes Barnard Luttig	Attorney	Struck From Roll	07-03/2024	Gauteng
Naomie Marais	Attorney	Struck From Roll	14-11-2023	Gauteng
Darren Phillip Carpenter	Attorney	Struck From Roll	26-10-2023	Gauteng
Hiloshini Moodley	Attorney	Struck From Roll	12-03-2021	Kwa Zulu Natal
Agrippa Mfanufilike Phewa	Advocate	Struck from Roll	15-09-2021	Kwa Zulu Natal
Samkelisiwe .S. Makhanya	Attorney	Struck from Roll	21-08-2023	Kwa Zulu Natal
Mohammed Zubair Barday	Attorney	Struck from Roll	09-10-2020	Western Cape
Uvile Octavia Siyo	Attorney	Struck from Roll	10-06-2019	Western Cape
Kerith Chetty	Attorney	Struck from Roll	12-02-2021	Western Cape
Ronel Swart	Attorney	Struck from Roll	12-02-2019	Western Cape
Garon Kevin Nortje	Attorney	Struck from Roll	08-12-2017	Western Cape
Patel Muhammed	Attorney	Struck from Roll	24-03-2017	Western Cape
Rugaya Van der Schyff	Attorney	Struck from Roll	31-01-2017	Western Cape
Manfred Chinamasa	Attorney	Struck from Roll	14-11-2023	Eastern Cape
Meshack T Silinda	Attorney	Struck from Roll	04-12-2023	Mpumalanga
Tshepo C Ramatla	Attorney	Struck from Roll	13-10-2021	Mpumalanga
Titus M Mphela	Attorney	Struck from Roll	12-11-2019	Mpumalanga
Daniel T Mabunda	Attorney	Struck from Roll	22-08-2019	Mpumalanga
Bhekuyise R Mdladla	Attorney	Struck from Roll	28-07-2020	Mpumalanga
Moses Siphon Mziako	Advocate	Struck from Roll	25-03-2021	Northern Cape
Henri Coetzee	Attorney	Struck from Roll	01-03-2013	Northern Cape
Desmond Appie	Attorney	Struck from Roll	25-11-2011	Northern Cape
Eric Trevor Payne	Attorney	Struck From Roll	11-09-2011	Northern Cape
Toka Eric Mathabatha	Attorney	Struck From Roll	17-05-2021	Limpopo
Tshirufho Ronnie Rambau	Advocate	Struck From Roll	12-12-2019	Limpopo
Theron Wessels	Attorney	Struck from Roll	09-12-2019	Limpopo
Jacobus Chris Roos	Attorney	Struck from Roll	22-10-2019	Limpopo
Martin Mashishi	Attorney	Struck from Roll	29—3-2017	Limpopo

Source: <https://lpc.org.za/members-of-the-public-/listof-struck-off-lps/>. [2]

The Legal Practitioners Fidelity Fund

The Legal practitioners Fidelity Fund (LPFF) previously known as Attorneys Fidelity Fund (AFF) is a fidelity guarantee fund, which exists in terms of the Legal Practice Act. The LPFF exists to protect the public against loss because of theft of trust funds. The protection provided by the Fund encourages the public to use services provided by legal practitioners with confidence. The Fund's sustainability and ability to serve the public relies on its ability to respond to and adapt to internal and external trends and challenges in the regulatory and South African legal environments.

The primary purpose of the Legal Practitioners Fidelity Fund ('the Fund') is to reimburse clients of Legal Practitioners who may suffer pecuniary loss due to the theft of money or property entrusted to an attorney during his/her practice as such, or where an attorney acts as executor or administrator in a deceased estate, or as a trustee in an insolvent estate. Provide, in the public interest, professional indemnity insurance cover to practitioners against claims arising out of the conduct of the profession by legal practitioners [3].

Section 55 of the LPC Act No.28: Liability of the Fund

The Fund is liable to reimburse persons who suffer pecuniary loss, not exceeding the amount determined by the Minister from time to time by notice in the Gazette, as a result of theft of any money or other property given in trust to a trust account practice in the course of the practice of the attorney or an advocate referred to in section 34 (2) (b) as such, if the theft is committed—

(a) by an attorney in that practice or advocate, or any person employed by that practice or supervised by that attorney or advocate.

