

FREEDOM OF EXPRESSION INSTITUTE
ANNUAL REPORT AND FINANCIAL STATEMENTS 2002/2003



- X FIGHTING FOR AND DEFENDING FREEDOM OF EXPRESSION
- X OPPOSING CENSORSHIP
- X FIGHTING FOR THE RIGHT OF EQUAL ACCESS TO INFORMATION AND KNOWLEDGE
- X PROACTIVELY DEVELOPING POLICY TO ENSURE THE FREE FLOW OF INFORMATION
- X FIGHTING FOR MEDIA DIVERSITY



Introduction

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 advance 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 (AGM). The current Executive Committee is in its second year of office. In addition to the Executive Committee, the FXI has a staff of six full-time members.

The FXI is a member of the Media Institute of Southern Africa (Misa) which is a regional organisation devoted to the promotion of freedom of expression and a free, fair and independent media. The FXI is also 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, 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 2002 to June 2003, and includes a summary of activities undertaken during this period.



Table of Contents

Introduction	1
Chairperson's report	3
General overview of the FXI	4
Overview of the free expression environment	6
Anti-censorship programme	8
Community Media Policy Unit	26
Media and ICT's Programme	32
Access to Information Programme	34
Public engagements and media	35
Freedom of Expression Defence Fund	36
Southern African Journalists' Association	36
Ifex website	36
FXI publications	37
Executive Committee and staff	38
Funding	39
The year ahead: critical challenges	39
FXI Annual Financial Statements	41

Chairperson's Statement

In 2004, the Freedom of Expression Institute (FXI) and the new South Africa will both be celebrating 10 years in existence. Such milestones are accompanied by festivities and ululation, and the question to be answered is "whether there is anything to celebrate?". A new constitution for both, a new management team, a new leadership, a new thinking with the quest to create a better environment where South Africa will thrive as a hallmark of true democracy. These are some of the common features that characterise both the FXI and the new South Africa. The FXI will continue to contribute to the culture of debate within the South African social, political and economic landscape. In so doing, the FXI will not be deterred by "labels" it will get, or the number of people who will be angered by its inputs - our belief as the FXI is that this democratic fruits belong to all South Africans to enjoy.

Over the past year, the FXI has been re-engineering itself so that it is positioned to effectively contribute to a better South Africa. We are confident that we have developed a strong base through working in a programmatic way. The three programme areas of the FXI have continued to play a significant role in engaging with daily issues that all South Africans grapple with. Through the Anti Censorship Programme, a number of key censorship cases have been tackled in a manner that is satisfactory to the FXI. The Community Media Policy Unit (CMPU), a joint project of the FXI and the National Community Radio Forum (NCRF) has made submissions on broadcasting related bills, and it continues to grow from strength to strength. The Media, ICT's and Lobbying Programme also has been engaged in a number of projects albeit having no coordinator at the moment. Once the programme has a coordinator, its impact will increase threefold.

We are continuing to improve on the impact of the work we do, and plans to make the FXI a vibrant social movement, with strong ties to those organisations whose work complement ours continues in earnest. This process will be a challenge, but given the dedication and commitment of the Executive Committee members, the challenges will be overcome. A need has been identified to ensure that ordinary members of the FXI are given a clear role to participate in the activities of the organisation, which is yet another step towards creating a strong and effective organisation.

We are confident that when we take stock in 2004, our ululations will not be misplaced. We remain confident that our campaigns to make South Africa a country that promotes freedom of expression will be realised. At the moment, the space for people to freely express themselves without fear of prejudice is fast being eroded, and that does not augur well for the dawn of democracy of 1994. "As the tide turns to create a better life for all" and "social contracts are entered into", we must all ensure that the fine print of these contracts empower rather than trick the intended beneficiaries. In growing our democracy, the FXI will enter into a social contract and question, and give alternatives without fear of favour.

