



Universities, the media and attempts at ANC control

*[From the South African Monitor Year-End 2016 Report:
Political turbulence and business risks in the ANC's hybrid regime]*

Pressures on the autonomy of universities

The non-pluralist political culture of the ANC, which does not differentiate between party and state, is unlikely to respect the autonomy of universities and academic dissenting views. In September 2014, President Zuma spoke at the Progressive Professionals Forum and called on South Africa's universities to become incubators for "patriotic citizens".¹ As indicated by the political scientist Nicola de Jager, "patriotism" has become a code word to inhibit criticism of the ANC, while critics are often smeared as being non-patriotic.²

The minister for Higher Education and Training, Blade Nzimande, also is the leader of the SACP. History is very present in Nzimande's speeches. In a speech in 2007, he referred to "The pessimists, those who lost their will to struggle with the collapse of the Berlin Wall". His conclusion was different: "It is possible (and imperative) to press ahead with the socialist-oriented transformation in the present right now".³ It is not clear whether the ANC government sent congratulations to the German government during the twenty-fifth anniversary celebrations of German re-unification on 9 November 2014.⁴

The ANC government has created a legal base for extending the ANC's capture of state institutions to universities. In 1999, the minister was given the power to appoint administrators under his direct authority to replace university councils and vice-

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1. <http://www.bdlive.co.za/opinion/columnists/2014/09/08/zuma-patriotism-and-the-nationalist-threat-to-independent-thought>.
 2. http://www.kas.de/wf/doc/kas_10560-1522-2-30.pdf?070328103113, pp 15, 25.
 3. Blade Nzimande, "Dual power – The living legacy of the Great October Revolution" at <https://www.amadlandawonye.wikispaces.com>.
 4. On the current frosty relations with Britain, see "Zuma's smoke and mirrors are his own worst enemy", *Rand Daily Mail*, 3 November 2014; Dennis Worrall, "President Zuma, you have to do better", *Polity*, 3 November 2014.

chancellors for a period of two years. In 2000, he was given the power to veto agreements entered into by universities. In 2002, he was given the power to amend the institutional statute of a university in certain circumstances; and in 2012, he was given the power to appoint an assessor, instead of or even as well as, an administrator, with extensive powers over universities.

In 2016, the Cabinet and Parliament approved the Higher Education Amendment Draft Bill. This new law increased the powers of the minister of Higher Education, currently still Blade Nzimande, to intervene in university matters of various kinds.⁵ Existing education legislation already enables the minister to issue legally binding “directives” to universities and appoint administrators to take over their management. However, to do this, he is required to provide proof, for example through audit reports, that the university has problems to warrant suspending its independence.

The new legislation allows the minister to change processes and mandates of universities and other higher education institutions and also empowers the minister to withhold funding. According to one clause, the minister would need only to have “reason to believe”, rather than concrete proof, that intervention is necessary. Years of creeping control by the state could well endanger the existence of an independent public university sector.⁶ In October 2016, Nzimande even said private universities posed a serious threat to the public education sector.⁷

Universities whose students come from communities that largely support opposition parties will face the greatest threat to autonomy in the next few years. There has been a focused effort, for example, to weaken the position of Afrikaans and Afrikaans speakers at certain schools. Similar political pressures, combined with economic pressures, have resulted in new university language policies in the past year. These policies weakened or removed Afrikaans as a medium of instruction – despite its officially equal constitutional position and significant numbers of students demanding Afrikaans instruction – at the University of South Africa, the University of Pretoria, the University of the Free State, and the University of Stellenbosch.

There are also efforts to increase the ANC government’s control over these institutions and their discourses. This campaign has been noticeable, since many of these schools and universities were working well, while the government did not really undertake a

5. Also see Department of Education and Training, “Higher Education Act, 1997: Publication of explanatory summary of the Higher Education Amendment Bill, 2015”, *Government Gazette*, 605(39384), 9 November 2015.

6. “Bill giving state more say over varsities passed”, *Business Day*, 25 May 2016; <http://www.iol.co.za/news/politics/controversial-higher-education-amendment-bill-passed-2025767>.

7. <http://www.businesslive.co.za/news/latest-news/2016-10-13-private-universities-pose-a-threat-to-public-education/>.

concerted effort to also improve the majority of other less functional schools and universities in the country where education is in crisis.

