

APPENDIX 3: 2013/14 NARRATIVE REPORT

1. Introduction

Looking back, the last year will be remembered by many as the year of soaring police brutality. The year the gloves came off and the state demonstrated the contempt with which it holds the voices (and lives) of ordinary people.

Others will remember this past year as the one when President Zuma's Nkandla residence captured the headlines. Built with the brick and mortar of secrecy and corruption, this came to represent the social distance between our elite and the majority of our people who live in poverty.

Still others will remember this past year as the year that courageous whistleblower Edward Snowden exposed the extent of America's on-line surveillance activities. We now know that our communications are fundamentally compromised and the USA are storing and monitoring all our internet and email traffic.

Others will remember this past year as the year that Numsa struck a fatal blow to the 20+ years of the ANC's dominance of liberatory politics.

What is clear is that in the face of a deepening global economic and ecological crisis the ruling elite are battling to rule by consent and are preparing and prepared to govern 'by any means necessary'.

In this context we have witnessed the rise of a new authoritarianism and intolerance that is eroding key democratic gains. We see it in the pattern of intimidation and violence against whistleblowers, the increasingly repressive state responses to protestors, and a Parliament at the service of the securocrats.

At the same time the South African people have responded to the deepening crisis with a renewed commitment to defend and advance a popular democracy that can meet the needs of all. The broad unity in opposition to the Secrecy Bill under the R2K banner was a critical moment in this renewal. The courageous stand taken by the striking miners of Marikana in 2012 was another critical moment. In 2013 the metal workers – the largest organised section of the working class – broke with the ruling alliance. There are no doubt further waves of renewal and resistance to come and the Right2Know must locate our struggles within this broader revitalisation.

2013 has been a period of both growth and consolidation as the Right2Know Campaign has become more active on aspects of our work beyond the Secrecy Bill and strengthened and formalised many aspects of our young organisation.

2. Stop Secrecy

In 2013 we saw mounting evidence of the growing culture of secrecy in South Africa's public life. From the political capital expended on defending the Secrecy Bill and Traditional Courts Bill and the increased use of Apartheid's National Key Points Act to evidence that state-security structures may be involved in illegal and unregulated surveillance, and the alarming escalation in acts of brutality from an increasingly militarised police force. In the first months of 2014 alone at least 12 people have been killed by the police during protests.

In the course of 2013, Right2Know campaigned against the Secrecy Bill from the NCOP back to Parliament, to the Presidency, back to Parliament, and back to the Presidency again. The Campaign engaged in good faith throughout this process both within Parliament and with public meetings, pickets and protests across the country demanding the Bill be amended to meet the R2K Freedom Test.

In retrospect this process has exposed the determination of the securocrats to legalise the extensive classification of state information and the inability of Parliament to hold the Executive arm of government in check.

While we must continue to petition the President not to sign the Bill, we have also prepared a solid constitutional legal challenge in the likelihood that the Secrecy Bill Becomes the Secrecy Act.

Beyond the Secrecy Bill the Campaign also opposed the General Intelligence Laws Amendment Bill (aka the Spy Bill). While succeeded in narrowing the securocratic mandate, which had effectively required state-security operatives to intrude into democratic spaces and monitor lawful political activity, the final Spy Law failed to regulate 'foreign signals intelligence' (including the monitoring of Facebook, Gmail, etc) and further centralising the power of intelligence agencies under the Ministry.

We also launched a campaign to scrap the National Key Points Act, the Apartheid law with its wide secrecy provisions that contradict the spirit of openness that our Constitution demands. In the last five years the list of National Key Points has increased by 54% and its anti-gathering provisions continue to be used against unions and civic organisations to undermine the right to protest.

The R2K held a series of protests at suspected Key Points and has instituted legal action in response to our rejected PAIA application requesting a list of Key Points.

A broader public dialogue is desperately needed on the role and mandate of state-security structures in South Africa's democracy. In this regard a highlight of 2013 was the publishing of the R2K Secret State of the Nation Report³ in response to the President's State of the Nation, highlighting a growing trend towards secrecy.

In 2013 the government announced that a Parliamentary 'review' of the National Key Points Act and a review of all Intelligence laws would take place in 2014. Right2Know must engage and popularise these processes to ensure that they do not 're-legitimize' current draconian laws and practices.

In general, transparency debates are overly focused on government secrecy, at the expense of scrutinising corporations whose profit-making activities may be as worthy of public outrage. R2K must begin to put corporate secrecy on the public agenda, especially involving government-private sector business relationships such as outsourced contracts, environmental impact assessments, and primary-industry permits.

