Published on *Treatment Action Campaign* (http://www.tac.org.za/community)

Members of Parliament should reject the ?Secrecy Bill?

By *moderator*
Created *2011/11/21 - 12:00am*
21 November, 2011 - 00:00 ? moderator
For immediate release

- We call on all South African Members of Parliament to vote against the Protection of State Information Bill this week
- Join the Right2Know protests this week

A joint statement by the Treatment Action Campaign, , Equal Education, Social Justice Coalition, SECTION27 and Ndifuna Ukwazi

We are civil society organisations who support the Right2Know campaign. For the past year our members have spoken out against the Protection of State Information Bill (Secrecy Bill) and protested against it becoming law on the basis that many provisions in it violate the Constitution.

The Minister of State Security, Siyabonga Cwele, speaking in the National Assembly on 16 November 2011, wrongly and falsely labeled people and groups opposing provisions of the Secrecy Bill ?local proxies to foreign spies?. The Minister said that "foreign spies" were paying civil society groups to oppose the Secrecy Bill. These inappropriate and unfortunate remarks were clearly aimed at the Right2Know campaign.

We note that the Right2Know campaign has always made a list of all of ts funders publicly available on its website. We therefore challenge the Minister to provide evidence to support his allegation, which in our view is defamatory. As a member of Cabinet and the Executive, the Minister's comments show a disregard for Parliamentary processes and the valid and legitimate concerns about the implications of the Secrecy Bill that have been raised by many civil society organizations, including COSATU.

We are deeply concerned that even though during September 2011 the ANC Chief Whip promised extensive provincial community consultation this is yet to take place. The Secrecy Bill has now made a sudden and speedy reappearance on the Parliamentary programme for this term (the Secrecy Bill was withdrawn from the Parliamentary programme in September 2011).

Instead of engaging with the substantive local and international criticism of many provisions of the Secrecy Bill, the Minister has chosen to cast unfounded and unconstructive aspersions and to ignore the concerns of communities campaigning for an open and transparent society that seeks to expose wrongdoing, corruption and mismanagement.

We understand that MPs will be expected to vote for the Secrecy Bill in two days time so that it can become law by the end of 2011. We note that while there have been some improvements in the current draft of the Secrecy Bill compared to its original version, there remains several provisions that we believe are fundamentally flawed and unconstitutional.

We reiterate that the lack of a public interest defence clause and the excessive penalties including incarceration for whistle-blowers and those in ?possession? of documents that are accordingly classified as ?state secret? by the Security Cluster undermine our Constitution. The Secrecy Bill, as it currently stands, will severely limit civil society and the

media?s ability to expose corruption and mismanagement in government and elsewhere. Thus far, no convincing argument has been advanced to justify why a public interest defence clause should be rejected both for whistleblowers and those in possession of classified information where it is in the public interest to disclose such information, and why the penalty provisions should not be revised.

In addition, as is evident from the battle that the Mail & Guardian is engaged in regarding the provisions of the NPA Act and the recent laying of criminal charges against those journalists in possession of information classified as secret by the lawyers acting for the Presidential Spokesperson Mac Maharaj, it is clear that the real possibility exists for the state and its officials to take steps to punish and penalise whistleblowers, community activists and journalists for being in possession and/or disclosing information in the public interest, where such information should not be a state secret. What the ?Maharaj ? Mail and Guardian? censorship debacle shows is that the threats that the Right2Know campaign has warned South Africa about for over a year now, with respect to the risks inherent in the passing of this law, are now no longer hypothetical given that criminal charges have been laid against the journalists involved.

If the Secrecy Bill becomes law as is, Members of Parliament that we elected into power, will be saying to ordinary South Africans that it is okay to punish the people who disclose and write about corruption and mismanagement in government and the corporate sector. It will entrench the capacity of politically powerful people and institutions, especially those in government, to hide information and generally act without transparency or consequence.

As civil society organisations whose members are dedicated to upholding our Constitution and all the rights and freedoms enshrined therein, we reject the Secrecy Bill in its current form because we believe that it erodes our freedoms and violates our democratic rights. We will oppose it should it become law by subjecting it to a legal challenge, along with other groups, and by marching in the streets.

Therefore:

- We call on all MPs including ANC MPs not to follow the 3-line whip (in which ANC MPs are required to vote in favour of the bill) this week, and not to vote in favour of the Secrecy Bill in its current form.
- We call on President Zuma to show leadership by stopping this process and ensuring that the Security Cluster in government does not assume such wide-ranging classification and punitive powers. President Zuma and the ANC should re-commit itself and this process to proper community oversight and consultation.
- If the Secrecy Bill is passed into law, we nevertheless hope that President Zuma will refer the matter to the Constitutional Court to seek a declaration of constitutionality. If not, we will join Right2Know and other groups that seek to declare many provisions in the current version of the Secrecy Bill unconstitutional.
- We call on everyone to join the Right2Know protests this week. (See http://www.r2k.org.za/)

Source URL (retrieved on *2017/02/27 - 10:40pm*): http://www.tac.org.za/community/node/3205