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## **THIS ARTICLE – AND GOOD GOVERNANCE – COULD SOON BECOME OUTLAWED**

In the context of the proposed changes set out in the Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Bill (“POCDATARA Bill”) currently before parliament, if it is passed in its current form, this indeed may become the “final straw that breaks the camel’s back”, and all aspirations of holding the South African government to account for poor or no governance may come to an end.

Given the wide definitions of “terrorism” and “terrorist activities” contained in the Bill, any person or organisation that criticises or challenges the government in respect of their legislation, policies or dubious activities -- such as landing a private chartered jet at Waterkloof Air Force Base or citizens paying for senior government official’s utilities bills -- may conceivably find themselves on the wrong side of the law. Indeed, governance reporting itself may also become problematic for government organisations and their leadership. This is so as governance reporting mechanisms and systems highlight the real facts in order to improve the organisation’s governance at strategic and operational levels. Government institutions, and even those organisations contracting with such institutions, might well be disinclined to expose poor governance if that might land them in a criminal court facing hefty fines and jail time.

Sad as it may be, non-profit organisations such as OUTA, Afriforum, Corruption Watch, Dear SA, Business Leadership SA and many similar watchdog organisations -- which have been instrumental in exposing crime and corruption, especially within the South African government sectors -- will essentially be exposed to a high risk of fear and intimidation, through criminal prosecutions for alleged terrorism. Donors and sponsors of these organisations will most likely withdraw their funding for fear of reprisal, which includes massive fines and/or lengthy prison sentences to those who directly and/or indirectly criticize or pass adverse comments about the government, should these criticisms and comments be found to be terrorist activities.

Social media platforms -- which in South Africa and other countries -- have played a pivotal role in creating national awareness of a great deal of important and critical issues, might also be under threat. Freedom of expression as we know it in our Constitution and hard-won democracy, may also be muzzled as a result of the impending changes contained in the POCDATARA Bill.

What is most surprising is the absence of dissent from the legal profession, governance professionals, academics, religious leaders and indeed the human rights champions in South Africa. It is as though they are all in a deep slumber,

and as the watchdogs continue to gradually lose their bite, these draconian laws continue to instil fear amongst those who understand the likely consequences of this Bill being passed in its current form. Expectedly, if all the watchdogs have not understood their imminent threat of being silenced (extinguished) once and for all, then how will ordinary citizens even know that the looming deadline to dissent upon their civil liberties -- as contained in the SA Constitution -- which will be substantially eroded, ends on 18 October 2022. To this end, at the time of writing this article, less than 20,000 concerned citizens have commented and voiced their disapproval of the changes contained in the POCDATARA Bill on the Dear SA website. Whilst there may be other non-profits similar to Dear SA creating a platform for concerned citizens to object to these draconian changes against critics of a corrupt government, the numbers are alarmingly minuscule. Should the legislators ignore the objections, there will no doubt be constitutional challenges, but more importantly, those who are vacillating about leaving, and who can afford to do so, might well view this legislation as just one more step towards a failed state which will make their decision that much easier.

History has taught the world many lessons. The utilitarian philosopher John Stuart Mill, who delivered an 1867 inaugural address at the University of St. Andrews once said, *"Let not any one pacify his conscience by the delusion that he can do no harm if he takes no part, and forms no opinion. Bad men need nothing more to compass their ends, than that good men should look on and do nothing. He is not a good man who, without a protest, allows wrong to be committed in his name, and with the means which he helps to supply, because he will not trouble himself to use his mind on the subject."*

Should we do nothing more than watch these proposed changes as set out in the draft bill being implemented, we must appreciate that in the future we might not be able to speak out against any poor governance imposed by the government, and if anybody is bold enough to do so, there is every chance they will be accused of being a terrorist.

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