

South African government is stripping minorities of their minority rights

Report to the UN Forum on Minority Issues

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1. Background

In stark contrast to the praiseworthy efforts by the Forum on Minority Issues to implement the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* in UN member countries, the South African government is increasingly stripping its minorities of the limited minority rights they still have.

The motive for doing so is set out in the policy documents of the South African governing party, namely the African National Congress (ANC), as to what it calls 'the National Democratic Revolution' (NDR).

In terms of the ANC's NDR policy documents South African minorities such as Afrikaners and whites in general are not regarded as fellow Africans, but as 'colonialists of a special type' (CSTs). By labelling South African minority communities as CSTs, depicting them as the antithesis of the so-called 'motive forces' of the continued struggle, the government is portraying the CSTs as opponents, or even enemies of the revolution. In terms of this logic of the ANC, the NDR is in effect engaged in a struggle against the CST. The CSTs are not part of the ANC's 'we', namely Africans, South Africans and 'motive forces', but rather the 'they' against whom the struggle should be fought.

In 1962 the South African Communist Party (SACP), which is a member of the present South African ruling alliance, endorsed the concept of a 'national democratic revolution'. Its 'Road to South African Freedom' policy document states that the 'colonial state' needs to be overthrown and the new state used to suppress the former ruling classes and to transform society. The ANC committed itself to the National Democratic Revolution in 1969.

Some may argue that the above battle-inspired terminology only applies to the ANC before 1994 and that the ANC has done away with it by making important concessions during the political transition. However, the following becomes evident in the ANC's post-1994 strategy documents:

- The ANC does not regard the agreements made during the political transition to be a final compromise made to ensure peace and cooperation among all South Africans.
- Tactical concessions were merely made in order to obtain state power, after which the agreements reached could be disregarded as the balance of power shifted in favour of the ANC.
- The struggle continues, the only difference being that it is now being conducted with the power of the state at its disposal.

- The excessive use of struggle terms by the ANC in 2012 proves that the struggle against the CSTs still remains central to the ANC's ideological armoury. They include terms such as 'balance of forces', 'revolution', 'disciplined force', 'motive forces' and 'battle'.

2. Balance of forces

In terms of the ANC's continued struggle and 'balance of forces' mindset, the ANC has to sway the balance of power as much in its favour as possible in order to succeed with the NDR. The ANC therefore has to increase its own power and erode away the minority rights of its so-called 'opponents', in other words the CSTs. This is being done in the following ways:

- **The ANC strengthens own power base:** The ANC's policy documents expressly state that the organisation is using its cadre deployment policy to ensure ANC control over 'all centres of power'. As a result, the ANC has already succeeded in gaining control of most institutions having significant authority. Where the ANC is unable to gain control, for example over the independent media, it considers adopting undemocratic methods and legislation to try and control them.
- **Stripping minorities of their rights as a minority:** The ANC is currently using various strategies to undermine the position of minorities, who are regarded as opponents.

3. Stripping minorities of their rights as a minority

The ANC has, since the end of former President Nelson Mandela's term of office, turned its back on President Mandela's reconciliatory approach and has systematically begun to strip minorities of their minority rights in South Africa. The following are examples of this:

3.1 Paralyzing the constitutional bodies that minorities may call upon for assistance

In terms of the Constitution of South Africa various institutions were established that were supposed to ensure that citizens, but minorities in particular, would be protected from any form of abuse of power. This was considered essential in view of the strong power base of the majority. The ANC regards these bodies as an impediment to the implementation of the NDR and has therefore tried to ensure that the following bodies regulating the balance of power are completely ineffectual:

- **The Section 185 Commission:** Provision for this commission for the protection and promotion of the rights of cultural, religious and language communities was included in the Constitution (Section 185) during the political transition at the insistence of minority parties. However, in practice the ANC made this commission inoperative by initially delaying its establishment and thereafter by focusing the commission's aims on nation building, instead of the protection of community rights.

The final kiss of death was given by deploying struggle cadres to man the commission, thereby ensuring that the commission is under the firm control of the ANC. As a result, the management of the commission now regularly attends the ANC's working group meetings on cultural affairs in order to align the commission's activities with the aims of the ANC. The

commission also paid the expenses of its chairperson to attend the ANC's centenary celebrations.

