

Annual Report  
July 2003 - June 2004



FREEDOM OF EXPRESSION INSTITUTE

*Fighting for and defending freedom of expression . Opposing censorship . Fighting for the right of equal access to information and knowledge . Proactively developing policy to ensure the free flow of information . Fighting for media diversity*





The Freedom of Expression Institute (FXI) was established in 1994 to protect and foster the rights to freedom of expression and access to information, and to oppose censorship. The Institute was formed from a merger of three organisations: The Campaign for Open Media, the Anti-Censorship Action Group and the Media Defence Trust.

The FXI undertakes a wide range of activities in support of these objectives, including lobbying, education, monitoring, research, publicity and litigation and, the funding of legal cases that advances these rights. In the process, it networks with, and collaborates with, a wide range of organisations locally and internationally.

The FXI is a voluntary, non-governmental organisation managed by an Executive Committee, which is elected once every two years at the organisation's annual general meeting. In addition to the Executive Committee, the FXI has a staff of six full-time members.

The FXI is a member of the International Freedom of Expression Exchange (IFEX), which monitors freedom of the media and freedom of expression on a global scale. Through the IFEX Action Alert system, the FXI publicises freedom of expression violations in South Africa and draws in other organisations to support its campaigns.

This Annual Report covers activities undertaken by the FXI from July 2003 to June 2004, and includes a summary of activities undertaken during this period.



## CONTENTS

<b>Chairperson's remarks Annual Report 2003/4</b> .....	<b>4</b>
<b>Changes in the free expression environment</b> .....	<b>6</b>
<b>Organisational overview</b> .....	<b>9</b>
<b>The Anti-censorship Programme</b> .....	<b>12</b>
The Khayelitsha Anti-Eviction Campaign .....	15
The case of Sonya Roets .....	15
The case of Tascoe De Reuck.....	15
The case of Justin Nurse .....	16
The case of Ranjeni Munusamy .....	16
The Dulcie September book .....	16
The matter of the General Workers Union of South Africa (Giwusa).....	17
The state doctor's march .....	17
The APF Matter.....	17
Mangaliso Kubheka, the LPM and the Freedom Front.....	18
Actions against the LPM on Election Day.....	19
Draft Hate Speech Bill.....	19
<b>Community Media Policy Research Unit</b> .....	<b>20</b>
Study on the State, Size and Shape of the Community Radio Sector in South Africa .....	21
The expansion of the South African media and ICT companies into the SADC region .....	22
Community radio and ICT's .....	22
Evaluation of the Labour Community Radio Project .....	23
The impact of the convergence of broadcasting and telecommunications regulation on community radio .....	23
Policy interventions.....	23
<b>Forthcoming projects</b> .....	<b>24</b>
Audit of African Public Broadcasting .....	24
Expanded evaluation of the Labour Community Radio Project .....	24
Convergence Bill.....	24
<b>Media and ICT's Programme</b> .....	<b>24</b>
<b>Coalition against Water Privatisation</b> .....	<b>25</b>
<b>Access to Information Programme</b> .....	<b>26</b>
Setting up of the FXI's Access to information Programme .....	26
FXI/ Ebrahim Harvey vs. Johannesburg Water and others.....	27
<b>FXI Legal Unit</b> .....	<b>29</b>
<b>Legal Unit for social movements</b> .....	<b>30</b>
<b>Anti-War Coalition</b> .....	<b>31</b>
<b>Media and publicity</b> .....	<b>31</b>
<b>Reparations conference</b> .....	<b>31</b>
<b>Conclusion and strategic challenges</b> .....	<b>32</b>
<b>FXI Annual Financial Statements</b> .....	<b>33</b>

Photos [from top to bottom]: Raymond Louw (FXI executive committee member); Mabalani Mfundisi (FXI chairperson) with Jane Duncan (FXI executive director); Simon Kimani Ndung'u (head of anti-censorship programme); Console Tleane (head of the community media policy research unit) with Gertrude Ramela (receptionist, administrative assistant); Pinky Magau (administrator) with Gail Turton (head of finance and administration). [Photos: Tswaledi Thobejane]

Design and layout by PYC Graphics & Multimedia ([www.pycgraphics.co.za](http://www.pycgraphics.co.za)). Illustrations by Porat Jacobson, based on the style of American Pop artist, Robert Rauschenberg. Hellkom's logo is used courtesy of [www.hellkom.co.za](http://www.hellkom.co.za). FXI thanks Laugh It Off for permission to display their logo designs, and Indymedia South Africa, the Mail & Guardian and Ben Cashdan for use of their photographs.



[Photo: Tswaledi Thobejane]

## **CHAIRPERSON'S REMARKS ANNUAL REPORT 2003/4**

The year under review have been challenging for the FXI , and has also been the most remarkable in the history of the FXI. Like the growth of a baby, the Executive Committee and the Management Team and all staff members of the FXI have nurtured the growth of the baby into a tough, resourceful, respectful member of South African society. Whilst we wanted to have achieved more, the limited resources, small implementation staff and sometimes uncooperative partners, we are proud that we achieved all the objectives we had set ourselves. Borrowing from Leo Rosten "*the purpose of life is to matter – to count, to stand for something, to have it make some difference that we lived at all*"

As we take this short pause to reflect and rejoice, we need to ensure that we emerge with better plans that will take us a step closer to make sure that freedom of expression is truly a right enjoyed by all. Depending on which side of the fence you are looking from, the space for free expression is either increasing or decreasing. As the FXI, we believe that the space has been made wide enough through various enabling legislations, but there are pockets of discomfort that need some sorting out. We are ready to engage with the battles that lie ahead, yet we are upbeat about opportunities that South Africa offers today than ten years ago.

Although tempted, the ever optimist in us refuses to dwell on setbacks that we have had to endure as a country. Even worse, some of the setbacks that we experienced as the FXI in our process of rebuilding the organisation have made us more wiser, and better strategists. We are on the right path, and our phenomenal growth confirms this believe.

During this period, we commissioned Alvin Anthony to evaluate the FXI's Anti-Censorship Programme and Community Media Policy Research Unit, as well as assist us to develop a sustainability strategy. It is through the latter that our path for the future need to be mapped around so that five years from now, we assess how much of that path have we travelled.

The Executive Committee has developed policy positions that seek to clarify our political orientation as an organisation. The process has also brought to the fore the fact that we have different understandings of what the FXI is, but our collective resolve has ensured that we reach consensus on these policy positions. In the coming year, more policies will be developed to further clarify the view of the FXI on a number of issues that we confront. We hope that the existing policies will be debated and updated, ensuring

that we constantly sharpen our view of the world around us.

We have supported those whose right to express themselves freely have been violated. We continue to make policy interventions in our quest to ensuring South Africa's hard-fought freedoms are defended and deepened. We continue to shape public opinion through inputs that we made via television news clips, radio and newspaper interviews and articles published. We have attended many a meeting and brought people together through meetings that we have convened. As we did all these things and many more, we received accolades as well as criticisms for advancing the principles that we believe in. Having applied our minds carefully to all that which we have done, we regret no step we have taken, and faced with the same challenges, we will do it all over again.

In our work, we had to spend sleepless nights trying to assist those whose rights were met with brutal force and unnecessary nights spent in jail cells. Overnight we had to become lawyers, or wake up those who we know to bail ordinary South Africans whose rights had been violated. As fate would have it, no system can triumph over the will of a people determined to set themselves free. We salute the social movement's gallant fight to ensure that socio-economic rights enshrined in the constitution are enjoyed by all, without fear or fervour. We also commend those Non-Governmental Organisations (NGOs) and Community-Based Organisations (CBOs) whose efforts have added a voice to the call that a better world is possible. We salute those government departments and business, through whose actions our people are beginning to reap the rewards of a free South Africa.

The existence of the FXI cannot be wished away, and any individual, however powerful they may be, cannot alter the role that it plays and will continue to play. We are here to stay, and we will continue to play a role as defenders of the constitutional right to free expression. We however know and respect the fact that these rights are not limitless and require to be treated with the necessary responsibility. We should all as members of FXI defend its right to exist, and deal with any attempt from any quarter to derail us from meeting our objectives.

On behalf of the Executive Committee, I would like to thank the small team of staff of the FXI, and its members who continue to breath life into its programmes. Also we thank the supporters of our cause, who always see fit to invest their resources into our organisation to carry out its tasks. We recognise the personal sacrifices that have been made by all these individuals. We also have worked with consultants who have undertaken their work diligently, and will continue to do so in our future work.

The next five years should ensure that the FXI has a sustainability plan that will strengthen our name in the body politic of the South African freedom of expression discourse. Others would argue that the freedom of expression environment has become a market place, and we are therefore duty-bound to make sure that we supply quality service for the huge demand that is out there. A better world is indeed possible!!!

Mabalane Mfundisi  
*Chairperson, FXI*





## CHANGES IN THE FREE EXPRESSION ENVIRONMENT

2004 marks the tenth year of South Africa's democracy, which was ushered in with the holding of the country's first set of democratic elections in April 1994. In the same year, the FXI was formed. Many were skeptical about the establishment of the FXI in 1994 as they did not see the need for the organisation in the light of constitutional guarantees around freedom of expression. However, the FXI has continued to exist, and in fact has grown.

The early work of the FXI was concerned with consolidating democratic gains given the fact that the country was in the early stages of building a democracy. Old apartheid laws had to be scrapped from the statute books, new laws developed and democratic practices enshrined in government. Therefore a great deal of the FXI's work was involved in developing new policy and legislation.

