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Freedom Of The Press - South Africa (2011)

Status: Partly Free
Legal Environment: 9
Political Environment: 14
Economic Environment: 10
Total Score: 33

Freedoms of expression and of the press are protected in the constitution and generally respected in practice, and South Africa has vibrant press freedom advocacy and journalists organizations. However, several apartheid-era laws and a 2004 Law on Antiterrorism permit authorities to restrict information about the police, national defense forces, prisons, and mental institutions. In January 2010, an e.tv interview with two self-proclaimed criminals vowing to attack World Cup tourists saw both police and party officials attempt to use apartheid-era legislation to force e.tv journalists to reveal their sources (the criminals' identities). Subpoenas against the journalists were dropped following a mediated compromise between the government and the South African National Editors Forum. 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 of the ruling African National Congress (ANC) party 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.

In recent years, additional restrictive legal instruments have been proposed, and in some cases, created. 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 March 2010, the government sent the Protection of Information Bill to parliament. This bill would allow government officials and agencies to classify any information deemed to be in the national interest. Additionally, the bill insists that journalists establish “public interest” to disclose such information and sets onerous penalties for its unauthorized publication, including up to 25 years in prison. As a result, it was widely condemned by both domestic and international press freedom advocates. Parliamentary debate on the legislation continued at year's end.

Government ministers and other political figures continued to display intolerance of media criticism in 2010, including the ANC's worrying revival of a proposed statutory media tribunal. The tribunal would replace 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. Despite widespread condemnation, the formal legislation for the tribunal was being considered by the ANC at year's end. In addition, recent years have seen a stark increase in the use of court interdictions and gag orders by both governmental and non-state actors. Since 2005, the independent weekly and online daily *Mail & Guardian* has received at least three gag orders to stop reporting on corruption scandals. In January, the new director of the National Prosecuting Authority, Menzi Simelani, mandated that prosecutors must secure prior approval before speaking to the press about investigations and cases.

The year 2010 also saw greater physical harassment of journalists by both political figures—particularly those associated with the ANC Youth League—and the police. In April, Youth League president Julius Malema forced British Broadcasting Corporation (BBC) correspondent Jonah Fisher to leave a news conference after hurling insults at him. In August, *Sunday Times* reporter Mzilikazi wa Afrika was arrested for “fraud and defeating the ends of justice” over his alleged possession of a forged, unpublished resignation letter from Mpumalanga premier David Mabuza; wa Afrika had previously reported on corruption in the province, including articles involving national police chief Bheki Cele and Mabuza himself. While wa Afrika was soon released and his case thrown out by prosecutors, the reporter was repeatedly threatened by local Youth League leaders.

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. The U.S. State Department notes that 46.4 percent of South Africans have access to print media. Though a variety of publications exist, their content tends to lack diversity as a result of a concentration of ownership among large media groups. The state-run South African Broadcasting Corporation (SABC) dominates broadcast media. While officially editorially independent, the SABC has come under fire for displaying a pro-ANC bias, for reflecting internal ANC rifts in its management struggles, and for practicing self-censorship. In April 2009, the SABC canceled a scheduled program on political satire that was inspired by the “Zapiro” controversy. After the *Mail & Guardian* posted a leaked copy of the program on its website, the SABC accused the paper of theft. In 2009, SABC internal auditors investigating the leak searched the offices of the broadcaster's investigative reporting unit and subjected staff to lie-detector tests. Also in 2009, the entire SABC board was dissolved by Parliament amid a R839 million (\$100 million) loss for the 2008–09 fiscal year and wide-ranging reports of financial mismanagement. In 2010, four members of the new 12-member board resigned over disagreements with SABC head and former minister for arts, culture, science, and technology Ben Ngubane.

For primarily socioeconomic reasons, most South Africans receive the news via radio outlets, the majority of which are controlled by the SABC. While the Independent Communications Authority of South Africa (ICASA) is involved in efforts to expand the number and broadcasting range of community radio stations, 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. International broadcasts are unrestricted. According to governance watchdog Global Integrity, the government has threatened to withdraw advertising from newspapers that report on corruption and other scandals.

Internet access is unrestricted, although state monitoring of telecommunications systems is authorized, and 12.3 percent of the population had regular internet access during 2010. However, access costs and language barriers remain prohibitive for many South Africans. More people can access the internet from their phones than from computers.