

## THE RIGHT2KNOW CAMPAIGN (SOUTH AFRICA): BUILDING A NATIONAL MOVEMENT FOR FREEDOM OF INFORMATION AND EXPRESSION

DR DALE T MCKINLEY

### 'LET THE TRUTH BE TOLD' - THE IMPETUS OF THE SECRECY BILL

The Right2Know (R2K) Campaign was born out of opposition to the *Protection of Information Bill* (later to be renamed the *Protection of State Information Bill* - POSIB) but popularly known as the 'Secrecy Bill'. The Bill was introduced in the South African Parliament in July 2010; over two years after a previous (2008) version had been withdrawn due to a public outcry over its similarity with the apartheid-era *Protection of Information Act* that the Bill was designed to replace.

Realising that the new Bill was more or less the same as the 2008 version - namely, a piece of legislation that would greatly extend the powers of government agencies to keep information out of the public domain and impose harsh penalties on whistleblowers, activists and journalists who attempt to disclose such information in the public interest – a collection of civil society activists came together to oppose the Bill.

At this very early stage, the key strategic purpose was to build immediate awareness around the content of the Bill amongst the South African public and translate that into widespread and active opposition to stop the Bill from being passed into law. Within a few days, a 'Civil Society Statement' entitled, *Let the truth be told: Stop the Secrecy Bill*, had been drafted and circulated across the country.<sup>1</sup> Its opening lines summarised what was to become R2K's core perspective and purpose vis-à-vis the Bill:

---

<sup>1</sup> 'Civil Society Statement: Let the truth be told: Stop the Secrecy Bill', 2 August 2010. Due to the lack of formalised R2K structures and networks at this early stage, the statement was circulated using existing and largely electronic, networks and lists that cut across various civil society organisations and sectors (including the union/labour movement). The 'Statement' was later adopted as the 'Founding Statement' of the R2K Campaign when it was officially launched on 31 August 2010.

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.

The statement went on to list a series of specific 'concerns' around the Bill. It charged that the Bill would 'create a society of secrets' because:

- Any state agency, government department, even a parastatal or a 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 accountable 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.

Asking the question - who will guard the guardians? – the statement pointed to the Bill's lack of accountability mechanisms and its hugely negative consequences for the free flow of information”.

- 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.

Finally, pointing out that our elected representatives and any legislation that they might pass “are bound by the Constitutional values (of) accountable, open and responsive government, realised among other things through freedom of expression and access to information”, the statement set out a list of seven demands<sup>2</sup> that the Bill must “reflect”:

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

The Statement was a tactical and strategic success. Besides catalysing the formal launch of the R2K Campaign less than a month later (on 31 August 2010) – through the establishment of three provincially-based activist groups in the Western Cape (Cape Town), Gauteng (Johannesburg) and Kwa-Zulu Natal (Durban) - hundreds of civil society organisations and thousands of individuals signed onto the Statement. Most all major media and political parties in the country picked up on the phenomenal response, not least because the collective opposition cut across South Africa’s notoriously fractious civil society as well as historic class, racial and ideological divisions.

Even though no public protest activity had yet been taken, the public and political impact was great enough by the end of September for the ruling African National Congress (ANC) to instruct its parliamentarians in the National Assembly (NA) to postpone the mooted vote on the Bill. Literally overnight, the foundations for a unified national movement around access to information and freedom of expression had been laid.

### **LAYING DOWN INCLUSIVE, CAMPAIGNING ROOTS**

Building on this early momentum, and in the context of the ANC’s stated desire to pass the Bill by the end of 2010, R2K’s first set of public activities sought to directly mobilise the voices of a diverse set of people and organisations in opposition to the Bill. From 21-27 October a ‘week of action’ unfolded which saw a mass march to Parliament of over 3500 people in Cape Town and simultaneous (albeit smaller) marches in Durban and Johannesburg. These were accompanied by film screenings and comedy shows across the country to highlight defects in the Bill.

