

**1998**

**Freedom of Expression  
Institute**

**[ANNUAL REPORT - 1998]**

The Freedom of Expression Institute was established in 1994 to protect and foster freedom of expression. The Institute was formed from the merger of three organisations active in the defence of free speech during the apartheid era: the Campaign for Open Media, the Anti-Censorship Action Group and the Media Defence Trust.

The right to freedom of expression straddles numerous aspects of a democratic society in a manner quite unlike other fundamental rights we enjoy. It encompasses the rights to freedom of speech, media, academic inquiry and artistic endeavour. It extends to and can conceivably be regarded as essential to other fundamental rights such as freedom of choice, religion, conscience, association, protest and political freedom. It includes the right of access to information and the right to receive and impart information. In its entirety therefore, freedom of expression forms the backbone of all vital institutions and activities of civil society.

Despite a new democratic order based on a human rights culture, the founders of the Freedom of Expression Institute understood the importance of creating an organisation which interpreted freedom of expression in this way. When FXI was founded in 1994, it pledged itself to defending and expanding the right to freedom of expression and all its integral parts. Five years later, FXI is recognised nationally and internationally as one of only a handful of organisations in South Africa that actively campaign for the right to freedom of speech, expression and access to information.

Despite its entrenchment in our Constitution (albeit as a qualified right), the right to freedom of expression and its component parts will always be controversial. The controversy includes the issue of whether a fundamental human right such as freedom of expression can be abused and how. On the other end of the debate is the question of appropriate limitations on this fundamental right. The debate reflects a necessary tension that comes with the growing maturity of our democratic nation as people and institutions embrace the rights they have attained, and others are brought in step with the realities of our constitution. In this context, the continued need and importance of an organisation like FXI remains clear.

FXI undertakes a wide range of activities in support of its objectives, including monitoring, research, lobbying, educational activities, campaigns and publicity. Weekly freedom of expression reports and action alerts are circulated on the Internet and posted on our site and the FXI newsletter, Update, is published every two to three months. The Freedom of Expression Defence Fund, a component of FXI, funds litigation in defence of freedom of speech and expression.

### **CHAIRPERSON'S REPORT - A MESSAGE FROM MANDLA SELEOANE**

We have come to the end of yet another exciting year. FXI has experienced growth both in numbers and in stature. This has been possible largely because of the untiring manner in which the staff and the Executive have monitored events in the country and responded creatively to issues of public interest.

The involvement of members in the activities of FXI has also picked up gradually over the years. This year we have seen a much greater involvement of the members in, for instance, the sub-committees of the organisation and in seminars and workshops hosted by FXI. This must be encouraged. Having said all of that, however, we must never lose sight of the implications of growth. I have often argued that in the final analysis the defences of freedom

of expression must be built in the hearts and minds of the people. This statement has a double-barrel implication.

It suggests, in the first place, that we have to attract as many people as possible both to our views and to the organisation. And it suggests, in the second place, that we must get as many people as we can, committed to the ideal of freedom of expression. It does not matter whether this second set of people finds itself inside or outside FXI. I remain firmly committed to that view. But I think we have, so far, concentrated only on drawing people to us and did little or nothing by way of enhancing people's understanding of freedom of expression, whether they are in or outside of the organisation. We have done little or nothing about enhancing the understanding of people of what it means to have an organisation that is dedicated to freedom of expression.

Viewed from the standpoint of a people with a history like ours, this failure on our part can have disastrous consequences for the type of organisation that I think we are. We have struggled for many years in order to establish a social order where people are treated equally irrespective of any biological differences that may exist among them. It is easy and understandable, therefore, for a people like us, to privilege the value of equality over freedom of expression. I think we have seen some serious indications of this tendency within the organisation in the past year.

I believe that it is necessary to debate seriously how an organisation like ours should react to situations where freedom of expression contests the right of way with another constitutional core value. It is my hope that the incoming executive committee will apply its mind seriously to this question, since the future of FXI might well depend on how we approach it.

## **MEDIA FREEDOM**

An ominous trend discerned by the Committee to Protect Journalists in their annual survey is the use of criminal defamation to criminalise the practice of journalism. At least 118 journalists were behind bars for their work in 25 countries and 24 journalists in 17 countries were assassinated during 1998 in reprisal for their work.

Although journalists face death and detention on a regular basis in other countries, this is not the case in South Africa where, since the 1994 election, a general respect for the media exists. However, this does not mean that conditions are ideal. In 1997-1998 reports, FXI noted that government criticism of the press had become fairly regular - black journalists were particularly affected as they were faced with accusations of being unpatriotic if they were critical of government. This has diminished substantially in the past year and FXI believes this a sign of a growing maturity in government/press relations. It was therefore disappointing to note in April 1999 an ANC report, emanating from an internal commission of inquiry into leadership problems in Mpumalanga which accused certain members of the press of conspiring with individuals within the ANC to promote specific party interests and sow divisions within the party.

Of particular concern were the statements that the ANC knew who these journalists were and that they would be spoken to. This is an intimidating tactic and one which could result in the truth being suppressed for fear of chastisement by the powers that be. FXI was also incensed at the arrest of the Swiss journalist Jean-Philip Ceppi for supposedly being in possession of a secret document. The nature of the arrest and detention were reminiscent of the manner in

which the previous government behaved and we hope that such an incident will not be repeated. FXI came out strongly against his arrest and kept track of developments on his detention and subsequent release. FXI was therefore pleased to receive Ceppi as a visitor to our offices where our information officer was able to conduct a personal interview with him.

### **Inquiry into racism in the media**

The South African Human Rights Commission's announcement late last year of a probe into racism in the media caused a furore, with the press and the human rights community being sharply divided between those who saw the inquiry as a move to compromise the press, and those who thought that the inquiry was long overdue.

The inquiry is generally seen as the Commission's reaction to a complaint submitted by black professional organisations who argued that there was a concerted effort by certain newspapers to perpetuate discrimination. The organisations, the Black Lawyers Association and the Association of Black Accountants of South Africa, asserted that the racially biased reporting of certain newspapers has the effect of diminishing the dignity, the culture and self-esteem of black individuals and communities.

Although this particular complaint was not taken up, the SAHRC responded by announcing its general inquiry into racism in the media. In instituting the inquiry, the Commission made reference to the indivisibility and interdependency of human rights and its reluctance to recognize a hierarchy of rights. Suggesting that it was necessary to contextualise human rights, Barney Pityana, SAHRC Chairperson, said at a press briefing that the Commission seeks to understand societal forces which cause different groups of South Africans to emphasise different rights.

