



**PRESS STATEMENT ISSUED BY CAMPAIGN FOR FREE EXPRESSION (CFE)  
AND MOXII AFRICA (FORMERLY MEDIA MONITORING AFRICA)**

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**Moxii Africa and CFE intervene in High Court challenge to “blanket gag” rules on reporting sexual offence and extortion cases**

The Campaign for Free Expression (CFE) and Moxii Africa (formerly Media Monitoring Africa), will appear in the Western Cape High Court on Tuesday in the matter brought by Caroline Peters, an activist against gender violence, challenging two provisions of the Criminal Procedure Act that impose automatic publication bans in certain cases.

The case concerns sections 154 (2)(b) and 335A of the Criminal Procedure Act. In broad terms, these provisions can prohibit the public and media from publishing information – including details that may be necessary for public understanding and scrutiny – from the time an alleged offence is reported, or a person is charged, until the accused has formally pleaded in court, in categories that include sexual offences (and, in one provision, extortion).

Moxii Africa and CFE appear as intervening applicants, arguing that these blanket, automatic bans are unconstitutional because they are irrational, overbroad and disproportionate, and because they unjustifiably limit core constitutional rights, including:

- Freedom of expression and media freedom (section 16), and the public’s right to receive information;
- The constitutional principle of open justice, which requires that justice be administered transparently and be open to public scrutiny;
- Dignity (section 10), including survivor autonomy and agency – particularly where a complainant wishes to speak publicly or disclose their own identity; and
- Equality (section 9), because the laws have discriminatory effects, especially on women (the majority of survivors of sexual offences), and also on vulnerable groups including within the LGBTQI community.

A central problem is that the law can criminalise speech even by the complainant – meaning a survivor who wishes to tell their story, or to authorise publication, may face the threat of prosecution. This is a deeply paternalistic approach that silences those the law purports to protect.

The intervention further highlights the irrational structure of the regime. In some instances, publication is permitted before a person is charged – when information may already enter the public domain – but then becomes more restrictive after charge, precisely when public oversight of the criminal justice process is most important.

The Minister of Justice and Correctional Services has withdrawn opposition to the constitutional challenge, essentially conceding the applicants’ case but leaving the Court without any evidentiary justification from the State for the sweeping restrictions.

The case also raises acute concerns about extortion: extortion often involves abuses of power and public-interest wrongdoing, and there is no coherent basis for imposing a broad publication ban that can frustrate accountability and timely public awareness.

CFE and Moxii Africa emphasise that the Constitution requires narrowly tailored, rights-respecting measures, not a “one-size-fits-all” gag that suppresses public-interest reporting and survivor agency. Less restrictive approaches are available, including protecting identity where the complainant wants anonymity, rather than banning “any information” about a case.

*What Moxii Africa and CFE seek*

The intervening NGOs support an order declaring the impugned provisions constitutionally invalid, with appropriate interim relief pending confirmation by the Constitutional Court, including relief ensuring the bans do not apply where a complainant elects to reveal their own identity or consents to a third party doing so.

“This case is about rejecting blunt censorship that undermines open justice, public scrutiny and survivor autonomy. Protecting complainants cannot mean criminalising them or gagging the media and public by default,” said Nicole Fritz, executive director of CFE.

William Bird, executive director of Moxii Africa, further clarified: “We don’t oppose careful protections for complainants. We oppose blunt, automatic gag rules that suppress public-interest reporting even when identities can be protected by narrower means.”

Moxii Africa and CFE will continue to advocate for reforms that protect complainants’ safety and dignity without collapsing transparency, accountability and press freedom.

The intervening NGOs are represented by Dario Milo and his team at Webber Wentzel attorneys and by Nasreen Rajab-Budlender SC, Stuart Scott and Daniel Sive.

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