However, since then, changes to the global and local political economy have led to a downturn in the free expression environment. The United States of America (USA) has used the attacks of September 11, 2001, to pursue its foreign policy objective of increasing control over strategic oil supplies by military means. It also used its global leverage to ensure more and more countries promulgated anti-terrorist legislation, and enhanced their monitoring and surveillance capacities. A cursory overview of organizations proscribed by the USA and the European Union (EU) shows that these measures are not restricted to the alleged perpetrators of the attacks on the US, but include a range of organizations opposed to US foreign policy. These organizations include not only the older national liberation and anti-colonial movements, but the new social movements and the anti-globalisation movement as well. The war in Iraq, which was launched by the USA-led 'Coalition for Change' in March 2003 led to the largest demonstrations in recent memory, with over 30 million people taking to the streets to march against the USA's intentions to invade Iraq. So while resistance to US imperialism and neo-liberalism have increased globally, so has repression.

How has South Africa fared in this increasingly conflicted world order? The country embraced democracy with high hopes for freedom of expression, and many assumed that censorship was consigned to the dustbin of history. However this was not to be. Since 2000, the FXI has noted a sharp rise in censorship in South Africa. The reason is not difficult to understand. There is widespread agreement that ten year into democracy, unemployment and inequality are the two most pressing problems the country faces. Extreme inequalities are giving rise to social contradictions, which in turn are generating their own opposition. In the past two years, South Africa has seen the rise of independent social movements taking up struggles around access to basic services, affordable health treatment, and against privatisation. Their style of politics has included direct action, leading to ongoing confrontation with the authorities and, more recently, incidents of censorship and repression. Two movements that have repeatedly brought cases to the FXI for attention are the Landless Peoples' Movement (LPM) and the Anti-Privatisation Forum (APF).

Another significant trend noted last year is that more unmediated and popular forms of expression are under threat especially, including those involving mass meetings, assembly and demonstrations, and the use of popular media, like graffiti and pamphlets. These cases involve not only instances of censorship at the hands of the state, but at the hands of parastatals, the private sector and civil society organisations, with many involving disputes around the provision of electricity, housing, healthcare, land and a clean environment.



*A solidarity protest with the anti-privatisation forum held by the Water Pressure Group, Auckland, New Zealand, September 2003. [Photo: Darcy Gladwin]*

More specifically, during the course of the year the FXI also noted that four trends were evident in the free expression environment. The first trend is that activists engaged in direct advocacy through the distribution of pamphlets and posters or the holding of meeting or demonstrations are being subjected to censorship. If activists are arrested and released on bail, they may be subjected to bail conditions that restrict their free expression rights: a second trend noted by the FXI. A third trend involves the banning of politically controversial speech on the grounds of hate speech, with the FXI also becoming increasingly concerned about how the hate speech provisions in the South African Constitution are being interpreted by bodies such as the South African Human Rights Commission (SAHRC) and the Broadcasting Complaints Commission of South Africa. These bodies have shown a trend to interpret the constitutional provision around incitement to cause harm too broadly, leading to censorship. Expression that constitutes hate speech in terms of this definition does not receive constitutional protection.

The fourth trend involves a creeping censorship of the media. Whereas South Africa continues to nurture a relatively healthy media in a continent synonymous with disregard, rather than respect, for a free, vibrant and diversified media, the organisation has noted a number of concerns with respect to media freedom. A number of restrictive laws used extensively by the apartheid regime to curtail media freedom still appear in the country's statute books. Laws such as the Protection of Information Act and the Armaments Development and Production Act have been invoked at certain points to bar media from accessing or publishing information of a public interest nature. Similarly, the state has regularly had recourse to apartheid era laws to subpoena journalists in an attempt to compel them to testify or reveal their sources of information in court. The state has also attempted to introduce legislation that would potentially affect the right and ability of media to operate freely in South Africa, as it did with the Anti-Terrorism Bill which has since been shelved due to pressure from civil society.

Journalists have also been harassed, physically assaulted and even threatened with death on account of their work. Courts have also been quick to issue interdicts or slap gagging orders against the media. With regards to the national broadcaster

- the South African Broadcasting Corporation (SABC) - the FXI noted with concern during the year that certain of its activities increasingly betray aspects of self-censorship or a pandering to state interests.

The FXI has also identified worrying developments through its research within the community radio sector where a number of stations have reported subtle intimidation, blackmail and attempts to control them by some members of the ruling party. Often, these attempts come in the form of members of the ruling party making statements to the effect that the ruling party members were responsible for the formation of these stations and that these stations are no longer benefiting the party as they should. This undoubtedly raises concerns about other measures that the ruling party may wield to muzzle community radio stations through direct manipulation of conditions under which these stations receive support from different government departments in the form of advertising and programme sponsorship.



*FXI executive committee member and anti war coalition spokesperson, Salim Vally at a demonstration against US president George Bush's visit to South Africa in July 2003. [Photo: Henner Frankenfeld / PictureNET Africa]*

The FXI has noted in its public statements on these incidents that they create room for concern that South Africa is witnessing more rather than less censorious activities against the media as the country moves into its second decade of democracy.

Another nascent trend in the coming year is the potential of South Africa to export its freedom of expression problems. For instance, South Africa is also becoming increasingly embroiled in the 'war against terror'. The country's Anti-Terrorism Bill was withdrawn temporarily after a public outcry; in spite of this setback for the government, it is pursuing a number of intelligence agreements with those involved in the war, which involve commitments on the level of information gathering in South Africa.

At the same time, South Africa is playing an increasingly important role in the Southern African Development Community (SADC) initiatives and even African-wide initiatives in relation to the war against terror. South Africa is participating in Southern African anti-terrorism training in Botswana: an initiative being funded by and run in conjunction with the government of the United States of America (USA). Some of these initiatives followed a trip to Africa, including South Africa, by USA President George Bush; this trip was aimed in part at enlisting the assistance of African governments in the war against terror, with a promise of grants totaling \$100 million for this purpose. Reportedly the USA administration is especially interested in South Africa's intelligence gathering capability, and the use to which this capability could be put in the SADC region and beyond.

So in short, the year under review has showed us that there is much to be

concerned about, and that vigilance is necessary.

## ORGANISATIONAL OVERVIEW

The period under review saw many changes taking place to the FXI, and the development and even implementation of some key strategic plans. In this regard a new strategic plan for 2004 for the FXI was adopted after a strategic planning meeting. The three year workplans of the Programmes were reviewed as well, to ensure their relevance to the overall strategic plan. The Executive Committee intends to adopt multi-year strategic plans from 2005 onwards, which will set overall organizational targets over a much longer period.

In order to facilitate longer term strategic planning and leadership, some key changes have been made at the governance level of the FXI. The Executive Committee continued to meet at least once every two months, and sometimes met more often when there were pressing issues to deal with. Flowing from the Constitutional amendments adopted at the previous AGM, the Committee confined its role to policy-making and oversight, in the process delegating management responsibilities to a combination of the Management Committee and the Executive Director.

The Executive Committee set itself a workplan involving the development and adoption of strategic policies for the FXI. So far, policies on the following areas have been adopted:

- Defamation and freedom of expression
- Child Pornography
- Hate Speech
- Access to information
- Freedom of expression as a facilitative right.

Policies that have been developed, but that are still under discussion are the following:

- The right to assembly, demonstration and picket
- United Nations Summits
- The New Partnership for Africa's Development and freedom of expression

A policy workplan has been adopted by the Executive Committee in relation to a range of other areas. These policies form the framework in which the FXI office undertakes its work. Once complete, they will be made available to the public in booklet form. The development of these policies has led the Committee away from a focus on management and towards a focus on strategic leadership.

In addition, Executive Committee members have also been assigned portfolios, to focus the expertise of particular members in certain areas. These portfolios are as follows:

- Media
- ICT's
- Censorship
- Assembly, demonstration and picket
- Freedom of Information

The Management Committee consists of the Executive Committee's Chairperson, the Deputy Chairperson, the Executive Director, one additional Executive Committee member and one representative from FXI staff. It allows attendance at its meetings by other Executive Committee members if the Committee decides that that satisfactory motivation has been received in writing from the member(s)





in question. In addition, flowing from a Constitutional amendment in 2003, the Executive Committee delegated powers to the Management Committee in writing. These powers are as follows:

- Review implementation of the Executive Committee and AGM resolutions and workplans and monitor compliance with the FXI's objectives and policies.
- Make recommendations to the Executive Committee about any changes to the FXI's operational policies.
- Conduct performance management reviews for the Executive Director in line with the FXI Policies and Procedures Manual.
- Take decisions about salaries and benefits of FXI staff, in line with the FXI Policies and Procedures Manual and the Executive Committee's workplan.
- Take decisions that support the resolutions, objectives and policies of the FXI and of the Executive Committee between Executive Committee meetings.
- Appoint independent chairpersons and arbitrators for disciplinary and grievance procedures against staff and Executive Committee members.
- Handle grievances against the Executive Director in line with the FXI staff policies and procedures manual.
- Interview, appoint and dismiss FXI staff in line with the FXI Policies and Procedures Manual, and headhunt for staff when the advertisement process does not yield suitable results.
- Monitor training service contracts in relation to the Executive Director
- Receive financial reports, and report on these to the Executive Committee in terms of the Financial Policies and Procedures Manual
- Receive and review audited statements, and report on these to the Executive Committee in terms of the Financial Policies and Procedures Manual

Although initially, the Management Committee struggled to meet regularly, it now meets once a month. In addition, communication and consultation between the Executive Director and the Chairperson have been structured, with briefing meetings taking place once every two weeks.

The FXI commissioned evaluations of the two Programmes that are full-functional, namely the Anti-Censorship Programme and the Community Media Policy Research Unit. The evaluation is being conducted by Alvin Anthony and will be completed shortly. Simultaneously, Anthony is also undertaking a sustainability plan for the FXI. The plan will also be completed soon and once adopted, should chart the way forwards with regard to the many elements of sustainability it needs to consider. The plan is paying particular attention to the Financial and Administrative elements of the organizations, as their smooth and effective functioning, as well as the ability of this staff to anticipate and project new organizational needs, are key to the growth of the FXI.



FXI staff from left to right: Gertrude Ramela, Console Tleane, Pinky Magau, Simon Kimani Ndung'u, Gail Turton. Inset: Jane Duncan.