(b) by an attorney or person acting as executor or administrator in the estate of a deceased person; or

(c) by an attorney or person employed by that attorney who is a trustee in an insolvent estate or in any other similar capacity,

3. Case Study of Rogue Reported Lawyers

In this part of the article, the author presented a few reported cases where lawyers were found stolen money from their clients. In some instances, some of these lawyers decided to flee the country to evade custodial sentences. Their ability to evade justice shows that these lawyers were members of organized criminals who happened to be practicing law. Many of these rogue lawyers were either, prosecuted or are currently serving prison sentences. There are presented as follows:

1. Ronald Bobroff and Darren Bobroff (son)

They were both struck off the roll in 2016. They made away with about R103 million rands stolen from clients. They fled to Australia where they are reportedly living a life of luxury. In one of the cases in South Africa where Bobroff represented a client, it was reported that "The Bobroffs won a four million rand [\$390,000] settlement for me," one alleged victim said. "I received no more than 1.9 million rand after all their fictitious fees and cost were tallied up."

It was also reported that after they fled South Africa, Bobroff's both a palatial home in St Ives, in Sydney's north, three family companies and two apartments in Vaucluse, in Sydney's east, are just some of the Australian assets belonging to them. According to title deeds obtained by *The Sun-Herald*, Darren Bobroff owns two apartments in upmarket Vaucluse. In January 2002, he bought an apartment in Diamond Bay Road for \$650,000. A fortnight later, he bought an apartment in a complex in Isabel Avenue - a four-minute walk away - for \$6000 from an undisclosed seller. A \$2.53 million house in Shannon Street, St Ives, where Ronald and his wife Elaine live, is owned by an incorporated entity called REB Properties - of which both Ronald and Darren were previously directors and in which Darren retains shares. Linked to another St Ives address is another corporate entity, REB Investments, of which Ronald and his wife Elaine are both directors and shareholders. Elaine is the previous director of the mysteriously named A.C.N. 614 403 593 Pty Ltd, in which she holds an eye-watering 27 million shares. The Bobroffs' assets also extend to the Middle East. In February last year, authorities in Tel Aviv froze Darren's Israeli bank account when he tried to transfer nearly \$US7 million to his father's Australian account. Two weeks

later, his father tried to withdraw \$US830,000 from his account with a different Israeli bank. He was also stopped. At various times, Ronald, Elaine, Darren, and his wife Lisa have held eight different bank accounts in Israel. Six have been closed, while the two containing a total of \$US7.83 million have been frozen [4].

Discussions

1. Bobroff's arrogance in facing criminality is not of this world. One would think that some element of remorse is expected. But we are faced with sheer arrogance from criminal deviant lawyer not in touch with reality. Not ashamed to have raised his son and family that is famed globally for stealing. It beats my imagination how the Ronald Bobroff continue to justify his illegal deeds thanks to Australian government providing him a haven.
2. Australia have always been known to providing haven for several international criminal's gang evading justice in their home countries. They granted Bobroff a home so that they can enjoy their proceeds of crime stolen from South Africa citizens. Australia facilitates crime in the African continent and has no respect of international law.
3. The Bobroff incident highlights some of the few lapses in international law and extradition treaty. If all countries of the world have a single unified extradition treaty, people like the Bobroff's will have no country to hide. Some of these criminals modus operandi is to research first about haven countries and second, steal and then run abroad into these countries who do not have extradition treaties with their home countries. The author argues that it is very divisive that the United Nations since 1945 has not able to put in place one common extradition treaty for all countries of the world. For these reasons alone, organized crime thrives. The author argues that it does not come as a surprise for him to see Australian government decision to harbour criminals such as Bobroff. The foundation of Australia as a country was built historically upon expelled criminals from England. As descendants of criminals, it places them more in a position to understand Bobroff's criminogenic needs than any one of us. Australia was also one of the sponsors of the evil apartheid regime in South Africa. The historical oppression and extinction of the aboriginals are well documented within academic domain for us to see. The author calls on the Australian government to order the immediate deport action of deportation of Mr Ronald Bobroff and his son back to South Africa to face the justice. Every country that has moral conscience will do what is right and just with or without extradition treaty put in place. Australian continue to provide White South African fugitives fleeing from justice a safe home.
4. The author commends the Israeli government for taken decision to return to South Africa government about R103 million Rands (\$13Million USD) that was discovered hidden in Bobroff's frozen account in Israel.