Mabalane Mfundisi

Chairperson: Freedom of Expression Institute



Mabalane Mfundisi. (Photo: Tswaledi Thobejane)

In the reporting period, the FXI spent a great deal of time on internal organisational matters to recalibrate itself to become a far more effective organisation. This restructuring flowed from an evaluation, conducted by the Sedibeng Centre for Organisational Effectiveness towards the end of 2001. The evaluation noted that censorship was on the increase in South Africa, and regionally, but that the FXI lacked the capacity and systems to deal with the growing problem. It also noted that the FXI needs to acknowledge the socio-economic context within which it operates, and that ‘...it should further recognise its strategic role as an instrument for lobbying and advocacy on behalf of those who do not yet have the political and economic means of enjoying the benefits of freedom of expression’.

This strategic orientation would mean that it would have to broaden its scope to focus beyond media freedom to promote freedom of expression in more popular guises, and would further need to ‘rebrand’ itself to address the growing contradictions in the free expression environment. The evaluation further recommended that ‘...the FXI should consciously and systematically target historically marginalised communities and consolidate its strategic partnerships with existing agencies on the ground. Physical presence in some of the country’s metropolitan cities should form part of the vision of reaching out to previously marginalised communities’. This meant that the FXI would need to evaluate its existing partnerships with a view to consolidating and expanding its mandate. The evaluation also noted that the internal structure of the FXI would need to change to break it out of the often haphazard approach of working.

This evaluation and strategic planning process led to wide-ranging changes. The FXI shifted to a programmes-based workplan, operating on a three year cycle, to break the organisation out of the cycle of perpetual instability caused by fundraising on an annual basis.

The programmes are as follows:

- Anti-censorship Programme
- Community Media Policy Research Unit
- Media and Information & Communication Technologies (ICT) Programme
- Access to Information Programme
- Freedom of Expression Defence Fund

The first two programmes were set up in the course of 2002, and the third is in the process of being set up. In the first part of the year, advertisements were run in national newspapers, and interviews were conducted for the Heads of these Programmes. In June 2002, Simon Kimani Ndung’u and Console Tleane were appointed as the Heads of the Anti-Censorship Programme and the Community Media Policy Unit respectively. Early this year, advertisements were run for the Head of the Media and ICT’s Programme, but an appointment still has to take place. The decision to employ people at a senior level has payed dividends, in that the Programmes have been able to take on highly complex tasks with relative ease, such as media interviews on aspects of the FXI’s work.

In order to ensure that proper structures are in place for the smooth running of the office, the staff and Executive Committee developed an Human Resources Policies and Procedures Manual. This Manual includes new policies on areas such as appointments and induction, internal training and development and employees affected by chronic and debilitating diseases. An internal training and development plan is currently being implemented for 2003. A Financial Policies and Procedures Manual and Performance Management System have also been developed and will

“... the FXI should consciously and systematically target historically marginalised communities and consolidate its strategic partnerships with existing agencies on the ground.”



be adopted by the Executive Committee shortly. The decision to increase the organisational status of the Head of Finance and Administration has proved to be an important move, as it has led to the development of much better financial and administrative systems, and the department is able to give the necessary support to the Programmes. The monthly financial reports being produced also result in effective, speedy and accurate reporting to our donors. The existence of a regularly updated cashflow enables the FXI to take far-reaching decisions based on a sound assessment of their financial implications, such as the recruitment of new staff. All in all, transparency with respect to the financial management of the organisation has increased.

Another positive development has been the establishment of the FXI's resource centre. Documents and publications used by, or generated by, FXI staff and members have been archived in the resource centre, which is open to the public. The centre includes resources on broadcasting, access to information and community radio, and is being expanded to include documents on all aspects of freedom of expression.

A code of conduct has also been developed for the Executive Committee and the Committee also undertook a root and branch analysis of the Constitution to determine the extent to which it is still relevant to the FXI nine years on. As a result of these discussions, Constitutional amendments have been adopted by the AGM. These amendments seek to clarify the FXI's mandate and to ensure a clear separation of powers and functions between the Executive Committee as the policy-making body and the management, as it is not considered best practice to conflate the two functions.

