

Keeping secrets is not the way to make friends

South Africa's proposed Protection of Information Bill, now back with the adhoc parliamentary committee for redrafting, is chillingly similar to Zimbabwe's Access to Information and Protection of Privacy Act, warns Maddy Halyard of Idasa's States in Transition Observatory (SITO). It could turn everyday citizens who possess protected intelligence, even unknowingly, into common criminals, while exempting intelligence agencies such as the NIA and the police force from public scrutiny

By Maddy Halyard

In October 2010, thousands of South African citizens marched in a peaceful protest through the streets of Cape Town against the South African Protection of Information Bill. The group consisted of men, women, and children from all walks of life, representing the diverse cultural makeup in which South Africa takes great pride.

However, while the group symbolised South Africa's progress away from apartheid, the South African Protection of Information Bill is evidence enough that upholding democracy is an ongoing process. If the implementation of the Protection of Information Bill, now infamously known as the Secrecy Bill, is only the beginning of a pattern of governmental power seizure, the nation risks not only severely weakening its international reputation, but a regression that will lead to further comparisons with its autocratic neighbour Zimbabwe.

South Africans know only too well the devastating effects of government abuse and denial of democratic norms. The country prides itself on the social and economic development that is the result of its commitment to democracy. However, the Protection of Information Bill poses a severe threat to South Africa's reputation as the African model of a democratic society.

The act is eerily reminiscent of the Zimbabwean Access to Information and Protection of Privacy Act, commonly known as AIPPA. The proposed Secrecy Bill would replace the 1982 Protection of Information Act, implemented in a period of extreme violence during the apartheid years, which gave government officials overarching powers to control information and to detain those thought to be involved in acts of violence against the apartheid government. Yet this similarity has been largely ignored by the majority government.

The current proposed Secrecy Bill is argued by many to be just as corrupt as its predecessor. The original 2008 legislation was rejected by a ministerial committee, but NGOs and civil society are worried that the revised version has failed to address many of their concerns.

The Secrecy Bill's vague wording would grant the government fairly unrestrained powers in limiting the flow of public information. Overarching definitions pepper the document. The term "national security" is defined with phrases that appear to defend democratic ideals, including allowing South Africans "to live in peace and harmony" and "to seek a better life". However, it fails to provide specific stipulations or

restrictions, effectively allowing almost any information to be considered a threat and allocating the government power to drastically limit the scope of media coverage.

The bill will treat vastly different information under the same legislation; reporting a lost passport would be subject to the same legal restrictions as the exposure of high-level government information. Citizens found guilty of crimes ranging in severity would be subject to similar and extremely harsh punishments. Actions that constitute offences are wide-ranging and include possession of information deemed top secret by the state as well as harbouring someone who possesses classified knowledge.

Crimes are punishable with lengthy jail sentences, and there is no protection for journalists who release information in the public interest, effectively hindering whistleblowers. Instead, they would be forced to self-censor or risk jail time.

While the bill would turn everyday citizens into common criminals, often unknowingly, it exempts intelligence agencies such as the NIA and the police force from public scrutiny, increasing chances for corruption at the highest levels of government.

Though Zimbabwe's AIPPA is strikingly similar to South Africa's Secrecy Bill, ZANU-PF was at least upfront with its intentions, stating in the bill's introduction that part of its aim is "to provide for the regulation of mass media." The act's implementation of a Media and Information Commission extended the government power to evaluate journalists for accreditation, ultimately giving ZANU-PF the ability to censor media as it sees fit.

If a journalist is seen as challenging "Zimbabwean national identity and integrity" the perpetrator faces charges. The inclusion of the "Abuse of freedom of expression" and "Abuse of journalistic privilege" articles further speaks to the draconian features of the act. Journalists who defy AIPPA face fines and jail time.

AIPPA not only strips journalists of their rights- it forces media outlets to censor themselves by imposing high accreditation fees. In this ironic, vicious circle, journalists are required to pay the government to stay employed, thus upholding legislation limiting their rights. As the State decides which media outlets it deems appropriate, widely circulated newspapers are often government sponsored. Meanwhile government officials are protected by AIPPA and are allowed to withhold a great deal of information from the public.

It is true that at present the likelihood of suffering undocumented violence while in the hands of police and other government puppets is currently far higher in Zimbabwe than in South Africa. Four journalists were arrested by Zimbabwean police for attempting to uncover the facts behind the eviction of a police officer who was accused of supporting the Movement for Democratic Change (MDC), ZANU-PF's partner in the coalition government. MDC leader Morgan Tsvangirai has voiced opposition to AIPPA, but the bill has yet to be repealed.

Although the blatant censorship enforced by AIPPA appears more extreme than the pending South African bill, clear similarities do exist between the two. Rather than learning from the Zimbabwean legislation as an example of how to crush democracy,

the ANC seems to have adopted a number of its features. In both countries, media freedom is regressing as both states aim to gain widespread control of information and decrease the spread of negative sentiments surrounding their respective dominant parties.

What is different, though, is that NGOs and civil society in South Africa have been far more successful in protesting against the strict media restrictions than those in Zimbabwe. The South African Right2Know Campaign, R2K, has garnered mass support from around the nation in opposing the Secrecy Bill. Through marches, protests, letters, meetings, and discussion, R2K has succeeded in forcing the ANC to concede on some issues and repeal and review a number of the bill's aspects.

Much of this success has been due to citizen participation; R2K has been integral to increasing public awareness and helping everyday citizens understand how the bill would negatively affect their daily lives.

Unfortunately, Zimbabwean protests against media restrictions have had far less success. Much of this is due to widespread fear of Mugabe's Joint Operations Command, which has demonstrated time and again that it is entirely willing to violently punish those who oppose the president's legislation. Police often attack peaceful protestors and NGOs are under constant threat of violence and intimidation. The Public Order and Security Act (POSA) was introduced to curb public political demonstrations, effectively eliminating citizens' right to protest and giving police fairly unlimited powers to disrupt political rallies.

The trials faced by Zimbabwean human rights advocates seem foreign to young South Africans, but some older citizens may remember how thin the line between democracy and autocracy can truly be. With the introduction of the Secrecy Bill, the ANC is treading a fine line between the two.

Increasing citizen awareness of the bill is integral to ensuring that citizen rights are not infringed. While achieving majority government was a major step for South Africa, it has become apparent that upholding citizen rights cannot be ensured by majority rule alone.

Sustainable democracy in the country continues to face exceptional obstacles, including growing inequality, widespread poverty and a lagging education system. To overcome these challenges South Africa needs an accountable government rather than a body of power-hungry leaders who are more focused on maintaining political control than acting in its citizens' best interests.

The passing of the Secrecy Bill would be a step in the wrong direction for South Africa, implementing a dangerous precedent of government oppression that would move the nation further from democracy and closer to the consolidation of power by the few.

Rather than blindly taking for granted everyday freedoms, South African citizens must rise to the challenge and voice their opposition to the threatened infringement of their basic rights. The trials of Zimbabwe are much closer than they may appear- and the Secrecy Bill would be the first step in a downward spiral for South Africa.

Idasa's States in Transition Observatory (SITO) observes and monitors a number of countries in Africa currently undergoing political transition.