

## FREEDOM OF THE PRESS



# South Africa

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Freedoms of expression and of the press are protected in the constitution and generally respected in practice, and South Africa has vibrant journalists' and press freedom advocacy organizations. However, several apartheid-era laws and a 2004 Law on Antiterrorism permit authorities to restrict reporting on the security forces, prisons, and mental institutions. Moreover, recent legislation could further restrict the scope of permissible reporting in South Africa. In 2009, the controversial Film and Publications Amendment Act was signed into law to protect against child pornography and hate speech. The legislation—which requires any publisher not recognized by the press ombudsman to submit a wide range of potentially “pornographic” or “violence-inciting” materials to a government board for approval—was widely criticized by press freedom advocates as a means of prepublication censorship. In November 2011, the Constitutional Court accepted a multiparty legal challenge to the law.

Also in November, the National Assembly, the lower house of Parliament, passed the controversial Protection of Information Bill, despite vociferous opposition from private media outlets, most opposition parties, and a raft of civil society and freedom of expression organizations. Just two months earlier, the ruling African National Congress (ANC) party had withdrawn the bill for possible amendment, though no significant changes were made. The bill allows state agencies and government officials to classify a wide range of information—including “all matters relating to the advancement of the public good” and “the survival and security of the state”—as in the “national interest” and thus subject to significant restrictions on publication and disclosure. It mandates prison terms of 3 to 25 years for violations and does not allow a “public interest” defense. To become law, the bill must also be approved by the National Council of Provinces, the upper house, before being signed into law by the president.

Journalists and media houses are occasionally threatened with legal actions or charged as a result of their work. In November 2011, lawyers for presidential spokesman and ANC stalwart Mac Maharaj threatened the independent weekly and online daily *Mail & Guardian* with criminal prosecution for running a story about Maharaj's alleged involvement in the so-called arms deal corruption scandal from the late 1990s, leading the newspaper to censor most of the article (a 1998 law prohibits the unauthorized disclosure of a suspect's testimony in a prosecutorial investigation). Maharaj later filed criminal complaints against the two reporters responsible for the story, alleging that they stole records from the government's investigation. Libel is not criminalized in South Africa, but civil cases, sometimes involving large fines, continue to be brought against members of the press. In December 2010, President Jacob Zuma announced a R5 million (\$700,000) lawsuit against *Sunday Times* cartoonist Jonathan Shapiro—also known as “Zapiro”—for defamation over a controversial 2008 political cartoon.

The constitution protects the right of access to information, and the Promotion of Access to Information Act 2002 puts this practice into effect. However,

## 2012 SCORES

### PRESS STATUS

**Partly Free**

### PRESS FREEDOM SCORE

**34**

### LEGAL ENVIRONMENT

**10**

### POLITICAL ENVIRONMENT

**14**

### ECONOMIC ENVIRONMENT

**10**

recent years have seen a stark increase in the use of court interdictions and gag orders by both governmental and nonstate actors. Since 2005, the *Mail & Guardian* has received at least three gag orders to stop reporting on corruption scandals. In addition, the ANC is considering legislation to establish a statutory media tribunal, replacing the self-regulating Press Council and Press Ombudsman with a state-run body empowered to hear complaints against the press, hand out stiff punishments for violating privacy and for defamation, and force the media to issue retractions and apologies. In July 2011, determined to respond to the ANC's proposal, the South African National Editors' Forum (SANEF) and Print Media South Africa (PMSA) established an independent body of individuals, the Press Freedom Commission (PFC), with a mandate to identify the most efficient and effective regulatory system for the print media in South Africa by spring 2012.

Journalists are occasionally harassed and threatened by both government officials and non-state actors over the content of their reporting. In August 2011, demonstrators protesting an ANC disciplinary hearing for then ANC Youth League president Julius Malema threw stones at journalists covering the event, injuring a number of them and destroying some equipment.

A number of private newspapers and magazines—including the *Mail & Guardian*, the *Cape Times*, and the *Sunday Times*—are sharply critical of the government, political parties, and other societal actors. Post-apartheid South Africa has brought little progress to the country's transformation of print media ownership as the sector continues to be dominated by four groups: Ayusa, Independent Newspapers, Media24 and Caxton/CTP. Access to print media is also concentrated among more urban, wealthier South Africans. As a result, the majority of South Africans receive news via radio and television outlets; the state-run South African Broadcasting Corporation (SABC) dominates both sectors, though there is a greater diversity of radio outlets in urban areas. While officially editorially independent, the SABC has come under fire for displaying a pro-ANC bias, reflecting internal ANC rifts in its management struggles, financial maladministration, and practicing self-censorship. The Independent Communications Authority of South Africa (ICASA) is involved in efforts to expand the number and broadcasting range of community radio stations. However, the process is slowed by lack of bandwidth and bureaucratic delays. The SABC's three stations claim most of the television market, but the country's two commercial television stations, e.tv and M-Net, are reaching growing proportions of the population. In June 2011, the Zuma government announced a R1 million, cabinet-approved advertising budget that will be directed toward newspapers that "assist the government in getting its message across"; the government's media advertising operations were also consolidated within the ministry of communication. *New Age*, a new daily newspaper launched in late 2010, is owned by interests with close ties to Zuma and has been explicitly endorsed by the government as a "supportive" publication. International broadcasts are unrestricted.

Internet access is unrestricted, although state monitoring of telecommunications systems is authorized, and by the end of 2011, 21 percent of the South African population had access to the internet. Access is expanding rapidly and more people have the option to access the internet from their mobile phones than from computers. However, the majority of the population is unable to benefit from internet access due to high costs and the fact that most content is in English, an obstacle for those who speak one of the 10 other official languages. However, there is now content in some local languages, especially on social-networking platforms.

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