---

<sup>2</sup> These demands soon became publicly known as the R2K’s ‘7 Point Freedom Test’. They have remained at the centre of R2K’s demands around the Bill ever since, with the various drafts of the Bill continuously being set against whether or not they meet the ‘Test’.

The 'week of action' received massive local and international press attention, with R2K activists conducting numerous radio and television interviews. Social media also quickly became a leading public media platform for R2K to disseminate information; for its various activists and organisations to share views, information and deepen networks; and for ordinary people to 'tune in' to the fast-gathering battle over the Secrecy Bill.<sup>3</sup> By late 2010, R2K had not only become the leading public voice against the Secrecy Bill but through relentless publicity advocacy around its '7-point freedom test', succeeded in forcing the ANC to indefinitely postpone a parliamentary vote in the NA.<sup>4</sup>

Flush with its initial successes, which had seen over 400 organisations and 30 000 individuals sign the *Let the truth be told* Statement, the R2K Campaign was formally constituted as a movement on 2 February 2011 at its first National Summit held in Cape Town. Over 50 delegates from each of the three established provincial activist groups, plus newcomers from the Eastern Cape, adopted a set of R2K 'Principles' and a Draft Constitution setting out the Campaign's core, vision, mission and a common platform for action and organisation.<sup>5</sup>

It is instructive to take a closer look at these foundational documents precisely because they so clearly set out the fundamental philosophical, political and socio-economic centrality of the 'right to know' as well as R2K's own desired organisational and mobilisational character and content. Crucially, they point to the strategically inclusive and campaigning approach of R2K.

### **R2K's vision**

We seek 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.

### **R2K's mission**

- Campaigning for laws, policies and practices consistent with the right to know;
- Campaigning for a media that is free and diverse;

---

<sup>3</sup> These, and many other perspectives and facts about the history of the R2K Campaign in this article, are taken from a document entitled –'R2K History Overview' – which has only recently been compiled within R2K as part of the documentation being put together for a pending Constitutional Court challenge to the Secrecy Bill.

<sup>4</sup> South Africa's parliament is divided into two parts – the National Assembly and the National Council of Provinces. Most key legislation is first tabled, discussed and then voted on in the National Assembly from where it proceeds to the National Council of Provinces and then, if necessary, back again to the National Assembly for a final vote. Once both houses of parliament have passed a Bill it is then sent to the President to sign into law, although at this stage the President does have the power to either return a Bill to parliament for further deliberation or refer it to the Constitutional Court for legal review.

<sup>5</sup> All of these as well as detail on decisions related to organisational structure can be found in: 'Right2Know National Summit 2-3 February 2011: Summit Report'. This and most other key documents of the Campaign can be accessed at <http://www.r2k.org.za>

- Campaigning for and assisting communities to access information held by government or the private sector that is necessary for the social, economic and environmental justice they need; and
- Campaigning for and supporting whistleblowers who act so that the public can exercise the right to know.

### R2K's principles

1. *Access to Information:* All people have the right to access information, and have it equally. This right has inherent value and enables many other democratic rights. The right to access information must be defended and advanced in law, policy and practice as demanded inter alia by section 32 of the Constitution of South Africa.
2. *Free Flow of Information:* All people have the right to express themselves – that is to share information, including opinion – freely and equally. This right has inherent value and enables many other democratic rights. The right to free expression must be defended and advanced in law, policy and practice as demanded inter alia by section 16 of the Constitution of South Africa.
3. *Free and Diverse Media:* The media have rights and corresponding duties to access and disseminate information, including opinion, freely and fairly, without fear or favour. These rights and duties are vital to the public's exercise of many other democratic rights. Media freedom must be defended and advanced in law, policy and practice as demanded inter alia by section 16 of the Constitution of South Africa. Media diversity must be extended so that all, including the powerless, shall have a voice.
4. *Accountability and Transparency:* Transparency, achieved through the right to know, holds power to account so that political, social, economic and environmental justice is realised.
5. *Informed Public Participation:* The right to know empowers all people to participate in democracy actively and effectively so that they can defend and advance their political, social, economic and environmental rights.
6. *Truth and Quality of Information:* The rights to access information must be served through the provision of information that is reliable, verifiable and representative of the data from which it is derived, and must include the right to access source data itself. Information must be provided transparently and equally, untainted by partisan interests.
7. *Proactive Dissemination of Information:* Public and private bodies must disseminate information proactively. Laws providing for access to information must not be used as a shield to obstruct its release.
8. *Equality:* All rights, including the rights here demanded like any other right, are equal to all people regardless of any human or social characteristic including class, race, gender, language or sexual orientation.
9. *Community Involvement:* The right to know is vital to the struggles of communities demanding political, social, economic and environmental justice. Campaign efforts rooted in communities and their needs are