Members of the FXI Executive, although united in their continued commitment to press freedom, had differing opinions on how to react to the inquiry and it became the subject of much debate. Accepting that the inquiry was a fait accompli, however, the Executive decided that FXI should engage the Commission. In line with the opinion expressed by FXI Chairperson Mandla Seleane that such an inquiry should be strictly circumscribed and recognizing that racism is a freedom of expression issue, the Committee felt it was important that FXI strive to ensure that the inquiry did not compromise freedom of expression and, in particular, press freedom.

The terms of reference of the inquiry were made public earlier this year and FXI was disappointed to note their tone. Particularly worrying was the Commission's powers of search, seizure, arrest and subpoena. Because of its concerns FXI commissioned a legal opinion on the constitutionality of the inquiry. The conclusion reached articulates the pitfalls of such an inquiry:

"The proposed inquiry and the report flowing from it, will not in themselves by law impose any new restrictions on freedom of expression. The process of the inquiry, may however have a significant impact on those accused of responsibility for racism in the media. The inquiry and report may also influence public opinion, government and ultimately parliament itself to enact legislation imposing restrictions on freedom of expression."

Another legal opinion, commissioned by an FXI executive member, saw the inquiry as much more than just a threat:

"The inarticulate premise behind the proposed inquiry into racism in the media is of the very essence of censorship. It would seek to regulate the content of the media, a matter which is vigorously protected by any meaningful constitutional guarantee of freedom of expression."

A delegation consisting of the FXI executive director and three executive committee members then met with the Commission to articulate our concerns. We focused, inter alia, on the problems surrounding the Commission's powers of subpoena, search, seizure and arrest. Apart from the possibility of the use of these powers turning the inquiry into a witch-hunt, FXI was also worried that journalists' rights to protection of sources may be compromised.

Although it could obviously not anticipate the outcome of the inquiry, the delegation was keen to ensure the inquiry did not lead to legislation which imposes restrictions on freedom of expression and/or press freedom. We suggested that the Commission focus on looking at ways in which professionalism within the media and a human rights culture, which includes respect for freedom of expression, could be encouraged. FXI also took the opportunity to address the issue of the concentrated ownership and management of the media which tends to impact on content. The inquiry, we suggested, should explore this and the idea of an agency to ensure media diversity.

FXI also warned that any attempts to suppress certain reports which may reflect racism in our society, could see racism go under-ground and fester. FXI is committed to non-racism but believes that only when it is visible can one address it and monitor its eradication.

Some of FXI's fears were allayed after meeting with the Commission but because of our concerns regarding its possible impact on freedom of expression, we will continue to monitor the inquiry.

### **Beyond our borders**

Criticism of the South African media did not come from inside the country only. Finding an alternative to harassing the Zimbabwean independent press, the Zimbabwean President Robert Mugabe accused South African media of trying to bring down Zimbabwe through a hidden agenda. Mugabe went as far as accusing Johnnic chairperson Cyril Ramaphosa of disowning his African roots by failing to silence newspapers which criticised the detention and torture of two journalists. He said "The media in South Africa remained committed to independent press in Zimbabwe was to Rhodesia's 1965 unilateral declaration of independence."

The Southern Africa region has been largely affected by lack of press freedom with governments continuously harassing critical journalists. For instance, the media were attacked or harassed by the governments of Angola, Democratic Republic of Congo, Mozambique, Namibia, Zimbabwe, Zambia, and Swaziland, leading on occasions to arrests and detentions of journalists. It is also worth noting that Swaziland's plans to introduce a press council, which FXI counselled against in 1998, were shelved in April 1999.

South Africa too it seems was a party to harassment of journalists in the region and in fact reports on the treatment meted out to journalists during the South African incursion into Lesotho were alarming. This led to FXI issuing a call to all parties involved in the conflict to ensure the safety of journalists reporting on the situation there. Some journalists said they believed they had been deliberately targeted and fired on by snipers. FXI expressed concern

at the high casualty rate among journalists and the criminals acts committed against some of them.

## **Exposing Corruption**

On a more positive note the press has continued its vigilance and exposure of maladministration and irregularities in the government sector. Through research and investigations, government has been forced to address a number of issues. The dogged pursuance of corrupt officials has seen a grudging acknowledgement from government of the importance of the press in exposing corruption. Exposure of corruption in the private sector, however, has been minimal. It is FXI's belief that revelations of corruption and

Corruption has emerged as a major threat to development and all parties in the run up to the election saw this as an issue to be addressed. The South African Government also organised a National Anti-corruption Summit in April 1999. This conference was inter alia aimed at providing the basis for the International Anti-corruption Conference in October 1999.

It is therefore apposite to mention here FXI's involvement in the campaign to combat corruption. Since October last year, FXI together with other stakeholders ranging from the public and private sectors to organs of civil society has been involved in the campaign. The campaign is part of Transparency International South Africa's broader campaign to establish productive and firm anti-corruption fronts and coalitions with a clear vision and terms of reference. Amongst others these fronts and coalitions include the National Anti-corruption Initiative by government, the first Public Sector Anti-corruption Conference, to be held in Africa

In this context, FXI was invited to serve on the steering committee to organise the Ninth International Anti-corruption Conference to be held in South Africa on the 10 - 15 October 1999. Preparations for the conference are at an advanced stage and work is being done to invite participants from all over the world to the first International Anti-corruption Conference to be held in Africa.

## **Defamation**

Significant to press freedom in South Africa was the ruling made by Judge F. Heffer on the "Bogoshi matter". It represented a victory for freedom of expression principles and overturned previous Supreme Court and Appellate Division decisions which had severely restricted the media in its role as a public watchdog. In the past, when the media published allegedly defamatory material it had to prove that it was true in all respects and that publication was in the public interest. The new ruling means that a journalist need now only prove that s/he took sufficient steps to verify the information. Justice Heffer said "In South Africa, freedom of expression had not been given sufficient weight especially in regard to the role of the press when considered against the competing value of the reputation of the plaintiff".

In the past, when the media published allegedly defamatory material it had to prove that it was true in all respects and that publication was in the public interest. The new ruling means that a j In this judgement, the court opened the door to a more general defence for journalists that the media has a duty to provide the public with information that is in the public interest, and by so doing, the media contributes to the formation of public opinion.

