

Are criminal justice institutions continuing to entertain the violation of rape victims' rights?

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More and more people feel unsafe in South Africa. Crime statistics indicate that South Africans do not feel safe in their homes, communities and work place. According to the Victims of Crime Survey aggregate crime levels increased by 5% (over 5 million) in 2017/18 compared to 2016/17ⁱ. Even the church has become place where people are vulnerable to violence. In mid-October, one pastor in Mkhuhlu was granted bail on a case involving the alleged rape of a 15 year old girlⁱⁱ whilst 60-year-old televangelist, Timothy Omotoso, is on trial accused of trafficking more than 30 girls and women from branches of his church and holding them as sex slaves in a house in uMhlanga, KwaZulu-Natalⁱⁱⁱ. There are for example, at least 18 young women who allege that Omotoso, a leader of the Jesus Dominion International church, sexually abused them. Three of these women came forward to speak about the alleged abuse at a dialogue organised by the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL Rights Commission) held in April 2018^{iv}.

Court treatment of sexual violence survivors

Another victim of Omotoso, Cheryl Zondi and Omotoso's defense attorney, Advocate Peter Daubermann made headlines in October 2018. Posing questions such as "why didn't you scream when you were sexually assaulted?" or "why didn't you ask him to stop?"^v, Daubermann highlighted how the current judicial system puts sexual violence survivors on trial by placing the onus on the survivor to prove that the crime occurred. Similarly, women's rights and sexual violence prevention organisations and legal experts called the questioning secondary victimisation and pointed to this treatment as one of the reasons why many sexual violence survivors do not report^{vi}. South Africans on Twitter concurred pointing out that our courts were not victim friendly.

An abiding confidence in the courts

We turned to data from the South African Social Attitudes Survey (SASAS), a nationally representative, repeat cross-sectional survey series conducted on an annual basis by the HSRC since 2003, to make sense of this phenomenon.

Given concerns over the procedural and distributive fairness of the courts raised by cases such as the Omotoso trial, how much confidence do South African women continue to place in the courts? The SASAS survey consistently found that an average of 51% of women expressed trust in the Courts between 2003 and 2017 (Fig.1). The SASAS data from 2003 to 2017 covers a wide period of time and the line graph in Figure 1 clearly shows that the level of trust has fluctuated somewhat over time, but the 2014-2017 trust levels are not especially different from the early to mid-2000s. These figures are considerably higher than other political institutions, such as national and local government, as well as the police. Furthermore, there is a lack of a gender effect in

confidence in the courts. In other words, men and women have demonstrated similar levels of trust in the courts between 2003 and 2017.

A willingness to testify in court

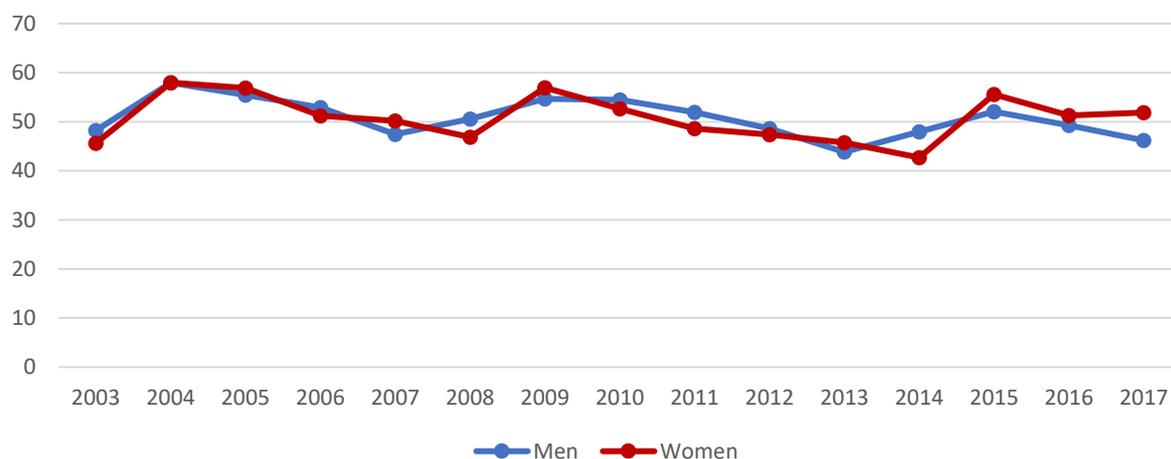
Besides trusting the courts we also wanted to know whether South Africans are willing to testify in court. We asked survey participants a hypothetical question, “Imagine that you were out and saw someone push a man to the ground and steal his wallet. How willing would you be to give evidence in court against the accused?” The results from our 2014 SASAS survey reveal that a slightly larger proportion of men (62%) than women (56%) are prepared to testify. Conversely, more women (41%) than men (38%) are not willing to testify (Table 1).

Socio-demographic differences show that women with higher levels of education are slightly more willing to testify than those with lower levels of education; White women are more willing to testify than women from the Indian, Black and Coloured communities (Figure 2). Levels of fear of violent crime among women is relatively high suggesting that women may be reluctant to participate in court proceedings. For instance, a smaller proportion of women (53%) who worry about violent crime “all or most of the time” are “willing” or “very willing” to testify, while a larger proportion of women (62%) who “never” worry about violent crime are “willing” or “very willing” to testify (Table 2).