A key element that has been missing in the FXI's human resource systems is an effective Performance Appraisal System that takes into account the level of complexity of much of the work undertaken by the staff. The system's guiding policy was adopted by the Executive Committee, and instruments for its implementation were developed and workshopped with staff. The system is in the process of being implemented.

With regard to the membership, the FXI office undertook an audit of the organisation's membership, as was agreed at the previous Annual General Meeting. This audit led to the total membership being reduced by over 200; this was due mainly to the fact that many old members proved to be uncontactable, or did not wish to remain members. While the membership was being audited, the Executive Committee put a moratorium on the enrollment of new members. The new membership list has since been adopted by the Executive Committee.

A performance appraisal policy has been adopted by the Executive Committee, and performance agreements signed with staff members. The first set of performance meetings are in the process of taking place.

### **Finance, administration and fundraising**

The year 2003 has seen the Finance and Administration Unit support the growth and increased activities of the FXI and its programmes. The level of commitment to the FXI's programmes supports the continued, efficient and accurate reporting to donors.

Also the financial systems being used have been evaluated and upgraded to meet with the needs and recording of the programme activities, which results in accurate financial reporting. The system also ensures that our work is being undertaken properly and in accordance with generally accepted accounting practices. Our financial tools, cash flow, budget reviews and forecast continue to enhance the growth of the organization. The audit reflects the increased activities in particular the meetings conferences, workshop, research and publication cost. The administration staff has also been active in promoting the FXI's publication and this has resulted in an increase of sales. The overall activities of the Finance and Administration Unit continues to enhance and lead to further transparency and sharing in the realization of the core values of the FXI.

Fundraising has continued throughout the reporting period. One significant positive development is the conclusion of a contract with the Netherlands Institute for Southern Africa (NIZA) to fund the Media and ICT's Programme on a three year basis. In addition, the FXI received funds from Niza to organize a series of three donor roundtables: one in Amsterdam, one in London and one in Johannesburg. The intentions of the roundtables were to provide the FXI with an opportunity to brief funding agencies on the state of freedom of expression in South Africa at the moment, and to engage them as a group on support for the FXI's three year programme as a group. A brochure and short documentary compilation were also produced on the state of freedom of expression in South Africa: the latter was produced by documentary filmmaker Ben Cashdan. This documentary is in the process of being developed into a full-length feature documentary.

The roundtables took place on the following dates:

- Amsterdam - 28 January 2004
- London - 30 January 2004
- Johannesburg - 19 February 2004



## THE ANTI-CENSORSHIP PROGRAMME

The last one year of the Anti-Censorship Programme's ("the ACP", "the Programme") operations has seen a continuing rise in the demand for our intervention and assistance on a wide range of matters relating to freedom of expression. Not surprisingly and given the rising levels of conflict between state and non-state actors on the one hand, and individuals on the other, such intervention now spans a whole range of areas including legal support, publicity and expert submissions.



*Simon Kimani Ndung'u (left) of the anti-censorship programme, Jude Matherine of Misa SA and Ranjeni Munusamy at the Hefer Commission hearing. [Photo: Nadine Hutton]*

Both direct and indirect means of trouble-shooting cases of censorship, as well as alerting the public about the dangers posed by censorship, continue to be used by the Programme. In this regard, one of the most significant activities of 2003 and in which the ACP participated extensively was the Hefer Commission of Inquiry into spying allegations against the National Director of Public Prosecutions Mr. Bulelani Ngcuka.

Right from start of the Commission, we defended the right of journalists not to be subpoenaed to give evidence at the inquiry save as a matter of last resort and only after all other avenues had been sought and exhausted. Our active intervention at the Commission saw us playing a leading role in the debate about protection of journalist's sources of information and as a result, we have been regularly invited to give comment in a wide range of forums in regards to journalists and their sources of information.

We also initiated and played an active role in coordinating other media institutions such as the South African National Editor's Forum (Sanef), the Media Workers Association of Southern Africa (Mwasa) and the South African Chapter of the Media Institute of Southern Africa (Misa-SA) around the Ranjeni Munusamy case. This case arose after Judge Joos Hefer- who headed the Hefer Commission- subpoenaed her to testify on the basis that she was the author of the story that eventually led to the establishment of the commission. When the judge refused to accede to her (and our) request that she be called only as a matter of last resort, she went to the High Court seeking a review of the judges' decision. We together with the other three media freedom bodies joined this application as *amicus curiae* (friends of the court). The court unfortunately dismissed Ranjeni's application and she decided to appeal to the Constitutional Court. Due to certain developments in May 2004 on the part of the *Sunday Times* which was funding the case however, our participation in the matter came to an end but we have noted to keep vigil in case subpoenas are issued against journalists in the future.

In regards to public education on the right to freedom of expression, the Programme held a very successful first leg of training workshops in August last year in the Northern Cape, the North West and Limpopo provinces. The second leg of these workshops is scheduled to kickstart from this August and will cover

the remaining six provinces of the country.

Between 2002 and 2003, we were instrumental in setting up the Southern African Development Community's (SADC) Media Awards and its implementing arm the National Adjudication Committee (NAC). However on the eve of the launch of the awards on 20 November 2003, we formally decided to withdraw from the NAC and the awards themselves for a number of reasons.

Firstly, we took exception to the competition requirement that all entries emanate from "registered media houses" and secondly, we expressed grave misgivings about Article 22 of the SADC Protocol on Culture Information and Sport, which calls for the creation of an accreditation system for media practitioners in the SADC region. Finally, we thought it inappropriate and contradictory that while the Awards are meant to encourage media freedom and diversity in the region, the Zanu-PF government in Zimbabwe continues to hound media workers and has effectively curtailed freedom of expression in the country. We thought it would be hypocritical of us to be part of the Awards while the situation in Zimbabwe demands precisely that SADC Member States, organisations and individuals stand up against President Mugabe's blatant violation of the right to freedom of expression.

Legislative reform remains one of our key areas of concern and we will shortly launch a campaign to tackle the censorious laws still obtaining in our country's statute books. Some of the laws, which might culminate in a constitutional challenge include section 205 of the Criminal Procedure Act (on the subpoenaing of journalists), the Regulation of Gatherings Act and the Equality Act whose provisions on hate speech lower considerably the equivalent parent provisions in section 16 of the Constitution.

In the recent past, we have been asked to give expert opinions on certain laws and legal provisions of concern. We received a request from the Public and Allied Workers Union of South Africa (PAWUSA) to comment on whether the Public Service Regulations of 2001 as read together with the Public Service Act (104 of 1995) and the Protected Disclosures Act (Whistle blowers Act, 26 of 2000) are in conformity with the Constitution. We found that certain aspects of the Regulations as well the Whistle Blowers Act are constitutionally suspect and consequently invited the union to engage with us in discussions around the possibility of launching an amendment campaign. This will be considered alongside the legislative campaign mentioned in the preceding paragraph.

Similarly, the Programme was asked to give its view on new regulations proposed by the Department of Health to restrict advertising in regards to infant foods. As we stated in our media commentary, the government's move to advocate for greater breast-feeding and restrict overt advertising for these foods is laudable but such action must not impinge unduly on the right of individuals and institutions to express themselves. The proposed regulations are still under discussion.

In November, we supported a submission made by the National Association of Broadcasters to the Parliamentary Portfolio Committee on Home Affairs in relation to amendments proposed to the Films and Publications Act. These amendments seek to bring changes to the definition of child pornography and the classification of publications, and also introduce new provisions relating to the regulation of broadcasts and internet service providers. Some of the proposed changes clearly violate the right to freedom of expression.

A notable success in this period has been the shelving of the controversial Anti-Terrorism Bill (or as its long name states: "The Protection of Constitutional

Democracy against Terrorist and Related Activities Bill”), by the government in late February. That being the case, the Bill was not tabled in the National Assembly during its last session before the House adjourned for the April recess and the 2004 elections. This is a small, though not insignificant achievement and in spite of the fact that government seems to have retreated only after its alliance partner the Congress of South African Trade Unions (Cosatu) threatened industrial action, our role towards the victory, albeit temporary, is a matter of public knowledge. An article in the *Citizen* newspaper in March this year cited the FXI as one of the most active, vociferous and consistent critiques of the Bill.

Discussions have continued with other partners who were involved in our 2003 campaign against the Bill such as the Media Review Network, Mwasa and a number of social movements on how to best re-start the campaign. Our stance is that the Bill is so fundamentally flawed that it is completely incurable save by totally withdrawing it from the legislative process.

In late November 2003, the head of the ACP together with Mr. Raymond Louw (formerly editor of the *Rand Daily Mail* and currently a member of the FXI Executive Committee) and Ms. Jeanette Minnie (a media freedom consultant) held a meeting with President Festus Mogae of Botswana in Gaborone. Mr. Louw had requested the meeting in a bid to brief the President about an on-going campaign to remove ‘insult laws’ from criminal and civil laws of many states in Africa. A hangover from the colonial past, these laws are routinely used by governments and top state bureaucrats to avoid criticism. The World Press Freedom Committee funds the campaign and Botswana was selected as a starting point due to its impressive record of good governance and human rights.

The Programme has now completed two years of the three year workplan that formed the basis for its establishment. In the twenty-four months of its existence, the Programme has acquired a great deal of experience in matters of freedom of expression, had a few notable successes and also, as is to be expected, committed a fair share of mistakes.

During this time, the Programme carved a niche for itself as perhaps one of the few organisations inside South Africa interpreting the right to freedom of expression both radically and progressively, rather than merely confining our understanding of this important right within the traditional libertarian philosophy. This novel approach to free expression has meant that the Programme has increasingly found itself responding to censorship problems from a vast array of sources as more and more people come into conflict with the state around how they should engage in popular forms of expression.

For the ACP, both its programmatic evaluation and strategic plan as well as the evaluation of the FXDF and the Legal Unit, has shown that with additional human and material capacity, it will be in a position to truly manage its diverse range of activities on censorship and related matters. The outcome of this evaluation and strategic plan will also determine the future shape of the Programme.