## **Protection of sources**

Section 205 of the Criminal Procedure Act continues to be a thorn in the side of the media. The South African National Editor's Forum, with the aid of FXI's research, has over the past year met with government to discuss laws currently on the statute books which inhibit the flow of information. Section 205, under which journalists can be subpoenaed to reveal their sources, has been pivotal in the discussions. Section 205 weakens section 16 of the Constitution guaranteeing freedom of the press and other media. Despite the ongoing discussions, several media organisations in South Africa were once more served with subpoenas to hand in their videos and photographic material relating to the murder of gang leader Rashaad Staggie. The subpoenas were issued in terms of the Inquest Act which in turn relies on section 205 of the Criminal Procedure Act. Notwithstanding arguments from various media institutions regarding protection of sources, the magistrate ruled that the subpoenas issued were valid and the media would be forced to comply with them. Should they fail, he said, they could face heavy penalties.

Launching an astonishing attack on the media, Western Cape Deputy Attorney-General Willie Viljoen asked: "Are they cowards who can accept no responsibility and are unable to live up to the constitutional principles of transparency, or are they instruments of a third force that fuels conflict and then revels in sensationalism?"

It is encouraging to note, however, that the SANEF discussions with the government have resulted in an agreement which includes a number of steps to be taken before subpoenas are issued under section 205, while discussions continue around a possible amendment.

In October, FXI together with Article 19, the International Centre Against Censorship, published a booklet entitled Protection of Sources in South Africa. The booklet contains the contributions made at a seminar held by the organisations earlier in 1998. The publication has been distributed widely since its publication.

## **Media diversity**

There has been some movement in ownership and control of the major media in South Africa in the past year but the changes have not resulted in significant differences to the traditional patterns. Only a limited number of newspapers exist or are geared to serve rural and marginalised communities while newspapers aimed mainly at the affluent urban market continue to grow. New appointments in editorial management, however, are gradually changing the tone of a terrain previously dominated by white voices. Although the introduction of Sunday World is to be welcomed, this is a "niche" designed paper aimed exclusively at the black market. There is still a gap in print media which address an integrated audience.

FXI contends that the best opportunity for success in the diversity of the media is for some controlled intervention by government and consequently in the second half on 1998 it embarked upon a campaign to explore and advance the establishment of a funded media development agency - a vehicle media organisations have been lobbying for since 1995. In an effort to ensure that some concrete action was taken in furthering the idea, FXI together with the National Community Media Forum, designed a campaign which included research, consultation (with government, the industry and regional groupings) and the development of an MDA model. The initial stage of researching thoroughly the current status quo in the print

media, broadcasting (commercial, community and public broadcasting) and signal distribution and the extent to which the regulation of broadcasting acts as a structural constraint, was commissioned at the close of 1998. International research on precedents elsewhere was also sought. FXI is in the process of finalising the research and filling in the gaps. A major seminar in Gauteng and at least one seminar in each province are the next steps. At these seminars the research undertaken will be shared and a response sought.

In the interests of media diversity, FXI also made a submission on the Competitions Bill before it was passed and held a seminar on media ownership and competition in conjunction with the Graduate School of Public and Development Management in Johannesburg. Speakers at the seminar included representatives from FXI, the Print Media Association, Department of Trade and Industry, and labour research institute Naledi. The debate focused on the extent to which the Bill would be used to foster media diversity.

## **ACCESS TO INFORMATION**

Government Communication and Information System Last year saw the establishment of the Government Communication and Information System. The new body is in line with the recommendations made by the Task Group on Government Communications established by the then new government to make recommendations on future government communication. The GCIS mission is to ensure that dialogue between government and its citizens is enhanced. GCIS pledged to focus its work on six broad priorities:

- establishing a coherent government communication system;
- building a development information network to service grassroots needs;
- developing an information strategy for multi-purpose communication centres;
- encouraging media diversity; and
- improving the competencies of government communicators.

Many steps to implement some of the above have already taken place. With the development of a comprehensive web site, the GCIS has provided the public with what is described as a mechanism by which information from government departments, provinces, and other government bodies is accessible through a "one-stop gate-way".

The arrival of the CGIS, however, has not been without its problems. Opposition parties, recently accused the government of misusing the GCIS to boost the ruling party in its election campaign. Accusations came as a result of the R4,3 million publicity campaign to highlight government achievements. In this context the GCIS will have to be monitored as FXI would not like to see the new body take on the same role as the previous South African Government Communication Service which was seen as a propaganda arm of the ruling party.

## **The Open Democracy Bill**

The Open Democracy Bill, now five years old, provides for the right of access to records of governmental bodies. Despite its long passage, it was only introduced in Parliament in May 1998. The Bill embodies the spirit of the Section 32 of the Constitution which provides for the fundamental right of access to information.

One of the major deficiencies of Bill is that it fails to address the issue of access to information held by the private sector. Section 32 (1) (b) of the 1996 Constitution provides

for this horizontality providing that: (Every person has the right of access to) information that is held by another person and that is required for the exercise or protection of any rights. Consequently FXI saw this as a major priority and funds were raised to research specifically on access to information held by the private sector, a civil society consultative process, and what was hoped would be FXI's final submission.

In fulfilling this strategy, FXI held a meeting with civil society groupings in Gauteng in June 1998. Organisations present were provided with updated information and documentation. FXI also used this opportunity to consult and inform organisations on the planned July seminar, particularly as the timing at this point seemed crucial.

FXI research provided the organisations with the necessary background to argument for the inclusion of a chapter on access to information held by private bodies. The final paper included sections on: the case for inclusion; crossing the public-private divide; a close examination of section 32 (2) and the imperative in the clause for legislation; the test for section 32 (1) (b); information and antecedent rights; grounds for refusal; different models (definition, generic, detail model, synthesis); objections. The research also contained a limited review of existing legislation which incorporated rights of access to information held by private bodies.

A seminar, which examined this and other research and strategies, therefore informed our August 1998 submission. Although public hearings were supposedly on the cards for sometime in that particular parliamentary session, they did not take place until 1999.

Chairperson of the Justice and Security portfolio committee, Johnny de Lange, however, did announce in late December that the debate on the Bill was being re-opened and submissions once again being sought. Of particular interest to FXI was his comment that, "While the Bill is generally about open government, the extent to which private sector information should be made available is also part of the debate."

