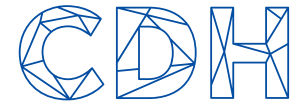


# Pro Bono & Human Rights

ALERT | 11 April 2025



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## Reflecting on Human Rights Day and Freedom Day: The Cases of Omotoso and Cwecwe

We celebrate Human Rights Day on 21 March to commemorate the Sharpeville Massacre of 1960 and to signify the nation's unanimous commitment to protecting and upholding the rights contained in the Bill of Rights. On 27 April, we celebrate Freedom Day to commemorate our first post-apartheid elections and to celebrate our constitutional dispensation. Yet, despite these objectives, there are members of our society who face more obstacles than others in the enjoyment of their rights.

This is acutely evident in the horrific realities faced by survivors of sexual violence, the majority of whom are women and children, in vindicating their rights and in seeking justice for the acts committed against them. In this alert, we discuss the acquittal of pastor Timothy Omotoso from charges of sexual assault and human trafficking, as well as the emergence of the Justice for Cwecwe movement – both instances paint a devastating picture of the long battle ahead for survivors of sexual violence.

### The acquittal of Timothy Omotoso

On 2 April 2025, Omotoso, who was first taken into custody in April 2017, was acquitted together with his two co-accused of charges including rape, sexual assault, human trafficking and racketeering.

He was alleged to have been operating a mission house in Durban, KwaZulu-Natal, where young women were brought in seeking mentorship and guidance from Omotoso, but were instead routinely subjected to sexual abuse and transported to various parts of the country to join the pastor in his "crusades". Among the women Omotoso preyed on, some testified that the abuse had begun as early as when they were teenagers.

However, notwithstanding the testimony provided by the survivors, Timothy Omotoso was acquitted of his charges on the basis that the state had failed to prove its case beyond a reasonable doubt. The court criticised the state's poor handling of evidence and pointed out that it had failed to adduce certain evidence which could have supported the charges against Omotoso, including eyewitness accounts and telephone records showing communication between the complainants and Omotoso. Ultimately, the court held that "*due to the uncertainty of the actions of the state and the lack of proper cross examination,*" the version of the accused could not be found to be "*so improbable that it could not reasonably possibly be true,*" and Omotoso was found not guilty.



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This outcome has eroded public faith in the prosecutorial system, with the chairperson of the Parliamentary Portfolio Committee on Justice and Constitutional Development stating that the National Prosecuting Authority will be called before Parliament to brief the committee on the Omotoso matter.

Crimes of sexual assault and human trafficking violate a host of constitutional rights, including the right to dignity, freedom, and security of the person and the right to freedom of movement. The gendered dimension of sexual violence in South Africa also affects the right to equality and, when the survivor is a minor, the rights of the child to, *inter alia*, be protected from maltreatment, neglect, abuse, or degradation. These rights are threatened not only when individuals infringe them but also when the state fails to bring offenders to justice.

### Justice for Cwecwe

The story of Cwecwe, a 7-year-old girl from Matatiele in the Eastern Cape, first came to light when her mother took to social media to share the harrowing details of how she first discovered that her daughter had been raped, allegedly by Jaco Pieterse, the principal of her school, Bergview College.

Through the overwhelming wave of support and nationwide protests in solidarity with Cwecwe, the sting of secondary victimisation can be felt. Attempts at ensuring justice for Cwecwe have been undermined by delays in the investigative process as well as comments from Afriforum's Private Prosecution Unit that Cwecwe had been raped at a party and not at school, and that Pieterse should not fall victim to an "abuse of power".

It cannot be overstated that in South Africa, the scourge of sexual violence, particularly against children, demands a robust response both from the public and from the state. Indeed, in the National Strategic Plan on Gender-Based Violence and Femicide, the state has committed itself to a "human rights-based, victim-centred, survivor-focused approach" in the provision of services to survivors.

The state is constitutionally bound under section 7(2) of the Constitution to respect, protect, promote, and fulfil the rights in the Bill of Rights. Cwecwe's story is one of many across South Africa, and it is imperative that the institutions of this country put their full weight behind not only her case but the cases of all survivors of sexual violence in this country, especially when those survivors are children. Failing to do so is at odds with the obligation set out in section 7(2) and sends out a chilling message that the state, which is the custodian of the constitutional rights of all individuals in South Africa, does not hold those rights to be worthy of protection. We cannot accept any other reality other than one in which perpetrators are brought to justice and the rights of survivors are vindicated.



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### Conclusion

The road ahead for survivors of sexual violence to realise true and meaningful freedom and basic human rights that are upheld is long. The state's duty to secure the rights of survivors is enshrined in the Constitution and must be the lens through which we examine its conduct in sexual offence matters.

The acquittal of Timothy Omotoso and the slow investigation of Cwecwe's case are a reminder that the rights contained in the Bill of Rights are not merely words in a document but a concrete declaration of the entitlements of all persons to be treated equally, with dignity, and to exist in a society that is safe. The state and its citizens are enjoined to ensure that the rights of survivors of sexual assault are protected and upheld, and when they are threatened, the public should be able to trust that the state will leave no stone unturned in vindicating those rights.

**Brigitta Mangale and Denzil Mhlongo**



### Chambers Global 2025 Results

#### Pro Bono & Human rights

Chambers Global 2025 ranked our Pro Bono & Human Rights practice in:  
**Band 2: Administrative & Public Law.**

**Jacquié Cassette** ranked by  
Chambers Global 2021–2025 in  
**Band 3: Administrative & Public Law.**

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