2. Ian Stokes

Disgraced Durban lawyer Ian Stokes, who was sentenced this week for stealing millions from a trust fund, was just one of many attorneys fleecing large sums from their clients. Stokes was sentenced by the Durban High Court to six years in prison for theft. It marked the end of his long court battle, after he was hauled back to South Africa in 2004 when caught by Interpol in the US. He has fled South Africa in 2000 leaving behind several victims who had entrusted their money with him. The value of the theft amounted to around R28 million, and it involved wealthy businesspeople as clients. Stokes fled the country leaving his pregnant wife at the time, but she later joined him in the US.

Sevel one retired clothing company director of RI was fleeced by Ian Stokes gave evidence in Durban High Court that he went into partnership and deposited R2m into Stokes's trust account in 1998 to start up RAF claims business. He said Stokes had told him there is money to be made out from a business venture that would buy claims from road accident victims who would get a certain portion upfront and the balance 70 percent of the claim once the RAF had processed it. It was agreed with Stokes that RI will get a return on investment of 30 percent – which would be ceded to it by the claimant upfront and Stokes will get the legal costs. “We did a trial run and it seemed it would be lucrative. The money came from an offshore loan in Zurich and stokes confirmed that it had deposited to him” “He said he has no access to the books meaning the money is held on trust account which turned out to be false. The company was eventually liquidated due to bankruptcy. In the end no RAF claim was bought. He was just a complete and a thief [5].

The Sevel fell on his sword. The business model was to fleece RAF and its vulnerable claimants. In the end got fleeced. The author has no sympathy for businessmen and women fleeced from illegal deals. Both the criminal and victims are all law breakers.

3. Rugaya van der Schyff

Van der Schyff was admitted as an attorney in December 2002; as a conveyancer in September 2003, and practiced under the name of Schyff Attorneys. Van der Schiff was sentenced to 10 years in the Bellville Crimes Court Cape Town where she faced 48 charges of the Section 33(4) of the Legal Practice Act 28 of 2014. She was convicted of all the charges. Her modus operandi was to take large sums of deposit money from property buyers who were her clients. In most incidents never paid any deposits for these properties, made off with their monies. Although she was struck off the roll of attorneys, she continued to deposit monies in a bank account belonging to Lubhelu Investments 10 CC, which was later registered under her daughter's name. In March 2021, she received R261 279 from one Khuthazwa Mphombo for a house she was buying from Nelson Mbulelo Jacobs in Strand. When Mpho and Jacobs arrived at her offices, she introduced herself as Ms Panday. She asked Mphombo to transfer purchase and legal fees into the investment bank account and never told them it was not a trust account. Mphombo was later informed by investigators that the property was never registered in her name. Another victim this rogue lawyer was Ismail Samuels who deposited R291 215 for a property he wanted to purchase from his neighbour in Bonteheuwel. He also never received his money from van Schyff Attorneys. Abera Gudiso Famo was the biggest loser, as he was made to deposit R1.8 million for a property in Belville. One Edward Kota also paid R1.3 million for a property in Montana. He found out later that the sale was cancelled but his money was never returned. In the plea and sentencing agreement, Van der Schyff said she was verbally, emotionally, and financially abused by her late husband. She said she would steal the monies from her trust account to give to her husband to keep peace between them. The various complainants suffer a loss of about R7.5million to the fraud and theft. Van der Schyff was sentenced to 44 years imprisonment, but the court ordered the sentences to run concurrently effectively sentencing her to 10 years imprisonment [6].

Vander Schyff was a manipulator, changing her name by day to inflict more damage on vulnerable clients. One minute she turns to Ms Panday. She was nothing but a manipulative criminal who happened to be a lawyer. Her attempts to blame the late husband is pathetic, no longer alive to tell his version, an attempt to shift blame and responsibility for her actions. The author is not sympathetic to her pleadings of innocence coerced into crime.

4.Sandile Majavu

In this case, it was heard that:

- Sandile Majavu helped himself to money deposited by clients into a trust account for the purpose of purchasing properties.
- Magistrate Sizakele Sihlahla deviated from the minimum prescribed sentence for theft, citing compelling circumstances.
- She said Majavu deserved a lesser sentence of 10 years because he showed remorse and was suffering from a chronic medical condition.