In the coming period we must continue to raise awareness of abuses of power by state security agencies and of privacy as an infringed right in South Africa – in particular the monitoring and intimidation of our leaders and organisations. As a

3 See the 2013 Secret State of the Nation Report here: www.r2k.org.za/secrecy-report-2013

number of our efforts on this front enter the legal terrain we must be sure to integrate our legal and advocacy efforts with our broader mobilisation strategy.

3. Access to Info Now

From South Africa's 'model' constitution to our 'model' access to information law (PAIA), the state has been subject to a broad swathe of transparency measures to ensure accountability to citizens. However the public's 'right to know', while ensured on paper, is often frustrated in practice prompting the Campaign to talk about the 'existing state of secrecy'.

Many activists and civil society organisations battle to hold government accountable, prevent corruption, and access information they require to advance their struggles for social, economic, and environmental justice.

Many of us are justifiably frustrated when the R2K is referred to in the media as an NGO or 'lobby group'. Our first National Summit in 2011 resolved that the Campaign should be a movement rooted in the struggles of poor and working class communities. Our work to ensure that public and private sector information is easily accessible to citizens bears testimony to this commitment.

In the course of 2013 we have documented over 28 actions of solidarity. These have included: engaging the National Energy Regulator of South Africa, demanding access to secret Eskom preferential pricing agreements that inform their costs structure and motivations to increase the cost of electricity; joining a march on Monsanto to demand that the public be informed about the risks of GMO crops; supporting the community of Makaase to challenge RandWater's efforts to remove their housing to deliver water to OR Tambo airport; supporting the Poor Flat Dwellers Association in Durban to access information about sectional titles and levies; supporting the call for an inquiry into policing in Khayelitsha; supporting the Vaal Assembly campaign demanding the Cape Gate company give access to environmental and health information; calling for greater access to information regarding the dispensing of medicines across South Africa; and, working with the women of rural Molweni to support their struggle with the local councillor who prohibits them access to the municipal hall.

We continue to employ a wide range of tactics from marches and pickets to popular education workshops and formal information requests. In 2013, we submitted 22 PAIA requests for 8 different community organisations in partnership with the South African History Archive. That said, we must note the limits of PAIA and recommit R2K to accessing information that is less reliant on the law and focuses more on social relations, justice and politics.

While the Campaign has undertaken extensive awareness raising and solidarity work in the past months, our solidarity work has often lacked the consistency necessary to remain engaged in various struggles and walk alongside our supporting organisations through setbacks and victories in their respective struggles. This is a limitation we must do our best to address in the coming year.

Another common weakness in this work has been weak documentation of struggles and interventions. Right2Know can play an important role in sharing information and connecting various organizations and capacities within the R2K network. We must strengthen our capacity to develop statements that draw the

public's attention to various struggles and the centrality of access to information in winning various demands.

There is an increasing international trend towards making information proactively accessible to citizens. This includes publishing and maintaining information – including primary data sets – on websites. The diversity of languages in South Africa and lack of media diversity and access to telecommunications also impedes access to information that is already in the public domain.

In 2013 we worked with ODAC to survey civil society information needs and explore innovative strategies to meet these needs⁴. Based on this consultative process, the Campaign resolved to convene a consortium of progressive civil society organisations to lead a campaign for open data⁵. This consortium will set an information access agenda (using PAIA, direct action, and hacktivism), commit to sharing information already in the public domain but tied up in different 'silos', and set a research and packaging agenda to drive the interpretation of data and the production of popularly accessible material including infographics. As yet, we have not been able to source funding for this consortium but efforts continue.

Our 'info access' work must remain at the heart of our campaign – rooting the campaign in broader struggles and demonstrating the foundational nature of the right to know: Without access to information we cannot win the political, socio-economic and environmental justice we desire.

4. Advancing the Right to Communicate

The right to communicate – to freely exchange information and opinion - is not a privilege or luxury for those who own media or have access to telecommunications. It is a necessity and a human right central to our right to know. The R2K aims to ensure that South Africa enjoys a free and diverse range of public, private and non-profit media and open and affordable access to the internet and telecommunications.

During the anti-Apartheid struggle, activists campaigned not only for media freedom, but for a greater diversity of media. This struggle birthed the community media and a vision for the transformation of the Apartheid-era SABC from a state broadcaster into a 'public broadcaster' with greater independence to broadcast without direct government control.⁶

The SABC – with by far the greatest national reach and range of language offerings – has had its public broadcasting mandate simultaneously undermined by privatisation-outsourcing and the subsequent battle to secure the funding needed to produce quality public programming and to determine its independence from powerful factions within the ruling elite. Community and small commercial media have been left to fend for themselves in a hostile market place.