Failed education policies

Statistics South Africa's research paints a bleak picture of failing policy interventions, particularly in education and youth employment. The percentage of black African professional, managerial and technical workers aged 25 to 34 has dropped by 2% over the past 20 years, leaving this generation less skilled than their parents – and less skilled than every other race and age group, according to Statistics South Africa. “When parents are better equipped than the children, it's a sign of regression,” said Statistician-General Pali Lehohla.⁸

The cause of this decline is that overall, despite pockets of excellence, the quality and work ethic of South Africans are pretty poor. All attempts to improve the standards are countered by the extremely unionised and politically strong teachers' unions and constrained by the provincial system.⁹

The Economist commented:

Government procurement at all levels is now riddled with graft. Start with schools. Corruption Watch, an NGO, says it has received more than 1 000 reports over the past few years relating to crooked school principals, many of whom have been stealing cash from their school's bank accounts or looting funds intended to feed hungry children. Their jobs are now so lucrative that they are worth killing for. In 2015 one head teacher was hacked to death and another was shot after they refused to make way for people who had “bought” their posts. Officials of the teachers' union have also been implicated in selling posts.¹⁰

Rebellious constituencies¹¹

The biggest student protests to hit South Africa since 1994 erupted in October 2015. The students had rejected an earlier government offer to cap the increase of study fees at 6%, down from the 10% to 12% proposed by the management of universities. The demonstrations, often involving intimidation and violence, closed some of the country's top universities. Songs were sung, placards raised and entrances to

8. <https://www.dailymaverick.co.za/article/2016-04-18-the-great-reversal-stats-sa-claims-black-youth-are-less-skilled-than-their-parents/#.WFeu3o9OLIU>.

9. “Nzimande's power grab”, *Business Day*, 12 May 2016.

10. “The hollow state”, *The Economist*, 20 December 2015.

11. Also see the article on this topic by South African Monitor guest contributor, Professor Marinus Wiechers, at the end of this report.

campuses barricaded with burning tyres.¹² Protests at Parliament in Cape Town turned violent and subsequently the police used stun grenades and water cannons to stop a group of students breaking into the Union Buildings, the seat of government in Pretoria.¹³ Vandalism and arson destroyed buildings and facilities, creating millions of rand in damage. After an arson incident at the University of KwaZulu-Natal in September 2016, firefighters managed to bring the fire under control, but the faculty had lost priceless material, including rare books dating back to the foundations of modern-day South African law in the seventeenth century.¹⁴

The surface reasons were clear. The ANC government has invested much more generously in secondary than in tertiary education over the past two decades. About 12% of the education budget goes to tertiary institutions, compared to 20% elsewhere in Africa. The government allowed university numbers to double in less than 20 years while underfunding the sector. As a result, real per capita funding of tertiary education has dropped by 30%. The cost of servicing tertiary institutions thus shifted incrementally towards those trying to get into them in the form of rising student fees.

However, some analysts see a political logic behind this government policy. Investment in secondary education is an investment in political loyalty; it keeps influential organisations such as the South African Democratic Teachers Union (SADTU) supportive of the ANC. In contrast, investment in the tertiary sector seems an investment in critical and independent opposition voices among the black urban middle class.

The political order, with its increase in service delivery protests, is becoming more, rather than less, polarized among the young urban middle class. The ANC leadership is increasingly being discredited by scandals and corruption, selective patronage is obvious, and the economy is unable to improve youth unemployment. Discursive shifts towards assertive black identity politics and radical economic restructuring have occurred among black middle class youth.

They blame small group actors in a narrative that portrays the latter to be big and powerful. “This is just the tip of the iceberg,” says Sinabo Mnqonoiwa, a 27-year-old

12. <http://www.bbc.com/news/world-africa-34618724>; <http://www.economist.com/news/middle-east-and-africa/21677252-anc-faces-perhaps-its-biggest-challenge-yet-boiling-over>; <http://www.theglobeandmail.com/news/world/south-african-police-use-stun-grenades-as-students-protesting-tuition-hikes/article26901219/>; <http://www.theguardian.com/world/2015/oct/21/riot-police-tear-gas-student-protest-south-africa-university-fees-cape-town>; <http://edition.cnn.com/2015/10/27/africa/fees-must-fall-student-protest-south-africa-explainer/>; <http://sa-monitor.com/south-africa-barriers-entry-financial-times-25-october-2015/#more-5095>.