vital to the campaign's success and the realisation of a responsive and accountable democracy that can meet the basic needs of our people.

10. *Solidarity*: The full realisation of the right to know cannot be defined by individuals, organisations or borders. Our campaign is best served where we act in concert and solidarity with like-minded people and organisations locally and internationally.

For R2K activists then, it was clear that the Campaign regarded the Secrecy Bill as a symptom and symbol of much broader obstacles to the free flow of information. As opposed to the views of many commentators and observers then and since, it was expressly argued that what is at stake is not simply the rights of journalists or the privileges of an economic elite but fundamental human and constitutional rights of free expression and access to information which are the building blocks of an accountable democracy, able to deliver on the basic needs of its people.

To give organisational content to this approach, the 2011 summit established a democratically elected National Working Group (NWG), as well as Provincial Working Groups (PWGs) in Gauteng, Kwa-Zulu Natal and the Western Cape, open to any and all activists and organisations in agreement with R2K's vision, mission and principles. It also agreed that R2K would host an annual summit attended by elected delegates from the various PWGs, and at which the NWG leaders would be elected. Three campaigning pillars of action were adopted<sup>6</sup>:

- i. Stop the Secrecy Bill (on-going mobilisation and advocacy against draconian clauses in the Secrecy Bill);
- ii. Information Access Now (supporting communities and groups that are part of R2K to access existing information critical to their broader struggles for social justice);
- iii. Media Freedom and Diversity (promoting a free and diverse media sector by monitoring and responding to legislative developments, educating and organising activist organisations on the ground about these issues, and advocating for more support for community media organisations)

A little more than six months after it had formed, the R2K Campaign was now ready to expand and deepen its organisational footprint within South African society. It could catalyse similar information-centred struggles internationally and consolidate a popular, democratic and action-oriented movement capable of taking on and pushing back the clear desire by entrenched political and economic elites to securitise the state and control access to, and management of, information.

---

<sup>6</sup> In specific response to approaches by whistleblowers (predominately in the public sector) resulting from intensified crack-downs as well as several actual and attempted murders of whistleblowers, R2K added a fourth action pillar at its 2012 national summit – 'Justice for Whistleblowers' – which seeks to link whistleblowers to appropriate partner organisations for legal support and advocacy.

## BUILDING A GROUNDED, POPULAR AND EFFECTIVE MOVEMENT

### The Secrecy Bill and other legislation

During 2011, the Secrecy Bill remained a strategic priority for the Campaign. A range of parallel activities were undertaken to continue shaping the discourse around the Bill both inside and outside parliament to public awareness of the issues in all sectors of society and influence drafting of the legislation itself. The monitoring of parliamentary activities, coupled with regular mass mobilisation (including through marches, pickets, vigils, social media platforms and media pieces) by R2K, resulted in the Bill going through numerous (minor) revisions and postponed voting deadlines.

