

# South African Monitor



## Assessing and Promoting Civil and Minority Rights in South Africa

### Mid-Year Update 2016

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*This report is also available in German – contact [admin@sa-monitor.co.za](mailto:admin@sa-monitor.co.za)*

## Introduction

South African Monitor aims to assess and promote civil rights in general and minority rights in particular in South Africa. It provides reliable information on relevant events, analyses significant developments and signals new emerging trends.

Focus areas include:

- Key dynamics of the executive;
- Democracy and the legislature;
- Order, the judiciary and the rule of law;
- Group relations and group rights;
- Freedom of expression, privacy and the media;
- Socio-economic rights and obligations;
- The political risks to business.

Five biannual reports have been issued to date, portraying the state of civil and minority rights in South Africa. All of these reports can be downloaded free of charge from the website, [www.sa-monitor.com](http://www.sa-monitor.com).

This year the format of the reports has been changed slightly, with a mid-year update focusing on key issues, to be followed by a comprehensive year-end report.

In addition, the website provides you with an opportunity to subscribe to future updates and reports, as well as to download auxiliary documents and articles relevant to the abovementioned focus areas.

You are welcome to address questions, suggestions, remarks and comments to [admin@sa-monitor.com](mailto:admin@sa-monitor.com).

### Part I:

#### **European support needed: Afrikaans language rights in political line of fire**

Twenty-two years after the end of apartheid, the language rights of Afrikaans-speaking South Africans have become a political pawn, regardless of the apparent constitutional protection Afrikaans enjoys. With the country's ruling party, the African National Congress (ANC), being under great pressure on the economic and political front, Afrikaans has become a convenient scapegoat to divert attention from the party's failures.

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In June 2016, three watershed moments took place which will have a significant bearing on the future of Afrikaans being used in academia and as a highly developed language of science, business, arts and culture.

On 20 June 2016, the University of the Free State (UFS) had to defend its council's decision to abolish the use of Afrikaans as default language of instruction of the

university in court against civil rights organisations AfriForum and Solidarity. The *amici curiae* who also took a stand in favour of Afrikaans instruction in the case, included the Afrikaans Language Board, the South African Teacher's Union and the Federation of Governing Bodies of South African Schools. Judgment has been reserved with no indication of when it may be expected.

On 22 June 2016 the councils of the Universities of Stellenbosch and Pretoria similarly decided in favour of a drastic reduction of the offer of Afrikaans-medium instruction at both institutions.

As of 2017, Afrikaans will no longer be a primary medium of instruction at the University of Stellenbosch – English will be the only language with this status. Already in 2015, the council had decided that Afrikaans would no longer be protected by the language policy of this institution. In addition, the policy which will be implemented in 2017 contains neither any guarantee, nor any quantification of the offer of Afrikaans.

In theory it is therefore possible that the language may in time become so marginalised as a result of neglect that the offer will come to an end. The university is directly involved in crucial language projects, such as the *Woordeboek van die Afrikaanse Taal* (a project involving the publication of a comprehensive Afrikaans dictionary), the development and publication of scientific terminology and the annual *Woordfees* (a language-based arts festival). The extent to which these projects will be influenced by this decision, remains to be seen. Should funding be cut substantially, their survival is unlikely though.

The decision of the council of the University of Pretoria is even more drastic. In a concession to ideological pressure, it voted in favour of English being the only language of instruction from 2017 onwards.

### **Development and multilingualism**

In the twentieth century, Afrikaans was one of only four languages to develop to a fully functional level for use in all academic domains, from the sciences, arts and politics, to the business world. This process also resulted in socio-economic development and a more dignified life for Afrikaans-speaking people.

Of the eleven official South African languages, only English and Afrikaans have developed to this high-function level. Therefore Afrikaans has an important role to play as guide for the development of other indigenous languages. If Afrikaans were to forfeit its hard-earned status as high-function language because of political interference, it is quite unlikely that any other indigenous language will develop to this level.

### **Numbers and multiracial concentration**

According to the South African national census of 2011, Afrikaans has the third largest number of mother-language speakers in the country. The language groups comprise of: Zulu (22.7%); Xhosa (16.0%); Afrikaans (13.5%); English (9.6%); Pedi (9.0%); Tswana (8.0%); Sotho (7.6%); Tsonga (4.5%); Ndebele (2.0%); Swazi (2.5%); Venda (2.4%); other (1.7%); and sign language (0.5%).