The use of alternative platforms to report

Whereas the survey highlights a reasonable level of trust in the courts, we also see that survivors are starting to use alternative avenues to vocalise and report sexual offences. Findings from a study conducted by the Rape Crisis Cape Town Trust on the patterns of reporting at three local Thuthuzela Care Centres between 2014 and 2017, showed a steady increase in the absolute number of rape survivors reporting at public health facilities^{vii}. Likewise Twitter, through hashtags such as [#RapeAtAzania](#) and [#RUReferenceList](#), has become a popular outlet for sexual violence survivors to name and shame alleged perpetrators before or after reporting the sexual offenses. Consequently, it remains uncertain whether the fairly consistent level of trust reported by the SASAS survey will endure if women continuously feel disrespected and ill-treated in courts.

Fig. 1: Lack of a strong gender effect in confidence in the courts, 2003-2017 (%)



Note: The lines in the graph represent the percentages of men and women that express trust or strong trust in the courts.

Source: HSRC South African Social Attitudes Survey (SASAS), 2003-17

Table 1: Willingness to testify in court by gender, 2014 (%)

"Imagine that you were out and saw someone push a man to the ground and steal his wallet. How willing would you be to give evidence in court against the accused?"			
	Male	Female	Total
Not at all willing	14	15	14
Not very willing,	24	26	25
Willing	38	38	38
Very willing?	24	18	21
(Don't know)	1	3	2
Total	100	100	100
Total % willing	62	56	59
Total % not willing	38	41	40

Source: HSRC South African Social Attitudes Survey (SASAS), 2014

Fig 2: Socio-demographic differences among women in the willingness to testify in court, 2014 (% willing or very willing)

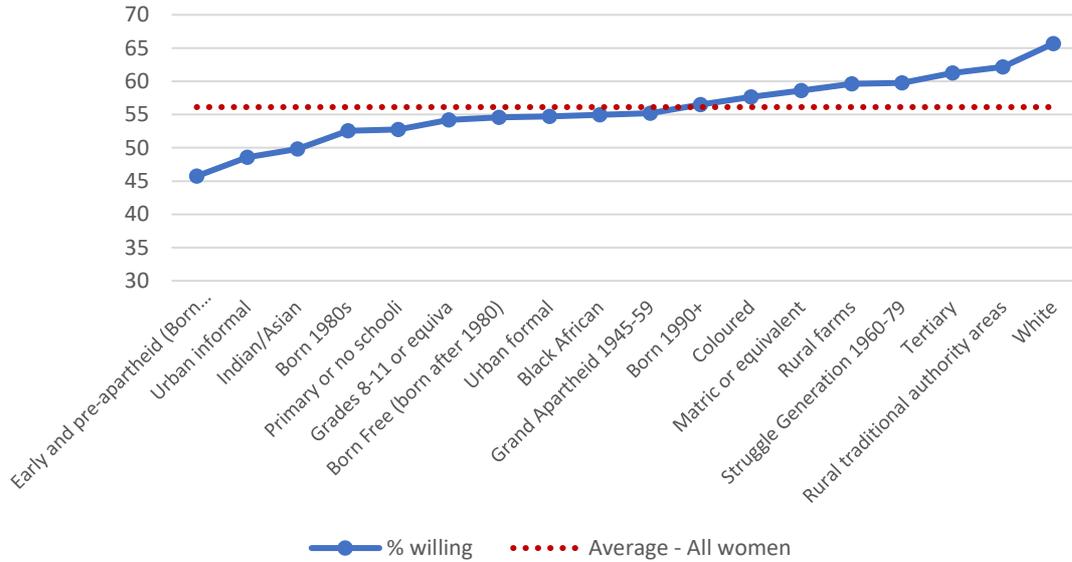


Table 2: Willingness to testify by fear of violent crime among women, 2014 (column %)

	How often do you worry about becoming a victim of violent crime?				Total
	All or most of the time	Some of the time	Just occasionally	Never	
Not at all willing	19	16	11	13	15
Not very willing	24	32	27	22	26
Willing	37	35	36	44	38
Very willing	16	15	23	18	18
(Don't know)	4	2	3	2	3
Total	100	100	100	100	100
% Not willing to testify	43	48	38	35	41
% Willing to testify	53	50	59	62	56

Note: Fear of crime in this case is measured by a question on fear of a specific form of crime, in this instance 'fear of becoming a victim of violent crime'

Source: HSRC South African Social Attitudes Survey (SASAS), 2014

ⁱ <http://www.statssa.gov.za/publications/Po341/Po3412018.pdf>

ⁱⁱ <https://www.dailyvoice.co.za/news/philippi-mom-says-pastor-repeatedly-raped-her-17555195>

ⁱⁱⁱ <https://www.iol.co.za/the-star/news/omotosotrial-calls-for-humane-ways-of-dealing-with-abuse-victims-17535036>

^{iv} <https://mg.co.za/article/2018-04-13-00-pastors-and-healers-prey-get-help>

^v <https://briefly.co.za/18076-4-harrowing-questions-cheryl-zondi-faced-controversial-pastor-tim-omotosotrial.html#18076>

^{vi} <https://www.iol.co.za/the-star/news/omotosotrial-calls-for-humane-ways-of-dealing-with-abuse-victims-17535036>

^{vii} *ibid*