The intention behind this restructuring process was to free the Executive Committee up from management concerns to enable it to focus more on giving policy leadership to the FXI. Management is then delegated to a combination of a Management Committee, whose powers and functions are set in writing, and the Executive Director. Management is held strictly accountable in terms of the policies, workplans, and budgets approved by the Executive Committee.

Apart from the Human Resources Policies, the Executive Committee has also embarked on a comprehensive policy review of the work that the FXI undertakes. Policy debates have been held on hate speech and propaganda for war, pornography, demonstrations as a form of expression, freedom of expression as a facilitative right, and United Nations summits. Partnerships with, and membership of, different organisations have also been debated.

There have been positive developments on the funding front, with existing funders demonstrating their willingness to provide longer-term funding, with new funders also being tapped. The setting up of the Anti-Censorship Programme was possible in view of the fact that the Open Society Foundation of South Africa agreed to a three year grant. In addition, the FXI received a three year grant from the Joseph Rowntree Charitable Trust, for core costs and the setting up of the Media and ICT's Programme. This means that for the first time in the FXI's history, long term funding has been forthcoming, which has brought greater stability to the organisation. However, more work needs to be done to ensure that all the three year programmes of the Institute are fully funded. The Policy Unit has also been successful in raising funds, although its funding is mainly project-bound, for one year projects. Funding for research projects has been received from the Netherlands Institute for Southern Africa and the Open Society Initiative for Southern Africa, as well as from the Centre for Civil Society. Project funding has also been received from the Foundation for Human Rights for the campaign on the Anti-Terrorism Bill.



Overview of the free expression environment

Any assessment of the period covered by this report requires an understanding of the free expression environment, and how it has changed. It is these changes that shape the work of the FXI, which must ensure that it is geared to meet the challenges. It is not unfair to say that many in the free expression community, especially internationally, consider South Africa to be a bastion of free expression and media freedom. South Africa had largely achieved civil and political rights: so in effect, there is no debate anymore about these rights. Rather, the country should focus on the extent to which socio-economic rights have been achieved, which has proved to be much bigger debate, especially since the South African Human Rights Commission pronounced on the failures of the government in this respect in April. The experiences of the Freedom of Expression Institute (FXI) in the past two years indicate that this debate on civil and political rights has been closed too early, and in fact there is a dialectical relationship between the lack of delivery of socio-economic rights and rising censorship. Also there is a direct relationship between the worsening poverty and inequality indicators and rising censorship.

What are these key indicators? According to the official definition of unemployment, which exclude all of those who are unemployed but not currently seeking work, around 27 percent of the economically active population are unemployed. However a more recent study (partly funded by the Department of Labour) paints a more dismal picture, as it found that about 32 percent of the labour force is now unemployed, on the narrow definition, and fully 45 percent are unemployed if all those without work are included.

Also, South Africa remains, along with Brazil and Guatemala, one of the most unequal societies on earth. Inequality is growing especially amongst Africans, with the top African income earners earning 21 times that of lowest income earners. Amongst whites, the top earners earn 12 times that of the lowest income earners. According to a report released by Statistics South Africa, comparing household earning and spending from October 1995 and October 2000, the average South African household has become poorer. In October 1995, the average household income was R37 000.00, and was expected to rise to R51 000.00 in October 2000: in reality, by that stage, income had grown only to R45 000.00. In 1995, the poorest twenty percent of households received a mere 1.9 percent of the total income of the country: a figure which dropped to 1.6 percent in 2000. In addition, the poorest 50 percent of South African households had lost income relative to the richest 50 percent. If income levels are broken down by race, the average African household experienced a 19 percent drop in income, compared to white households, which experienced a 15 percent increase. In 1995, the average white household earned four times as much as the average African household: in 2000, the former earned six times as much.

The report noted that this income inequality was pronounced along race, class and gender lines, and that these lines were becoming more pronounced rather than blurred. What is most telling about the nature of the post-apartheid state, though, is the fact that class inequalities had deepened far more than race or gender inequalities. In real terms labour costs have dropped sharply, with the return on capital increasing markedly.