The mother-language speakers of Afrikaans are multiracial. The 6 855 082 individuals

who indicated in the abovementioned census that Afrikaans is their mother language, comprise 50,21% speakers of mixed origin; 39,54% white; 8,78% black; 0,86% Indian and Asian; as well as 0,61% undetermined speakers.

The mother-language speakers are dispersed throughout South Africa, with high concentrations of Afrikaans-speaking people in especially the Western Cape (49,69%) and Northern Cape (53,75%).

### Political pressure

The governing coalition of the ANC and the South African Communist Party (SACP) has been lobbying for the implementation of its National Democratic Revolution policy in the country's education system. Senior officials, including the Minister of Higher Education, Dr Blade Nzimande, advocate communism – in fact Dr Nzimande is also the General Secretary of the SACP. Monolingual English education at the expense of indigenous languages is being purported to be a mechanism that will promote social cohesion amongst South African communities.

Despite the multi-racial composition of the language's speakers, Afrikaans is sometimes referred to as a controversial language because of the favouritism it had enjoyed during the apartheid years. Constitutional institutions that are supposed to protect and promote South African language rights, are only of symbolic significance, due to a combination of the ruling alliance's deployment of cadres in these institutions, mismanagement, corruption, insufficient funding and a lack of enforceable powers. This includes the Pan South African Language Board; the Commission for the

Promotion and Protection of Cultural, Religious and Linguistic Rights; and the South African Human Rights Commission.

Ideological arguments about the use of English as a *lingua franca* is often heard, with the claim that "all South Africans understand English". However, the mother language of more than 90% of the country's residents is not English, and the English skills of especially poor, rural communities comprising all population groups leave much to desire. By denying Afrikaans-speaking people of their right to mother-language education, most of them will remain trapped in their socio-economic context. The speakers of other indigenous languages will similarly be disempowered in a monolingual English environment. Here the remark of Lodewijk de Raet applies: "Language interests are material interests" (*Taalbelang is stoffelijk belang*).

### Afrikaans under pressure as medium of instruction at universities

As things stand now, out of the twenty-six universities in South Africa, only North-West University will still be using Afrikaans as primary medium of instruction at its Potchefstroom campus in 2017. Since the beginning of the year, civil rights organisations have been involved in legal action against university managements in an effort to undo decisions in favour of the abolition of Afrikaans as primary language of instruction. Often small groups of violent activists claim that Afrikaans is being used as "language of exclusion" at tertiary level, despite the fact that the courses that are offered in Afrikaans, are accessible to them in English too. Ironically, such groups have no objection to the exclusion of Afrikaans-speaking students from mother-language education though.

Unless the legal processes referred to above are successful, Afrikaans will only be used for some courses in the Faculties of Theology and Education at the University of the Free State. The extent of the offer at Stellenbosch is not clear at this stage, while at the University of Pretoria's Faculty of Education, some courses might still be taught in Afrikaans.

In addition, the University of South Africa, the country's largest non-residential university had already decided against the further use of Afrikaans as language of instruction in April 2016. This decision only became public knowledge in June 2016.

### **Independent options**

With less tertiary study opportunities available in Afrikaans and corresponding ideological government pressure on public schools, concerns exist about the future of the language at all educational levels. The number of single-medium Afrikaans schools is decreasing at an alarming rate, in spite of the large and diverse mother-language community.

Civil rights organisations undertake a steadily growing number of projects and legal proceedings in order to promote the language rights of the Afrikaans community.

The success of private Afrikaans educational institutions, such as the Solidarity Movement's university, Akademia, and technical training facility, Sol-Tech, are considered to be the only viable way in which the long-term survival of Afrikaans as high-function language and the empowerment of Afrikaans students can be achieved. However, the successful execution of these projects is subject to great challenges in terms of capacity and funding, as well as government interference by means of regulation processes.

### **European support required**

Support for Afrikaans from abroad is crucial. Such backing may include influential role players and experts expressing their disapproval of the undermining of Afrikaans; the promotion of private educational institutions by means of an exchange of knowledge, students and staff; or even the support of Afrikaans art and cultural products.

The politically-driven agenda against Afrikaans must be opposed by all institutions and individuals who are passionate about language and civil rights, in order that this unique cultural treasure, with roots in Africa, Europe and even Asia, will not be lost to the detriment of the world in general.