Sandile Majavu was based in Eastern Cape province. He pleaded to four counts of theft at the Mathatha Regional Court where he was convicted for 10 years. He admitted to having used funds deposited by prospective property buyers into two trust accounts he held, for personal benefit. Majavu, was the sole signatory to the trust accounts. He was legally obliged not to use any portion of the funds held in the trust accounts until such time that the transfer of the properties had been completed and duly registered, whereupon the monies were to be paid to the sellers. The court heard that in October 2011, a purchaser of property approached Sandile Majavu Incorporated for assistance with the sale and transfer of the property. The buyer deposited R400 000 into his business account and further deposited R9 000 towards the same transaction in the same month of October 2011. In December 2011, another client who intended to buy a property deposited R305 000 followed by another one who deposited R1.1 million towards purchasing a property. The National Prosecuting Authority said all the deposited funds never reached the sellers as Majavu misappropriated the money for his own personal use. For theft of R1 million, the court sentenced him to 10 years imprisonment. He was sentenced to five years for each of the other counts relating to the other amounts. The court ordered the sentences to run concurrently. Senior State prosecutor advocate Mthuthuzeli Rangula argued for the sentence of 15 years as prescribed for theft exceeding R500 000. Magistrate Sizakele Sihlahla found that there were compelling circumstances justifying deviation. These included that Majavu was suffering from a chronic medical condition and had pleaded guilty, which showed remorse, said NPA spokesperson Luxolo Tyali.

1. The failure to apply the law consistently is a concern for the author in this case. Majavu is a heartless and organized criminal who preyed on vulnerable victims.
2. The presiding judge erred in law in the authors opinion is that Majavu should have been given the full sentence, he can appeal it if he is not happy with the judgement. We cannot bend rule especially when looking at the seriousness of the crime. There are judicial precedents to follow in this case. [7].

5. Langelihle Dube

Langelihle Dube was sentenced by the Durban specialize Commercial Crimes Court on theft charges amounting to R2.3million. Dube who ran its own firm was arrested following an investigation by the Attorneys Fidelity Fund and police. It was reported that a sum of R1.4million was paid to Dube's trust account by the Road Accident Fund and was meant for a young boy claimant who had been seriously injured in a motor vehicle accident. The Second amount of R900,00 was for insurance payout on a deceased's estate. Both payments were claimed and withheld by Dube. Dube previous work was a claims handler with RAF knows the consequences of stealing from victims. Dube was sentenced to 10 years for the theft of the R1.4 million- and 8-years imprisonment for the theft of the R900 00 both sentences will run concurrently for 10 years in total.

This is another example of a heartless crook using his profession to steal from vulnerable citizens.

6. Mzwabantu Majola

Mzwabantu Majola has been struck of the roll of attorneys for allegedly stealing money from several clients, says a **Daily Dispatch** report. Eastern Cape High Court (Makhanda) Judge Nomathamsanqa Beshe said the manner in which he had dealt with clients' money entrusted to him, and his failure to play open cards with the court, supported her view that he was not a fit and proper person to practise as an attorney. One of the main complaints against Majola involved the alleged theft of R1.7m his firm had held in trust in terms of the sale of a R2.1m Komani property.

According to court papers, the Crankshaw Brothers Trust had sold property to the SA Bible International Trust in 2016 for R2.1m. However, only R400 000 of the money was paid over to the Crankshaw Brothers Trust by the firm of attorneys. The trust had sought summary judgment against Majola. Majola filed no opposing affidavit and summary judgment was taken against him. He was also provisionally sequestered. At the sequestration hearing it was discovered Majola had another Nedbank account he had failed to disclose which had enough money in it to pay the R1.7m balance. Beshe said a common thread in all the complaints against Majola was that he had failed to pay over money owed to clients which he had held in trust for them. Majola was sentenced to 10 years imprisonment.

The author welcomes the fair sentence handed over to Majola.

Other lawyers like Itumeleng Elizabeth Tlang, Izak Steenkamp and Rehan Coetzee,

Ramolongwane Patrick Mariri, Malabye Mthembu and Onga Ntozini are all also convicted lawyers in South Africa. Next the author looks at the Road Traffic Fund.

