

Luck of the draw

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I am directed to refer to your editorial entitled 'Luck of the draw' (The Sunday Times, August 10) which dealt with sentencing, and your suggestion for introducing a "comprehensive sentencing policy".

Regrettably your editorial started off by comparing cases which have no relationship with each other, either as to the nature of the offence or to their gravity, as determined by the legislator in the punishment which the law provides for each of them. Whereas the maximum punishment that can be awarded by the criminal court for the cultivation of cannabis is life imprisonment, the maximum punishment for involuntary homicide resulting from a traffic accident is four years' imprisonment. The maximum punishment for the gravest form, in terms of damage, of misappropriation (Article 310(1)(a) of the Criminal Code) is seven years, with the minimum (always for this gravest form) set at 13 months.

Moreover, our law does not distinguish between different types of dangerous drugs, and the punishment for the trafficking, cultivation or production is the same for all drugs. As such the comparison which kickstarted your editorial was not comparing like with like, and therefore gave a distorted image to your readers which could easily have been avoided by a reference to the law.

Incidentally, the question of sentencing was discussed in quite some detail in an article written by Marse-Anne Farrugia entitled 'The Difficult Sentencing Process' (The Times, April 13, 2007).

As to sentencing policy, the Court of Criminal Appeal, both in its superior and in its inferior jurisdiction, does provide the necessary guidelines on sentencing to subordinate courts, both when the appeal on sentence is entered by the person found guilty and when it is entered by the Attorney General - see, for instance, *Il-Pulizija v. Joseph Vella* 22/7/08, *Il-Pulizija v. Nevio Barut* 16/5/08 and *Ir-Repubblika ta' Malta v. Alex Mallia* 19/6/08. These and other judgments are reproduced in full on the website of the Ministry of Justice and Home Affairs. Of course, no amount of similar guidelines will suffice to counteract the distorted picture which is provided by selective, and sometimes partial, reporting of judgments in newspapers and other media.