13. <http://www.bdlive.co.za/national/education/2015/10/23/police-fire-stun-grenades-as-tensions-run-high-at-union-buildings>; <http://www.bbc.com/news/world-africa-34618724>.

14. <http://www.independent.co.uk/news/world/africa/ukzn-south-africa-university-protests-nazi-style-library-book-burning-rape-brutality-a7230296.html>.

postgraduate student at the University of the Witwatersrand in Johannesburg. “There’s no Rainbow Nation – it’s on paper, we are all free on paper”.¹⁵ While scapegoat politics and resentment surfaces, they ignore the agency of the ANC to improve conditions and the ANC’s accountability for corrupt and ineffective governance.

As predicted, the ANC has tried to instrumentalize the waves of student protests in its effort to strengthen its hold on universities. Even if it fails in co-opting these student groups at certain universities, both top-down and bottom-up political forces will increase pressure on the autonomy of universities in the near and medium term.

Media freedom under pressure

In post-1994 South Africa, press freedom is guaranteed by Section 16 of the Bill of Rights. Together with parts of the judiciary, the media has been considered to be one the most important remaining checks on the power of the ruling party, since the ANC government has largely neutralised other potentially independent watchdog institutions through its policy of cadre deployment and other measures such as intimidation.

However, it is important also to scrutinise the de facto realities of media freedom in South Africa.¹⁶ The South African Broadcasting Corporation (SABC) is the South African public broadcaster.¹⁷ It controls most television and radio broadcasting in South Africa.

The ANC has used cadre deployment to align the state broadcaster with the ruling party. During the 2014 elections, the SABC was criticised for refusing to air the campaign adverts of two main opposition parties, namely the DA, as well as the EFF.¹⁸ As stated by Nicola de Jager, political scientist at the University of Stellenbosch:

*Reporters, analysts and others within the public broadcaster who are considered to operate out of line are slowly moved out, examples include Eusebius McKaiser and John Perlman.*¹⁹

15. <http://www.bdlive.co.za/opinion/columnists/2015/10/30/pushing-university-funding-not-in-anc-interest>; <http://www.timeslive.co.za/local/2015/10/24/Sanef-concerned-about-intimidation-of-journalists-during-FeesMustFall>.

16. <http://www.r2k.org.za/>; <http://fxi.org.za/home/>.

17. http://www.sabc.co.za/wps/portal/SABC/SABCARTICLE?id=5c5fc9804c9afedb8cbcff39f3bc9014&page_from=CSI.

18. <http://www.sowetanlive.co.za/news/2014/04/22/sabc-bans-eff-advert---video>; <http://www.timeslive.co.za/politics/2014/04/30/da-cries-political-censorship-as-sabc-refuses-to-air-second-advert>.

19. http://paperroom.ipsa.org/papers/paper_10054.pdf.

In September 2015, SABC chief operating officer Hlaudi Motsoeneng gave an interview to Waldimar Pelser. Motsoeneng launched a wide range of generalised attacks on all South African journalists, stating “it is very important we regulate journalists”. Pelser then asked how big the problem was. “Very big,” said Motsoeneng. “If you check the factual of the facts [sic], really they [journalists] are always misleading.”²⁰

In May 2016, the SABC decided to no longer show footage of destructive scenes during political protests. It also appealed to the print media “not to cover the violent protests that are on the rise and in turn destroying public institutions”.²¹

Witnesses testifying in December 2016 before Parliament’s ad hoc committee investigating the SABC, painted a picture of intimidation, death threats, ministerial interference, secret meetings, as well as a cult-like worship that surrounds Motsoeneng.²² In 2014, Public Protector Thuli Madonsela had already made adverse findings against Motsoeneng. Despite this, he was appointed permanently to the post of chief operations officer by Communications Minister Faith Muthambi. On 12 December 2016, the Western Cape High Court called the appointment unlawful and irrational.²³

Freedom House’s report for 2016 stated:

*While officially independent in its editorial policies, the SABC has come under fire for displaying a pro-ANC bias, reflecting internal ANC rifts in its management struggles, suffering from financial maladministration, and practicing self-censorship. In recent years, a number of SABC programmes have been cancelled due to political considerations, and prepublication censorship of critical reporting on the ANC and Zuma has increased.*²⁴

Private newspapers and magazines are often critical of powerful figures and institutions and remain a crucial check on the government. However, government allies own a growing share of independent media. In August 2013, Independent News and Media was bought by Sekunjalo, a company which belongs to the pro-ANC Iqbal Survé. Money for the deal came from the state-run civil service pension fund, 25%

20. <http://www.bdlive.co.za/opinion/columnists/2015/10/12/inside-the-confused-mind-of-hlaudi-motsoeneng>.

