

FISH HOEK VALLEY RATEPAYERS & RESIDENTS ASSOCIATION

(Incorporating Fish Hoek, Clovelly and Sun Valley)

Central Circle, Fish Hoek 7975

Web: <https://www.fhvrra.org.za/> Facebook: www.facebook.com/FHVRRRA/

Heritage Western Cape: Conservation Body

TO: AD HOC COMMITTEE ON THE GENERAL INTELLIGENCE LAWS
AMENDMENT BILL (GILAB) 2023
PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA
CARE OF: MS ALUTHO SOMBEXE, COMMITTEE SECRETARY OF THE
AD HOC COMMITTEE
GILAB2023@parliament.gov.za

SUBJECT: COMMENTS ON B40-2023 GENERAL INTELLIGENCE LAWS
AMENDMENT BILL (GILAB) 2023 ¹

DUE DATE: 31 JANUARY 2024

Our Constitution's Bill of Rights (Chapter Two) guarantees the rights of privacy, freedom of association, religion and free speech to all South Africans. Citizens should be encouraged to lawfully participate actively in faith-based sector, civil society organisations and NGOs within our constitutional democracy.

The problem with the State Security Agency (SSA) vetting is that it delays appointments to these organisations due to its own backlog. Also, the SSA has often failed to identify actual security risks, such as corrupt officials. The vetting process itself is corrupt when it is used to revoke security clearances of its critics.

Rather than vetting of people seeking to establish and operate these organisations, as proposed in this bill, reform the criminal justice administration ² and improve oversight and accountability of the intelligence services, which this bill fails to address.

The Inspector-General of Intelligence's, the watchdog of the intelligence agencies, decisions should be binding. The SSA abuses its power, is politicised and is corrupt (no Auditor-General oversight of their secret funds, which were State captured). The SSA should stick to conducting security vetting of civil servants and potential service providers to government in order to identify persons posing security risks to the state. Risks range from the potential to commit fraud to being vulnerable to recruitment by a foreign spy service as they already have work backlogs delaying key appointments.

Mass surveillance facility in the National Communications Centre (NCC) is unconstitutional as declared in the amaBhungane judgement. This bill seeks to allow for mass surveillance without any safeguards and with minimal oversight.³

1 https://www.parliament.gov.za/storage/app/media/Bills/2023/B40_2023_General_Intelligence_Laws_Bill/B40_2023_General_Intelligence_Laws_Bill.pdf

2 <https://www.polity.org.za/article/the-general-intelligence-laws-amendment-bill-is-unconstitutional-2023-10-16>

3 <https://www.bing.com/ck/a?!>

<https://www.bing.com/ck/a?!&&p=f0b8401c6a6d4f86JmltdHM9MTY5NzY3MzYwMCZpZ3VpZD0wZTM0ZDYyZS02NTViLTU5YjMtMTc0Yy1jNjI2NjQxZjY4YTImaW5zaWQ9NTE3Ng&ptn=3&hsh=3&fclid=0e34d62e-655b-69b3-174c-c626641f68a2&psq=comment+period+for+GENERAL+INTELLIGENCE+LAWS+AMENDMENT+BILL%2c&u=a1aHR0cHM6Ly9pbmRlbHdhGNoLm9yZy56YS93cC1jb250ZW50L3VwbG9hZHMvMjAyMy8wOC8yMDIzMDgwMi1HSUxhBQilJTtkZPUk1BVElPTi1TSEVFVC5wZGY&ntb=1>

Rather amend the Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002 (RICA) to fall in line with Constitutional Court's judgement. Any mass surveillance should have transparent oversight by independent judges authorising the surveillance before these investigations start and the reasons for the surveillance given prior as surveillance should never be used for discovery/

This bill does nothing to address the Financial Action Task Force (FATF) greylisting for failing to meet international standards set to curb terrorism financing. Legislative reforms aimed at removing SA from the greylist have already been made (The General Laws (Anti-money laundering and combating terrorism financing) Amendment Act 22 of 2022, and the Protection of Constitutional Democracy Against Terrorism and Related Activities Amendment Act 23 of 2022).

Summary

We, the Fish Hoek Valley Ratepayers & Residents Association, request the following:

- Removal of the SSA's vetting of organisations' appointments to faith-based sector, civil society organisations and NGOs;
- Adding SSA vetting of civil servants and potential service providers to government;
- Adding oversight of the SSA by the Auditor-General, especially of its secret funds;
- Making the Inspector-General of Intelligence's decisions binding on the SSA; and
- Amending RICA to fall in line with the amaBhungane judgement with oversight by independent judges (instead of mass surveillance as proposed in this bill);

We are NOT interested in making a verbal presentation.

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