When the National Assembly (NA) finally passed the Bill on 22 November 2011, thousands of R2K activists throughout the country led protests (which also involved a range of civil society organisations) on what became known as 'Black Tuesday'.<sup>7</sup> During this process, extensive public awareness campaigns, mainly in the form of community-based workshops, were held throughout the country highlighting the deficiencies in the Bill. The cumulative impact of these R2K activities prompted the other house of parliament – the National Council of Provinces (NCOP) - to hold public hearings on the Secrecy Bill in every province.

This provided the opportunity, during late 2011 and early 2012, for R2K to successfully mobilise broad and informed participation involving its activists as well as many others from various communities and NGOs at almost every hearing. R2K and associated organisations then made written submissions to the NCOP ad-hoc committee dealing with the Secrecy Bill, with the R2K submission being one of a few chosen for oral presentations. Backing-up these efforts, R2K attended and monitored every sitting of the ad hoc committee whilst, in the process, lobbying individual members of parliament across party lines to identify necessary amendments to the Bill in line with R2K demands. Campaign strategists also increasingly became a resource for the international community, such as diplomatic emissaries, members of foreign legislatures, and representatives of international civil society networks, to inform increasing international pressure around the Secrecy Bill.<sup>8</sup>

The combined result of these activities saw the position of ANC members of the NCOP ad-hoc committee shift from hostility and a full defence of the NA version of the Bill, to a more open posture as some publicly resisted the pressure from the Ministry of State Security. Consensus in the NCOP committee was reached on striking down the unacceptable special protections proposed for the Department of State Security and proposed minimum sentences, the exclusion of municipalities from classifying powers, as well as the commitment that the provisions of the

---

<sup>7</sup> The moniker, 'Black Tuesday' was based on what became known in South African liberation circles as 'Black Wednesday', when on 19 October 1977 the apartheid government banned three publications - *The World*, the *Sunday World* and a Christian publication *Pro Veritas* – as well as several individuals and organisations associated with the Black Consciousness Movement.

<sup>8</sup> Some of this pressure included International Civil Society organisations that form part of the Open Government Partnership (OGP) of which South Africa is a signatory and through which it has committed itself to principles of openness, accountability and transparency.



Promotion of Access to Information Act (PAIA) will take precedence over the Secrecy Bill. All these changes to the Bill, unprecedented for any post-1994 piece of legislation, represent a partial victory for the R2K Campaign's long and hard battle since it was formed.

However, towards the end of its deliberations in late 2012, the NCOP committee reneged on a number of concessions it had agreed to and passed a Bill in late November 2012 – still failing the R2K 7-point Freedom Test in many important respects. The Bill then returned to the NA in early 2013 for final debate/amendment. Despite continued public pressure and protests led by R2K, nothing substantial was changed/added to the NCOP version and the Bill was passed by the NA in late April 2013. The result is that there remain a number of clauses in the Bill that R2K believes are unconstitutional; such as, the lack of a Public Domain Defence that will criminalize the population at large, a full Public Interest Defence, draconian sentences of up to 25 years in jail as well as concentrated classification powers given to the Minister of State Security, other state bodies and junior officials.<sup>9</sup>

As things now stand, the Bill is set to be sent to President Zuma for signature. R2K has prepared for this eventuality and over the last year has completed much legal research and work to equip its legal team to file a case in the Constitutional Court. If the case proceeds, it will be supported by other civil society organisations, both domestically and internationally. R2K remains convinced that significant sections of the Secrecy Bill are unconstitutional and sees a potential court case as another opportunity to raise further awareness and mobilise public opposition around the Bill.

Beyond the Secrecy Bill though, R2K has also taken a number of actions to challenge other draconian Bills and Acts impacting on the rights to access information and free expression and assembly over the last year. One of these is the apartheid-era *National Key Points Act* (1980), which is being increasingly used to suppress and control access to, and information about, government and other 'strategic' buildings/installations and their operations.<sup>10</sup> In October 2012, the Campaign submitted a PAIA application requesting a list of National Key Points which was denied by the Minister of Police<sup>11</sup>. Regardless, R2K continues to engage in protests at identified National Key Points and has initiated a public call for civil society to identify/name such Key Points. The Campaign also continues to actively oppose, within and outside the legislative process, the *General Intelligence Laws Amendments Bill* (labelled by R2K as the 'Spy Bill') which is presently before the NCOP (having already been passed by the NA). The Spy Bill proposes a further centralisation of power within South Africa's intelligence agencies under the Minister of State Security and gives the state powers to monitor phone and electronic communication without any judicial oversight.

