

**OPEN LETTER TO PRESIDENT CYRIL RAMAPHOSA AND THE GOVERNMENT
TO URGE SIGNING OF COPYRIGHT AMENDMENT BILL**

30 January 2020

For follow up:

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By Email, Also attached as PDF. Online version: <https://bit.ly/2uHmw9U>

Attention: President Cyril Ramaphosa

cc: Ministers and Members of the Executive

Your Excellency, President Cyril Ramaphosa

We are individuals and organisations representing several hundred thousand South Africans, including teachers, students, librarians, filmmakers, actors, musicians, game developers, journalists, freedom of expression activists, disability rights activists and others.

We urge you with all the persuasive power at our disposal to immediately sign into law the Copyright Amendment Bill and Performers' Protection Bill, which were passed by our democratically-elected Parliament almost a year ago in March 2019.

We are aware of the considerable publicity in the media focused on opposition to the Bills by certain interest groups and foreign governments. We understand that this may have exercised your mind a great deal and that this might be responsible for the delay. We are also alert to the public debate on the constitutionality of the Bills. We are nevertheless of the view that the Bills are constitutional and should be signed immediately as we motivate below.

This legislation is vital to achieve the objectives of promoting inclusive economic growth, broadening access to education and creating jobs. These objectives are rightly priorities of the South African Government, the South African people and yourself. Moreover, the Bills are vital to propel us forward into the Fourth Industrial Revolution with South Africans as contributors, not passive subjects.

We are sure that you as our President will lead from the front on these objectives. We are confident that you would agree that we should not pander to pressure from special interest groups or foreign interests, when they are not in the interest of South Africa. Just as in the struggle for affordable antiretroviral medicines in the 1990s, we need courageous and decisive leadership to promote South African interests.

We trust you will agree that it is in South Africa's interest that the President should announce in the State of the Nation address this year on 13 February 2020 that the Bills have been signed or that they will be signed.

May we also draw your attention to the fact that the matter is urgent because the rights of several groups are currently being denied by the failure to allow the Bills to pass into law:

- **Blind and partially sighted people** are being denied rights to information
- **Actors, Musicians and Fine Artists** are being denied royalty income commensurate with their work
- **Journalists, Filmmakers and Photographers** are being denied the right to own their work and the right to incidental use of materials
- **Learners, Students, Teachers and Academics** are being denied the right to access essential educational materials
- **Writers, Authors and Composers** are being denied the ability to ensure copyrights revert to them in good time.

Furthermore there is a great deal of innovation and investment into South Africa that is being deterred by failure to sign the Bills. **Technology companies** require a balanced approach to copyright in order to invest in new growth sectors such as Artificial Intelligence.

In fact, one senior international IP expert, Professor Ruth Okediji of Harvard University, cited in South Africa recently that in the US alone over \$3 trillion of economic activity results from industries that rely on fair use rights like the one the Bill proposes.

Hence we have no doubt that the standing and credibility of South Africa, its Government and its President will be raised both in South Africa and abroad by your urgent action on this matter in your State of the Nation address.

The Constitution requires the President to act rationally and within reasonable time in signing Bills into law or alternately referring specific sections back, if there are true constitutional conflicts. We are sure you would agree that reasonable time has now passed for you to act. We also wish to point out that it would be irrational and unconstitutional for you to hold back the Bills due to pressure from vested interests or foreign governments. We know you would not do this.

Late last year we took the liberty of sending you an opinion from leading Senior Counsel on the Bills, and no constitutional obstacles which would prevent the Bills being implemented were identified.

We believe from reports in the media that you have now obtained your own advice from your Ministers on the Bills. We kindly ask that you make this advice public, so that any legitimate issues raised can be debated. Should your Ministers have any outstanding concerns, we feel certain these may be addressed in the Regulations to the Bills. As groups within Civil Society, we would be happy to assist with this process.

One important point - the exceptions and limitations to copyright, including fair use, are completely in line with international best practice and our own Constitution. Over 70 percent of African and Latin American countries have educational rights similar to those proposed in the Bills. Many developed countries have enjoyed similar rights for decades.

We feel it would be harmful and detrimental to our country for you to allow further time to elapse before passing the Bills into law. You would understand that continued denial of the rights of so many million South Africans is intolerable and may lead to other recourse being sought by those South Africans.

#KnowledgeForAll

#Peoples4thIR #Im4TheArts

#TextbooksAreTheNew Medicines

#SendMe #SendYourself

Yours

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Anele Yawa, General Secretary, Treatment Action Campaign

Umunyana Rugege, Executive Director of Section27

Zak Yacoob, former Justice of the Constitutional Court

William Bird, Media Monitoring Africa

Tinyiko Ntini, National Secretary of the Young Communist League of South Africa

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