The Road Accident Fund

The Road Accident Fund (RAF) in South Africa has played a vital role in compensating victims of road accidents for many decades. However, its journey has been marked by numerous challenges and changes. The RAF's story began in 1947 when the Road Accident Fund Act was first passed. The main objective of this act was to provide financial assistance and compensation to individuals who were injured or to the dependents of those who lost their lives in road accidents. This was a significant step towards addressing the financial burdens experienced by victims and their families. Over the years, the RAF operated as a "pay-as-you-go" system, funded primarily through the fuel levy. While this approach helped provide immediate relief to victims, it faced mounting challenges as the number of accidents and compensation claims increased over the years. The fund struggled to keep up with the growing demand for compensation. In 2008, the South African government implemented a major overhaul of the RAF system. This led to the creation of the Road Accident Fund Amendment Act, which introduced a significant change in the way compensation claims were processed by introducing new regulations regarding who can claim from the RAF, as well as what and how much they can claim. The amendments also sought to cap compensation amounts to control costs and ensure the sustainability of the fund. All claims arising from accidents that occurred on or after 1 August 2008 are subject to the provisions of the Amendment Act 19 of 2005. While the 2008 reforms aimed to improve the RAF's efficiency, they also brought about significant challenges and controversies. Some claimants found it difficult to navigate the complex claims process, and the capped compensation amounts often fell short of covering their actual losses. As a result, many victims have been left in financial dire straits [8]

The Road Accident Fund in South Africa has been a money-making exercise for many scrupulous lawyers. Client legal bills were inflated, victims do not receive their claims or gets what the lawyer decides to give to them. Falsification and inflated accounts, fleecing victims of road accidents was a common practice that went on for years unabated at the expense of vulnerable victims of road accidents [15]. Lawyers became over greedy over funds that they do not owe but criminally manipulated to enrich

themselves. In some cases, victims are paid millions of rands, and lawyers were reported to have made off with it. Where is the honour in such criminality. The author argued that all arrested and convicted lawyers were not lawyers in true sense of it. They intentionally enter the legal practice profession to become professional scammers and fraudster seeing RAF as a “cash cow” or Father Christmas in possession of unending caricature gifting for everyone. Many lawyers black of all races, class, sex benefit from these RAF illicit dealings and became multi-millionaires overnight. The Legal Practice Council did nothing to stop this exploitation of South Africans because they were also benefactors of this unacceptable arrangements between lawyers and exploited clients which went on for decades without any intervention or protection for victims of road accidents put in place. Where is the human conscience or moral value from a person who steals from victims of road accidents? [16]. The author calls for the mandatory jail terms for such lawyers to be increased threefold from the current 10 years to 30 years sentences. This will serve as deterrent to other would-be colleagues coming into the legal practice for the wrong reasons.

Reclaiming the RAF from Legal Hoodlums

The RAF Amendment Bill 2023

The RAF Amendment Bill 2023 proposes pivotal changes that reshape the RAF’s scope and compensation framework. These includes making changes to:

A. Narrowing coverage: The bill aims to limit the scope of coverage. The bill proposes that rather than providing compensation for real damages, the RAF would address a structured benefit that will be disbursed as an annuity rather than a single “lump sum” payment.

RAF	RAF Amendment Act
Indemnity and insurance based	Social benefit scheme
Provides lump sum compensation	Provides reviewable structured payments
Allows for career pathing	No career pathing considered (possibly)
Allows for general damages	No general damages
Settlement form part of estate	Benefits forfeited upon death of the beneficiary

B. Redefining the RAF’s Objectives.

C. Altering compensation methods proposing and adjustment how victims of road accidents are compensated.

Taxi & Insurance Industries Impact

As per the proposed legislation, in cases where passengers sustain injuries in vehicles covered by public liability insurance, the RAF would be exempted from liability, and the claims would be directed towards the vehicle owner and/or insurance companies. This is likely to stir controversy within the taxi and insurance industries.

Medical Aid Schemes

Another noteworthy change pertains to medical aid schemes, which would be unable to seek reimbursement for medical costs they've covered on behalf of their members involved in accidents.