The re-opening of the debate and the commitment to the passing of the Bill was welcomed but particularly pleasing was the extension of the debate to privately held information. De Lange's statement though on another level was cause for concern for it suggested that the media's abilities to investigate and report effectively could be affected: "The question was to what extent information held by the media should be privileged, particularly if an individual was seeking to protect his or her own interests."

FXI immediately took up the challenge and made sure that a submission advancing the argument that as companies and institutions media bodies do not deserve any special treatment but the information gathered and the sources used in gathering that information, do.

Unfortunately the long-awaited public hearings were held over two days in March in the same week as Parliament was dispersing. This meant that there was not really sufficient time to delve thoroughly into the many problem areas of the Bill which is an extremely complex piece of legislation. Although we believe that the Bill cannot be postponed indefinitely, the delay has given the drafters more time to address the problems and recommendations which emerged at the hearings.

FXI's presentation covered a number of major points of a more general nature, our research on mechanisms of incorporation of s 32 (1) (b) of the Constitution, and the ODB and the

media. The committee was particularly interested in the models for the incorporation of access to information held by the private sector.

A number of demands and comments were reiterated throughout the hearings: the "right to know" should be the *raison d'être* for the Act; the ODB should be accessible and in simple language - a deficiency in the current draft; it must serve ordinary people and not only the rich; for unsuccessful applicants for information, there should be a less formal, speedy and more accessible step before having to resort to the High Court, hence the idea of a Tribunal in the extraneous review process; the "harms test" should be re-introduced; private institutions should not be exempt.

Given the fact that the Bill has not been passed and the new parliament once it has been sworn in which will have to decide whether or not to take the Bill forward, questions do arise as to why the hearings were held at the last moment. Some may say it was a sop to its advocates. FXI would prefer to believe that it was a genuine effort to keep the Bill alive and to meet the deadline imposed on it by the Constitution.

### **Greater transparency**

In other new legislation obligations to openness and transparency have been evident. The National Environmental Management Act, for example, provides access to government held information about the environment and risks to the environment while providing government with the power to obtain information on the environment. Although some environmentalists have argued that the Act does not go far enough in ensuring transparency and public participation, it is a step in the right direction. In fact the Legal Resources Centre argued at the public hearings on the Open Democracy Bill, that if the ODB is passed in its current form it could end up negating some of the positive changes brought about by the National Environmental Management Act.

We are also seeing the introduction of legislation to enforce tough new disclosure provisions in the corporate world. An amendment to the Companies Act will compel companies to disclose the identities of all share holdings of 5% or more in a company. Companies will also be obliged to make full disclosure of the earnings of its directors for inspection by stakeholders. The Congress of South African Trade Unions has also demanded that the country's top 50 companies publish their salaries and fringe benefits of their senior managers and chief executives and the Employment Equity Act passed last year compels companies to disclose details of salaries and benefits for all employees. Information on remuneration packages are being included in the employment equity report that companies will have to submit every year to the labour department in terms of the Act.

Since its inception, the Truth and Reconciliation Commission has played an exemplary role in information disclosure. The need for perpetrators to make full disclosure before amnesty can be granted has resulted in many of the pieces in the apartheid puzzle falling into place. The TRC's decision to open the hearing into the previous government's biological warfare programme was commendable and it is as a result of that hearing that much information on the programme done in the name of South Africans was finally revealed. Information revealed in the hearing also led to the Department of Foreign Affairs and the South African Defence Force seeking a settlement with FXI in relation to the release of Wouter Basson's bail hearing - dealt with later in this report. The fight to have this released took some two years but FXI believes it was important to pursue it.

Last year FXI called on the TRC to ensure that all records, including submissions, oral testimonies, investigation dockets and amnesty applications, many of which remain confidential, should be preserved and disclosed in their entirety once the commission has issued its final report. It was therefore surprised to learn of the arrest of Swiss journalist, Jean-Philippe Ceppi in connection with being in a possession of a "top secret document" which had been given to him by the TRC.

FXI believes that legislation such as the Protection of Information Act, under which Ceppi was arrested, is one piece of legislation that must be reviewed because it, like several other pieces of legislation which inhibit freedom of expression, is a relic of the apartheid era. Although there may well be some current defence documents deserving of protection, FXI believes that any information relating to the previous government should not be protected.

The Open Democracy Bill is intended to replace the Protection of Information Act so that blanket restrictions on disclosures may be more carefully and narrowly constructed to give substance to the access to information clause in the Constitution and the principles of openness and accountability.

The free flow of information was also enhanced by the Poverty Hearings organised by the South African Human Rights Commission and the South African National NGO Coalition. FXI believes that the hearings revealed important information relating to South Africa's poor and marginalised. These categories of people tend to be neglected by the mainstream media and the hearings focused attention on these communities and their daily struggle for survival.

Also central to the issue of access to information is universal access to telecommunications as one of the key instruments for dissemination of information. Universal access and universal services must be recognised as important aspects of freedom of expression as the constitution outlines that freedom of expression is not only a right to express one's views but also to receive and impart information. It was from this perspective that FXI prepared a response to the government paper on Universal Access and Universal Service in South Africa.

## **Broadcasting**

The broadcasting sector in South Africa underwent a tremendous expansion last year. Despite initial concerns that e.tv was not abiding by its licencing conditions as it phased in its service, it is proving to be the first real competition to the public broadcaster. What with e.tv and the dozens of commercial and community radio stations now on air, South Africans today have a large broadcasting choice and consequently access to a variety of voices and opinions - something that was completely lacking pre-1994.

With the broadcasting policy process coming to a head last year and new broadcasting legislation being introduced, FXI was constantly involved in monitoring the process and exposing its flaws particularly when it believed the freedom of the airwaves was being affected.

FXI's concerns expressed in the last annual report regarding the consultation process were encapsulated in our response to the White Paper. Furthermore, FXI consulted with various civil society groupings and experts, publicised various problems with the draft legislation, and met with the Department of Communications and the Independent Broadcasting Authority during the year.

A substantial submission was then forwarded to the Parliamentary Portfolio-committee on Communications on the new Broadcasting Bill. As a consequence of this submission, FXI appeared before the committee to argue its points. After their appearance, FXI was asked to provide suggestions on how the wording of the new act could be altered to accommodate our concerns.

