



27 April 2024

Defamation of Character No Longer Carrying Criminalisation

Defamation of character can be defined as intentionally publishing a defamatory (false) statement concerning you that diminishes or tarnishes your reputation/ good name in the public eye (for example, in the work place, in a public place or public gathering).

Defamation of character opens the door for the victim or injured party to approach the Court in order to be compensated for the injured party's feelings, harmed dignity or good name/reputation that has been prejudiced or suffered loss/harm. An example, where one has emailed colleagues slandering your name in the work place or on social media platforms about untrue facts. The act of defamation is not limited to writing. Defamation can take place where one party defames another party in public, for example, a shopping mall, a bar or a public gathering.

The aggrieved party could approach the matter civilly like in the instances above or criminally, where a journalist publishes an article which from the outset appears to defame the party mentioned in the published article. However, since 3 April 2024, the Judicial Matters Amendment Act was signed into law, which includes a provision repealing the common law relating to defamation of character (*crimen injuria*). The consequences of the accused being found guilty was the effect of being criminally tried in the Criminal Court with a criminal record. The decision for the repeal was hard pressed from the media to enable freedom of press.

An aggrieved party, therefore, has only one right of recourse for defamation of character which is through the civil judiciary system.

Kind regards
Crystal Naicker
Managing Director
LLB (NMU) LLM (NMU) B-BBEE MDP (Wits)