The hijacking of the Section 185 Commission by the ANC has resulted in the commission being of no use to minorities. In fact, it is now even being used as an instrument for opposing minority demands. When AfriForum recently started a campaign to protect Afrikaans as a medium of instruction in schools, the commission issued a statement criticising AfriForum's campaign. Ironically, the commission should have been the one institution that AfriForum should have been able to approach for support in this regard.

- **The Human Rights Commission:** AfriForum has over the years submitted numerous complaints to the commission which have been blatantly ignored. Once again cadre deployment was used to render the commission completely ineffectual. The appointment of Mr Lawrence Mushwana as the chairperson is an example in this regard. In a court ruling it was established that during Mushwana's stint as the Public Protector, his investigation into the so-called Oilgate scandal had been done so superficially that it could not even be called an investigation.
- **The Pan South African Language Board (Pansalb):** Pansalb was created in terms of the Constitution with the aim of protecting and promoting language rights in South Africa. AfriForum submitted several complaints to Pansalb through the years and favourable rulings were obtained against various institutions that violated language rights. However, the ANC has ensured that Pansalb does not have any power to enforce the rulings concerned. This means that rulings in favour of AfriForum have been ignored by state departments. In addition, insufficient funding and unsuitable appointments have paralysed the board even further. Even more telling of the degree of state interference in matters relating to Pansalb is the fact that the Minister of Arts and Culture recently blatantly contravened the Constitution by interfering in Pansalb board appointments.
- **The judicial system:** To the great frustration of the ANC the judicial system is one of the very few institutions not yet under the complete control of the ANC. One can expect the ANC to launch intensified attempts to change this state of affairs. Danger signs have already been detected in the politically driven actions of most members of the Judicial Services Commission during the appointment of Chief Justice Mogoeng Mogoeng. In KwaZulu-Natal the ANC recently even went as far as stating that the transformation of the bench is not so much concerned with the appointment of black judges as with the appointment of candidates who are sympathetic to the ANC. The high cost of litigation is also a deterrent to challenging the present state of affairs, especially as the 'cheaper' option of laying charges with institutions provided for in section 9 of the Constitution, has in effect become a futile exercise.

3.2 Portraying minorities as undeserving scapegoats

The continued portrayal of minorities such as Afrikaners and whites in general as scapegoats for everything that goes wrong in South Africa, creates the impression that minorities should be

grateful for being tolerated and in fact dare not claim their rights. In this regard it is an increasingly common practice to make racially driven statements against whites.

The only thing worse than the ANC Youth League leaders' statements, is the ANC's failure to call them to order. The ANC has found the party's former youth leader, Julius Malema, not guilty on a charge of acting in a polarising manner when he stated, in the presence of President Zuma, that 'once we agree they [*whites*] stole our land, we can agree that they are criminals and must be treated as such'. Neither did the ANC utter a single word of protest when the party's deputy youth leader, Ronald Lamola, made the following threat, namely that Afrikaners' safety cannot be guaranteed unless they surrender their land without compensation.

3.3 Use of representivity to prevent minority control of institutions

A central aim of the ANC is to ensure that the demography of South Africa is replicated in all institutions, as this will help create a National Democratic Society. This means that no institution controlled by minorities will eventually be able to exist. Communities that do not have their own institutions are particularly vulnerable.

4. The present state of language, cultural and education rights in South Africa

The ANC's success in strengthening its own power base and rendering constitutional bodies that are supposed to protect minorities ineffectual in terms of its 'balance of forces' mindset has already affected the state of language, cultural and education rights in South Africa. People whose rights are being violated have limited access to significant methods of recourse and are often left at the mercy of the all-embracing power of the state.

4.1 Education rights

Section 29 of the Declaration of Human Rights in the Constitution states that everyone has a right to education. The fact that about 80% of the public schools in South Africa are dysfunctional proves that the right to education of an overwhelming majority of learners is being violated. Should the current state of affairs persist, less than half of the children who annually enrol in Grade 1 will eventually write their matriculation examinations and then only a third of them will pass, even though the standards and requirements for passing are quite low.

