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# Muzzling South Africa

New secrecy laws would restrict freedom of speech and reverse South Africa's strides toward transparent government.

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**JOHANNESBURG** Defenders of freedom in South Africa are deeply worried these days. The health of one of the world's most celebrated democracies, which emerged after decades of struggle against apartheid, is under threat. And any rollback of freedom here will have profoundly negative consequences for other nascent democracies across Africa.

Last week, the ruling African National Congress used its legislative majority to pass the Protection of State Information Bill in one of the two houses of Parliament. If signed into law, the "secrecy bill," as many here call it, would criminalize the possession and disclosure of classified information, no matter by whom, and no matter why.

Under the proposed law, a journalist who receives classified information revealing corruption or wrongdoing involving government contracts is required to hand it over to the police and most likely face interrogation about the source. Holding on to such material invites up to 5 years in jail, and publishing it, up to 25.

The threat goes well beyond journalism. It is ultimately about citizens' right to know. Indeed, these penalties

would apply to anyone — from activists to individual legislators to diplomats — who received classified information without state approval.

The South African Constitution recognizes access to information as a basic right, but the government routinely ignores it. Access to public records can often be enforced only with a court order. Giving bureaucrats new powers to classify even more information will have a chilling effect on freedom of speech and reverse the strides we have made toward more transparent governance.

The A.N.C.'s dominance of the political system has made it harder to hold government officials accountable. Members of Parliament are elected by proportional representation on party lists. They owe their seats to party bosses, and can lose them at any time. Party leaders "deploy" trusted members to crucial posts in the police force, military, state-owned companies and the public broadcaster.

In this environment, the press and the judiciary have provided critical checks and balances. The courts forced the government to provide alternative housing to poor people evicted from land they had illegally settled. And at the height of former President Thabo Mbeki's AIDS denialism, the Constitutional Court ruled that the drug nevirapine must be provided to H.I.V.-positive pregnant women to cut the risk of transmission to their babies.

Meanwhile, a raucously free press continues to uncover corruption scan-

dals and shine a spotlight on the widespread failure to provide basic services to the poor. President Jacob Zuma himself was the subject of intense legal and media scrutiny for years over allegations of corruption arising from a 1999 arms deal, until charges against him were dropped in April 2009.

A.N.C. leaders once defended the Constitution as a product of the struggle they led and tolerated checks on their power. Those days are over.

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Now, the party is deeply fractured, and battles for access to the sources of patronage preoccupy much of the government. Rising public anger over gross inequality, corruption and public officials' ostentatious displays of wealth represents a crisis of legitimacy for the party of liberation. Facing internal dissent and the fraying of his party's credibility, Mr. Zuma has turned to an inner circle of loyal security officials for support.

In September, when Mr. Zuma appointed his preferred candidate for chief justice of the Constitutional Court, in the face of public protests, he complained loudly of judicial interference in the functioning of the executive branch. And after last week's vote the cabinet announced it would "assess" the

courts to determine whether their rulings advanced the goals of "development" and racial "transformation." The message was clear: the A.N.C. wanted more compliant judges.

Now, the ruling party is considering setting up a parliamentary commission to regulate the print media — a proposal that is likely to seriously curtail critical reporting.

Unless the secrecy bill is revised to allow the publication of state secrets in the public interest — to reveal a crime, a threat to public safety, corruption or official lying — it will do irreparable damage to South Africa's democracy.

For the first time since 1994, South Africans are not debating policy within a constitutional framework; instead we are being asked to question the very foundations of our freedom. A broad coalition of township activists, labor unions and religious and civil society leaders, including the Nobel laureates Nadine Gordimer and Desmond Tutu, have joined journalists in opposing the bill.

They know that the fight is over much more than a single law. South Africans will guard their hard-won democratic rights jealously. And they will need all the encouragement they can get.

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