RAF Adjudicator

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Foreign Nationals and Claims

A potentially controversial change involves the exclusion of foreign nationals from eligibility for RAF claims. The author differs from such proposals. One can argue that it becomes a discriminatory law if a person is not going to be protected based on their origins. One can also see a subconscious xenophobic element in this proposal. South Africa cannot expect tourism to thrive and at the same time stating that foreigners are not protected in our roads. Why must I travel to country where I am not going to be protected on their roads? This proposal needs to be revisited that perhaps the travel insurance of foreigners should bear 50% of the cost while RAF bears the other 50%. It is very important when policies are formulated, we think about the short- and long-term consequences of these policies. There is also an issue of who is a foreigner in South Africa? Ranging from visitors, permit holders and permanent resident status, naturalized citizens all need to clearly be distinguished in the RAF proposal. Once a person pays taxes in any country, he/she should also be allowed to enjoy some protection and benefits of the resident country.

Bad Driving Penalties

The RAF seeks to reduce expenses by imposing penalties on unsafe driving practices, such as driving while exceeding the legal alcohol limit and neglecting to wear seat belts. Nevertheless, there are apprehensions regarding the practicality of enforcing and collecting these fines from financially disadvantaged drivers.

The Electronic Lodgment of Claims

Although the shift towards digital processes is appreciated, there are reservations about the RAF potentially demanding strict adherence to the necessary documentation for submission. This might result in the organization having the ability to reject claims as needed to maintain financial stability.

Pedestrians injured on a Highway and accidents on non-public roads.

These are all issues that would not be within the scope of the RAF's responsibility. The inherent risk is that any claims not eligible for compensation from the RAF could potentially be directed against the party at fault, posing a significant financial risk to all road users. Ironically, each of these road users has contributed to the RAF, so it raises the question of why they should face discrimination. Statistically, the individuals most affected by these exclusions, including 40% who are pedestrians, tend to be among the poorest[10]. It remains a mystery why the Department of Transportation is focusing on these victims. The author differs from this proposal. The RAF is trying to run away from pedestrian deaths in South Africa. It is reported that pedestrian deaths are going up higher. The RAF must be at the forefront with other road agencies in finding solutions to it.

The Auditor General Dispute with RAF is a cause for concern. The office of the Auditor General is having concerns with the RAF over accounting practices, its accountability and fiscal responsibility. It was also reported that RAF has some operational challenges which includes:

- A high volume of default judgements
- Financial instability
- Systemic inefficiencies
- Standing Committee on Public Accounts report.

Road Accident Fund (RAF) CEO Collins Letsoalo stands accused of tarnishing the image of the legal profession. He, in turn, accused the Legal Practice Council of being a “gentlemen and ladies club that protects instead of regulating lawyers”.

The RAF was reported to have made duplicate payments because of an administrative system error at the RAF. About 102 firms initially reported as having been paid twice, 99% paid back the duplicate payments made to them or had not receive any duplicated payout. The remaining 13 firms were taken through the Legal Practice Council’s disciplinary processes [21]. The author argued that the whole of allegations and counter allegations must be handed over to forensic investigators to fully investigate the incident described above. If RAF is saying double payments were made and the lawyers are saying they did not receive any such payments from the RAF, then an independent team of investigators must be called to ascertain facts of the allegations [22].

The current CEO of RAF Mr Collins Letsaolo has accused the legal profession of not doing enough to discipline its members who steals from victims of road accident. Instead, are protecting their colleagues and that the current LPC self-regulation disciplinary does not work or promote accountability. According to Letsoalo, he had reported 102 law firms for mismanagement of trust accounts and abuse of sheriff processes. Most of the law firms had paid back the money and some had signed acknowledgements of debt. “Not a single one of these law firms has been charged or sanctioned by the Legal Practice Council, notwithstanding the strong evidence against the law firms.” He accused the LPC as a “gentlemen’s and ladies” club that protects its own [9], [24].

The author shares in the line of argument posited by Mr Letsoalo, the author have been a victim of fraudulent lawyer in South Africa. One white lawyer took the authors accrued deposit interests from a house purchase in Pretoria in 2018 and made away to Mauritius with it. The author took the matter to the LPC, in the hearing, the criminal lawyer with a history of scamming several victims in South Africa joined via satellite from Mauritius to defend his matter. He claimed that he had instructed his secretary to pay back the author and never knew the secretary did not. The author a lawyer himself saw that he was dealing with a very experienced fraudster familiar with all possible legal defences. The interesting part of this matter is that this lawyer continues to practice after being struck off, boasted to the author to take him to the LPC and they were not going to be able to do him anything. In the end, the LPC did not do anything to him to this date or even either discipline the fugitive lawyer or ask him to pay the stolen money back to the author. Mauritius is a member of SADC with extradition obligation put in place. The author was made to feel that he should not brought up the matter to the LPC. People should speak out more against legal thieves in South Africa [23]. The author argues that when a person who has stolen from you continues to justify their position of illegality is nothing short of a hardened criminal or a person suffering from grandeur delusional deficiency.

