



Gender, Politics and Freedom of Expression: The case of Dr Makhosi Khoza's Facebook Post

- Sandile Khuboni

The relationship between gender dynamics and freedom of expression remains a live issue in South Africa. The recent backlash towards Dr. Makhosi Khoza (an ANC-affiliated MP) following her anti-Zuma Facebook post demonstrates this unsettling reality. The incident also reveals the troubling manner in which political patronage/affiliation can act as an instrument of censorship, preventing the adoption of a voice contrary to the political status quo.

The Constitution of the Republic of South Africa protects and guarantees the right to freedom of expression. According to section 16 of the Constitution, freedom of expression is defined as follows:

“Everyone has the right to freedom of expression, which includes—

- (a) freedom of the press and other media;*
- (b) freedom to receive or impart information or ideas;*
- (c) freedom of artistic creativity; and*
- (d) academic freedom and freedom of scientific research.”*

While, section 16(2) contains some explicit limitations to this right, they are narrowly expressed and construed:

“The right in subsection (1) does not extend to—

- (a) propaganda for war;*
- (b) incitement of imminent violence; or*
- (c) advocacy of hatred that is based on race, ethnicity, gender, or religion and that constitute incitement to cause harm.”*

On May 11, 2017 at 6:15pm, Dr. Makhosi Khoza commented on her Facebook page in support of a parliamentary vote of no confidence against President Zuma:

“How does one divorce a moral conscience from one's political choice and decisions? When truth decomposes duplicity thrives. Admittedly, none of the MPs are directly elected. My political moral conscience signature is the ANC constitution notably Rule 4.17. Please read it. I, therefore, cannot be expected to vote an amoral leader whose behavioural practises liquidates the ANC at a speed faster than the spacecraft. Whenever I cast my vote, I always vote for the ANC. This time around if called upon to vote, I solemnly declare that I'll vote for the ANC survival and not ANC liquidation and [a] moral authority enemy.”

This post, which amounts to Dr. Khoza expressing her opinion, was met with antagonistic protests from the ANC Youth League in the eThekweni region and President Zuma's supporters in general. This unwarranted reaction demonstrates a disregard for the constitutionally-



protected right to free expression as defined above. On the face of it, Dr. Khoza's post was protected by s16(1) of the Constitution and did not constitute propoganda for war, incitement of violence or advocacy of hatred, and thus, could not be constitutionally limited, even by her political party. Any attempt to do so indicates an impulse towards censorship, which should be all the more concerning when it comes from the ruling party responsible for promoting constitutional precepts.

The attitudes and actions of the ANCYL seek to define individual expression based on political loyalty and patronage. However, this is not constitutionally permissible. The duty of MPs to their parties should not prevent them from exercising their right to free expression.

The extreme reaction of the ANCYL to Dr. Khoza's post also reveals an impermissible gendered layer of limitations to free expression. The protests outside of the Elangeni Maharani Hotel and threats to protest outside of Dr. Khoza's house in Durban demonstrates how the ANC and President Zuma's supporters have manipulated violence against women—common within South African society—for their own political gain. The fact that Thinta Cibane (the ANCYL Secretary) shared Dr. Khoza's home address on Facebook clearly indicates a notable willingness to intimidate women specifically. Though other individuals, who have spoken out against Zuma, have faced intimidation tactics, these have never occurred at their private residences.

Instead of threatening or intimidating Dr. Khoza, the FXI posits that the ANC should have taken this opportunity to promote and advocate for the right of women to express themselves freely. Section 16 of the Constitution does not distinguish between men and women, accordingly protecting them equally. Distinctions based on gender when it comes to constitutionally protected rights, such as freedom of expression, has no place in South Africa.

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About the Freedom of Expression Institute (FXI):

The FXI was formed in 1994 to promote and defend the right to freedom of expression and information. The FXI contributes to the creation of a society where everyone enjoys the right to free speech and the right of access to information and knowledge. We engage in litigation, research and civic education and advocacy. The FXI educates the public about the dangers of censorship and we collaborates with a wide range of local and international organisations. The FXI is challenging the criminalisation of protests. Any community member can contact the FXI if they fear their right to protests is being undermined.