## **Part II:**

### **Political assassinations surge before local elections in South Africa**

Glen Mashinini, chairman of the Electoral Commission of South Africa (IEC), warned in Durban on 9 June 2016 that politicians' failure to mute wild political promises and violent tendencies could destroy South Africa's democratic achievements.

Mashinini's warning came less than twelve hours after it had emerged that two members of the ruling ANC had been gunned down in Pietermaritzburg's Imbali township. One was fatally wounded, while the other is fighting for her life in hospital.

Since 16 April 2016, in the run-up to local elections on 3 August 2016, at least six senior ANC members have been killed in KwaZulu-Natal.

Many of the parties' leaders, including the ANC's provincial chairman, Sihle Zikalala, warned about the existence of so-called "no-go areas". According to KwaZulu-Natal ANC spokesman, Mdumiseni Ntuli, the ongoing assassinations of ANC leaders could be the work of party insiders who hire hitmen to take out their comrades.

### **Killings have become part of local ANC politics**

Over the past five years, at least fifty-five people have been killed in circumstances bearing the hallmarks of assassinations. The trend at present seems to be largely concentrated in northern provinces of South Africa, including KwaZulu-Natal, North West, Mpumalanga and Gauteng, although political killings have also occurred in the Western and Eastern Cape provinces.

Police Minister Nathi Nhleko recently established a political violence task team to deal with recurring murders, attacks and threats. However, it is not expected that this effort will have a major impact soon. Already in August 2013, Raymond Suttner, a lawyer and honorary professor at the University of the Witwatersrand, as well as a former ANC activist, stated: "(W)holesale assassinations have become a regularised way of deciding on leadership and access to wealth within the ANC and its allies."

Karl von Holdt, director of the Society, Work and Development Institute at the University of the Witwatersrand, concludes that three forms of intra-elite conflict over access to positions and resources occur. These forms

are political assassinations; local protests; and the struggle for factional control over the coercive instruments of the state.

Analysts concur that the control of resources, such as municipal tenders and jobs, are at the heart of the killings. "Access to networks that include people who are willing to carry out such killings may be one condition that enables such violence to flourish," according to analyst David Bruce, in the journal *Crime Quarterly* of September 2013. "Another may be the belief that pursuing political objectives through violence is legitimate, even within the context of post-apartheid South Africa."

### **Political violence, factions and a hybrid system**

Political competition and factionalism over positions and resources, sometimes violent, will intensify in the run-up to the local elections on 3 August 2016, the ANC's leadership succession in 2017, and the national elections in 2019.

Under the rule of President Jacob Zuma, South Africa has moved from a flawed democracy to a hybrid regime. The locus of politics is no longer parliament and elections, but a field of power where non-democratic and democratic elements interact. These elements include: an unaccountable presidentialism; weak democratic checks on the executive; extending the ANC's power in a one-party dominant state through state patronage and pro-ANC crony capitalists; as well as the securitization of politics and political assassinations.

Factional competition over positions and resources is intensifying in the ANC, its allies and breakaway factions, like the

Economic Freedom Fighters and NUMSA trade union. These dynamics will result in shifts, uncertainty and discretionary decisions in economic policy-making. They will also result in militant strikes, political tensions and protests, and local political assassinations.

### **A climate of fear in several provinces**

Media attention is very much on political killings in KwaZulu-Natal, the province from which President Zuma hails. However, local ANC officials and politicians in the provinces Mpumalanga, Gauteng and North West are also being targeted, giving rise to a climate of fear.

“It’s not the ANC that is killing the people, but it’s corrupt people within the ANC who want to monopolise power using the organisational machinery”. When you get involved in ANC party politics in Mpumalanga, you know you may be killed. This is according to ANC councillor candidate Themba Mpila, whose friend Michael “Zane” Phelembe was shot at his home in Pienaar on 27 May 2016. Phelembe died a few days later.

“We joined the ANC voluntarily with the full understanding of the politics of Mpumalanga that, among other things, we would be killed,” said a distraught Mpila. He said Phelembe had told him of a hit list and that his (Mpila’s) name was also on it.

