

Secrecy bill: R2K to march in Pretoria

On Friday 28 September 2012, International Right to Know Day, the planned [R2K](#) Gauteng march in Pretoria on the Union Buildings will take place, despite police non-compliance. The march continues to voice the remaining concerns over the [Secrecy Bill](#).



In its statement, R2K notes the extension of the NCOP's "Secrecy Bill" deadline to 31 October, announced late last week. It also notes that members of the ANC caucus have called for an end to the debate and for the Bill to be voted through in its current form. (See *Mail & Guardian*, [Secrecy Bill is 'one or two meetings away'](#)).

Two years of relentless public pressure have yielded a significantly less dangerous piece of legislation than the 2010 version - but today we are faced with a Secrecy Bill that remains an assault on open democracy. R2K recognises the progressive changes made over the past two years, but there are still piles and piles of loopholes - in who gets to make secrets, and on what grounds they can do so - that provide protection to officials who would abuse their power to make secrets, and intimidate, silence and punish people who would try drag these secrets into the light.

In particular, the Secrecy Bill's champions will reportedly be haunted by their failure to heed the call for a public domain defence and proper public interest defence. Likewise, they will have failed to ensure the independence of the oversight body that is meant to prevent abuses of power (the Classification Review Panel); how can they exercise effective oversight over the Minister of State Security when his office determines their budget and pays their bills? And how can the Panel protect the public's right to access information if there is no mechanism for the public to approach it?

Victory

- R2K notes the scrapping of Clause 1(4), which would have had the Secrecy Bill undermine the Promotion of Access to Information Act and related legislation. This is a significant victory.

Major remaining challenges

However, significant problems still remain:

- The Espionage Offences (Clause 36) is so broadly drafted that it can be used to criminalise whistleblowers. If convicted of 'espionage', a person would face a minimum sentence of 10 years and maximum sentences of 25 years for exposing information "that may directly or indirectly benefit a foreign state".
- Though the limited whistleblower protection in clause 43 is a significant gain from the past few months, it falls short of meeting our demands for a full public interest defence.
- The Bill contains no Public Domain Defence - so even once information has been exposed to the public by a whistleblower, members of the public themselves face up to five years in jail for possessing the document.
- The Bill is retrospective so it protects all those documents classified by the apartheid government, and broad abuse of secrecy policies since 1996 - despite the fact that many of these are in the public domain. People who have been researching/documenting these abuses over the past decades would become instant criminals because what is in their filing cabinets.
- In addition, the Secrecy Bill still insists that the Ministry of State Security should become the chief archivist of "valuable" information held by every organ of state. It also contradicts the National Archives and Records Services of South Africa Act of 1996.
- All other loopholes, well documented by R2K over the past few months, have not been addressed.

Call to action!

From the organisation's understanding of the events last week, there is huge pressure coming to bear on ANC members of the committee to bring this process to a close without further amendments. While MPs call for just one more meeting to finalise the Secrecy Bill for a vote, R2K is **planning a march through the streets of Pretoria on International Right to Know Day (Friday 28 September) to sound the alarm.**

Marchers are encouraged to wear red and black and gather at the march's starting point, on the corner of Schubart Street & Johannes Ramokhoase Street (previously Proes Street) between 10-11am.

Between 11am and 12.30pm, marchers will make their way to the Union Buildings, walking south on Schubart Street and then east on Church Street, moving through Church Square and then straight along Church/Helen Joseph Street to the Union Buildings.

From 12.30 -2pm, representatives from the Right2Know Campaign will deliver a list of demands regarding the Secrecy Bill to a representative from government. Speakers who will address the marchers at this point include Dale McKinley, Mashao Chauke, Ferrial Adam and Bishop Paul Verryn.

Police obstruction

According to the Right2Know Campaign spokesperson, it has made repeated attempts to engage meaningfully with the Tshwane Metro Police Department and the South African Police Service regarding the planning of this event, but they have subjected the activists to delays, frustrations and hostile behaviour that threatened to derail the event. Although it has acted within the stipulations of the Regulation of Gatherings Act, the TMPD/SAPS have not done so.

It provided the TMPD/SAPS with sufficient notification of the march, but they have frustrated the process by delaying their responses and only 'approving' a march route, which was entirely unfeasible. Although the legal process of holding a march is one of notifying the authorities rather than requesting permission, it has tried to work cooperatively with these officials; however, it has been met with hostility.

Legal march

Since TMPD/SAPS have not provided the information required by the Regulation for Gatherings Act to prohibit the planned march, the organisation has now informed the police that it will continue with its march. It has acted within the requirements of the law. It is not its responsibility if the police do not adhere to the Regulation for Gatherings Act.

"By marching through the streets of our capital city we assert our fundamental right to freedom of expression and our right to freedom of assembly, protected by the Regulation of Gatherings Act and the Constitution. This march is not illegal!"

International Right to Know Day

International Right to Know Day will be celebrated for its 10th year on 28 September 2012 by freedom of information advocates and campaigners around the world. In South Africa, as we continue to struggle for the preservation of our right to information and the promotion of more open access to information, it is important to remember that we are not alone. Many countries around the world currently do not have freedom of information laws and, in 2011, the number of African countries with access to information legislation was as low as 10. Open access to information is a right, which many African citizens still struggle to realise.

The right to seek, access and receive information from state or private bodies which perform a public function or use public funds, is a right that is guaranteed in a number of constitutions (including that of South Africa) and is included in various international agreements such as the Universal Declaration of Human Rights (Article 19) and the African Charter on Human and People's Rights (Article 9).

Yet, this right is still severely undermined by governments and corporations across the African continent and the globe.

The South African Right2Know Campaign stands in solidarity with freedom of information activists from around the world who continue the work to promote this fundamental human right and to campaign for open, democratic societies in which there is full citizen empowerment and participation in government.

For more:

- Bizcommunity.com: [Secrecy Bill still looms - and is evil as ever](#)
- Right2Know: www.r2k.org.za

For more, visit: <https://www.bizcommunity.com>