FXI's concerns continue to be: the future independence of the IBA when it merges with the SA Telecommunications Regulatory Authority this year; the independence of the public broadcaster in relation to its proposed corporatisation; and the powers of the Minister which, if not clearly defined, could diminish the independence of the IBA. So concerned were some political parties with the possible usurpation of the IBA's powers that they argued the Bill was unconstitutional. This led to the President sending the Bill back to Parliament for further amendments. FXI will be monitoring the implementation of the legislation which has now been passed by Parliament. In relation to the proposed corporatisation of SABC, FXI has been seeking some reassurance that should the public broadcaster become more profit-oriented it would not compromise its eleven language policy. This led FXI to substantial correspondence with the Pan South African Language Board who in turn communicated with SABC and the Department of Communications. FXI was also asked to comment on the Department's response.

Community radio, commercial radio, free-to-air television and pay-to-view television, along with the public broadcaster, are obliged to broadcast and promote the interests of the public and its development. Central to the debate is the question of content in broadcasting.

### **Friends of the Public Broadcaster**

Local content in public broadcasting and other issues pertinent to the public broadcaster has led to the formation of a grouping calling itself Friends of the Public Broadcaster. Friends - an initiative inspired by similar organisations in other countries - is a network of concerned organisations attempting to mobilise the opinions and aspirations of users of the public broadcaster. It has been assisted by FXI in its birthing period. An inauguration meeting led to several working groups being established including: local content programming; women in media; sports, games, arts and social transformation; broad policy making and transformation.

Friends has also campaigned against the erosion of newsroom independence and critical journalism which it believes has led to, among other things, the dismissal of some of the Corporation's top journalists. What with numerous contractual employees - often those who have fallen from favour for not towing the line of management - getting the boot with no warning, labour practices at the SABC have also come under fire. The impact of the threat of dismissal can have a profound effect on the independence of the SABC and can result in self-censorship by those in fear of losing employment.

Towards the end of 1998 the IBA signalled intentions to amend its code of conduct as well as to establish a suitable definition of advertising and the regulation of infomercials and programme sponsorships. FXI compiled a submission on these matters and also gave oral evidence on them.

### **IBA Code of Conduct revised**

The revised code of conduct for was announced by the IBA in April 1999. According to the IBA, the revision aims to bring the Code in line with the Constitution, particularly in relation to the freedom of expression provisions of the Bill of Rights. FXI certainly welcomed this and the fact that some of our recommendations were included.

However, some of the provisions are worrying in that they give the IBA powers to control content particularly in relation to what it terms "gratuitous violence". FXI will monitor the future implementation of the code which, because it is part of the Independent Broadcasting Authority Act, is still to be passed by Parliament. FXI also submitted comments on guidelines for broadcasting during the elections.

## **FREEDOM OF SPEECH, ASSOCIATION AND ASSEMBLY**

### **Demonstrations**

Although there were fewer incidents of violence during protests and strikes over the past year, as compared to other years, the general approach to demonstrations is still a concern. There have been several incidents of violence during demonstrations led by People Against Gangsterism and Drugs - some provoked by the demonstrators themselves and others by the police. The confrontation between demonstrators and the police during a protest against the visit of British Prime Minister Tony Blair to South Africa, was particularly violent. The police's argument was that the protesters did not apply for permission and therefore the demonstration was illegal.

FXI has always recognised that it is essential to regulate protest where a large number of people is expected, but questions the Regulation of Gatherings Act's commitment to the right of free assembly and protest. The Act, passed by the previous government in its last days, gives the authorities too much power in regulating demonstrations. We contend the legislation of this nature should work from the premise that it is the authorities' duty to facilitate the proceedings and offer security to those involved as they exercise their constitutional rights. Demonstrations should involve responsibility from both the demonstrators and the police.

Those who engage in violent demonstrations should be brought to book if they carry guns or behave in a criminal manner. In a demonstration during an Eskom strike last year protesters went on a rampage, destroying cars and part of a building. Those who were involved were recently taken to court. Although the prosecution of individuals involved in criminal acts during demonstrations may be a double-edged sword, it does serve to make demonstrators accountable for their actions.

### **Anti-tobacco legislation**

Freedom of commercial speech is not one of the areas that FXI feels compelled to be involved in: firstly, because there are powerful industrial forces who are able to take up causes relating to the marketing of their products, and, secondly, because FXI members have differing opinions on to what extent commercial speech should be regulated. The Tobacco Products Control Amendment Bill, however, has such far-reaching consequences for freedom of commercial speech that FXI felt it could not be ignored. Because it was motivated by commercial imperatives, however, we did not align ourselves with the industries' campaign to stop the passing of the legislation but rather chose to place our anxieties regarding this piece of legislation in a submission to Parliament.

The submission argues: for protection of speech but particularly for that which is known as commercial speech and artistic expression; agrees that there is a need to balance rights ; suggests that parts of the Bill will not pass the limitations test in section 36 of the Constitution; expresses concerns regarding the banning of advertising of a lawful product; the suppression of solicitation of commercial transactions; that it will create an unfair advantage for importers; the responsibility for banning a product falls on the media instead of government; suggests self-regulation and educational campaigns specifically in schools and conducted by the medical profession may be a way of preventing minors from smoking.

## **CENSORSHIP**

### **The Films and Publications Act in operation**

The establishment of the Films and Publications Board saw the 1996 Films and Publications Act come into operation in 1998. The Board's commitment to regulate rather than censor was tested on at least two occasions in the year and, despite pressure, the Board stuck strongly to the positions it had taken. FXI went public in and secondly the Board in both these instances. One was in connection with an exhibition of drawings by a fine artist and lecturer Mark Hipper which certain organisations labelled "child pornography".

The Board, after visiting the exhibition, declared it bona fide art. This decision was taken on review and the Review Board confirmed the Board's original ruling. FXI kept in touch with the University of Rhodes and the artist throughout this trying time and attended the appeal.

The second occasion the Board faced criticism was on the release of *The Last Temptation of Christ* Although this film was only released on video, FXI backed the Board's decision to release it. FXI has never been entirely happy with the Films and Publications Act but it has had to accept its passing and the establishment of the Board. FXI was therefore distressed to note that a problematic amendment to the Films and Publications Act was rushed through Parliament before it closed in preparation for the election this year. The amendment was introduced in the same week it was passed and was not distributed for comment to outside institutions. FXI believes that the amendment will have serious repercussions for the independence of the Board as it gives considerable powers to the Minister. It also introduces pre-censorship in some cases.