The R2K tackled the political interference in the editorial independence of the SABC when the public broadcaster canned a popular current affairs talk show, The

4 See the final ODAC research report here: www.r2k.org.za/?p=2861

5 See the Open Data project concept note here: www.r2k.org.za/?p=2311

6 See the Right2Know discussion document on public broadcasting: www.r2k.org.za/?p=1198

Big Debate⁷ and after journalists were instructed not to report on the public booing of the President⁸.

Of particular concern to the R2K has been the planned migration from analogue to digital terrestrial television. This migration will free up considerable spectrum that will be used to deliver telecommunications services and digital television will allow for significantly more TV channels to be broadcast – potentially a massive advance in media diversity⁹. In 2013 R2K advocated successfully for ICASA to allocate 50% of new stations to public and community broadcasting (with a third of the channels still to be allocated)¹⁰.

ICASA's independence has also come under attack from the Department of Communications who have re-tabled the controversial ICASA Amendment Bill. R2K has called for the withdrawal of the Bill¹¹.

South Africa's print media remains dominated by four major commercial companies that control over 80% of all circulation (with Media24/Naspers alone controlling 40%), and content and distribution remain highly skewed towards the English speaking urban population.

In the course of 2013 R2K engaged the industry-led Print and Digital Media Transformation Task Team (PDMTTT) and argued that it is not enough to focus on 'narrow' transformation of race and gender representation on the boards of elite organisations -- there must be broader transformation to ensure diversity of views and ownership models. Transformation must ensure that the media reflect society (including working-class communities) at the levels of ownership, staff and product¹².

In December the new owners of Independent Newspapers – the Sekunjalo Group – removed the editor of the Cape Times apparently because she published an article reporting on Sekunjalo involvement in tender irregularities. R2K organised a picket demanding the reinstatement of the editor and the introduction of an editorial charter that protects journalistic independence from managerial interference¹³.

In what we could see as evidence of the R2K's standing, the picket elicited the launching of the Media Transformation Movement of South Africa (MTMSA) - a hastily organised initiative with links to Sekunjalo and the ANC intended to delegitimize the Right2Know¹⁴. The MTMSA clearly failed.

⁷ See the Right2Know statement on the canning of The Big Debate here: www.r2k.org.za/2013/10/18/big-debate-canning/

⁸ Read the R2K & SOS statement on SABC censorship of booing of President Zuma: www.r2k.org.za/2013/12/23/unban-the-boo/

⁹ See the R2K draft vision for digital television: www.r2k.org.za/2012/12/14/draft-vision-dtt/

¹⁰ See the R2K submission on allocation of digital television channels: www.r2k.org.za/2012/07/30/opportunities-threats-of-digital-t/

¹¹ See the R2K submission on the ICASA Amendment Bill here: www.r2k.org.za/2013/01/29/r2k-submission-on-the-proposed-icasa-amendment-bill/

¹² See the R2K submission to the Print and Digital Media Transformation Task Team here: www.r2k.org.za/2013/01/30/r2k-calls-for-transformation-of-print-ownership-staff-product/

¹³ See the memorandum submitted to Sekunjalo here: www.r2k.org.za/2013/12/17/memorandum-to-sekunjalo/

¹⁴ See the R2K response to the launch of MTMSA here:

In the past 16 years South Africa has enjoyed a blossoming of the Internet, including online publishing and participation in social networks. It is estimated that 82% of people living in South Africa already have access to cell phones. This high level of cell phone access represents a great opportunity for South Africa to advance the right to communicate. However limited network access and affordability mean that the benefits of telecommunications remain skewed to the elite.

The high cost of communication is an issue burning in people's hearts and pockets. In 2013 R2K successfully launched our Vula 'ma Connexion campaign¹⁵. In a matter of months we have established the Right2Know as a critical voice in the telecommunications debate. We have produced and distributed posters, pamphlets and our Activist's Guide to the Right to Communicate¹⁶, ran workshops and meetings, held pickets and marches, and participated in various legislative processes¹⁷.

We have succeeded in placing the privatised profiteering nature of the telecommunications industry at the centre of the agenda. While almost everyone agrees that communications costs are too high, there is little consensus on the interventions required to bring them down. While the private sector argues for more liberalisation, R2K is arguing for more state intervention – especially greater Icasa regulation. R2K therefore welcomed Icasa proposals to further reduce the interconnect fee that operators charge one another¹⁸ and are campaigning to oppose MTN and Vodacom's efforts to derail these cost cuts¹⁹.