There is widespread agreement that unemployment and income inequality are the achilles heel of the government. However, it has repeatedly insisted that service delivery has improved. One area where government has claimed real progress is in relation to the extension of basic services such as water, electricity, telephony and housing to families that did not have access in the past. However, the sting in the tail is that these services are available only to those who can afford them, with limited government subsidies failing to ameliorate the widescale misery being caused by the rising costs of commercialising public services. As a result, there have been massive

disconnections in basic services like electricity and water.

Contradictions around the delivery of basic services are also affecting the media and ICT sector as well. Since the commercialisation and part-privatisation of Telkom, telephone tariffs have been rebalanced to reflect the underlying costs of services. The rebalancing exercise has led to the costs of international calls coming down, and the costs of national and local calls shooting up. The cost of standard local calls rose by 12,5 percent in 2003, following increases of 24 percent in 2002, 16 percent in 2001 and 10,5 percent in 2000. As a result of these hikes, two million phones have been disconnected mainly in underserved areas as people simply cannot afford the spiralling cost of the services they make most use of. Forty percent of the new phone lines that Telkom has rolled out in the past four years have been disconnected.

Public broadcasting has also experienced its own form of 'cut offs', which appears to be linked to a decision taken by South African Broadcasting Corporation (SABC) management to drive stations towards self-sufficiency in the absence of state funding. As a result, formats, presenting styles, languages, genres and audiences that are not considered to be commercially viable have been systematically marginalised. These developments have been paralleled by another disturbing trend; in spite of a long-term growth in SABC radio listenership, there is now evidence of a decline. From July 1999 to June 2000, listenership of SABC African Language Stations was at 67.3 percent. From January 2000 to December 2000, this figure dropped to 67.0 percent, and from July 2000 to June 2001, it had dropped further to 65.8 percent. This downward trend has continued into 2002, with listenership dropping to 64.4 percent. Listenership has dropped especially amongst women, rural and elderly listeners, and in those areas where very little radio competition exists, if any: so it cannot be surmised that listeners are migrating to other services because their needs are not been met. In fact, it could be inferred that listeners are switching off because these services increasingly are unable to meet their needs.

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. Organisations such as the Social Movement Indaba, Treatment Action Campaign, the Landless Peoples' Movement, the Soweto Electricity Crisis Committee and the Anti-Privatisation Forum have changed the face of South African politics. Their style of politics have included direct action, leading to ongoing confrontation with the authorities and, more recently, incidents of censorship and repression.

These development should surprise no-one, as it is through the freedoms of expression, assembly, demonstration and picket that people become conscious of these contradictions, articulate them and then fight them out. In turn those in positions of power have a vested interest in preventing these contradictions from being expressed.

Another significant trend 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. Few of the cases brought to the FXI in the past year relate to more 'traditional' forms of media freedom violations, such as the censorship of journalists. 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.



Photo: Ben Cashdan

" ... 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. "

The Anti-Censorship Programme (ACP) was established in July 2002 with the objective of addressing censorship in South Africa and beyond in the following ways: -

- Monitoring the South African environment for freedom of expression violations;
- Monitoring the work of specific institutions relating to free expression and lobbying where necessary. (This includes for example keeping track of the functions and decisions of quasi-judicial bodies like the Broadcasting Complaints Commission of South Africa and the Film and Publications Board, Constitutional bodies like the South African Human Rights Commission and the various state departments;
- Responding to instances of censorship in both the public and private sectors;
- Lobbying against censorship and its causes;
- Producing longer-term analyses of censorship trends;
- Initiating projects and campaigns to identify and redress censorious legislation still existing on the statute books;
- Initiating education campaigns to increase levels of awareness of freedom of expression and the protection of free speech among the public;
- Building support networks for victims of censorship;
- Increasing co-operation between the FXI and journalist unions, media associations, community media, and international freedom of expression organisations;
- Lobbying against censorship at the regional level, for example around the Southern African Development Community (SADC) Protocol on Culture, Information and Sport.