---

<sup>9</sup> A full list and explanation of the remaining problems with the Bill can be found in, 'The R2K Seven Point Freedom Test (and how Secrecy Bill fares)', November 2012 – <http://www.rek.org.za>

<sup>10</sup> Over the last five years the number of National Key Points listed under the Act has increased by over 50%. See Right2Know Campaign, 'Secret State of the Nation' Report, 17 February 2013 – this can be accessed at <http://www.r2k.org.za/2013/02/17/secret-state-of-the-nation-report/>

<sup>11</sup> See initial Press Release by the Right2Know Campaign, 'R2K demands public list of secret 'National Key Points'', 4 October 2012; and then subsequent Press Release, 'Ministry of Police refuses to release the list of National Key Points', 7 March 2013 – both can be accessed at <http://www.r2k.org/za>



## Access to Information

After its 2011 National Summit, R2K began to shift a significant part of its energies and efforts to building a movement centred on a broader struggle for access to information. This in recognition of the fact that such a struggle has the greatest potential to deeply root the Campaign in community struggles and demonstrate the enabling nature of information openness in realising socioeconomic rights and meeting basic needs. This becomes even more crucial given that in many respects South Africa is in a de facto state of secrecy. For example, R2K's recent 2013 'Secret State of the Nation' Report found that across South Africa, only 32% of PAIA requests for information (whatever their source and whether directed to the state or private sector) are successful, with almost two thirds being either ignored or refused.<sup>12</sup> Indeed, the rising number of protests across the country also speaks to the increasing sense of exclusion and alienation of many demanding a more responsive state and private sector.<sup>13</sup>

Over the last two years, the Campaign has produced a wide range of educational materials and conducted scores of workshops in communities and with allied organisations across the country. These have been coupled with R2K initiated and supported mobilisational activities within communities, which have sought to link the struggle for information access directly to parallel struggles for basic services (e.g. water, electricity and housing) as well as political accountability, especially at local level government level. It is in this context that in late 2012, the Campaign agreed to frame broader struggles for access to information under the slogan: 'Free Information, Full Participation, and Fair Process'.<sup>14</sup> Further, over the last year in particular, R2K has assisted community organisations and some NGOs in Gauteng and Western Cape to submit PAIA requests targeting local and provincial government alongside private corporates.

R2K continues its involvement, alongside one of its member NGOs, in researching the information needs of civil society organisations with the parallel aim of getting such organisations to embrace a paradigm shift from requesting single records or documents to requesting entire data sets (open data). R2K believes that this can lay the basis for demanding that the state, in particular, proactively makes large amounts of information available on an on-going basis through accessible, online formats. A good example of such open data is on the recent national land audit which the Minister of Rural Development and Land Reform is currently withholding from the public.

---

<sup>12</sup> See 'Secret State of the Nation' Report, 17 February 2013

<sup>13</sup> In this respect, in late 2012, R2K reproduced an 'Activists Guide: Right to Protest' which had been initially produced in 2007 by the Anti-Privatisation Forum. This guide – thousands of copies of which have been, and continue to be, freely distributed to community organisations and activists can be accessed at - [http://www.r2k.org.za/wp-content/uploads/gatheringsGuide\\_WEB.pdf](http://www.r2k.org.za/wp-content/uploads/gatheringsGuide_WEB.pdf)

<sup>14</sup> See Right2Know Campaign's popular education pamphlet, 'Join the Struggle for Access to Information' – this can be accessed at - <http://www.r2k.org.za/wp-content/uploads/2012/12/English-Right2Know-Pamphlet-A4.pdf>

