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Sex case anger

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A JUDGE has been condemned for saying a 13-year-old deaf boy consented to his own sexual abuse.

Judge Michael Kelly has been urged to stand down after describing the sexual assault by a 24-year-old man as adolescent experimentation and releasing him on a suspended sentence.

Judge Kelly said the young teenager and his attacker -- the only deaf people in their country community -- were both victims of "experimental lust".

"There was not the difference in their levels of maturity that their physical age would suggest," Judge Kelly said.

"It is my opinion that they engaged in sexual experimentation of an adolescent kind . . . about which they both felt guilty but were distracted by lust from the exercise of such judgment and control."

The age disparity would normally attract immediate jail time but the case was exceptional, he said.

Australian Childhood Foundation chief Dr Joe Tucci said the comments were offensive.

"It is indefensible and . . . continuing to perpetrate a misunderstanding of how children cannot give consent and cannot in any way be responsible for their own sexual abuse," he said.

"He actually has minimised the violence against this young boy and he has also, I think, given voice to those who think sexually abusing 13-year-olds is OK."

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"He is not discharging his responsibilities as a community leader . . . the Government should move immediately to suspend him or force his retirement."

Hetty Johnston, founder of child advocacy group Bravehearts, said the judge was an absolute disgrace. "We have to get rid of these dinosaurs from our benches," she said.

Calling for an appeal, Ms Johnston said community standards were not being upheld and victims needed to be respected.

``It takes away the power of all victims everywhere."

Ms Johnston and Dr Tucci both called for the abolition of suspended sentences in underage sex assault cases and clearer standards in sentencing.

Judge Kelly was rebuked by a senior prosecutor last month during the offender's plea hearing when he said the victim impact statement was a ``waste of time".

The victim ``wouldn't have done well in a British public school in the '30s", Judge Kelly said at the time.

``The majority of people who suffer this kind of incident at some stage in their life simply get over it and think no more of it."

Addressing those comments yesterday, Judge Kelly said he'd fallen into legal error and hoped the victim's despairing predictions for the future proved false.

But he went on to say: ``The complainant . . . gives a horrific account of his perception of the effect upon him and his life of the crimes committed upon him by the prisoner, notwithstanding that he consented to the whole of the conduct and that it appears to be common ground that he initiated it."

The County Court heard that in March 2001 the older man began a relationship with the young teenager while on a camp for people with hearing disabilities.

They had been long-time friends and shared a close bond because of hearing problems. The sexual relationship continued until October 2003 when the victim's brother caught them in bed.

The man pleaded guilty to four counts of sexual penetration and one of an indecent act with a child under 16.

The court heard the man was pathologically lonely and lived in a silent world because none of his family had learned sign language.

A psychologist gave evidence that the man's inability to properly communicate had left him socially starved and naive.

Judge Kelly said: ``I accept the view that this offending grew out of friendship, curiosity and immaturity, was an isolated exercise of very poor judgment, and is much regretted," he said.

The man was sentenced to two years and nine months' jail, wholly suspended for three years.

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