"... criticism and parody, no matter how prejudiced or exaggerated are protected by the Constitution as forms of free expression ..."

Since its inception, the ACP has taken up cases of censorship referred to it by individuals or organisations, or those that it becomes aware of through its monitoring initiatives. Usually, the Programme responds by issuing press statements and action alerts condemning the act or acts of censorship and calling for remedial action, or by engaging directly with the individual or institution responsible. The Programme also participates in radio and TV interviews and writes articles or op-ed pieces in the newspapers. The ACP has also assisted victims of censorship with legal counsel, securing the release of such victims from police custody on bail and engaging lawyers to challenge bail conditions, which unreasonably impair the right to freedom of expression. The Programme has also solicited opinions and advice from legal experts on matters of censorship and the way in which the FXI as a whole should respond to such cases.

The Programme has drafted operational guidelines, which still have to be finalised by the Executive Committee. One working guideline it has followed, though is the prioritisation of cases of censorship affecting marginalised individuals, communities or institutions in the country, and that the ACP's resources would be made available accordingly. The ACP also decided to strike an appropriate balance between high profile cases and the cases of more marginalised individuals, communities or institutions.

Summary of cases handled by the ACP since its inception.

Trevor Ngwane and the graffiti case

In July 2002 during the nation-wide strike of South African municipal workers, Trevor Ngwane, who is an anti-privatisation activist and former African National Congress (ANC) councillor, was arrested together with a number of his colleagues



Local activist Trevor Ngwane addresses protestors outside the University of the Witwatersrand on the evening of 24 August 2002 after the planned candle-lit march to the Johannesburg Central Police Station had been stopped violently by armed police. (Photo: Ben Cashdan)

for painting graffiti in support of the strike on the back wall of the city's main library. His associates were released but he was held and charged with malicious damage to property.

Because the ACP considered his case to be a matter of political expression, it intervened and provided a financial contribution towards his bail. The programme also issued a press statement and an action alert condemning the arrest as a violation of Ngwane's right to freedom of expression.

Shawn Dewberry and the matter of Uthingo

In this case, Shawn Dewberry approached the ACP in July seeking its assistance after receiving threats of legal action by the National Lottery Company allegedly for copyright infringement.

Dewberry has established a website in which he parodies the National Lottery slogan calling for the scheme's boycott because, as he argues, it is not serving its objective of channeling funds to the poor. "Uthingo", which is the National Lottery's holding company sent him a letter of demand to remove the 'offending' slogans and warned that if he did not do so, he would be sued for copyright and trademark violation.

The ACP took up this matter and sent a cautionary letter to Uthingo pointing out that criticism and parody, no matter how prejudiced or exaggerated are protected by the Constitution as forms of free expression and urged the company to reconsider its threat of legal action against Dewberry. No response has even been received from the company and after following up the matter with Dewberry, he informed the programme that he too has not heard any more from the lottery operator.





Ten months later, no legal proceedings have been instituted and it is safe to conclude that the company may have retreated from its earlier threats.

Be that as it may, the ACP will continue to hold a watching brief over this matter.

Siviwe Macozoma and Umhlobo Wenene FM

Press reports in late July indicated that Umhlobo Wenene, one of SABC's public radio stations based in Port Elizabeth had banned a Kwaito song titled "We Makoti". The station alleged that the song's lyrics were "provocative, lewd and rude".

The ACP immediately took up this matter with the management of the radio station and wrote a letter of protest terming the ban an act of censorship. It also issued a press statement and action alert highlighting the worrying trend of censorship within the SABC, and calling for an urgent review of the situation by senior management of the corporation.

On the 30th of July, Umhlobo Wenene's station manager Mr. Magwa sent a fax to the ACP denying that the song had ever been banned and stating instead that the station works according to the policies and guidelines laid down by the SABC. So far, it has not been possible to establish the authenticity of this denial and efforts to get the alleged policy have not borne much fruit. For the last part of the year, the SABC consistently claimed that it could not avail this policy to the ACP because it was under review and would not be released until the same had been circulated for public comment and input.