Authors Recommendations

Amidst the bleak picture presented by the author, he is still optimistic in the midst of despair hoping that the Legal Practice Council of South Africa and other stakeholders will successfully clean up the legal profession we all can trust.

1. The Legal Practice Council of South Africa must be open to constructive criticisms especially from external stakeholders.
2. Self-regulation of lawyers must be discarded to regain public trust.
3. The current struck off from Roll is good measure but must be completed with the following:
 - A. Assets forfeiture for convicted lawyers.
 - B. Pension freeze for convicted lawyers.
 - C. Unspent criminal convictions for lawyers.
 - D. Triple the current 10 years mandatory sentence tariff for convicted to 30 years without parole as a long-term deterrent.
4. National publication of struck off lawyers in national media like the matric examination results publication.
5. Televised trial Court proceedings for all lawyers facing allegations of theft and fraud from their clients.
6. Passport seizure during trial should be introduced.
7. Entry and selection processes for lawyers should be more rigorous, including background checks and security clearance application. This will enhance fit for purpose candidates coming into the profession [17].
8. The United Nations to be proactive ensuring that all countries are signatories to the execution of international arrest Warrants once it is issued by any country.
9. First allegation merits a temporary suspension until investigation is complete.
10. Investigation of allegations against lawyers should not be more than 6 months for decision to taken.
11. Fidelity fund certificate should be extended to cover lawyers who have been struck off and are still practicing.
12. No client should consult any lawyer without having sight of a valid certificate and confirmation of good standing by the Legal Practice Council.
13. The Legal Practice Council should set up an incident room dedicated to registered lawyers' verification.
14. A good practice or merit award for individuals and provinces with not adverse allegation or records against them

Conclusion

The authors argue that struck off the roll is inadequate punishment for dealing with rouge lawyers in South Africa. The LPC should do more than that. Property confiscation, pension freeze, Fidelity Funding objectives reviewed to cover lawyers who are struck off the roll and to explore the avenues of extradition order. All these needs to be vigorously pursued by the LPC. You do not need to be a rocket scientist to know that the LPC is struggling to tidy up its own house. It needs a more radical and stringent approach to dealing with potential criminals parading themselves as learned friends when in fact they are not. Members of the public is not safe enough to trust lawyers because of their better experiences, in some instances regional law societies supports fraudulent lawyers to ply their illegal trade of exploitation of their clients. The average property buyer in South Africa has two worries in their mind, bond worries and lawyers worry of stealing my deposit. Both have an impact on the growth of the housing market. The author calls of South Africans to come out en masse to report fraudulent lawyers to the Legal Practice Council and the police without fear or favour. The rot is not going sort out itself, a citizen's proactive stance is needed to hold lawyers accountable when they provide us with a service.

Dedication

I dedicate this piece of my academic work to both my Late Mother Princess Muni Yesufu who passed on 29 February 2024 and my late sister Mrs Eburn Yesufu who passed on August 2024. Thank you mother for giving me life and sister for the love you showed me.

Rest in Eternal Peace. Amen.

Acknowledgement

I acknowledge all victims of crime perpetuated by lawyers. Victims who have been robbed of their hard-earned money. Many are too ashamed to come out to state their matter in the public domain. Appreciation to the Road Traffic Fund who are trying to change how victims of road accident are compensated, appreciation to all legal minds, judges, magistrates who have voice out their opinion against stealing by lawyers knowing how hard it is to speak against one's profession in the eyes of the world. We come from a society where nobody wants to be seen as a troublemaker. I have deified that labelling of being a troublemaker and decide to say it the way it is in this article and, in the future, and to doing so without fear or favour. The calling to protect the weak, disadvantaged, and the vulnerable ones is a long hazardous journey. For which I will not falter. The injustices of our time cannot be swept under the carpet because we are of the same race. Black African lawyers, White South African lawyers, Colored South African lawyers, Indians South African lawyers lets join our hands together to put an end to this shame rot. This article is a call to provide more legal protection to citizens, to restore trust, equity, accountability, integrity, probity to our legal noble profession.

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