With the establishment of the Legal Unit and Defence Fund, the FXI hopes to reduce the amount of time normally taken to resolve problems of censorship and so instill faith in our constituency, that we are capable of mediating their free expression problems expeditiously. This additional structural capacity will also enable us to undertake outstanding matters such as the long planned legislative reform campaign and the education and training workshops.

The barrage of challenges notwithstanding, the Programme has still managed to notch up a few successes such as the temporary shelving of the Anti-



A selection of logos appearing on the Laugh it Off website, [www.laughitoff.co.za](http://www.laughitoff.co.za).

Terrorism Bill (as mentioned above) and the regular invitations to speak about and elaborate on matters of freedom of expression in the media, seminars, conferences and public gatherings. This means that our work finds use value among the South African public and the Programme hopes to carry on and expand its interventionist activities even further, as it moves progressively into the third year of the ACP's operations.

Below is a summary of the main cases dealt with by the programme since June 2003.

### **The Khayelitsha Anti-Eviction Campaign**

A decision was taken to hold this case in abeyance until the establishment of the Legal Unit and Defence Fund in the course of this year. The case is still pending before the Magistrates' court in Khayelitsha.

### **The case of Sonya Roets**

The Legal Unit will deal with this case once it is established. No date has been set yet for the next hearing of the case in the Cape High Court. The case itself relates to a charge of defamation brought against Ms. Roets for mobilising a community and printing leaflets against the activities of a local tavern owner whom she alleges engages in racist practices.

### **The case of Tascoe de Reuck**

On October 15 2003, the Constitutional Court handed down its judgment in the application made by Tascoe de Reuck challenging the constitutionality of sections of the Films and Publications Act (65 of 1996) that deal with child pornography. The court dismissed De Reuck's application with costs but made an elaborate

ruling on the interpretation of child pornography in light of the right of freedom of expression.

The court stated that any image, which judged as a whole predominantly stimulates aesthetic rather than erotic feeling in the mind of a reasonable viewer, would not be caught within of definition of child pornography. In other words an objective test will have to be applied in every case where it is alleged that a visual image or images constitute child pornography. We concurred with the court's reasoning. On April 29 2004 De Reuck pleaded guilty in the Randburg Regional Court to two counts of possessing child pornography and was fined R24 000.

### **The case of Justin Nurse**

We have recently filed our papers in the Supreme Court of Appeal in Bloemfontein to be enjoined in this case as *amicus curiae* in support of Mr. Nurse's right to freedom of expression. The case relates to an action brought by brewing giant SAB Miller against Mr. Nurse for parodying SAB's well known "Black Label" beer brand. Advocate Gilbert Marcus SC on the instructions of Webber Wentzel and Bowens will represent us.

### **The case of Ranjeni Munusamy**

As mentioned at the beginning of this report, we were extensively involved in this case in which former *Sunday Times* senior journalist Ranjeni Munusamy was subpoenaed by the Hefer Commission to give evidence regarding an article she passed to *City Press* alleging that the National Director of Public Prosecutions Bulelani Ngcuka, had been investigated in the late 1980s by the-then banned ANC as an apartheid spy.

Together with our partners Misa, Mwasa and the Sanef, we strove to establish the principle that journalists should not be summoned or subpoenaed to give evidence before judicial or quasi-judicial forums, save as a matter of last resort. Secondly, we maintained that journalists should not be made to reveal their confidential sources of information unless the public advantage to be gained by doing so outweighs the public prejudice thereby caused by violating the right to media freedom.

We are now exploring the possibility of instituting a separate class action under section 38 of the Constitution to challenge the constitutionality of section 205 of the Criminal Procedure Act as well as other laws such as the Commissions Act under which journalists can and have been subpoenaed to give evidence in the past.

### **The Dulcie September book**

In November 2003, the ACP was approached with a request from Maggie Davey, an independent publisher, to give opinion on a book written by Evelyn Groenink in regards to the 1988 assassination of Dulcie September. September was the-then ANC representative in Paris. The publisher's interest was whether or not the book would potentially result in defamatory suits and if so whether the FXI would be willing to provide legal support.

Originally published in Dutch, the book's primary focus is on the assassination of Dulcie September. However, it also investigates and makes certain links around the murders of Anton Lubowski, then prominent SWAPO lawyer, in 1989, and Chris Hani, former commander of *Umkhonto We Sizwe* and General Secretary of the

South African Communist Party in 1993.

A number of people adversely mentioned in the book have threatened to institute defamation actions against the publisher and in February 2004, Witold Waluz, brother of Janus Waluz (the latter was convicted for the murder of Chris Hani and jailed for life), sued Davey and her publishing company for defamation. Witold asked the court to place an interdict on the publication of the book and that he also be given access to the manuscript for his comments prior to publication. The court declined to grant his prayers and the case will proceed to a full hearing at a later date.

We are still looking for funding to defend the publisher in court.

### **The matter of the General Workers Union of South Africa (Giwusa)**

The ACP was requested to intervene in this matter where the works director at Nampak Paper Ltd. issued a circular to the newly constituted General Workers Union of South Africa (Giwusa) directing that they will not be allowed to wear union attire at the workplace.

A letter of complaint was sent by the ACP to Mr. Payne the Nampak director pointing out that this directive was a violation of the worker's right to freedom of expression and association. On November 19, Mr. Payne sent a response saying the matter would be addressed internally with the Union's shop stewards. No further complaints have been received after that and it is our belief that the problem has since been resolved.

### **The state doctor's march**

Since the beginning of 2004, the ACP has followed up on the controversies surrounding the state doctors' march during the opening of Parliament in Cape Town on February 6. There were allegations of state intimidation against the doctors prior to and after the event.

Much of this controversy was discussed in the local media and for instance the *Cape Argus* of February 17 reported that an instruction had been issued to all heads of state health departments, to submit names of doctors who participated in the march. After this march, the programme head contacted Dr. Kgosi Letlape, the chairperson of the South African Medical Workers Association (Samwa) who said the intimidation and harassment allegations were true and that he would ask the relevant members to get in touch with FXI for further action. So far, no such communication has been received though the matter remains active in our files.

### **The APF Matter**

The Anti-Privatisation Forum is an organisation consisting of lobby groups fighting against evictions and water and electricity cut-offs in black urban townships. The

organisation requested our intervention after its application for a demonstration on March 3 to the Johannesburg City Council was denied. The APF sought to march to the headquarters of the City Council to protest against eviction notices, billing problems and disconnection of water and electricity in poor households.

In denying permission, the Council cited three spurious grounds including the fact that business activities in Braamfontein - where the council's headquarters are

**anti  
privatisation  
forum**





located - would be "severely affected especially during lunch time and afternoon peak". It should be noted that according to the Regulation of Gatherings Act, permission may be denied only if there is a reasonable possibility of severe disruption of pedestrian or vehicular traffic, and after police and traffic officials prove that they do not have enough resources to ameliorate the situation.

Since the Forum was already outside the stipulated 24 hours appeal period as required by the Act, we advised it to issue a fresh notice to the council for another march with a view to challenging the council's decision if it once again prohibited the demonstration. Be that as it may the APF still went ahead and held the march without notifying the council of this fact.

Shortly thereafter, the Forum notified the council that it would hold a demonstration outside the Constitutional Court during its official opening on March 21. This march was once again prohibited for several reasons, including the possible disruption of pedestrian and vehicular traffic. The APF then attempted to march "without permission" but were stopped by the police, resulting in the arrest of 57 people. They were charged with contravening the Regulation of Gatherings Act (205 of 1993) but on May 5 these charges were dropped by the state. Be that as it may, we plan to launch a court application to challenge the constitutionality of the Gatherings Act as part of our legislative amendment campaign.

### **Mangaliso Kubheka, the LPM and the Freedom Front**

The Landless People's Movement (LPM), a national social movement consisting of landless people struggling for land and agrarian reform in South Africa, formally emerged in August 2001 during the World Conference Against Racism in Durban.



*Mangaliso Khubheka, the national organiser of the LPM. [Photo: Ben Cashdan]*

In December 2003, media reports alleged that its national organiser Mangaliso Khubheka had stated that "if a farmer kills a farm worker, we will kill the farmer", and that members of the LPM should make themselves

available to be trained as military cadres. After a complaint by the Freedom Front (FF), the South African Human Rights Commission (SAHRC) on 11 February 2004 wrote to Khubheka stating it was of the view that his statements constituted hate speech. Khubheka did not meet the deadline to respond for a number of reasons, and on 3 March 2004, the commission informed him in writing that his utterances indeed amounted to hate speech and recommended that he give a written apology to the FF within 14 days.

We assisted Kubheka to prepare a reply to the commission challenging the serious procedural irregularities that had characterised its handling of the complaint. On our advise, Kubheka asked the HRC to reopen the matter which has now happened and the complaint will shortly be adjudicated. This case, together with a number of other contentious judgments by the HRC such as its finding that the "Kill the Boer, Kill the Farmer" slogan and Mbongeni Ngema's song "Amandiya" constituted hate speech are part of the bouquet of cases that we want to challenge in court. Our objective is to ask the court to enunciate and provide a

clear interpretation of the hate speech clause in the Constitution.

### **Actions against the LPM on Election Day**

On 14 April 2004, South Africa held its third democratic elections. On that day, 60 members of the LPM were arrested as they attempted to hold a demonstration and charged with contravening the Regulation of Gatherings Act (No. 205 of 1993) and the Electoral Act (No. 73 of 1998). As required by law, the movement had already notified the police of their intention to demonstrate but on 13 April, police turned around and declared that no assemblies or demonstrations are permitted anywhere in South Africa on election day.

Members of the LPM subsequently alleged that police officers subjected them to acts of physical and psychological violence including assaults, the lobbying of tear gas canisters into the closed vans transporting them to the police cells, and verbal abuse. They also stated that at around midnight of the same day while they were in police custody, members of the Crime Intelligence Unit (successor to the notorious Special Branch of the apartheid regime) took four of them away from their cells and repeatedly tortured them using physical blows, strangulation and suffocation.