In Tshwane, an ANC member’s bodyguard was shot during a meeting intended to elect a ward councillor for Hammanskraal. Jeanette Dibetso-Nyathi, a former mayor of Rustenburg, NorthWest, was shot at two years ago. Neo Moepi, previously the spokesperson for Thandi Modise, the chairperson of the National Council of Provinces, said he has to watch his back. “It’s not just me; everyone in this province is scared.”

Protest politics may have some impact on business operations in a specific location, but are likely to be of limited duration. Depending on the locality, protest politics may be more prominent during periods in the run-up to elections, during elections and shortly thereafter. Business and NGOs should review and regularly update their risk mitigation measures.

## **Part III:**

### **Business opportunities and political risk management**

In May and June 2016, South Africa’s economy narrowly avoided being downgraded by the credit rating agencies Moody’s and Standard & Poor’s to non-investment or “junk” status. In both cases, the ratings agencies were throwing the South African government a lifeline. Their message was that the South African economy is not as attractive or stable as it had previously been, and that the government had to get things right or suffer

the consequences during an awaited rating at the end of 2016.

South Africa’s political and economic restabilization increasingly depends on a healthy private sector and sustainable communities. South Africa continues to present attractive business opportunities. A McKinsey Global Institute report of 2015, *South Africa’s big five: Bold priorities for inclusive growth*, identifies five major

opportunities: service exports; advanced manufacturing; infrastructure; natural gas; and the agricultural value chain. New business opportunities will continue to emerge in Africa's third largest economy, which remains a major gateway to other markets in Africa.

However, the political risk to foreign business cannot be ignored. The increased political risk in the next few years will increase the opportunity cost of business in South Africa. Several domestic and foreign businesses have already restructured or reduced their activities in South Africa. Others have waited or stayed away from South Africa, or have decided to rather pursue opportunities in other markets.

What are some of the key issues of political risk in South Africa in the next few years? South Africa's economy will remain vulnerable to shocks from major international economic and political events, like fallout from the Brexit referendum in the United Kingdom.

Policies for economic growth will remain torn between different stakeholders and policy preferences. Policy incoherence and unexpected twists will often reflect phases in factional competition and newly-bargained advantages and alignments, rather than ideological vacillation.

Policy swings and uncertainty will be experienced maximally by companies in those sectors most exposed to the government's political priorities or regulatory and licensing power. Minerals; energy; security; agriculture; telecoms; and pharmaceuticals would be among these sectors.

The ANC has proceeded with several regulations; policy initiatives; bills and laws

regarding mining and energy; the security industry; affirmative action and black empowerment; land; patents; and foreign investors in general. The common underlying policy in all of them is the same: they greatly increase the ANC government's interventionist powers in the economy.

The American Chamber of Commerce's South African executive director, Carol O'Brien, stated in February 2015 that the plethora of legislation originating from South Africa is causing "jitters" in American businesses with operations based in the country. The planned and actual measures would weaken property rights and reduce private-sector autonomy. There are also different codes of conduct in different jurisdictions, and international business would need to heed best practices regarding integrity risk and reputational risk.

The high levels of state debt and the needs of the ANC's patronage networks will drive efforts to look for new sources of income, both domestically and internationally. The value of some state-run corporations, but also other assets or opportunities of which it should be the public custodian, could be capitalized or mortgaged. Sometimes this will have a knock-on impact on existing government undertakings towards business.

The levels of visible state mismanagement and operational risk are likely to remain high or sometimes even rise. This state of affairs will continue to have an effect in many areas of service delivery: the security of citizens and farmers; electricity; water management; waste management; road maintenance; education; postal services; and others that may arise. The impact will differ per province and locality, with pockets of sufficient or good service delivery in provinces and local areas.

Factions within trade unions and trade unions will compete intensely with each other for members; networks; power; status; and resources. As a result, industrial unrest will be a major risk during the next few years. Due to the context in which it will be occurring, the potential politicization of disputes could be fast and assume militant forms.

The factional search for more resources in the hybrid regime could result in an increased dependency of key decision-makers on foreign patrons like Russia, China or other political and business actors. The field of competitors and importance of specific

competitive advantages of business may change suddenly. Western business is advised to actively involve their business associations, business media and policymakers to support their projects in South Africa.

There is a limited but robust evolution of capacity and self-help initiatives within cities, communities, and the private sector. Business and NGOs are advised to identify potential partners and to use the opportunities involved. International business may find it worthwhile to conduct corporate social responsibility projects that focus on entrepreneurship training and business education. ■