### **A student is censored**

Last year, there were several occasions where free speech was curtailed. Among others, there was an incident in which a student, Layla Cassim, was suspended from college as a result of what she wrote in an essay expressing her views on the Palestine/Israeli issue. The Constitution clarifies the rights to freedom of expression and opinion perfectly in clauses 15 and 16 of the Bill of Rights. Therefore, citizens should be able to exercise those rights without fear of intimidation. FXI noted that the school failed to consider the implications of their actions regarding tolerance and diversity of thoughts in our country.

### **Education**

Although our other activities have meant that public education on freedom of expression issues was to a degree put on the backburner over the past year, we still managed to: conduct a workshop in the Eastern Cape on the Open Democracy Bill; facilitate and conduct workshops at the South African Students Press Union's annual conference on the

development of an editorial charter; address numerous gatherings on issues relating to inter alia press freedom, hate speech and incitement to violence, the archives, broadcasting, and access to information.

FXI also contributed to the National Action Plan for the Protection and Promotion of Human Rights. NAP was lodged with the United Nations on 10 December 1998, International Human Rights Day and the 50th Anniversary of the Universal Declaration of Human Rights. In doing this the government responded positively to the recommendation of the Vienna Declaration and Programme of Action adopted at the World Conference in Vienna, Austria, 1993. NAP is a detailed policy and legislative programme to realise the fundamental rights and freedoms provided for in our Constitution and Bill of Rights. The section on freedom of expression is fairly detailed and FXI was pleased to note the inclusion of the majority of its recommendations.

A poster commemorating the 50th Anniversary of the UDHR was produced by FXI and distributed on the day. The NAP organisers, in conjunction with the South African Human Rights Commission, organised and co-ordinated activities including a parade of floats through the streets of Johannesburg. The parade ended at the Old Fort - a venue many ex-political prisoners will remember - where a carnival-like atmosphere prevailed with government departments and non-governmental organisations occupying stalls at which they promoted their institutions and human rights.

## **International and regional activities**

### **IFEX**

The International Freedom of Expression Exchange had its annual general meeting in Cape Town in April. Because the AGM was held in South Africa, three FXI staff members were able to attend. The meeting was hosted by the Media Institute of Southern Africa. Delegates discussed freedom of expression in times of war and crisis, and current press freedom violations in inter alia Zimbabwe, Zambia and Swaziland.

Workshops were held to promote free speech in Southeast Asia and Nigeria and to strategise on how to develop stronger links with groups in the Middle East and North Africa. Two ad-hoc committees were formed. One, is to investigate urgent cases of journalists in danger. Areas of concern would include the Balkans and Sierra Leone. The second committee is to monitor media diversity and ownership which poses a threat to press freedom worldwide. Jane Duncan of FXI led the discussion on the controversial area of media diversity and ownership and is also part of the committee dealing with the issue.

Joint appeals were also made for freedom of expression in the following countries: Democratic Republic of Congo, Lesotho, Balkans, Argentina, Tanzania, Zambia and Zimbabwe. MISA also organised a parallel workshop where information officers shared their experiences on advocating, lobbying and campaigning effectively on the Internet.

FXI's relationship with IFEX has been strengthened in the past year as plans for FXI to take over the hosting of the IFEX website have taken place. At this stage all the necessary arrangements to do this have been made and we will soon assume responsibility for the regular servicing of the site.

### **The Southern African Human Rights NGO Network and other work**

Regionally, FXI continued to be pivotal in the South African Chapter of the Southern Africa Human Rights NGO Network and, apart from local chapter meetings, attended the Annual General Meeting in Maputo. The meeting drew attention to the dismal record of the Southern African Development Community countries on freedom of expression issues and once again made freedom of expression a focus for the coming year by resolving that all national chapters should lobby for constitutional provisions that establish and guarantee freedom of expression. It was further resolved that SAHRINGON will campaign around the theme "Action for peace, justice and development in the region".

FXI will be hosting the SAHRINGON Chapter co-ordinator, i.e. the organisation's secretariat will provide the funding and a contribution to costs while FXI will provide the space to accommodate her for the upcoming year. The co-ordinator will be able to devote all her time to chapter activities and liaison with the secretariat and other country chapters. The South African Nigerian Democracy Support Group continued to function and was obviously profoundly affected by the death of General Abacha and subsequent moves towards democracy.

### **Publications and media exposure**

Our newsletter, Update, was published five times over the past year. Some of the controversial issues surrounding freedom of the press both in South Africa and outside our borders were covered by the newsletter. News releases on these issues prompted considerable coverage and countless radio interviews. Radio stations all over the country have regularly sought FXI's opinion. The Executive Director and a number of Executive Committee members appeared on both news and magazine programmes on e.tv, M-net and SABC. The international press were particularly interested in the detention of Swiss journalist Ceppi and numerous interviews were given on the matter.

Regular weekly reports with freedom of expression news culled from our press cuttings continue to go out both locally and internationally. Together with Article 19 and the Media Institute of South Africa, FXI continues to publish the Southern African Media Law Briefing. The newsletter continues to maintain a high standard of reporting on media law generally and precedent-setting cases. A highly successful correspondents' conference at which the majority of the SADC countries were represented was convened by the three organisations and a similar conference is planned for later this year.

### **Freedom of Expression Defence Fund**

Much of the work undertaken by the Freedom of Expression Defence Fund in 1998 was the continuation of cases embarked upon in 1997 and even as early as 1996. The Fund did, however, take on several new cases relating to parliamentary privilege, freedom of expression on campus, and whistle-blowing. The Open Democracy Bill provides protection for whistle-blowers but it is still not clear what assistance whistle-blowers will be able to rely on even when this Bill becomes law. The FXDF therefore decided that it was necessary to take on cases of this nature in the hope of establishing precedents for future whistle-blowers.

In the parliamentary privilege matter, MP Patricia de Lille was accused of making unparliamentary remarks. Although she withdrew the remarks at the direction of the speaker, Parliament went further and set up an ad hoc committee to look into the matter. The manner

in which the committee conducted its inquiry was procedurally unacceptable yet its recommendations were adopted by Parliament. As a result of the adopted resolution, Ms de Lille was required to apologise in writing and be suspended from Parliament for 15 days. Ms de Lille, however, challenged the appointment of the committee, its procedure and the legality of the resolution. The challenge was successful and the curbs imposed on Ms de Lille were declared unconstitutional. An appeal on the matter is still to be heard.

In a matter involving access to courts martial, the FXDF (FXI and the Mail and Guardian being the clients) was also successful when the High Court declared sections of the Military Discipline Code unconstitutional. Before the judgement could be confirmed in the Constitutional Court, it became evident that the Military Discipline Code had been amended to remove the offensive sections of the code thereby making the matter moot. Believing that the amendment was as a result of the application, FXI was not adverse to a settlement which included FXI receiving the costs incurred up until the High Court sitting.

