



RIGHT2KNOW

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Let the truth be told
Stop the Secrecy Bill!

A responsive and accountable democracy that can meet the basic needs of our people is built upon transparency and the free flow of information. The gains of South Africans' struggle for freedom are threatened by the Protection of Information Bill (the Secrecy Bill) currently before Parliament. We accept the need to replace apartheid-era secrecy legislation. However, this Bill extends the veil of secrecy in a manner reminiscent of that same apartheid past. This Bill fundamentally undermines the struggle for whistleblower protection and access to information. It is one of a number of proposed measures which could have the combined effect of fundamentally undermining the right to access information and the freedom of expression enshrined in the Constitution.

Our concerns:

The Bill will create a society of secrets

- Any state agency, government department, even a parastatal and your local municipality, can classify public information as secret.
- Anything and everything can potentially be classified as secret at official discretion if it is in the 'national interest'. Even ordinary information relating to service delivery can become secret.
- Commercial information can be made secret, making it very difficult to hold business and government to account for inefficiency and corruption.
- Anyone involved in the 'unauthorised' handling and disclosure of classified information can be prosecuted; not just the state official who leaks information as is the case in other democracies
- The disclosure even of some information which is not formally classified can land citizens in jail. This will lead to self-censorship and have a chilling effect on free speech.
- Whistleblowers and journalists could face more time in prison than officials who deliberately conceal public information that should be disclosed
- A complete veil is drawn over the workings of the intelligence services. It will prevent public scrutiny of our spies should they abuse their power or breach human rights.

Who will guard the guardians?

- Officials do not need to provide reason for making information secret
- There is no independent oversight mechanism to prevent information in the public interest from being made secret.

- The Minister of Intelligence, whose business is secrecy, becomes the arbiter of what information across all of government must remain secret or may be disclosed to the public.
- Even the leaking of secret information in the public interest is criminalised.
- Unusually severe penalties of up to 25 years in prison will silence whistleblowers, civil society and journalists doing their job.
- All these factors will limit public scrutiny of business and government, whether through Parliament or journalists. Accountability will be curtailed and service delivery to the people will be undermined.

Our demands:

The Constitution demands accountable, open and responsive government, realised among other things through freedom of expression and access to information. Our elected representatives are bound by these Constitutional values and any legislation they pass must comply. We demand that the Protection of Information Bill - the Secrecy Bill - must reflect the following:

- Limit secrecy to core state bodies in the security sector such as the police, defence and intelligence agencies.
- Limit secrecy to strictly defined national security matters and no more. Officials must give reasons for making information secret.
- Exclude commercial information from this Bill
- Do not exempt the intelligence agencies from public scrutiny.
- Do not apply penalties for unauthorised disclosure to society at large, only those responsible for keeping secrets.
- An independent body appointed by Parliament, and not the Minister of Intelligence, should be the arbiter of decisions about what may be made secret.
- Do not criminalise the legitimate disclosure of secrets in the public interest.

ENDS