21. “Is the SABC ban on protests censorship?”, *IOL*, 27 May 2016.

22. “SABC inquiry: Who’s Hlaudi’s Godfather, members ask witnesses”, *Daily Maverick*, 11 December 2016; <http://www.news24.com/SouthAfrica/News/how-hlaudi-sold-the-sabc-20161211-3>; <http://www.businesslive.co.za/rdm/politics/2016-12-10-politics-live-wherever-there-is--zumas-corporate-hatchet-man/>; <http://www.businesslive.co.za/bd/national/media/2016-12-09-faith-muthambi-forced-hlaudi-on-sabc/>.

23. <http://mg.co.za/article/2016-12-12-motsoeneng-not-fit-to-hold-any-position-in-sabc-says-western-cape-high-court>.

24. <https://freedomhouse.org/report/freedom-press/2016/south-africa>.

directly, and almost 45% in the form of a loan to Survé. Two Chinese state-run companies provided 20% of the remaining funding.²⁵

There has been an increase in direct attacks on journalists. These incidents have included police harassment of reporters across the country. They have been subject to wrongful or illegal arrest, forced to delete photographs or barred from entering particular spaces. In February 2015, the SSA confirmed handing Mpumalanga premier David Mabuza intelligence reports on the lives and movements of journalists in the province.²⁶

Due to cadre deployment to the regulatory body, the Independent Communication Authority of South Africa (ICASA), it has failed to ensure the non-partisan nature of the SABC.²⁷ Allegations have emerged about ANC attempts to also influence the commercial eTV television service.²⁸ In February 2015 an SABC memorandum of incorporation emerged that gave the minister of Communications the power to discipline and remove executive managers and board members at the SABC. Before the emergence of the memorandum, SABC board members could be removed only through a parliamentary process.²⁹

Potential for internet censorship

The Film and Publications Board (FPB) gazetted a Draft Online Regulation Policy document on 4 March 2015. In terms of this, everything published on the internet could be subjected to classification from the FPB. Anyone wishing to publish or distribute content would first have to apply for a digital publisher's online distribution agreement with the FPB, which would require a subscription fee. Once paid, the publisher would have to submit the content to the FPB for classification prior to publishing. This effectively constitutes a form of pre-publication censorship, which would undermine the internet's immediacy. The regulations would also allow the FPB to "dispatch classifiers to the distributors' premises for the purposes of classifying digital content". Distributors would have to "ensure that the work of classifiers takes place unhindered and without interference".³⁰

25. R.W. Johnson, *How long will South Africa survive? The looming crisis* (Jonathan Ball Publishers, Cape Town, 2015), pp 132-135.

26. <http://www.dailymaverick.co.za/article/2015-04-28-op-ed-world-press-freedom-day-2015-sa-edition/#.VUDBT5UcTIX>. Also see <http://sa-monitor.com/south-africas-rica-process-much-open-abuse-htxt-africa-29-april-2015/#more-3720>.

27. Prinola Govenden, *"Toothless regulator?" A critical analysis of ICASA's regulation of the SABC so that it functions as a public service broadcaster* (University of the Witwatersrand, Johannesburg, 2009).

28. <http://www.dailymaverick.co.za/article/2014-10-30-op-ed-minister-patel-and-encas-feel-good-documentaries/#.VFkHgst0y71>.

29. <http://sa-monitor.com/minister-defends-sabc-secrecy-times-live-18-march-2015/#more-3351>.

30. <http://mybroadband.co.za/news/internet/121528-stop-internet-censorship-in-south-africa.html>.

In March 2015, Germany and Brazil spearheaded a United Nations (UN) resolution calling for a UN special rapporteur on privacy. The resolution affirmed the right to privacy in the digital age and expressed deep concern at

... the negative impact that surveillance and/or interception of communications, including extraterritorial surveillance and/or interception of communications, as well as the collection of personal data, in particular when carried out on a mass scale, may have on the exercise and enjoyment of human rights.