*Ann Eveleth, who was one of the Landless People Movement members who alleged torture at the hands of the police on the day of the elections in April 2004. [Photo: Muntu Vilakazi/PictureNET Africa]*

The FXI briefed an attorney to intervene on their behalf, which resulted in the arrested members being released on bail. Civil and criminal charges of assault and torture have also been laid against the police and with the police watchdog, the Independent Complaints Directorate. The FXI and the LPM also held a joint press conference on the 28 April 2004 on these events.

### **Draft Hate Speech Bill**

At the beginning of June 2004, the FXI sent a written submission to the Department of Justice in response to its draft discussion document for a proposed hate speech bill. The objectives of this proposed law are to, among others, criminalise hate speech and also to give effect to the Constitution as well as South Africa's commitments to international law, including its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination.

In welcoming the proposed legislation, FXI pointed out that without doubt, the government's effort to institute such a law is laudable because in the last few years, South Africa has witnessed a shocking rise in incidences of race based and racially motivated crimes. Such acts include painting black people white, making



black people eat faeces, dragging black people to death behind bakkies, using black people as guinea pigs for police dog training and very recently, feeding black people to the lions. Gay people have also been subjected to acts of harassment and physical attacks on account of their sexual orientation.

The FXI argued that whereas racism is not the preserve of white perpetrators and though it is underpinned by a power relationship pitting the powerless against the powerful, in practice, it is the poor and weak who often need protection from the Constitution, not the rich and powerful, who can afford the protection of both the civil and criminal justice systems. The Institute has pointed out that in South Africa, the net victims of hate crimes have invariably been black people, while ironically, it is the same black people who have been the overwhelming subject of recent hate speech complaints to bodies such as the SAHRC. For this reason, we cautioned that the law may affect the right of the poor and powerless to express themselves freely, given the potential likelihood of their utterances being met with criminal sanctions.

The FXI castigated the draft Bill for being overly broad, extensive and inherently vague, and argued that it would have far reaching implications for freedom of expression in our country. We also warned that one of the supposed exemptions granted by the Bill, where an expression will not amount to hate speech if it is "fair and accurate reporting in the public interest", is suspicious and questionable.

## **COMMUNITY MEDIA POLICY RESEARCH UNIT**

The year under review can be said to have been one of stabilisation. The Unit has now cut out an identity for itself and has established itself as a recognisable research Unit within the media sector in particular, and the free expression environment in general.

As in the previous year, the Unit continued to undertake both in-house and outsourced research. Projects that were undertaken by the Unit can be subdivided into three categories. The first category is that of self-initiated initiatives whereby the Unit conceptualises a project after identifying a need and apply for funding from one of the donor organisations.

The second category is comprised of projects that are initiated because of developments within the broader media sector that requires responses from the organisation. Examples of these are different policy developments from either government departments or other statutory bodies such as the SABC and the Independent Communications Authority of South Africa (Icasa).

The third category is that of commissioned projects. The Unit has been approached by other organisations to carry out research on their behalf. A full account of the projects undertaken during the year under review is given below.

While the Unit has been able to make a number of strides, two major problems were faced by the organisation. Firstly, the Unit continues to operate with only one person (the Head). This places a lot of pressure on him, as it is difficult for any research Unit of any kind to operate with one person. Secondly, the Unit lacks sufficient funding, surviving purely on project funding. The ideal situation will be for the Unit to secure programme funding which will include funding for the employment of additional staff. This situation will soon be addressed as plans are in the pipeline for the raising of programme funding.

The Unit is supposed to be run on a partnership basis by the FXI and the National Community Radio Forum (NCRF). The turn of events over the



MTN and Vodacom sign on rural dirt road, Waterberg area.  
[Photo by: Suzy Bernstein/PictureNET Africa]

management and provision of leadership for the Unit by the NCRF and the FXI as originally intended has been a disappointing one. Recently, the NCRF has barely been involved in the running of the Unit, pending the outcome of the evaluation and a final decision about the partnership. All the funds that the Unit has raised thus far have been through the FXI. Since June 2002 the NCRF has only insisted on the Unit producing back-up research for submissions to such bodies as Icasa.

Relations between the Head of the Unit and the NCRF also deteriorated, with the Head feeling that he was not receiving fair treatment from the NCRF. The NCRF has on several occasions mentioned that it is reviewing Memoranda of Understanding that it has with other organisations, the FXI not excluded.

The following projects were undertaken during the year under review. All projects, unless indicated otherwise, were undertaken by the Head of the Unit.

### **Study on the State, Size and Shape of the Community Radio Sector in South Africa.**

The first community radio stations, Bush Radio and Radio Zibonele, went on-air without licenses in 1993. They were both immediately closed down. In 1994, immediately after the first democratic elections, the Independent Broadcasting Authority (IBA) invited applications for community radio licences.

The first 'legal' stations started their broadcasts towards the end of 1994. Community radio became very popular as was welcomed as a long-overdue addition to the broadcast menu for the country. At some point there were close to a hundred stations, covering a wide spectrum of locations, races, beliefs, ages, and class interests. However, particularly poorer stations with regard to delays in the renewal of licences or the granting of four-year licences experienced a number of problems.

Despite some of the problems experienced by many stations, the sector has continued to grow in importance. Icasa (the IBA's successor) has promised to conduct an audit of the sector in line the Broadcasting Act of 1999 which stipulates that the Authority has to conduct the audit. Icasa had intended to initiate the audit in April 2003 together with a review of the signal distribution. This audit has not been conducted. A discussion document on signal distribution was released in late 2003.

This study was conceived with the above developments in mind. But more importantly, the study is aimed at evaluating the community radio sector independently of any officialdom. It is aimed that the study should influence Icasa's review and also serve as an independent, empirical assessment of the sector.





*A heap of telephones from Telkom next to the N1 Culemborg, Cape Town. [Photo: Johann van Tonder / PictureNET Africa]*

emanates from the fact that signal distribution and other related connectivity imperatives such as telephone, fax and Internet, have proven to be the most costly items for many stations.

The project also examined the relationship between the community radio sector and a number of official initiatives such as the Universal Service Agency's Telecentres and the GCISS' Multi Purpose Community Centres.

The project was completed just before

the compiling of this report and a workshop was in June 2004 where the final report was presented to a select group of fraternal organisations. It is envisaged that the project will be deposited into the Media and ICT's Programme for implementation.

### **Evaluation of the Labour Community Radio Project**

The Unit was approached by the Cape Town-based Workers World Media Productions (WWMP) to conduct an evaluation of the above project, which is led by the WWMP in partnership with labour federations Cosatu, Nactu and Fedusa, and the NCRF. The evaluation was completed at the end of March 2004 and has since resulted in the project receiving more funds from donors. The Unit has been approached again to conduct another evaluation. The evaluation will be sponsored by the Niza.

### **The impact of the convergence of broadcasting and telecommunications regulation on community radio**

The Unit was approached by the Association of World Community Radio Broadcasters (Amarc) to conduct the above study to assist it (Amarc) with its lobbying and advocacy work on the continent. The first draft of the project was completed in December 2003. At the time of compiling this report, the final report was being refined to incorporate some of the feedback from Amarc. The project was undertaken by Jane Duncan.

### **Policy interventions**

The Unit remains actively engaged in policy developments, either offering commentary or making submissions to policy processes. The following interventions were made:

- A written submission to the Competition Commission on the sale of the assets of the New Africa Publications (NAP, a subsidiary of New Africa Investment Limited, Nail) to Johnnic Communications, a subsidiary of Johnnic, (May 2004).

- A written submission to Icasa in response to the SABC's license application, (June 2004).
- A written submission to the MDDA on the regulations for funding of media projects (prepared for both the FXI and the NCRF), (August 2004)

## **FORTHCOMING PROJECTS**

The following projects are in the pipeline:

### **Audit of African Public Broadcasting**

It was reported in the previous Annual Report that a meeting was held in Johannesburg in April 2003 to plan for a continent-wide research on the state of public broadcasting in Africa. The initial intention was to hold the second meeting in Kenya towards the end of 2003. However, many delays were experienced due mainly to a number of other competing priorities.

The current plan is to hold the follow-up meeting in September 2004. The purpose of the meeting will be to finalise a funding proposal and to consider a comprehensive concept paper (literature review) that shall have been developed by the time of the September 2004 meeting. To this end, the organisation is going to embark on a process of raising funds to secure the services of an expert who can assist with the literature review. It is envisaged that the project will start in earnest in January 2005.

### **Expanded evaluation of the Labour Community Radio Project**

The above project will be undertaken in collaboration with an expert from the Netherlands. Both the Unit and the expert will be contracted by Niza to undertake the evaluation of the project on behalf of the Labour Media Consortium, which is driven by the Workers World Media Productions.

### **Convergence Bill**

The OSF-SA approached the organisation with a view of intervening in the developments surrounding the Convergence Bill, which was released in 2003. The Unit conceptualised a seminar for civil society organisations that work within the media sector. The seminar will be preceded by a short, desktop research project aimed at producing a user guide that will assist with the understanding of convergence in general and the Convergence Bill (legislation) in particular. At the time of compiling this report, a response was still awaited from the OSF-SA.

## **MEDIA AND ICT'S PROGRAMME**

Since the last report, Niza has approved three year funding for the Media and ICT's Programme, subject to their own funding being approved beyond 2004. This means that Niza has now assumed much greater importance to the FXI as a Programme-based funder, rather than continuing to fund consultancies on a project-by-project basis. The positions of Head: Media and ICT's Programme and organizer have been advertised, and at the time of writing of this report, appointments were imminent.

The Media and ICT Programme will aim to increase pro-diversity and popular access to media and ICT's in South Africa. It will do this using three strategies:

- Lobbying as FXI to remove key constraints that inhibit popular access
- Building the capacities of media producers to pursue these aims directly



and defend gains won in their respective media organisations

- Building the capacities of communities who barely have media and ICT access to produce media themselves,

or to access existing media to reflect their concerns.

