

- (1) The punishment is of such character or duration as to outrage the public conscience or be degrading to human dignity;
- (2) The punishment goes beyond what is necessary for the achievement of a valid social aim, having regard to the legitimate purposes of punishment and the adequacy of possible alternatives; or
- (3) The punishment is arbitrarily imposed in the sense that it is not applied on a rational basis in accordance with ascertained or ascertainable standards.

**At present, the Committee does not recommend the abolition of minimum sentences. Specifically, it believes that minimum life sentences should be retained for murder and high treason and it does not agree with the Sentencing Commission's recommendations that parole ineligibility periods for first and second degree murder be reduced from 25 years to 15-25 years and from 10-25 years to 10-15 years, respectively. Nevertheless, the Committee does not generally support the introduction of further minimum sentences. For the most part, it prefers the use of advisory sentencing guidelines to address concerns related to specific offences. However, the Committee believes that the public interest requires that repeat violent sexual offenders be sentenced to severe minimum periods of imprisonment. The Committee wishes to ensure that sentences for repeat violent sexual offenders result in such offenders serving at least ten years in prison.**

Although the majority of the Committee believes that the number of minimum sentences *per se* should not be increased, there is consensus that both public protection and the expression of public revulsion for such conduct (denunciation) require that the minimum time to be served in prison by offenders who have more than once sexually assaulted others with violence be subject to legislative rather than judicial and administrative control. While recognizing that all sexual assaults constitute serious violations of the person and are likely to have long-lasting consequences, for this purpose, the Committee intends not to include in its meaning of violence those offences which are committed through enticement or advantage, but to focus on the more brutal offences.

The Committee is of the view that properly structured amendments to the *Criminal Code* could meet the tests described in *R. v. Smith*. Given the nature and circumstances of the offence, particularly its repetition, the Committee believes that the public conscience would not be outraged, nor would human dignity be degraded, especially when considered in light of other sentences currently provided for in Canadian law and the seriousness of the offence. In the Committee's opinion the proposed amendment does not