## Media freedom and diversity (the 'Right2Communicate')

As the Campaign asserted at its founding summit, a vital part of the right to know involves the struggle to ensure that information flows across society in order to inform a social dialogue that deepens our democracy and advances social, economic and ecological justice. Conceptualising this as our 'Right2Communicate' (i.e. that the Constitutional right to receive and impart information and opinions is central to our right to know), the Campaign has over the last two years done impressive amounts of research and advocacy work/activity for media that is free from government control and sufficiently diverse to serve the communication needs of everyone living in South Africa.<sup>15</sup>

In this regard R2K, through various public pronouncements and media articles, has actively opposed the creation of a Media Appeals Tribunal while simultaneously advocating for much clearer and accountable regulatory mechanisms within the industry itself as evidenced by the Campaign's participation in the Press Freedom Commission's public hearings. Additionally, R2K has continued to embrace media diversity through, amongst other things, formal submissions to the South African Press Council as well as facilitating regular opinion pieces in the media. It has also actively participated in parliamentary hearings on print media transformation, arguing that it is not enough to focus on 'narrow' transformation related to race and gender representation on the boards of elite organisations, but that there must be broader transformation to ensure diversity of views and ownership models, with better public funding models for non-profit media, and with monopolies being limited.

Further, R2K remains concerned by the underfunding of public and community radio/television. As R2K consistently points out, the failure to invest public funds in media diversity has resulted in a homogenisation and commercialisation of media content as all media orientates towards the needs of advertisers and sections of the population that advertisers wish to engage. As part of this, R2K continues to work with the SOS Support Public Broadcasting Campaign to advance the integrity and independence of the public broadcaster, the South African Broadcasting Corporation (SABC).

Over the last year in particular, the Campaign has begun to critically engage the Ministerial Broadcasting Policy Review that aims to rewrite our broadcasting laws in the coming years, and the migration from analogue to digital television that will give the public access to many more television channels. During 2012, R2K succeeded in opposing proposals from the Independent Communications Authority of South Africa (ICASA) which is the broadcasting regulator, to further commercialise the airwaves. ICASA wanted to allocate the lion's share of new digital television channels to the private sector, but have now conceded to allocate an initial 40% to public and community channels. This represents an important victory for R2K and other civil society organisations that have been actively opposing the further commercialisation and corporatisation of South Africa's airwaves.

---

<sup>15</sup> See Right2Know, 'Media Freedom, Diversity and the Right2Know', November 2011. This can be accessed at [http://www.r2k.org.za/wp-content/uploads/2012/12/R2K\\_MedFreeDiv\\_DisDoc2011.pdf](http://www.r2k.org.za/wp-content/uploads/2012/12/R2K_MedFreeDiv_DisDoc2011.pdf)

Nonetheless, the reality is that the South African media will most likely remain dominated by commercial interests and face increasing political pressure for the foreseeable future. It is within this context that R2K identified that one of the most important means for the majority of South Africans to exercise their 'Right2 Communicate' will be via access to the internet through cell phones. Given that the high cost of access to networks remains a significant barrier to realising this right, R2K (during 2012) concluded consultation and research on this focus of the Campaign and began a public advocacy campaign for free text messaging, free basic and affordable airtime and data and general quality of services. This specific campaign has already begun to receive significant response and support, with youth in particular responding well to R2K's accompanying slogan - *Vula 'ma Connexion* ('Open the connections now!').<sup>16</sup>

### Justice for whistleblowers

The need to protect whistleblowers has been a driving principle since the Campaign was formed to protest the Secrecy Bill but, due to lack of capacity, actual advocacy/support work did not get underway in any meaningful way until 2012. After being approached by a number of whistleblowers for support during 2012, the Campaign responded by referring them to allied, supporting organisations that have provided legal advice or media exposure depending on the need. In the course of doing so though, it has become abundantly clear that the legal framework – in particular the *Protection of Disclosures Act* – does not provide sufficient support to enable whistle blowing.

