

'Only the crooks fear transparency'

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President Jimmy Carter, the 39th president of the US, did not mince his words when he addressed delegates meeting in Accra, Ghana, to chart the way forward in promoting the right to information on the African continent.

"Only crooks would be scared of transparency," he said.

Those words got roaring applause from the audience - government ministers, civil society groups and media delegates from 15 African countries.

His remarks, rooted in southern (he's from Georgia) forthrightness, were meant to shake the delegates from their slumber and spur them on to promote better access to information practices and transparency in state affairs in Africa.

South Africans in the audience - including a senior National Executive Committee (NEC) member of the ANC - would be forgiven for thinking Carter's statement had no relevance to South Africa.

The country's post-apartheid leaders had secured the recognition of the right to information in the Bill of Rights in the constitution.

Nelson Mandela's government initiated codification of the right to know in three pieces of legislation - the Promotion of Access to Information Act (PAIA), the Protected Disclosures Act and the Promotion of Administrative Justice Act - later signed into law by then-president Thabo Mbeki in 2000.

Were these acts not proof enough that South African political leaders were not "scared of transparency"?

True, Mbeki's government quickly lost interest in ensuring proper implementation of the three laws, particularly the access to information law.

It soon became clear that Mbeki and his ministers considered the access to information law an irritating thing used by bothersome opposition parties and non-governmental organisations to make the ANC's rule difficult.

This sentiment was strangely oblivious to the fact that people who really use the law are common folk seeking service delivery information and demanding to know when their municipalities would build them houses or supply them with clean drinkable water.

The South African Human Rights Commission (SAHRC), tasked with ensuring implementation of the access to information law, was hamstrung by the Ministry of Justice and the Treasury which jointly refused to allocate to it enough resources for interventions aimed at supporting and ensuring better access to information.

In the 10 years since Parliament passed the access to information act the annual budget of the human rights body's PAIA unit has never exceeded R200 000.

Therefore under Mbeki, the access to information law suffered neglect. Civil society organisations and academics concerned with implementation of the access to information act thought this was a worst case scenario.

Little did they know, that events at Polokwane would culminate in a full frontal attack on the right to know by the ANC government under President Jacob Zuma.

Polokwane had to happen, Mbeki's semi-tyrannical ways and his administration's arrogance had to be corrected.

Euphoria erupted when Zuma took office. Even his harshest critics wrote glowingly of a "glasnost", a new opening of the corridors of power in the Zuma administration.

Gone were the days of know-it-all-ism by the ministers and bureaucrats of the Mbeki era.

Under Zuma, the government was going to be more open, consultative and participatory. Those were the glory days, a brave new world was written about, but that world would never come to pass.

With the proposed Protection of Information Bill (the secrecy bill), the Zuma administration is demonstrating willingness to finally kill off



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information rights that were weakened by Mbeki's neglect.

What a massive let-down.

This disappointment is not being felt in South Africa alone but throughout the continent.

When interacting with politicians, government leaders and civil society bodies throughout the continent it has hitherto been easy to fall into the trap of coming across as being rather boastful of South Africa's constitutional framework.

The South African constitutional order, that most in the chattering classes think is so woe-begone, is the stuff of envy north of the Limpopo.

Our counterparts across the Limpopo are eager to learn from our experience in consolidation of an open constitutional democracy.

The Open Democracy Advice Centre has over the years facilitated a series of study visits for dozens of members of parliament and government officials from other African countries so that they could learn from the South African experience.

To learn how to give effect to the right to know, our experience in transforming our society from a secretive one to an open society; of fighting corruption through providing legal protection to whistleblowers, and in allowing the media to do their job without interference from government-sanctioned regulatory agencies.

Unfortunately, South Africa will cease being a positive reference point on these issues.

Why? Because the secrecy bill is going to promote secrecy in government, limit citizens' rights to access of information and outlaw patriotic whistleblowing.

Zuma and the leadership of the ANC in Parliament and Luthuli House should realise that the fallout from this ill-advised bill is bigger than just a domestic spat between government and civil society groups and the media.

The ramifications of the passage of the secrecy bill will spill over way beyond our national borders.

The leadership of the ANC can still salvage the situation.

Parliament should take the bill (together with submissions from the public) back to the Ministry of State Security for redrafting and prevent the beacon of democracy at the tip of the continent from growing dimmer.

It will really be a shame for history to record that Mbeki signed the Promotion of Access to Information Act into law and Zuma signed the Protection of Information Act into law. It just doesn't look good politically. Where are good advisers when a president needs them?

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