

# **JASA Media Release**

## **Justice Alliance of South Africa**

1 Ruskin Road, Bergvliet, Cape Town 7945  
Tel: 021-713-3259 Fax: 0866 727474 jasalaw@mweb.co.za  
www.jasa.za.net



**Embargo: None**  
**25 November 2010**

**Enquiries: John Smyth QC**  
**083 653 8804**

### **JASA REMINDS PARLIAMENT THAT THE NCOP MUST HOLD PUBLIC HEARINGS ON THE 'SECRECY BILL'**

### **ALL STAKEHOLDERS WILL HAVE A FURTHER OPPORTUNITY TO EXPRESS THEIR CONCERNS NEXT YEAR TO DIFFERENT MPs**

JASA has today written to the Speaker of Parliament and the Chairperson of the NCOP respectfully reminding them that once the Protection of Information Bill has passed the National Assembly, the NCOP must hold full public hearings as required by section 72 of the Constitution. This mandatory requirement applies to every *controversial* Bill as was spelt out by the Constitutional Court in the landmark decision of Doctors for Life vs Parliament 2006(6) SA416 (CC). The facts of the Doctors for Life case were very much on all fours – the NA held public hearings but the NCOP failed adequately to do so. Accordingly the Act in question in that case was struck down. Giving the judgement of the Court in that case, the present Chief Justice said one of the reasons for requiring public participation was that “its open and public character acts as a counterweight to secret lobbying and influence peddling” (para 115). In another paragraph in his judgment Justice Ncgobo said: “When it comes to establishing legislative timetables, the temptation to cut down on public involvement must be resisted.....The timetable must be subordinated to the rights guaranteed in the Constitution, and not the rights to the timetable” (para 194).

John Smyth, QC, the Director of JASA, was the initiator of the Doctors for Life case and the deponent of its founding affidavit.

Under section 75 of the Constitution, the NCOP has the options of passing the Bill, making amendments, or rejecting the Bill. In either of the latter cases, the Bill must then go back to the NA for reconsideration.

This means that all interested parties should prepare now to make written and oral submissions to the NCOP Select Committee which will deal with the Bill in the new year. Stakeholders who made submissions earlier this year to the NA Portfolio Committee will have a further opportunity to debate the Bill, and others will be free to join in. JASA did not make submissions to the NA Committee, preferring “to keep its powder dry”, but will certainly do so to the NCOP.

The NCOP may hold their hearings in Cape Town and/or in the different Provinces. JASA, in its letter, has urged that they be held in different Provinces bearing in mind the extraordinary level of disquiet about the Bill.

The fight is far from over!

JASA’s letter to Parliament is available on its website: [www.jasa.za.net](http://www.jasa.za.net)

**JASA**  
**Upholding Justice in the Public Square**  
**Executive Board**

Grant Gunston (Chairman), Stephen van Rhyn (Vice-Chairman), Tendai Musikavanhu, Linda-Jane Tippoo  
Quinton George, Nigel Desmond, John Smyth