Given all these challenges to the right to communicate R2K has decided to engage governments' Information & Communication Technologies (ICT) Policy Review process and have mobilised broad participation in the process²⁰.

In the coming period we must continue to defend constitutional protections of media freedom and promote policies and practices that enable media diversity, challenging concentration of media ownership and campaigning for increased public funding for public and community media, as well as promoting universal and safe internet and telecommunication access for all – including free basic services.

5. Blowing the Whistle

Whistleblowers – people who release information to the public – have a critical role to play in advancing the right to know. In the current climate, most people who blow the whistle on corruption or other wrongdoing (either in the public

¹⁵ For details of the campaign, visit www.r2k.org.za/right2call.

¹⁶ See the Activist Guide to the Right2Communicate here:

www.r2k.org.za/2013/04/15/right2communicate-guide/

¹⁷ See our submission on the cost of communication here: www.r2k.org.za/2013/08/01/ost-of-comms_aug2013/, See our submission on the Draft Broadband Policy here:

www.r2k.org.za/2013/05/16/r2k-submission-on-the-draft-national-broadband-policy/, see our submission on the Draft Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure here: www.r2k.org.za/2013/03/30/school_internet/

¹⁸ See the Right2Know statement welcoming Icasa's proposed reductions in the interconnect fee:

www.r2k.org.za/2013/10/08/r2k-welcomes-icasa-communication-costs-cutting-proposals/

¹⁹ See our statement opposing MTN and Vodacom here: www.r2k.org.za/2014/02/27/r2k-calls-on-mtn-Vodacom-to-drop-case-against-icasa/

²⁰ See the R2K submission on the ICT Policy Review Framing Paper here:

www.r2k.org.za/2013/07/15/ict-policy-review-framing-paper/ and R2K process to engage the Green Paper here: www.r2k.org.za/2014/02/05/ict-green-paper-invite/

service or a private corporations) find themselves isolated, intimidated, dismissed, and harassed; in most cases, an employee who is exposed as a whistleblower will lose their job, and financially devastating legal proceedings as they either fight to clear their names or face punitive lawsuits from their former employers. In the worst cases they will face physical threats to their safety. Even more ominously, over the past ten years, an alarming pattern has emerged of whistleblower assassination.

There appears to be very limited capacity in civil society and lack of political will within the State to support whistleblowers. Often whistleblowers are perceived as 'sell-outs' or 'traitors' amongst their colleagues and even in the broader public. The main law aimed at protecting whistleblowers – the Protected Disclosures Act is - has been found wanting and a number of amendments to the law have been prepared but have not yet been tabled in Parliament.

Over the last two years the Right2Know Campaign has become a national voice of support for whistleblowers. However given the lack of adequate support available for whistleblowers, we must be very cautious not to risk creating unrealistic expectations among whistleblowers. Once they have already blown the whistle and entered the legal process it is very difficult for the Right2Know or our partners to offer support – except on limited a case-by-case basis.

Despite these challenges the R2K has managed to assist a number of whistleblowers in the past year – offering advice, referring them to various support organisations for legal and other assistance, and making public demonstrations of solidarity outside various hearings and court cases, and promoting whistle blowing through our networks and with our 2013 and 2014 Whistleblower Calendars²¹.

We have also forged a partnership with key organisations working with whistleblowers and undertaken research on the enabling environment for whistleblowers and convened a mini-summit to engage this research and develop an action plan to support whistle blowing²².

In the coming period we should campaign to ensure necessary amendments to the Protected Disclosures Act (PDA) that offers more protection to whistleblowers and continue to raise awareness of the necessity for, and challenges facing, whistleblowers.

Perhaps one of the most important roles we can play is engaging whistleblowers before they take any public or legal action and encouraging them to hand information to civil society groups working in their field. These groups can then make the information public while protecting the identity of the individual whistleblowers.

6. Strengthening the Right2Know

Because the issue of access to information and free expression cut across sectors and geographies, the Right2Know campaign has emerged as an inclusive activist-

21 See the 2013 Whistleblower calendar here: www.r2k.org.za/2012/12/14/r2k-2013-whistleblower-calendar/ and 2014 Whistleblower calendar here: www.r2k.org.za/2014/01/01/2014-whistleblower-calendar/

22 See the Whistleblower research report here: www.r2k.org.za/?p=2862

driven coalition cutting across the many divides of South African society. As we have expanded beyond our initial and limited Secrecy Bill focus we have demonstrated a commitment to democratic decision-making and a solid capacity to implement our programmes.