There may be some progress on this matter because now the Corporation has announced that it is in the process of embarking on a nation-wide campaign to publicise the editorial code and new regulations which govern its broadcasting policy. The ACP will strive to play an active role in this process.

SABC's banning of the HIV/Aids advert by Lovelife

Lovelife is an organisation which has been in operation for about five years and has set in motion an impressive education and awareness campaign around HIV/Aids among the youth in South Africa. It runs sexual health programmes on the print and electronic media by way of popular radio, TV and music shows. It also has put in place a nationwide billboard advertisement scheme. Lovelife has received a great deal of support from the government and public institutions (including the SABC), the private sector and even prominent personalities such as former presidents Nelson Mandela and Bill Clinton.

For a number of weeks in July, the SABC ran an advertisement for Lovelife featuring re-known South African comedian and theatre personality Pieter-Dirk Uys. In one of the lines, Dirk Uys says; "Afrikaanse Kinders naai ook". Roughly translated this reads; "Afrikaaner children also have sex."

Apparently the SABC received some complaints about the advert with certain viewers and listeners arguing that it was obscene, and that it promoted promiscuity among children. Because of these complaints the corporation decided to withdraw the advert.

The ACP became aware of the advert's removal though its press monitoring activities and immediately intervened with the management of the SABC. In a letter to the corporation, it asked for the advert to be reinstated on the grounds that banning it constituted an act of censorship contrary to the requirements of the constitution. It also expressed a view that the "obscene" nature of the advert as expressed by a section of the population could not justify such a response.

In response, the acting head of the SABCs Policy and Regulatory Affairs Ms. Dorothy Van Tonder argued that the action was justified as the corporation did not believe that “bad language serve[d] a more useful purpose than other forms of expression”. She also said that their decision was based on the broadcaster’s editorial code and corporate policy.

The ACP entered into further correspondence with the SABC and asked the corporation to provide it with the existing code and policy. The head of the ACP also held a meeting with Van Tonder with a view to coming up with an amicable solution to this problem. To date however, the policy documents mentioned have not been availed, in spite of the fact that the SABC's new editorial policy has been released for public comment.

Iscor’s gagging order

The FXI intervened in this case in February 2002 when the Johannesburg High Court imposed a gagging order on the community of Steel Valley in Vanderbijlpark, prohibiting its residents from communicating with the media about their legal suit against South Africa’s steel giant Iscor for pollution.

In July the ACP formally took over the running of this case and entered into direct discussions with the community on how the gag could be challenged in court. The head of the ACP participated in a series of activities with the community including a protest march to the Corporation’s plant in Vanderbijlpark on the 18th of July 2002. He also issued press statements, action alerts and pamphlets in support of the community’s right to freedom of expression and environmental justice.

In mid August, the ACP managed to raise some funds to challenge the constitutional validity of the gag, and also to raise awareness around the plight of the community. The ACP also organised a visit to the community on the 1st of September 2002 involving local and international delegates who had come to attend the World Summit on Sustainable Development. The visit was dubbed the “Unsustainable Tour”.

This tour began on schedule at 9:00 am outside Nasrec. International delegates-who included MPs from the European Union as well as the Australian Parliament were ferried to Vanderbijl Park.

The delegation, which included about 200 community members from Steel Valley and Louisruis proceeded to Iscor’s plant and held a demonstration outside the main gate. For about two hours there was a standoff between the police and the delegation and the few Iscor personnel present completely refused to open the gate. Senior management of the corporation also refused to come and accept a memorandum that had been prepared by the two communities. Instead, they sent a junior communications officer to speak to the protesters.

Prior to the tour, the ACP had given a number of press interviews regarding its intention to challenge the gag and a few days after securing the funding, Iscor wrote to the community stating that it was prepared to withdraw the interdict as it no longer served any “useful purpose”. The gag was eventually withdrawn on 12 September 2002 and while welcoming its removal, the ACP issued a press statement and action alert arguing that the gag had already done unwarranted damage on the right to freedom of expression in the country. The ACP also cautioned that civil society needed to be vigilant about the increasing levels of censorship in the country.