FXI, once again with the help of the FXDF, also gained a significant legal victory when the full transcript of the bail record of Dr Wouter Basson (who is facing a string of criminal charges) was released to the public without excisions. The Attorney General's office, the Ministry of Foreign Affairs, the South African National Defence Force and the Council for Non-Proliferation of Weapons of Mass Destruction, conceded that there was no longer any justification for censorship of any part of the bail record and settled the case. They also agreed to pay the legal costs incurred in the two year battle and the settlement agreement was made an order of court.

Basson was signalled out in the Truth and Reconciliation Commission's report as the key to South Africa's covert bio-chemical warfare program during the apartheid era. The State respondents had been opposing public release of the bail record since February 1997 on various grounds relating to state secrecy, non-proliferation and the administration of justice. FXI continued to challenge the arguments of the State after winning partial release of the bail record in 1997 in a court application instituted together with the Independent and Times Media newspaper groups.

The victory vindicates FXI's position of principle that denial of access by the public to official or legal proceedings must always be justified by the State in accordance with the rights to free speech and access to information contained in the South African Constitution.

Another success was the acknowledgement from the Mpumalanga newspaper Die Laevelder that it had defamed African Eye News Service journalist Justin Arenstein in its suggestion that Arenstein had paid government officials for information and that he was unfit to teach journalism. In the settlement reached the newspaper agreed to inter alia publish an unconditional apology on the leader page of Die Laevelder, pay legal costs to the tune of R30 000, and make a private apology to the college as well as a commitment not to discriminate against students taught by Arenstein.

FXI also got involved in the matter relating to Max Hamata, a journalist student who was expelled from Peninsula Technikon allegedly for bringing the institution into disrepute. The accusations from the Technikon were as a result of an article written by Hamata and published by the Mail and Guardian. The story related to students who funded their lifestyles by selling their sexual favours on campus. FXI contended that the Technikon should not have reacted by expelling the messenger. At this stage the matter has still not been resolved. FXI's

also expressed a concern that the actions of the Technikon authorities could also have a censoring effect on other journalism students.

## **MANAGEMENT AND ADMINISTRATION**

FXI has four full-time and three part-time staff members. Five sub-committees ensure that staff and members are in regular contact and that the staff derive their mandate from and act in accordance with decisions made in consultation with FXI members. These committees are management, publications and training, media, foreign affairs and the Freedom of Expression Defence Fund. The annual strategic planning workshop was held in November last year. The meeting undertook assessment and planning for FXI, examined the project priorities for the forthcoming year as well as possible budget allocations. A number of policy issues were also debated including the organisation's approach to the media inquiry and freedom of commercial speech.

FXI's small staff component undertakes most of its activities in conjunction with voluntary members - the latter participating as much as they are able given that they have other demands on their time. Because of the strain of having to be multi-skilled in order to accomplish the work involved, training is essential. During the year staff benefitted by a number of courses including: a course run by the European Union Foundation for Human Rights on international human rights instruments, and others on self-development, time management, use of the Internet, and media presentation. Staff members also attended numerous conferences and seminars.

This year also FXI undertake a major re-organisation of its filing and resources. The new system, designed by a part-time librarian, is almost complete and includes an accessible catalogue. This will be an invaluable tool for FXI research as well as the many outside researchers who approach FXI for assistance. The past year also saw the Chairperson and an executive committee member represent the organisation at international conferences in the United Kingdom.

### **Executive Committee**

The Executive Committee, elected by the FXI's members at its Annual General Meeting in June last year, met once a month to discuss practical and policy matters relating to FXI and to assist in the smooth running of the organisation. Chairperson Mandla Seleokane and Deputy Chairperson Robert Nkuna were elected to their positions by the committee at its first meeting.

**Mandla Seleokane** has been a member of the Executive Committee of FXI since its inception and is currently the Chief Researcher: Democracy and Governance at the Human Sciences Research Council, where he has worked since 1995. He is also a past joint winner of the Don Caldwell Unconventional Hero Award for his ability "to break with conventional wisdom or to contradict popular dogma in order to protect the right to freedom of expression". During the past year he was requested by the Minister of Safety and Security to serve on a commission of inquiry into racism in the South African Police Services.

**Robert Nkuna** is a past-President of the South African Students Press Union, past Vice-President of the Broadcast Educators and Trainers' Association, and a member of the National Community Media Forum. He serves on the Board of Community radio TNG and is

currently Assistant Director Media and Communications Policy at the Government Communication and Information System.

**Raymond Louw** has a long and distinguished record as a champion of free expression. The former editor of the Rand Daily Mail, he is a founding member of FXI, and was its Chairperson from 1995 to 1997. He also served as a member of COMTASK, the Task Group on Government Communications.

**Clive Emdon** has been a member of FXI since its inception, is a lecturer in journalism and is currently the Executive Director of the Independent Media Diversity Trust.

**Japan Mthembu** is a past-President of the Performing Arts Workers Equity and is currently PAWE's General Secretary and Chief Negotiator. He has been a member of the Executive Committee since FXI's formation.

**Mafika Sihlali** is an attorney practising in law the fields of media, broadcasting and labour law. He is also a past editor of the campus newspaper and mouthpiece of the then Black Student Society at the University of Witwatersrand.

**Kate Skinner** worked for the South African Democratic Teachers' Union as National Media Officer and Head of Media Department and at the University College as a Communications lecturer. She is currently the Information and Liaison Manager for Mvula Trust.

**Jabu Sindane** was previously a senior research specialist at the Human Sciences Research Council and a think tank member of the Commission of Provincial Affairs and a Task Group on International Migration. He is currently Project Co-ordinator of the National Business Initiative-Local Government.

**Blessing Manale** is a former General-Secretary of the South African Students Congress, Information and Publicity Officer for the ANC Youth League and is currently the Transformation Officer at the University of the Western Cape.

## **FREEDOM OF EXPRESSION DEFENCE FUND**

The Defence Fund invites lawyers, organisations, newspapers and other affected individuals in need of legal financial assistance to contact the Fund. The applications are considered by a committee appointed by the FXI Executive, which includes several media lawyers. They meet once a month to deal with new applications for funding and to assess cases which have already received funding.