The three strategies are complimentary: structural impediments preventing media access deny millions of South Africans a true diversity of media, yet the best method of removing these impediments is to organise producers and link them to people who are most affected by the lack of media to represent their own interests in the media sector. After all, a greatly expanded media sector, free from structural impediments preventing media diversity and ICT access, will create stable employment. The Programme will work closely with the Community Media Policy Research Unit that will be conducting research on most of the campaign themes of the Programme.

### **Seminar on the sale of the Sowetan newspaper to Johnnic Communications**

This seminar took place on March 26, and examined the implications of the sale of the Sowetan newspaper to Johnnic Communications. The following speakers participated:

- Tawana Kupe, Journalism Department, Wits University
- Tuwani Gumani, Mwasa
- Dale McKinley, Anti-Privatisation Forum

Johnnic Communications and New African Investment Limited (Nail) were invited to attend, but refused on the basis that the matter of the sale was in front of the Competition Tribunal (this specific reason was given by the Chief Executive Officer of Johnnic Communications).

### **COALITION AGAINST WATER PRIVATISATION**

The Anti-Privatisation Forum has spearheaded the establishment of this Coalition, which is focussing mainly on the struggles taking place in Phiri around the pre-payment system, which is being rolled out in the context of the Gcin'amanzi project by Johannesburg Water (JW).

The FXI has continued to participate in the activities of the Coalition, and has provided support in numerous ways, including assisting with fundraising for an interdict against JW to prevent further roll-out of the pre-payment water meter system on



*Graffiti against water cut-offs and the inadequate free basic water provision, in Phiri, Soweto. [Photo: IndyMedia South Africa]*

Constitutional grounds.

## **ACCESS TO INFORMATION PROGRAMME**

### **Setting up of the FXI's Access to information Programme**

There has been progress in setting up the FXI's Access to Information Programme as well, which has become urgent given that, in the absence of a Programme Head, other staff members undertake work on this Programme when time permits. Since September 2003, the FXI has worked in partnership with OSISA to set up an Access to Information Programme that advances the cause of economic justice in the SADC region.

In order to kick-start the process, the FXI and OSISA held a regional workshop to brainstorm the idea of setting up the Programme. Out of this workshop, a committee was established consisting of the following organizations:

- FXI (convenor)
- OSISA
- Botswana Council of Non-Governmental Organisations (Bocongo)
- Southern African Trade, Information and Negotiations Initiative (Seatini)
- Southern African Centre for Economic Justice
- Jubilee Angola

Misa and Women for Change, based in Zambia, were also co-opted onto the Committee.

The terms of reference of co-ordinating team, were to develop the Programme proposal, consult with potential key stakeholders and drivers, flesh out the Programme ideas (including key objectives and stakeholders, convene a larger meeting to deal with issues in depth, and to mobilise resources

Since then, the Committee has developed a proposal for a one-year pilot project, which OSISA is in the process of considering. The access to information for economic justice focus has been adopted in view of the fact that, for a variety of reasons, the right of access to information risks becoming an elite instrument, with its main advocates being located in the media and a handful of NGO's dedicated to the promotion of civil liberties: this is in spite of the fact that the right of access to information is a right that belongs to all citizens. At the same time, media organisations have run into difficulties in lobbying some governments where access to information legislation does not exist, as they do not command the critical mass necessary to pressurise for legislation to be passed. Therefore, much more work needs to be done to ensure the social appropriation of this right, as the sorts of critical mass needed to push for legislative changes will be developed only if the right has direct relevance to the lives of ordinary citizens.

The project strives to achieve this relevance this by focussing on access to information to support the work of the region's economic justice networks, NGO's, community-based organisations and social movements struggling for the realisation of socio-economic rights. More specifically, the project will focus on access to information about the state of delivery of basic services, such as water and waster management, electricity, health and transport. Access to these services is being recognised increasingly as basic human rights, leading to increasing calls for these rights to be written into the Constitutions of SADC countries.

The project will engage in access to information activities focusing on key struggles in the economic justice arena that have also thrown up access to information problems. The project will address information deficits faced by

organizations struggling for socio-economic justice, and in the process will develop 'models' that can be drawn on when the project developed into a longer term, multi-year Programme beyond 2005.

The areas of activity are as follows:

- Debt and debt-related issues in the SADC region
- Budget monitoring and participatory budget making in the SADC region
- Transparency in macro-economic decision-making in the SADC region
- International Financial Institutions (IFI's) and their effect on the SADC region
- Trade in the SADC region with a specific reference to South Africa's expansion

These activities will be pursued by a network of partner organizations, whose relationships will be defined in a Memorandum of Understanding developed at the outset of the Programme activities. The forms that interventions will take will differ from country to country; for instance in those countries where access to information legislation exists, it will be used to file information requests relating to the above mentioned areas. In countries where legislation does not exist, but Constitutional provisions exist, then activities will focus on mobilizing economic justice groups to ensure that legislation is passed. In countries where Constitutional provisions do not exist, then activities will focus on mobilising economic justice groups for democratic Constituent Assemblies.

These activities will be joined together by a common set of access to information principles, forged at the outset of the project activities, and will conclude with the development of a 'model' access to information law that economic justice

groups could use to lobby for. This 'model' will have taken into account the concrete experiences gained in working in the above mentioned areas during the year, and will be the starting point for the longer-term Programme when it commences.



*A demonstration held by Jubilee South Africa in support of the Lawsuit against South African companies complicit in Apartheid. [Photo: Alvin Anthony]*

### **FXI/ Ebrahim Harvey vs. Johannesburg Water and others**

The FXI's South African-based access to information work reflects the above-mentioned focus on economic justice.

The FXI filed an information request on Harvey's behalf in March 2003 after his attempts to obtain the documents from JW failed. Harvey sought the documents to enable him to complete a Master's Degree at the University of the Witwatersrand on the impact of Johannesburg's Igoli 2002 plan on the delivery of water (which led to the formation of JW as a corporate entity). The plan has been controversial as it fuelled the commercialisation of services such as water and electricity, leading to the disconnection of many poor residents when they could not afford the rising costs of these services. Most of the documents were refused by JW; in some instances Harvey and the FXI were referred to the City of Johannesburg to obtain





the requested information.

In December 2003, Harvey and FXI then initiated legal action in the High Court against the following institutions for the refused documents:

- Johannesburg Water,
- The City of Johannesburg,
- Johannesburg Water Management (or Jowam), who are contracted to provide water and waste water management services to JW, and who are owned by French water multinational Suez,
- Dynacon Technologies (who monitors the management contract)

The Minister of Justice has also been cited as a respondent in the application. The intentions of the application are to secure the release of the outstanding documents and to challenge the constitutionality of the Promotion of Access to Information Act on the basis that it limits the constitutional right of access to information. The first four respondents have filed a notice of intention to oppose the application, while the Minister has stated that he will abide the court's decision in the matter.

On 23 February 2004, JW agreed to release three out of the sixteen sets of documents. In spite of having agreed to the release of the 3 documents, JW still continues to deny responsibility for some documents on the basis that the request should be directed to the City of Johannesburg. Harvey and the FXI argued in the founding affidavit that JW has an obligation to secure the documents from the City for requesters.



*Water rights march in Soweto, April 2004.  
[Photo: Ana at IndyMedia South Africa]*

Harvey and the FXI have pointed out that JW's response to the initial request was inadequate in terms of the Act. The company did not cite specific reasons for refusing particular pieces of information, as it is required to do. Rather they chose to respond in a globular fashion, citing numerous grounds for mandatory refusal of records in the Act relating to the confidentiality of its own documents and those of third parties.

Documents that JW still refuses to release on the basis that they contain "confidential methodology of a third party", namely JOWAM, include all the reports JOWAM is required to develop and produce for JW and JW's evaluation of these reports. JW has also refused to disclose - on the basis of confidentiality - its Water and Wastewater Master Plans, all 'internal reports' on the Orange Farm pilot project in Stretford Ext. 4, and the minutes of JW Board meetings.

Most of the documents requested explain the operational duties and evaluate the performance of Jowam and JW. They will throw light on policies relating to disconnections, pricing, service priorities and plans to remove inequalities in service provision. Others will contain information regarding current inequalities in service consumption and the provision of infrastructure. Access to the documents will also allow an investigation of whether the transfer of responsibilities for water provision to contractors such as JOWAM may negatively impact on access to water, including through increases in prices for water, failures to remove inequities in service provision or through unjustified disconnections. Finally, access to the

documents is necessary to investigate whether JW is fulfilling its constitutional obligation of providing access to water. In short, the transparency that will flow from disclosure of these documents is essential to ensure public accountability.

Harvey and the FXI have also noted that there is a particularly compelling public interest reason for disclosing documents relating to the activities of JOWAM, a joint venture of subsidiaries of the international water company Suez, in view of Suez' increasingly dubious track record internationally. Suez and at least some of its international subsidiaries have recently been accused of corruption, dishonesty and a lack of accountability, and these accusations are sufficiently cogent to warrant careful scrutiny of the way in which water and waste-water services are being managed in Johannesburg.



LPM supporters demonstrating at the World Conference Against Racism. [Photo: Ben Cashdan]

## FXI LEGAL UNIT

Since 2001, the Freedom of Expression Defence Fund has been defunct, mainly because it had run out of funds. Work began in earnest in 2003 to re-build the FXDF, but not necessarily on the basis that it was built previously. As a result of the untimely dissolution of the FXDF, a major institutional and legal vacuum for the promotion and protection of

the fundamental rights and freedoms referred to was left. Such a vacuum has to date not been filled by any other organisation or institution. The fact that the demand for legal services from the FXI has increased has necessitated the re-building the Institute's capacity to deal with litigation matters.

