

"Knowledge is a form of power and a secret knowledge is conducive to absolute power" — ANTHONY MATHEWS

Secrecy still stalks the corridors of power

Journalists need a Freedom of Information Act to defend democracy, argues **DON PINNOCK**.

IT'S HARD to avoid the conclusion that the Bill of Rights was written without a journalist in shouting distance. No journalist would have allowed a clause on freedom of the Press to pass by without also demanding freedom of information.

What we have got — in Clause 23 — is access to information only if it can be proved that this information is required for someone to exercise his or her rights. The possibility of a journalist arguing that the dirty washing of a government ministry is necessary in order for the general public to exercise its rights is, frankly, remote. And unless something is done about it, the traditional South African culture of bureaucratic secrecy will continue unchecked.

There is no doubt that many of the gross distortions which took place under apartheid have been as a result of the growth of this culture of secrecy and at every level mismanagement, graft, nepotism and cruelty were hidden behind the closed doors of government.

And it is common knowledge that whatever the party in power, bureaucracies, in view of their privy access to knowledge, have a way of perpetuating themselves unless coerced to change. So we may not only be inheriting the legacy of structural apartheid, but also the bureaucratic traditions which will work against any gains made as a result of the election. For these reasons moves to develop a legislative instrument to prevent this from happening need to be a matter of priority.

Long before the election there were suggestions about a Freedom of Information Act. But these were given sharp focus as a

result of a decision made by the Independent Media Commission which was set up to ensure that state media did not advantage any player in the election. The print commission (there was also a commission on broadcasting) chose to interpret the Act which empowered them in its broadest terms, concluding that documentation reproduced *within* state departments was also media and liable to monitoring.

The result, understandably, was received with less than enthusiasm by those departments. They clearly considered it to be snooping. After some difficulty the SADF and Police cooperated, but Correctional Services used bureaucratic delays to ensure IMC monitors never got near them.

The precedent, however, had been set. For the first time, state departments were obliged, by law, to be transparent. The value of this experience in building trust and cooperation — and possibly a new awareness of how many cupboards of skeletons there are — led the IMC to call for the drafting of a Freedom of Information Act.

This call was lost amid the excitement of the election, but journalists who ignore it do so at their peril. No doubt a measure of secrecy is a necessity to any government however defined or constituted. But the right to know is clearly entitled to a place in the catalogue of democratic rights. And it is journalists, and not government, who will have to drive the legislation.

In a debate in the House of Lords back in 1916, Lord Parmoor declared that there could be no popular government in the true sense 'unless you allow the people of a

country to have sufficient and adequate knowledge on which to act rightly and think justly'.

Any state in which the citizens act on false, distorted or incomplete information could not claim to be acting on the principle of open government. It would deprive the system of democracy's claim that it facilitates rational resolution of disputes. Without freedom of information we will have but changed our kings.

What does this democracy mean? At one level it is about access to housing, security, jobs, education and freedom from discrimination. But, in order to realise these goals, it is necessary to give thought to the form of the governmental delivery system between elections. A key issue here is the right to information.

What was at issue in the elections was a switch from a government imposed on people from above to something demanded by people from below. In a popular democracy the public is the ultimate source of social power — and information power, accordingly, is public trust. So a citizen's democratic rights incorporate access to official sources of information. And extensive secrecy in the executive branch and its departments is incompatible with democracy.

While secrecy may not be an unavoidable concomitant of enhanced power, it is an unfortunate fact that power and secrecy have developed together. This is partly because executives have themselves tended to interpret public interest in terms of efficiency rather than responsiveness to the electorate.

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There is no doubt that in the history of South Africa, the prevalent belief has been that more secrecy promotes improved administration. But although it is disputable that secrecy necessarily meant better executive government, the law of ascending secretly in administrative behaviour assured abuses that more than cancelled the gains.

What proponents of secrecy actually meant was that greater secrecy led to stronger executive government. This secrecy was particularly hostile to a citizen's right to information. It came about through:

- the growth of executive power, of official bureaucracy and the practice of news management;
- secrecy policies flowing from intelligence, defence and internal security programmes;
- the maintenance and even expansion of secrecy in foreign policy and;
- the impact of science on the flow of information.

Even without excessive secrecy practices, the exigencies of modern government have necessitated a transfer of considerable power to the executive from other branches, notably the legislature. Among the many causes of this transfer there are three which are especially prominent:

- the increasing role of technical decision-making in modern societies,
- the extensive management and welfare operations assumed by governments which, because of their complexity and detail, are practically beyond legislative control or even supervision, and
- the tendency of foreign policy to impinge heavily on contemporary domestic policy-making.

If, in addition, the new powers of the modern executive are exercised behind a veil of secrecy, the conditions of executive dominance, if not tyranny, are created.

Because of the nature of modern government, these problems of executive secrecy

tend to be passed on to the extensive bureaucratic machinery. Political scientist Ralph Miliband has argued that the upper layers of this bureaucracy inevitably become involved in policy-making — from which it follows that they act as ‘politically’ as the executive. Higher civil servants, therefore, come to constitute a considerable force in the configuration of political power in society.

In parliamentary democracies these bureaucracies have become centres of power and have secured substantial power over lawmaking, over the Ministers who normally control them and over parliament itself. Ex-*Drum* editor Anthony Sampson has commented that ‘in practice the sovereignty of parliament gets lost in the intricate labyrinths of power that surround it’.

Viewed from the perspective of access to information and its link to democracy this is an alarming development, because official secrets were the invention of the bureaucracy we hope will divulge them. Secrecy has been, and remains, one of the most effective techniques which officials have employed to enhance their power. Where accountability is limited, the political system will show a high degree of hierarchy and reliance on coercion. Africa is not short of examples.

Centralisation within bureaucracies also produces information pathologies by distorting the flow of accurate information both up and down the line. Officials exhibit a tendency of covering up mistakes by practices of secrecy. There is an ever-present fear of stepping out of line and ruining career chances. Administrators soon internalise the rule that if you must sin, sin against God, not against the bureaucracy. God may forgive you but the bureaucracy never will.

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access to official information available both to legislatures and to individual citizens.

President Woodrow Wilson is quoted as saying that ‘everyone knows that corruption thrives in secret places, and avoids public places, and we believe it a fair presumption that secrecy means impropriety’. When public access to social process is diminished through excessive secrecy, the result is public apathy and diminished accountability. The democratic process is undermined.

A public that acquiesces in broad secrecy practices on the part of its government is in effect signing a warrant that will authorise corruption, graft, nepotism and worse. Official lawlessness becomes routine when governments are permitted to conceal their activities as official secrets. We are not short of examples of this.

The cure is a rigorous limitation of official secrecy practices. If this is not done the casualty will be trust between citizens and the authorities. Government will lose credibility which will lead to cognitive failures among the leaders as well as the subjects. Writer CP Snow has argued that the keepers of secrets are likely to become arrogant and dangerous: ‘It takes a very strong head to keep secrets for years and not to go slightly mad. It isn't wise to be advised by anyone slightly mad’.

If government is to be by the people, and for the people, then the basis upon which people exercise their decisions should, by law, not be withheld from them. It is for these reasons that South Africa needs a Freedom of Information Act which will guarantee executive and bureaucratic transparency and, ultimately, democracy itself.

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