The Campaign remains coordinated by working groups in KwaZulu-Natal, Gauteng, and the Western Cape that, together with the elected National Working Group, meet monthly to take stock of the programme and identify and plan upcoming activities. This has ensured a participatory democratic structure that allows both for local activists' ownership of the programme developed at our annual National Summits while ensuring that the elected National Working Group are able to take legal and fiduciary responsibility for the organisation.

A recent survey of various attendance registers found that over 130 organisations are active in the various aspects of the Campaign²³ so it is understandable when comrades express frustration when the media call the Right2Know a NGO or 'lobby group'. We are in fact growing to become a popular movement.

The Right2Know is emerging as an organising space where we are able to draw on the capacities of a wide range of organisations and people across sectors, race, and class – and coordinate these capacities through a participatory and democratic process that in many respects models the open, democratic and accountable vision we have for the world.

There are a number of initiatives on our horizon that promise greater unity and coordination of struggle, both within the union and broad civil society space. With the organisational culture evolving within the Right2Know we have an important contribution to make to the unfolding realignment of progressive forces in South Africa. We must engage to ensure all these efforts at greater unity are shaped by the kind of participation and accountability that we practice.

Of course R2K still grapples with unevenness and inequality within our structures and base. From well-resourced NGOs that at times seem more committed to meeting donor deliverables than responding to needs identified within the R2K to comrades that are overcommitted, lack resources or are not fully committed to undertake the R2K tasks they have agreed.

Despite these challenges in the last year we have strengthened and formalised our organisation in a number of respects. We have registered with SARS as an employer and as a Public Benefit Organisation and have almost completed our Non-Profit Organisation registration. We have completed clean audits of all our finances since 2011 and can for the first time present audited financial statements to this Summit.

We have adopted the Right2Know Policy Statement on Institutional Structure, Capacities, and Coordination²⁴ that documents the roles of our various structures and serves as a point of reference and induction for supporters.

²³ See list of Active Organisations: www.r2k.org.za/?p=2863

²⁴ See Right2Know Policy Statement on Institutional Structure, Capacities, and Coordination: www.r2k.org.za/?p=2308

As our funding situation has improved we have resisted the temptation to hire staff and ensured that the campaign remains in the hands of activists with a passion and commitment well beyond what is often found in the paid NGO environment.

We have undertaken extensive popular education including the production of publications/pamphlets and hosting various workshops, conferences, and public meetings outlined in the sections above as well as producing a 13 episode TV series on aspects of the right to know in partnership with Cape Town TV²⁵. We concluded 2013 by hosting our first National Leadership School, a 5-day intensive learning event attended by over 50 Right2Know activists from across the country²⁶.

Our media and communication team continue to ensure the campaign maintains a high profile in the mass media and on social media platforms as well as ensuring that popular mobilisation is supported with posters, pamphlets, etc.

It is nothing short of remarkable that everything documented in this report has been achieved primarily by activists giving freely of their time and talents. We repeat this every year, at it remains as true as ever: The Right2Know's greatest strength is the hundreds of comrades willing to act to defend our freedoms.

Going forward we must manage our challenge to ensure Right2Know remains a free, independent, vibrant, democratic and supporter driven movement.

7. Conclusion

In conclusion, in the past year we have moved even further towards a comprehensive focus on the growing culture of secrecy in our society and to advancing the free flow of information by campaigning for the right to communicate. The Campaign continues to capture the public imagination and mobilising broad support for these objectives.

Let us acknowledge that in South Africa our history, our economic system, our cultures and institutions are all infected with anti-democratic authoritarianism. As we raise the banner of participatory democracy - peoples power - we must work together to challenge injustice, inequality and authoritarianism wherever we find it: In our homes, our communities, the workplace and, perhaps most importantly, in our organisations. Our organisations and in particular the Right2Know can and must become incubators of the values and relations that will define a future society.

Let us remain inspired by the Right2Know Campaign vision statement adopted at our very first National Summit:

We seeks a country and a world where we all have the right to know – that is to be free to access and to share information. This right is fundamental to any democracy that is open, accountable, participatory and responsive; able to deliver the social, economic and environmental justice we need. On this foundation a society and an international community can be built in which we all live free from want, in equality and in dignity.

²⁵ View episodes of Free Media Free Minds here: <http://freemediagreeminds.wordpress.com/>

²⁶ A report of the 2013 National Leadership School will be available shortly.