With the assistance of Advocate Salim Ebrahim, acting for the FXI on a consultancy basis, the FXI examined different options available to it in the process of shaping its legal interventions. At the Institute's strategic planning meeting at the beginning of 2004, it was agreed that the FXI should not take the course followed by the FXDF and remain a 'funding agency', but should rather build in-house legal capacity. This approach would enable the FXI to engage in proactive litigation in the name of the Legal Unit (LU).

The LU would carry out the following functions:

- Provide FXI and its various programmes with general legal advice-broadly render legal services
- Provide expert legal advice and opinion on freedom of expression (free speech, media freedom, access to information) matters
- On referral by the various programme heads, give legal advice to clients of the FXI
- If need be, undertake litigation on behalf of the FXI, or clients of the FXI
- Supervise candidate attorneys

The LU also intends to apply for law clinic status. The advantage of taking this step are as follows:

- The clinic will not need to operate a trust account since clients will not be charged for legal assistance.

- It will enable the LU to take on candidate attorneys.
- The FXI (and the attorney/advocate) will be shielded from the risk of facing adverse cost orders in their personal capacity, unless the FXI litigates in its own name
- The costs of litigation will also be reduced, as the law clinic will be in a position to instruct senior counsel, and the junior advocate will be in a position to sign pleadings and appear in both the High Courts and well as the Magistrates' Courts. The advocate will be recently admitted to the Bar with some experience in practice.

The LU will fall under the Executive Director's office as a support service for the FXI (with a similar status to that of the Finance and Administration Unit). It will provide legal services to the whole organisation, but more specifically to the Programmes. With respect to individuals and organisations in need of legal assistance, the first port of call by clients in need of legal assistance will continue to be the Programmes, which will then refer the matter if the need arises to the LU.

The FXI is also planning to employ an ICT policy and legal advisor in the LU, who will account to the Head of the LU. The Information Programme of the Open Society Institute has been approached to support this position. The advisor will focus on providing legal and policy support in the following priority areas:

- Universal service and universal access in the context of convergence
- Regulation of content on the internet, especially hate speech, pornography and defamation
- Privacy and interception of communications, especially in the context of anti-terrorist measures

The intention of housing the advisor in the LU will be to build the capacity of the Programmes in these areas, and the various Programme partners, to lobby more effectively in the above mentioned areas. The advisor will also play an advisory role to the partner organisations of the various Programmes operating in the ICT sector.

In the meantime, the FXI has been raising funds to continue with a number of possible precedent setting cases on its files, in relation to the Regulation of Gatherings Act (which gives effect to the Constitutional right to assembly, demonstration and picket), hate speech, the protection of journalistic sources and freedom of information. The Anti-Censorship Programme is currently handling cases in relation to all these areas, but lacks the funds to continue prosecuting them.

The FXI is in the process of contracting an attorney with the rights of appearance in the High Court to take on the above mentioned cases, and to facilitate the application for Law Clinic status to the Law Society.

## **LEGAL UNIT FOR SOCIAL MOVEMENTS**

A special Executive Committee meeting was held to consider a request by the Landless Peoples' Movement for the FXI to host an anti-repression bail fund. As the LPM is not the only social movement experiencing instances of harassment and repression at the hands of the state, it was noted that a more comprehensive solution was required.

Since then, discussions of this model have been held with the APF and the LPM, leading to Prishani Naidoo being contracted to undertake initial Organisational Development work, to enable the establishment of the Johannesburg office. The Cape Town and Durban offices will be set up once resources are available, and once the progress of the Johannesburg office has been assessed.

## ANTI-WAR COALITION

The FXI is a member of the Anti-War Coalition, and has participated in most of its activities. For instance, the FXI participated in the anti-Bush demonstrations on Saturday 5 July and Wednesday 9 July, with a view to publicising the dangers of the Anti-Terrorism Bill. Stickers and pamphlets were produced and the FXI made a financial contribution towards transport for the demonstrations. We also participated in the planning meetings leading up to the demonstrations, and wrote the Memorandum for the march on 5 July. We spoke about the Anti-Terrorism Bill at both demonstrations, as well as at an international day of action against the war in Iraq and Palestine, organised by the Anti-War Coalition on the 27 September. The topic of the presentation was the Anti-Terrorism Bill in the context of the international war against terror. Participants called for a revival of the campaign against the Bill, which has lulled somewhat since the public hearings ended.



## MEDIA AND PUBLICITY

The FXI participated in a huge number of media interviews, seminars, conferences and meetings. FXI staff gave interviews on virtually a daily basis on a range of matters, on media as diverse as SABC, E-TV, The Star, The Sowetan, Die Beeld, Sunday Times, Sunday Independent, City Press, Business Day, and many others, as well as on all the major radio stations. In addition, the FXI began to move further afield, giving interviews to the British Broadcasting Corporation (BBC), Channel News Network (CNN) and other international news agencies.

The FXI's website has been re-designed by a Durban-based group called Third Millennium, who were appointed after having received and considered four proposals. The new website is on-line and new additions are being made to update it.

## REPARATIONS CONFERENCE

The FXI attended the civil society conference on reparations, organised in the main by Jubilee South, Khulumani Support Group and the South African Council of Churches. Flowing from this involvement, a letter of objection has been written to the President's Office to protest against an incident the day before the conference, where President Mbeki's office phoned the organisers insisting on a list of participants. Further, it was decided to set up a media desk within the reparations task team, to work on seeking reparations from the media.



## CONCLUSION AND STRATEGIC CHALLENGES

A key strategic challenge for the FXI is to manage the growth of the organization to meet the rising demands on its services. The future of the two existing Programmes must be shaped in the coming year. As mentioned above, the Anti-Censorship Programme and the Community Media Policy Research Unit are undergoing an evaluation, which will inevitably decide the future direction of these programmes.

There is a need to reconceptualise the Policy Unit, subject to the outcome of the evaluation and the partnership arrangement with the NCRF. The Unit also needs to find a way of striking a balance between the demands of management of the Programme, long term research projects and shorter term strategic research projects, many of which cannot be foreseen and therefore cannot be planned for in advance.

There will also be a need to consider the outcomes of the evaluation process for the ACP. This process has already pointed to the fact that the ACP needs restructuring to enable it to handle 'reactive' and 'proactive' work. These competing demands have thrown up the need for the establishment of a dedicated legal unit. The FXI needs to be able to engage in precedent setting litigation, while dealing with the demands of day-to-day cases. The FXI also needs to straddle the demands of diverse intervention strategies, including litigation, lobbying and advocacy, research, monitoring and publicity.

The still-to-be established Programmes also need to become operative with Programme Heads in place. This should ensure more systematic interventions in relation to access to information and the media and ICT sectors, and should address the ad-hoc nature of the FXI's work in these fields. More specifically, the FXI needs to build expertise in the ICT field: an increasingly important policy and advocacy area with respect to freedom of expression. All these Programmes will need to identify clearly their role in the Southern African region, in view of South Africa's increasing dominance in the region. The FXI can no longer afford to confine its concerns to the country's borders, and is duty-bound to watchdog the expansionist ambitions of its public and private sectors in the region.

Key to all of these questions is the sustainability of the FXI. This means not only stabilizing the financial base of the Institute -which must include diversifying its sources of funding - but ensuring that the organization remains relevant. In this regard, the FXI must find ways of 'embedding' itself in those areas and activities that are on the coalface of global, and increasingly local, repression.

The FXI is therefore challenged to think beyond its own narrow organizational boundaries, and to plan five, ten, even twenty years ahead. In this regard, the FXI and its social partners need to think through the best organizational form for this work for next few years, and to develop a transitional plan. The recent work of the FXI has underscored the fact that it is not possible to attend to each and every alleged violation of freedom of expression. Some cases will be prioritized according to their potentially precedent-setting nature.

However, in the longer term, the negative trends mentioned above will only be reversed by those individuals, organizations and movements that are on the coalface of censorship to counter these repressive tendencies themselves. This approach will necessitate the FXI moving beyond mere service delivery to a focus on organising work linked to capacity building. To this end, the FXI will develop a membership, networking and partnership plan in the coming year. This is possibly the most important challenge of all: one which the FXI will not, and should not, meet on its own.

**FREEDOM OF EXPRESSION INSTITUTE**

**ANNUAL FINANCIAL STATEMENTS  
FOR THE YEAR ENDED  
31 DECEMBER 2003**



**FREEDOM OF EXPRESSION INSTITUTE**

**INDEX TO THE ANNUAL FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2003**

<b>Contents</b>	<b>Page</b>
Report of the independent auditors	1
Balance sheet	2
Income statement	3
Cash flow statement	4
Notes to the annual financial statements	5 - 7

**APPROVED BY**

The financial statements set out on pages 2 to 7 have been approved by the executive committee and are signed on its behalf by :-

  
\_\_\_\_\_  
EXECUTIVE DIRECTOR

  
\_\_\_\_\_  
CHAIRPERSON



P O BOX 32707  
BRAAMFONTEIN  
2017  
SOUTH AFRICA

TEL (011) 403 3835  
FAX (011) 339 7762

## **REPORT OF THE INDEPENDENT AUDITORS**

**To the members**

### **FREEDOM OF EXPRESSION INSTITUTE**

We have audited the annual financial statements of the Freedom of Expression Institute set out on pages 2 to 7 for the year ended 31 December 2003. These financial statements are the responsibility of the executive committee, while our responsibility is to express an opinion on these financial statements based on our audit.

#### **Scope**

We conducted our audit in accordance with statements of South African Auditing Standards which require that we plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

#### **Audit report**

In our opinion, the financial statements fairly present, in all material respects, the financial position of the institute at 31 December 2003 and the results of its operations and cash flows for the year then ended in accordance with generally accepted accounting practice.

A handwritten signature in black ink, appearing to read 'Douglas &amp; Velcich', is written over a light grey background.