In my opinion, and in the opinion of others, the main reason for this state of affairs is the stranglehold that the SADTU union has on education. Teachers who do not do their work are protected at the expense of learners. Where SADTU has no influence, education of a high-standing quality is being provided. Having adopted the aims of the National Democratic Revolution the ruling alliance now considers itself to be a movement with lofty aims that ought to spearhead the revolution. This results in the ANC tolerating the violation of learners' rights, instead of taking action against its alliance partner, SADTU.

Another example of the violation of educational rights is the pressure that is being brought to bear on Afrikaans as a medium of instruction in schools and tertiary institutions.

4.2 Schools

AfriForum regularly receives complaints from communities in which schools are subjected to politically motivated demands to change their language policy. Of the approximately 1 400 single-medium Afrikaans former Model C schools, fewer than half (667) were able to retain their language policy after this kind of political pressure was brought to bear on them. This happened despite the provisions of section 29 of the Constitution which recognises single-medium schools as an option.

In Gauteng, to name but one province, a further 33 Afrikaans schools are at present being subjected to improper political pressure to change their language policy by officials of the Department of Basic Education who seem to be abusing their power. Although school governing bodies have the right, in terms of the South African Schools Act, to choose their respective schools' language policy, principals have been ordered by education officials to change their language policies. When this does not happen, the principals are threatened with disciplinary steps.

In a town called Fochville all three of the Afrikaans schools were forced to change their language policy, although children who wanted to have an English first language education could have been accommodated in one of these schools only. This kind of language pressure on schools has in several cases already resulted in Afrikaans being completely phased out as the medium of instruction; the former Afrikaans schools are now single-medium English schools. AfriForum is therefore paying the legal fees of one of the schools in Fochville whose governing body would like to oppose the matter in court.

Promises by the Department of Education that additional resources will be provided to schools that change to a parallel-medium system usually also end up being broken.

4.3 Tertiary education

Afrikaans is under serious threat at this level too. Afrikaans no longer serves as the medium of instruction at the former technical colleges and is experiencing a great deal of pressure at universities whose language of instruction used to be Afrikaans.

At the University of Pretoria only an estimated 35% of the modules are still available in Afrikaans, while the language is also in the line of fire at the University of Stellenbosch (US). Recommendations have been made at the US to have the primary language of communication at the Faculty of Health Sciences to be wholly in English, including at the Tygerberg Hospital where students undergo their practical training. This is the case even though Afrikaans is the home language of 60% of people living in the Western Cape. The residential placing system which is being proposed at the US right now entails that a maximum of 45% Afrikaans students be allowed per residence and that no more than 40% white students should be allowed in mixed residences housing both male and female students. It also calls for half of the students to be accommodated in residences to be the children of parents who did not study at the US.

By implication this means that a mere 50% of the students whose parents had studied at the US will be admitted.

The deterioration of the position of Afrikaans as a medium of instruction at universities can be ascribed to the government's failure to fund multilingualism. The uniform formula used for the funding of universities makes no provision for extra funding for universities offering education in more than one language. This failure may well be intentional, as numerous requests for the funding of multilingualism have fallen on deaf ears.

4.4 Language and cultural rights

Although the ANC pays lip service to the importance of the promotion of indigenous languages, and although multilingualism is recognised in the Constitution, English has, under the ANC's administration, in effect become the country's only official language.

The deliberate refusal to accept the Languages Bill drafted in 2003 paved the way for the further anglicisation of the country – a process that had already started in 1994. The ANC government only gave attention to introducing a Languages Act again in 2010, when a lawyer, Cerneels Lourens, succeeded in obtaining a court order obliging the state to comply with its constitutional duty to finalise and implement such an Act.

As far as cultural and heritage issues are concerned, rights are being violated by a combination of neglect and deliberate violations. One of the most blatant examples occurred in Standerton, where the mayor ordered a Great Trek commemoration plaque to be removed to a dump by means of a grader. Examples of neglect include the deterioration of hugely significant heritage sites such as Anglo-Boer War cemeteries and the difficulties experienced by subsidised institutions such as the Voortrekker Monument in Pretoria to get the allocated subsidies paid into their accounts. Subsidies are also often cut with little warning, leaving the institutions in a precarious position.

5. Call on Forum for Minority Issues

AfriForum calls on the Forum for Minority Issues to take a strong stand by insisting that ALL countries take steps to meet the provisions of the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*. If South Africa is compelled to comply with this Declaration, it would have to stop its assault on minority rights and instead start to expand these minority rights.

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