



PRESS RELEASE

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LAW SOCIETY SAYS SECRECY BILL WILL SILENCE PUBLIC AND MEDIA IN OUR CONSTITUTIONAL DEMOCRACY

The Law Society of South Africa (LSSA) is heartened by the announcement that the National Council of Provinces will set up an ad hoc committee to deal with the Protection of State Information Bill. 'We add our voice to the distress and disappointment expressed at the passing of the Bill in the National Assembly earlier this week. Although improvements have been made to the Bill since it was first published, the fact that it still does not provide public interest indemnity remains a matter for grave concern,' say LSSA Co-Chairpersons Nano Matlala and Praveen Sham. 'As it stands, the Bill continues to fail to take into account the important role played in a democracy by the media, and indeed by every citizen who seeks to expose corruption, nepotism, hypocrisy and maladministration. To a large extent, members of the public and the press remain censored,' they add. 'We exist as lawyers because the public exists. If, as lawyers, we cannot speak on behalf of the public and in the public interest, then our reason for existence as a profession becomes unclear,' say Mr Matlala and Mr Sham.

The criminalisation of the possession of classified information by unauthorised persons also remains a problem in the Bill. 'It is unrealistic to believe that ordinary citizens can resort to the courts to access classified information or to defend themselves against the possession of classified information. The courts, to a large extent, remain the preserve of the wealthy and most ordinary citizens who become aware of corruption and maladministration will be silenced for life if the Bill goes unchallenged,' say Mr Matlala and Mr Sham.

Since the LSSA recognises the legitimate need for every government to take steps to protect information that is crucial for national security, it plans to approach President Jacob Zuma to raise its concerns with him on the serious inroads that the Bill – as it stands – makes into our hard-won constitutional democracy, as he will ultimately sign the Bill into law. 'There is nothing stopping the President from seeking guidance on the constitutionality of the Bill from the legal profession or from the Constitutional Court before he considers it. In our consultations with the legal profession in Kenya earlier this year, we learnt that the Government consults the legal profession on all matters of major public concern. It is regrettable that the Government in South Africa does not follow the same route,' say Mr Matlala and Mr Sham.

The views expressed by the Co-Chairpersons were also expressed by the Council members of the LSSA at a meeting on 24 November 2011.

ISSUED ON BEHALF OF THE CO-CHAIRPERSONS OF THE LAW SOCIETY OF SOUTH AFRICA, PRAVEEN SHAM AND NANO MATLALA

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Editor's note:

The Law Society of South Africa is a member of the SADC Lawyers Association.

The Law Society of South Africa brings together its six constituent members – the Cape Law Society, the KwaZulu-Natal Law Society, the Law Society of the Free State, the Law Society of the Northern Provinces, the Black Lawyers Association and the National Association of Democratic Lawyers – in representing South Africa's 20 200 attorneys and 5 300 candidate attorneys.