## **MEMBERS**

**Claire Wright** is a media lawyer specialising in broadcast and copyright law.

**Advocate Bokaba** is a representative of the Black Lawyers Association.

**Tracy Cohen** previously headed the Media Project at the Centre for Applied Legal Studies, has worked for the SA Telecommunications Authority and is currently a senior lecturer at the Link Centre of the Graduate School of Public and Development Management.

**Harry Dugmore** co-founded Rapid Phase, creators of the infamous Madam & Eve cartoon.

**Odette Geldenhuys** previously a Deputy Director of the Legal Resources Centre, is currently the National Programme Officer for the United Nations Human Rights Institutional Strengthening Project.

**Moirra Mokuena** lectured for three and a half years in media law and is currently acting as an attorney.

**Dali Mpofo** is a human rights lawyer and advocate, representing the National Association of Democratic Lawyers.

**Mafika Sihlali** is an executive committee member of FXI but serves on the FXDF in his capacity as a media and human rights lawyer.

### **FXI MEMBERS AND STAFF**

Mandla Seleokane, Robert Nkuna, Raymond Low and Laura Pollecutt.

### **FXI STAFF**

The last year saw a number of staff changes including the appointment of a new co-ordinator for the Freedom of Expression Defence Fund and a new office manager.

#### **Executive Director**

Laura Pollecutt has extensive experience in media and human rights advocacy. In 1997 she worked at the TRC where she co-ordinated the Special Hearing on the Media. Prior to this she held the position of Media Director at Lawyers for Human Rights.

#### **Project Director**

Jane Duncan has been with FXI since its inception, and was the co-ordinator of one of its founding organisations, the Anti-Censorship Action Group. Although she previously coped with the education and publications portfolio, Ms Duncan has over the past year made major contributions to most of FXI's projects particularly when in-depth research has been needed.

#### **Information and External Campaigns Officer**

Nanagolo Leopeng has worked at the Bophuthatswana Television Broadcasting Corporation and is an honours graduate in communication. She has been with the organisation for more than a year.

#### **Defence Fund Co-ordinator**

Harry Letsebe was appointed the Defence Fund Co-ordinator towards the end of 1998. He is currently completing a law degree and has served on the executive of the South African Students Press Union.

#### **Office Manager**

Penny Hoar replaced Tracy Klass who sadly left us to move to Cape Town at the end of 1998. Ms Hoar is a qualified attorney who has made it her business to gain experience in administration and management. She is currently completing her masters degree.

### **Administrative Assistant**

Mamashoabathe Noko was an administrator for Upbeat Magazine before completing an internship programme at the Civic Theatre specialising in public relations.

### **Accountant**

June Hunter is an accountant with a extensive experience in working for NGOs.

### **Librarian**

Sadly Winnie Nyabeni who had been an employee of one of FXI's founding organisations took retirement in 1998. Gertrude Tsoku has taken her place.

## **FUNDING**

The FXI acknowledges with gratitude its funders over the past year: The Open Society Foundation of SA, the Open Society Southern Africa Initiative, the European Union Foundation for Human Rights, the Swedish International Development Agency (SIDA), the Netherlands Institute for Southern Africa, the Royal Danish Embassy (Danida), Standard Bank, the Liberty Life Foundation, Interfund/Ibis, the Anglo American and De Beer's Chairman's Fund, Friedrich-Ebert-Stiftung, the Westminster Foundation for Democracy.

## **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 6 for the year ended 31 December 1998. 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 1998 and the results of its operations and cash flows for the year then ended in accordance with generally accepted accounting practice.

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

**Johannesburg**  
**4 June 1999**

**BALANCE SHEET**  
**AT 31 DECEMBER 1998**

		1998	1997
<b>FUNDS EMPLOYED</b>	<b>NOTES</b>	<b>R</b>	<b>R</b>
<b>ACCUMULATED SURPLUS</b>		<b><u>607,612</u></b>	<b><u>417,867</u></b>
<b>EMPLOYMENT OF FUNDS</b>			
<b>PLANT AND EQUIPMENT</b>	2	<b>95,181</b>	<b>116,520</b>
<b>NET CURRENT ASSETS</b>		<b>512,431</b>	<b>301,347</b>
<b>CURRENT ASSETS</b>		<b>984,705</b>	<b>549,108</b>
Accrued grant income	4	5,000	-
Accounts receive		40,626	75,668
Cash at bank and on hand		903,079	473,440
<b>CURRENT LIABILITIES</b>		(436,274)	(247,761)
Accounts payable		(102,929)	(104,240)
Deferred grant income	3	(320,060)	(130,472)
Danida - interest refundable		(9,735)	(9,681)
SIDA - interest refundable		(3,550)	(3,368)
		<b><u>607,612</u></b>	<b><u>417,867</u></b>

**INCOME STATEMEMNT**  
**FOR THE YEAR ENDED 31 DECEMBER 1998**

		<b>1998</b>	<b>1997</b>
	<b>Notes</b>	<b>R</b>	<b>R</b>
<b>INCOME</b>		<b>1,616,064</b>	<b>1,432,822</b>
Grants and donations	4	1,413,459	1,287,348
Interest		50,659	7,536
Conference fees		26,993	17,082
VAT refunds	5	26,993	17,082
<b>EXPENDITURE</b>		<b>1,426,319</b>	<b>1,651,203</b>
Audit fee		15,471	9,982
- current year		12,500	8,500
- prior year underprovision		2,971	1,482
Bank charges		655	277
Consultants' fee - VAT refund		-	18,487
Computer rental and expenses		3,245	3,064
Depreciation 2		48,943	43,197
General expenses		2,155	670
Hire of equipment		-	946
Insurance		2,732	2,678
Litigation		143,126	213,155
Meetings and conferences		87,618	105,975
Postage and courier		8,486	10,866
Publication costs		125,363	120,665
Radio production costs		32,000	48,000
Refreshments		10,894	3,773
Rent, water and electricity		67,017	59,575
Repairs and maintenance		2,649	3,198
Research		685,911	665,238
Salaries and contributions		30,533	37,942
Staff recruitment and training		30,533	37,942
Stationery, photocopying and fax		26,828	27,090
Subscriptions		10,522	5,559
Telephone		42,073	68,218
Travel		50,659	73,877

**SURPLUS / (DEFICIT) FOR THE YEAR**

**189,745 218,381**

**BALANCE AT BEGINNING OF YEAR**

**417,867 636,248**

**BALANCE AT THE END OF YEAR**

**607,612**

**417,867**