**Douglas & Velcich**  
**Chartered Accountants (SA)**  
**Registered Accountants and Auditors**

**Johannesburg**  
**14 June 2004**

**FREEDOM OF EXPRESSION INSTITUTE**  
**BALANCE SHEET AT 31 DECEMBER 2003**

	Notes	2003 R	2002 R
<b>ASSETS</b>		<b>563,002</b>	<b>663,296</b>
<b>Non-current assets</b>		<b>52,212</b>	<b>53,232</b>
Equipment	2	52,212	53,232
<b>Current assets</b>		<b>510,790</b>	<b>610,064</b>
Trade and other receivables		19,184	29,136
Accrued income	3	115,000	-
Cash held in trust		-	5,505
Cash at bank and on call		376,606	575,423
<b>Total assets</b>		<b>563,002</b>	<b>663,296</b>
<b>RESERVES AND LIABILITIES</b>		<b>563,002</b>	<b>663,296</b>
<b>Reserves</b>		<b>87,828</b>	<b>78,224</b>
Accumulated funds		87,828	78,224
<b>Current liabilities</b>		<b>475,174</b>	<b>585,072</b>
Trade and other payables		44,905	46,519
Trust creditor - SAJA		-	5,505
Deferred grant income	4	427,000	518,000
Taxation		3,269	3,269
Bank overdraft		-	11,779
<b>Total reserves and liabilities</b>		<b>563,002</b>	<b>663,296</b>

## FREEDOM OF EXPRESSION INSTITUTE

INCOME STATEMENT FOR THE  
YEAR ENDED 31 DECEMBER 2003

	Notes	2003 R	2002 R
<b>INCOME</b>		<b>2,528,852</b>	<b>1,695,004</b>
Grants and donations	5	2,328,142	1,514,330
Contract income		118,861	100,000
Interest		13,270	27,422
Sundry income		68,579	53,252
<b>EXPENDITURE</b>		<b>2,519,248</b>	<b>1,755,533</b>
Auditors' remuneration	6	32,088	29,414
Accounting fees		-	2,400
Advertising		22,441	-
Bank charges		5,317	3,598
Computer expenses		23,656	16,141
Depreciation	2	25,997	15,545
General expenses		5,408	4,564
Insurance		6,305	6,002
Interest paid and penalties		6,231	1,628
Leasing and hire		6,079	4,288
Legal costs		59,145	13,581
Meetings, conferences and workshops		238,368	108,296
Organisational evaluation		-	48,415
Postage and courier		6,958	9,963
Publication, production and distribution costs		118,913	47,462
Refreshments		-	8,698
Refund to Danida		-	10,638
Refund to Interfund		43,710	-
Relocation costs		15,279	-
Rent, water and electricity		95,658	101,326
Repairs and maintenance		4,065	3,048
Research		123,989	12,000
Salaries and contributions		1,259,604	965,964
Staff recruitment and training		22,879	27,081
Stationery, photocopying and printing		31,866	32,157
Strategic planning		28,155	-
Subscriptions		14,710	10,799
Telephone and fax		158,790	135,386
Travel and accommodation		138,063	33,354
Website costs		25,574	103,785
Establishment		-	103,785
Maintenance		25,574	-
<b>SURPLUS/(DEFICIT) FOR THE YEAR</b>		<b>9,604</b>	<b>(60,529)</b>
<b>BALANCE AT BEGINNING OF YEAR</b>		<b>78,224</b>	<b>138,753</b>
<b>BALANCE AT END OF YEAR</b>		<b>87,828</b>	<b>78,224</b>

## FREEDOM OF EXPRESSION INSTITUTE

CASH FLOW STATEMENT FOR THE  
YEAR ENDED 31 DECEMBER 2003

	2003 R	2002 R
<b>Cash flows from operating activities</b>		
Surplus/(deficit) for the year	9,604	(60,529)
Adjusted for:		
Depreciation of equipment	25,997	15,545
Interest received	(13,270)	(27,422)
Decrease in deferred grant income	(91,000)	(190,000)
(Increase)/decrease in accrued grant income	(115,000)	159,342
<b>Operating deficit before working capital changes</b>	<u>(183,669)</u>	<u>(103,064)</u>
<b>Working capital changes</b>	<b>8,338</b>	<b>(13,907)</b>
Decrease in accounts receivable	9,952	25,594
Decrease in accounts payable	(1,614)	(39,501)
<b>Cash utilised by operations</b>	<u>(175,331)</u>	<u>(116,971)</u>
Interest received	13,270	27,422
<b>Net cash outflow from operating activities</b>	<u>(162,061)</u>	<u>(89,549)</u>
<b>Cash flows utilised in investing activities</b>	<b>(24,977)</b>	<b>(21,992)</b>
Acquisition of equipment	(24,977)	(21,992)
<b>Net decrease in cash and cash equivalents</b>	<u>(187,038)</u>	<u>(111,541)</u>
<b>Cash and cash equivalents at beginning of year</b>	<b>563,644</b>	<b>675,185</b>
<b>Cash and cash equivalents at end of year</b>	<u><u>376,606</u></u>	<u><u>563,644</u></u>

## FREEDOM OF EXPRESSION INSTITUTE

NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2003

## 1. ACCOUNTING POLICIES

The financial statements are based on the historical cost basis and incorporate the following principal accounting policies which are consistent, in all material respects, with those applied in the previous year :-

## 1.1 Equipment

Equipment is stated at cost less provision for depreciation. Depreciation is calculated on the straight line method at rates considered appropriate to write off the cost of the assets over their estimated useful lives. The following rates of depreciation are used :-

Office equipment	- 20% per annum
Computer equipment	- 33,3% per annum
Furniture and fittings	- 10% per annum

## 1.2 Income recognition

Income from grants is generally brought to account in the period to which it relates. All other income is brought to account as and when received.

Deferred grant income is income received in advance of the period to which it relates, and is accounted for as a current liability.

Accrued grant income comprises income designated for the current year and refunds due in respect of expenditure incurred during the year, which are outstanding at year end.

## 2. EQUIPMENT

	Furniture and fittings R	Computer equipment R	Office equipment R	Total R
<b>31/12/2003</b>				
<b>Net book value 1/1/2003</b>	<b>33,847</b>	<b>17,988</b>	<b>1,397</b>	<b>53,232</b>
Cost	92,439	162,750	63,503	318,692
Accumulated depreciation	(58,592)	(144,762)	(62,106)	(265,460)
Additions during the year, at cost	-	21,931	3,046	24,977
Depreciation for the year	(9,244)	(16,215)	(538)	(25,997)
<b>Net book value 31/12/2003</b>	<b>24,603</b>	<b>23,704</b>	<b>3,905</b>	<b>52,212</b>
Cost	92,439	184,681	66,549	343,669
Accumulated depreciation	(67,836)	(160,977)	(62,644)	(291,457)
<b>31/12/2002</b>				
<b>Net book value 1/1/2002</b>	<b>39,669</b>	<b>7,116</b>	<b>-</b>	<b>46,785</b>
Cost	89,154	145,719	61,827	296,700
Accumulated depreciation	(49,485)	(138,603)	(61,827)	(249,915)
Additions during the year, at cost	3,285	17,031	1,676	21,992
Depreciation for the year	(9,107)	(6,159)	(279)	(15,545)
<b>Net book value 31/12/2002</b>	<b>33,847</b>	<b>17,988</b>	<b>1,397</b>	<b>53,232</b>
Cost	92,439	162,750	63,503	318,692
Accumulated depreciation	(58,592)	(144,762)	(62,106)	(265,460)

## FREEDOM OF EXPRESSION INSTITUTE

NOTES TO THE FINANCIAL STATEMENTS FOR  
THE YEAR ENDED 31 DECEMBER 2003 (Continued)

	2003 R	2002 R
<b>3. ACCRUED GRANT AND CONTRACT INCOME</b>		
The Joseph Rowntree Charitable Trust - Grant # 94.02.g	75,000	-
University of Natal - Centre for Civil Society	40,000	-
	<u>115,000</u>	<u>-</u>
<b>4. DEFERRED GRANT INCOME</b>		
NIZA - Grant # 1.3.631	109,000	-
NIZA - Grant # 1.3.704	4,000	-
Open Society Foundation for South Africa - Grant # 01923	-	242,000
Open Society Foundation for South Africa - Grant # 02061	164,000	276,000
Open Society Initiative for Southern Africa	150,000	-
	<u>427,000</u>	<u>518,000</u>
<b>5. GRANTS AND DONATIONS</b>		
Anglo American Chairman's Fund	75,000	-
EU Foundation for Human Rights in South Africa - 1021/1	50,000	-
EU Foundation for Human Rights in South Africa - 529/1	23,870	12,000
Heinrich Boll Stiftung	-	5,249
Interfund - Ibis/ DANIDA	-	258,000
Received	-	133,000
Deferred from 2001	-	125,000
NIZA	159,527	279,197
Grant # 1.3.152	6,975	-
Received	6,975	-
Grant # 1.3.215	-	83,579
Received	-	83,579
Grant # 1.3.266	-	14,723
Received	-	14,723
Grant # 1.3.317	-	42,741
Received	-	42,741
Grant # 1.3.344	-	138,154
Received	-	138,154
Grant # 1.3.593	114,694	-
Received	114,694	-
Grant # 1.3.631	16,021	-
Received	125,021	-
Deferred to 2004	(109,000)	-
Grant # 1.3.704	21,837	-
Received	25,837	-
Deferred to 2004	(4,000)	-
<b>Balance carried forward</b>	<b>308,397</b>	<b>554,446</b>



### **Vision of FXI**

A society where everyone enjoys freedom of expression and the right to access and disseminate information and knowledge

### **Mission of FXI**

To fight for freedom of expression and eliminate inequalities in accessing and disseminating information and knowledge in South Africa and beyond



21st Floor, Sable Centre, 41 De Korte Street,  
Braamfontein, Johannesburg.

PO Box 30688, Braamfontein, 2017, South Africa

Tel: (27-11) 403-8403/4

Fax: (27-11) 339-4109

E-mail: [fxi@fxi.org.za](mailto:fxi@fxi.org.za)

Web: [www.fxi.org.za](http://www.fxi.org.za)