This case has now been marked as ‘closed’ but the ACP will continue to monitor the court process as future rulings on the matter may still have an implication on the right to freedom of expression.

“ The ACP also cautioned that civil society needed to be vigilant about the increasing levels of censorship in the country ”

The song 'Amandiya'

Mbongeni Ngema is a musician, writer and dramatist of notable reputation both in South Africa and abroad. He is acclaimed internationally for staging monumental works of art such as *Woza Albert*, *Asinamali*, *Sarafina* and *The Zulu*. At the beginning of 2002, he produced a music album titled *Jive Madlokovu* which contained a controversial track 'Amandiya'.

'Amandiya' has generated the kind of social, political and legal controversy that either becomes the turning point for a new form of dialogue in society and hence a re-evaluation of existing values and norms or, which ignites instead, widespread tension.

Whatever the outcome of this artistic expression, 'Amandiya' has elicited as much condemnation as it has garnered support among those whom it claims to defend. The ACP's position has remained that whereas the song undermines solidarity between the Indian and African working class, slapping a ban on it is counter-productive and inimical to the basic tenets of a free, robust and democratic society.

Ironically, the song has received wide support from different sections of the South African population (including some prominent Indians) with arguments that it has laid bare the tensions between Indians and Zulu people. Those who support the song hold that these tensions need to be addressed, not repressed.

On June 10, the High Court in Durban granted an interim interdict prohibiting Ngema and his producer from publishing, marketing, distributing or selling the song. Another division of the same court subsequently set aside the first order on 28 June 2002.

On 20 June 2002, the Broadcasting Complaints Commission of South Africa (BCCSA) slapped a ban on the broadcast of the song saying it constitutes incitement to cause harm and that it violates the dignity of the Indian people.

The Films and Publications Board (FPB) followed suit on July 2 restricting the sale and distribution of the song to people above the age of 18 years. It too observed that the song advocated hatred based on race and that it constitutes incitement to cause harm.

Right from the beginning of this controversy, the FXI intervened and issued media statements denouncing the call to ban the song as well as the action taken by the BCCSA and the FPB. At the beginning of July, the head of the Community Media Policy Research Unit attended an Afro-Indian Dialogue symposium, which was organised by the Institute for a Democratic South Africa (IDASA) in Durban to look into ways of responding to the controversy generated by the song.

When the ACP was established, its head visited Durban in August and held two extensive discussions with Ngema and his team. In two separate meetings held on the 6th and the 8th of August in Ngema's offices, he discussed at length how the ACP could become involved in defending the artists right to freedom of expression. He also explored ways on how the ACP could mount a legal and political challenge against the 'limited' censorship and restriction imposed on the song by the BCCSA and the FPB. A follow up meeting was also held with the artist in Johannesburg during the same month.

A conclusions was reached that to begin with, the ACP could use the proposed



Renowned playwright and musician Mbongeni Ngema in a sombre mood. His controversial song Amandiya ignited a serious debate about the right to freedom of expression in South Africa. Both the Broadcasting Complaints Commission of South Africa and the Films and Publications Board declared it to be hate speech. (Photo: Rajesh Jantilal / PictureNET Africa)

'Amandiya' Concert tour planned by Ngema as a forum for articulating the ACP's publicity and awareness campaign around freedom of expression and the dangers of censorship in the country. It was also agreed that the ACP would look into ways of intervening in the court case brought against the musician in the Durban High Court.

In early September, the ACP head once again returned to Durban to attend a number of musical shows organised by Ngema on the theme of 'Amandiya'. Between 2000 and 2500 people attended the first two shows in which the ACP head was present. In the preparatory discussions between him and Ngema, it had been agreed that the ACP would play a greater role during the music shows and the tour would be used as a forum for articulating the right to freedom of expression. It had also been agreed that a specific slot within the shows would be provided in which the he would speak or give a presentation on matters of free expression, artistic freedom and problems of censorship.

