

Foreign funding: govt keeps opponents in suspense

Most foreign governments believe there is no need for additional legislation to achieve the stated objectives of the FFB, but they cannot dispute the underlying principle of the bill that governments have the right to monitor foreign funding. Laws already in existence which control foreign funding include the Fund Raising Act, the Affected Organisations Act and exchange control regulations. Foreign embassy officials say that the extent of the FFB goes beyond mere monitoring, but add that most of their immediate concerns about the bill were removed by the PFP amendments. They plan to watch its implementation closely.

Safeguard

The PFP's Dave Dalling says the FFB was inevitable. The government wanted a bill and it would get one, one way or another. In fact, the PFP-NP deal on last year's Promotion of Orderly Internal Politics Bill was based on the PFP's acceptance of the new bill. Mr Dalling said the PFP undertook to approve a more reasonable new bill on condition that the government dropped last year's number, and the party could not renege on that undertaking.

He believes that the draconian teeth of the legislation were extracted by the PFP amendments, and that we are now left with a bill which does not offend any basic liberal tenets. He also points out that a further safeguard against abuse exists in the fact that the life of the parliamentary committee which considered the bill has been extended to monitor the implementation of the measure.

Among the most significant amendments adopted by the standing committee is one which stipulates that the government may only request such additional information from an organisation as could be deemed "reasonable". Furthermore, the government would need court orders before it could subject any organisation to a "search and seize" operation or freeze its assets. To alter the purpose for which the money was intended, organisations now need only the consent of the donor.

The Minister of Justice, Mr Kobie Coetsee, told parliament that the bill was not aimed at cutting off the inflow of funds from foreign governments, organisations or businesses who wish to

contribute to programmes for "economic growth, job creation, education, health and other humanitarian activities". Clearly many organisations working for change are engaged in — and receive funds — for projects which will not be covered by a government definition of humanitarian activities.

As the FFB stands now, the government will have to combine its provisions with other legislation if it wants to cut off the funding of organisations that comply with the requirements of the bill.

The government has tried to defend its insistence on full disclosure by saying that several large democracies have similar legal provisions. However, an examination of at least one American law cited as an example of this (the Foreign Agents Registration Act) does not seem to support this contention.

FARA requires public disclosure of financial and other details of arrangements under which persons (mostly professional lobbyists and almost all highly paid) engage in propaganda and other efforts to influence US policy on behalf of foreign governments or other parties.

Anti-apartheid organisations have pointed out that the accounting requirements of the bill, in addition to being a breach of confidentiality, will impose an impossible administration load on organisations. Many smaller organisations do not maintain records in a manner likely to meet FFB requirements and will quickly find themselves subject to FFB sanctions.

Sinister

They are particularly concerned, however, by the information gathering aspect of the bill which they feel has a sinister purpose. They fear that it was designed to ease and simplify the task of the security police and to open up organisations to being declared affected without the hindrance of the Affected Organisations Act.

The South African Council of Churches sees the bill as yet another attempt by the government to prevent the legitimate organisation and promotion of work in opposition to apartheid policies.

"The bill criminalises innocent and inadvertent errors that are inevitable in day to day practice," says Kagiso Trust. "For example, an organisation that 'neglects' to inform the Registrar of the arrival of foreign funds may be deemed to have committed a crime and be prosecuted."

In the long-term, said Kagiso Trust, the EEC Special Programme for the Victims of Apartheid cannot survive under the provisions of the bill. "Humanitarian and developmental assistance will no longer be possible without direct state knowledge, interference and manipulation."

Ronel Scheffer
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THE government has added yet another potent weapon to the formidable arsenal of legislation and regulations it has built up over the years to suppress opposition to its policies. The impact of the latest addition, the Disclosure of Foreign Funding Bill, will depend on the way in which it is implemented. But even if it is not applied in a vicious manner, the new law will remain a potential threat to those who, like IDASA, do their work with the assistance of foreign funds.

Anti-apartheid organisations expect, quite justifiably of course, that the government will not hesitate to use the information gathered under the provisions of the bill as a basis for further action against them. But there is cautious optimism in certain quarters that the new law, although an encumbrance, will not become a device to further curtail or disrupt the work of those in opposition.

Among the optimists are a number of foreign embassy officials who worked hard behind the scenes last year to persuade the government to abandon the Foreign Funding Bill's tough predecessor, the Promotion of Orderly Internal Politics Bill. Their optimism is based on the belief that the government needed a "face saver" after its defeat — mainly by foreign pressure — last year. Some European governments apparently went as far as threatening to refuse South African Airways landing rights. All in all, these officials believe Pretoria got the message that it will pay dearly for any attempts to block or disrupt foreign agencies' assistance programmes to disadvantaged communities in South Africa.

Tamer?

Hence the ostensibly tamer new bill which contains only two offences: failure to disclose or report foreign funding and using funds for a purpose different to the one reported to the government.

The bill, briefly, provides a discretionary power to declare any group or person a "reporting organisation or person" (RO). An RO is then requested to provide information relating to all foreign funding received during the previous three months as well as in the future, to report certain information to the Registrar, to spend foreign funds only in accordance with the purpose and conditions under which it was granted and to maintain records and accounts relating to such funds in certain specified ways.

Alarming

One of the more alarming provisions of the bill which was not amended by the parliamentary standing committee, is the power given to the Minister of Justice to make additional regulations to achieve the objectives of the law. Similar powers to regulate have been abused in the past.