For example, a whistleblower cannot go outside an organisation to report wrongdoing without first exhausting all internal avenues, which necessitates raising the matter with an immediate superior. In addition, there is very limited legal support available to whistleblowers that are then often left to fight alone against institutions with massive legal budgets. NGOs working in this area, with limited budgets, are forced to take up cases on a very selective basis. Indeed, currently most whistleblowers will likely lose their jobs, battle to find work in their fields, face years of legal battles and expenses, and in some cases, lose their lives. R2K has counted at least 14 whistleblowing related murders in recent years.

Having decided that whistleblowers should be celebrated as the heroes of the right to know, the Campaign produced a 2013 calendar profiling the contributions of 11 selected whistleblowers. The calendar has been freely and widely distributed across the country and will remain displayed as a daily reminder of the power and courage of whistleblowers. Additionally, R2K has recently completed extensive research into the strengths and weaknesses of the enabling environment for whistleblowers and in June 2012 will be convening a roundtable, with a number of civil society partners, to discuss the research findings and set an agenda to strengthen whistleblower support.<sup>17</sup>

---

<sup>16</sup> In January 2013, R2K produced an 'Activist Guide: Right2Communicate' which is presently being freely distributed throughout the campaign and across the country. This can be accessed at [http://www.r2k.org.za/wp-content/uploads/right2communic8\\_WEB.pdf](http://www.r2k.org.za/wp-content/uploads/right2communic8_WEB.pdf)

<sup>17</sup> A more detailed discussion of the issues and activities raised in this entire section can be found in: 'Right2Know Narrative Report for 2013 National Summit 15-17 March, Durban'. This can be accessed at <http://www.r2k.org.za>

## MOVING FORWARD

The R2K Campaign has grown from strength to strength. At the macro-level, the Campaign has broad acceptance and can proudly claim support from a diverse cross-section of South African society in terms of its gender, racial, class and linguistic composition. It has shown a remarkable capacity, given its limited human and financial resources, to unite a wide range of people to defend and advance hard-won constitutional rights to access information and free expression. At the organisational level, R2K has maintained three well-functioning, committed activist provincial working groups as well as sound financial and organisational systems, all operating within a strong democratic framework. Indeed, the Campaign's greatest strength is the hundreds of activists across the country that – in their organisations and in R2K working groups – campaign for the free flow of information every day.

Nonetheless, many challenges lie ahead. More work can be done to explore opportunities to present the Campaign's perspectives in a wider range of forums and to translate material into indigenous languages. The Campaign's working groups need to expand their endeavours to areas where there is no R2K presence and ensure that they become the training grounds for new layers of leaders to tackle substantive issues. Linked to this is the need to guard against bureaucracy within the Campaign and the subversion of R2K's inclusive processes.

The continued building of a movement for freedom of information and expression is taking place amidst deepening inequality and an economic, social and ecological crisis that is testing the limits of South Africa's young democracy. The Secrecy Bill and other draconian and exclusionary legislation, alongside the gradual closing down of general information access, is not only exacerbating the crisis but is a clear indication that sections of the state desire to rule by force, a force that demands secrecy. Moving forward, the Campaign's most fundamental challenge is to repel and defeat the crisis by building a movement that speaks truth to power and forges a popular, united struggle for openness.

ROSA LUXEMBURG STIFTUNG

JOHANNESBURG

237 Jan Smuts Avenue | Parktown North 2193

P O Box 3156 | Parklands 2121

Telephone: +27 (0) 11 447 5222/5224 | E-mail: [info@rosalux.co.za](mailto:info@rosalux.co.za) | Website: [www.rosalux.co.za](http://www.rosalux.co.za)

**ROSA LUXEMBURG STIFTUNG**

*The views and opinions expressed by the author do not necessarily represent those of the Rosa Luxemburg Foundation*