The rapporteur would be appointed for three years to gather information on privacy-related matters and practice and report on violations of the right to privacy. South Africa and Saudi Arabia opposed the resolution. In addition, in March 2014, South Africa led a group including China, Russia and Saudi Arabia in proposing amendments to water down the right to peaceful protest.³¹

Strained relations between the ANC and critical journalists

Although no serious incidents regarding government authorisation to actively target journalists have been reported, the ANC's relationship with the media is generally strained. Van Onselen distinguishes between several phases in the relations. After coming to power in 1994, the ideals of a free and independent press were championed and celebrated. However, the dynamics of governance, mismanagement and corruption resulted in deterioration of media relations and the proposal of a media tribunal. Through the state and pro-ANC private capital, a series of existing and new media were remodelled and established, generally to be more "positive" about and "supportive" of the government of the day.³²

Communications Minister Faith Muthambi told MPs in April 2015 they needed to take further action on the issue of a regulatory system for the print media so that they could achieve the meaningful transformation agenda of the country. ANC spokesperson Zizi Kodwa confirmed in 2015 that the ANC was sticking to its 2007 resolution to call for a state-controlled media appeals tribunal to regulate the media.³³

Lizette Rabie, professor of Journalism at the University of Stellenbosch, has indicated that the alarm bells are ringing.³⁴ Threats against media freedom are already so severe

31. <http://www.dailymaverick.co.za/article/2015-03-29-analysis-whats-south-africas-anti-human-rights-game-at-the-un/#.VXbzdssR672>.

32. <http://sa-monitor.com/devolution-ancs-trust-media-bdlive-21-september-2016/>.

33. <http://www.news24.com/Archives/City-Press/Government-moots-return-of-dreaded-media-tribunal-20150429>; <http://www.enca.com/south-africa/zuma-takes-swipe-media-over-xenophobia-covera>.

34. See L. Rabie, "Media freedom in South Africa: A luta continua?", *South African Monitor*, (5), November 2015, pp 97-102.

that a comparison could be drawn between the media (un)freedom under NP government and that under ANC government.³⁵ In 2002 South Africa was 26th on the first global Press Freedom Index of Reporters Without Borders.³⁶ Currently, South Africa is 39th on the 2016 index.³⁷ Freedom House, categorised South Africa's media as "partially free", and has downgraded South Africa on its list from position 33 in 2014 to position 37 in 2015, with a slight improvement to 36 in 2016, based on worsening conditions elsewhere.³⁸

The most critical media sometimes reflect an Anglo-centric and pro-capitalist focus. To be very fair to President Zuma, the journalists of these media may not always understand or try to understand politics from his vantage point: the frameworks of many Zulu men of his generation and socio-economic background; his political socialization as a young man and later as the military intelligence head of a guerrilla force in a brutalizing struggle; the complex requirements of his political survival in a hybrid regime.

Still, the media and various actors from civil society have played an important role in maintaining the constitutional space for freedom of the media and expression against ANC pressure. It is clear that the ruling party will continue to be suspicious when it comes to media entities that do not align themselves with ANC objectives and policies.³⁹ The space for freedom of the media will continue to be under pressure in the hybrid regime. Both self-censorship and more independent investigative journalism by citizens and business may be the result.

The impact of the media on changing political dynamics should however not be overestimated. If the media uncovers questionable conduct by ANC politicians, it depends firstly on the ANC and its factions how it would respond to the revelations. The ANC's support to Zuma, even in the face of considerable scandals, indicate how strong a role the fear of losing jobs and access to resources can play. These dynamics limit the impact of the media and reinforce the hybrid regime. ■

35. P.J. Fourie, "n Terugkeer na die onderdrukking van vryheid van spraak? Ooreenkomste tussen die apartheidsregering(s) en die ANC se optrede teen die media", *Tydskrif vir Geesteswetenskappe*, 49(1), 2009, pp 62-84.

36. Reporters without Borders, 2002 at www.rsf.fr/article.php3?id_article=4116.

37. Reporters without Borders 2016 at <https://rsf.org/en/south-africa/>.

38. Freedom of the Press, Freedom House, 2016 at <https://freedomhouse.org/report/freedom-press/2016/south-africa>.

39. Also see Susan Booysen, *Dominance and Decline: The ANC in the time of Zuma* (Wits University Press, Johannesburg, 2015), p 309.