

South Africa

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Freedom of the Press

South Africa is home to a vibrant media environment, and press freedom advocacy organizations regularly push back against government encroachments on the rights that journalists enjoy. In 2013, there was some lessening of the use of legal cases and physical harassment to intimidate the press, although threats to curtail access to information and interference with news content remained issues of concern.

Freedoms of expression and of the press are protected in the constitution and generally respected in practice. However, several apartheid-era laws and a 2004 Law on Antiterrorism permit authorities to restrict reporting on the security forces, prisons, and mental institutions. In 2012, the Constitutional Court upheld a 2011 Gauteng High Court judgment that sections of the 2009 Film and Publications Amendment Act were unconstitutional, and the legislation was amended accordingly. Ostensibly passed to protect against child pornography and hate speech, the law required any publisher not recognized by the press ombudsman to submit potentially “pornographic” or “violence-inciting” materials to a government board for approval, and imposed criminal penalties for noncompliance; as such it had been widely criticized by press freedom advocates as a means of prepublication censorship. Civil society and the judiciary have also continued to push back on enforcement: in 2013, two bans on films by the Film and Publications Board for encouraging child pornography were challenged and overturned by the courts.

Journalists and media houses are occasionally threatened with legal action or charged as a result of their work, particularly when reporting on prominent political or business figures. Prosecutions and indictments are rare, however. Libel is not criminalized in South Africa, but civil cases, sometimes involving large fines, continue to be brought against members of the press. In May 2013, President Jacob Zuma dropped all 14 outstanding defamation suits he had filed between 2006 and 2010. Totalling approximately R60 million (\$10 million), the suits were brought against leading South African cartoonist Jonathan Shapiro —also known as “Zapiro”— and news outlets *The Star* and *The Citizen*, among others. Zuma personally paid for the legal costs he incurred. However, the outlets against which the suits were brought incurred significant costs in the preparation of their defense.

The constitution protects the right of access to information, and the 2000 Promotion of Access to Information Act (PAIA) is designed to implement this guarantee. However, there has been a stark increase in the use of court interdictions and gag orders by both governmental and nongovernmental actors in recent years, and enforcement of existing disclosure rules is sometimes less than adequate.

The controversial Protection of State Information Bill had not yet been signed into law by the end of 2013. The bill grants state agencies broad authority to classify a wide range of information as being in the “national interest” and thus subject to significant restrictions on possession or dissemination, with potential prison terms for violations. Vociferous objections from civic groups and opposition parties forced the government to first amend the legislation in November 2012. A revised version of the bill—passed by the National Assembly in April 2013—narrowed the definition of national security, includes a limited public-interest exception, maintains the integrity of PAIA and constitutionally mandated oversight commissions, and removed most commercial information from the bill’s purview. In a surprise move, Zuma, who was expected to sign the bill into law in the fall, referred the legislation back to Parliament in September, after determining that some measures fell short of constitutional obligations. Following the introduction of superficial amendments that critics dismissed as failing to address these constitutional concerns—

including the retention of jail terms of up to 25 years for anyone disclosing classified information—the National Assembly again passed the bill in November. The bill was awaiting presidential assent at year's end.

Efforts by the ruling African National Congress (ANC) to replace the self-regulating Press Council (PCSA) and press ombudsman with a state-run media tribunal have been thwarted for the time being by PCSA reforms, including the establishment of a system in late 2012 of “independent co-regulation” that includes equal public and media representation on the council, under the chairmanship of a retired judge. The overhaul also provides the public greater legal redress, such as the ability to appeal directly to ordinary courts; an expanded definition of complainant to include not just those directly affected by a story, but also public advocates; a clearer hierarchy of sanctions for violations; and a ban on hate speech and “harmful” coverage of children. Despite these reforms, the ANC continued to advocate in 2013 that Parliament should investigate and consider the feasibility of creating a tribunal with government oversight “that is empowered to impose sanctions without the loss of any constitutional rights.”

While officially editorially independent, the South African Broadcasting Corporation (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. In one example of a continuing trend of censoring content, in December 2013 SABC executives reportedly ordered staff not to broadcast footage of Zuma being booed at a high-profile memorial service for Nelson Mandela, or subsequent calls for his resignation by senior leaders of the National Union of Metalworkers South Africa (NUMSA), the country's largest trade union. Journalists at private outlets also face pressure to limit reporting on stories that may deter investors or reflect poorly on the Zuma administration. During a speech to journalism students in September 2013, Zuma called for more positive coverage of events in South Africa and decried the overly “negative” tone of the press in reporting on crime and corruption. Following the speech, Zuma's office issued a statement further criticizing “negative-minded” reports in the independent press. In December, the media consortium Sekunjalo Holdings threatened to sue *Cape Times* editor Alide Dasnois and reporter Melanie Gosling over a story alleging irregularities in the awarding of a major government contract to the media group. Sekunjalo Holdings, which is alleged to be closely linked to the ANC, had bought the paper earlier in the year. Dasnois was later dismissed from her post as editor, though Sekunjalo denied the move was linked to the story.

Journalists are occasionally harassed and threatened by both government officials and nonstate actors over the content of their reporting. In addition, reporters sometimes face physical attacks when attempting to cover sensitive news stories. In September 2013, two masked gunman interrupted a broadcast at the community radio station Karabo FM, based in the town of Sasolburg, ordering the host and his guests to leave the station before dousing the premises in gasoline and lighting a fire. The station, including all equipment, was destroyed. The Media Institute of Southern Africa also documented a number of attacks on journalists covering protests and strikes throughout South Africa in 2013.

Journalists are also unable to access areas deemed of interest to national security under the apartheid-era National Key Points Act, and in recent years there has been an increase in the number of locations thus designated under the act. In 2013, the government repeatedly invoked the legislation to prevent admittance to or disclosure of information regarding Zuma's Nkandla homestead during a controversial remodeling that is estimated to have cost over \$200 million. Nevertheless, media outlets have continued to run pictures of the property without sanction.

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 print media continue to be dominated by four groups: Ayusa, Independent News and Media, Media24m, and Caxton/CTP. Access to print media is 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 SABC is the prevailing force in both sectors, though there is a greater diversity of radio outlets in urban areas. The Independent Communications Authority of South Africa (ICASA) is involved in efforts to expand the number and broadcasting range of community radio stations, though the process has been 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.

The Ministry of Communications is charged with overseeing the government's media advertising operations and clearly directs more advertising toward newspapers that "assist the government in getting its message across," as per a 2011 cabinet decision. *New Age*, a 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. The paper has hosted a number of high-priced "business breakfasts" with senior ANC officials and business leaders, drawing accusations of a conflict of interest.

Internet access is unrestricted, although state monitoring of telecommunications systems is authorized. In 2013, 49 percent of the South African population had access to the internet. Access is expanding rapidly, and more people are able to reach the medium from mobile devices 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 country's 10 other official languages. Content in local languages is growing, however, especially on social-networking platforms.

2014 Scores

Press Status

Partly Free

Press Freedom Score

(0 = best, 100 = worst)

33

Legal Environment

(0 = best, 30 = worst)

9

Political Environment

(0 = best, 40 = worst)

14

Economic Environment

(0 = best, 30 = worst)