However, the final format of the shows excluded that possibility. The head of the ACP therefore had to restructure the initial approach and instead held separate small group discussions with the show attendants. This usually took place before the beginning of each show. In the discussions, the basic tenets of freedom of expression and the kind of work that the ACP is doing in this field were explored. He also distributed about 200 copies of a one-page leaflet, which he had prepared on the necessity of opposing censorship and defending the right to freedom of expression. He used 'Amandiya' as a contemporary case study to discuss how the current restriction of the song by the BCCSA and the FPB serves as a warning sign of the growing trend of censorship in South Africa.

The 'Amandiya' case was heard on November 4 and judgment reserved for November 11. However, this was postponed until late January 2003 and at the time of compiling this report, this judgment is still outstanding.

The banning of a biography on Sol Kerzner

Allan Greenblo, a former journalist with the Financial Mail, has written a biography on the life and dealings of South African casino magnate Sol Kerzner. In August 2002, the Johannesburg High Court placed a ban on the publication and distribution of this biography on the grounds that its contents are likely to defame Kerzner.

The ACP intervened in the matter and issued a press statement on August 19 expressing its deep regret about the judgment and calling for a review of this decision by a court of higher jurisdiction. After the judgment, Greenblo filed an application for leave to appeal and the ACP held discussions with him as well as his legal team on how it could join the case on an amicus curiae basis.

On 5 November 2002, Greenblo's leave to appeal the decision of the judge to the Supreme Court was denied. This matter is still on the files of the ACP but with the new operational guidelines stated above where a priority is made on those matters relating to historically disadvantaged individuals, communities or organisations, the programme has thereafter not been intensely involved with the case. Nevertheless, the ACP continues to keep watch over the case and will follow-up as the matter develops.

State violation of the right to freedom of expression during the World Summit on Sustainable Development (WSSD)

In August/ September 2002, Johannesburg played host to the World Summit on Sustainable Development (WSSD). During the WSSD, the ACP played an active role



by intervening regularly on behalf of individuals and organisations to protect their right to freedom of expression. This was done through engaging directly with state officials to raise concerns about the manner in which the state was responding to assemblies and demonstrations and also by issuing press statements and action alerts.

One organisation that experienced particular problems was the Landless Peoples' Movement (LPM). The formation of the LPM was facilitated in part by the National Land Committee (NLC). It developed in response to growing frustrations at the slow pace of land redistribution, bearing in mind that 80% of land is still owned by white commercial farmers and land redistribution is moving at a snail's pace.

The LPM has noted that it has not engaged in illegal demonstrations and has always applied for permission to march, taking care to comply rigorously with the requirements of the Regulation of Gatherings Act. However, experiences in the run up to the WSSD, and during the WSSD period, showed that the Act has been used by the police as a censorship device rather than a device to enable gatherings. The Act allows the police to act in this fashion as it gives them too much discretion as to whether to 'allow' people to exercise their constitutional right to assembly, demonstration and picket. In this and other respects, the Act is almost certainly unconstitutional and the ACP intends to challenge it in court when the appropriate case arises.

The crackdowns on the LPM started taking place some time before the WSSD. On 26 April 2002, more than 100 land activists were arrested after holding a peaceful demonstration at the provincial office of the Department of Land Affairs in Ermelo. The demonstrators were demanding immediate responses to their long-outstanding labour tenant claims for ownership of land they occupy on the white owned farms in the area, and the harassment meted out by these farmers. The LPM attempted to secure permission for the march but did not receive a response from the Ermelo police. The LPM proceeded with the march on the basis that the Regulation of Gatherings Act states that the gathering could take place if the convenor has not been called to a meeting within 24 hours after giving notice. The police then arrested half the marchers as the demonstration dispersed, for failing to disperse. Eventually the charges against those arrested were withdrawn. The pattern of gung-ho arrests, followed by the dropping of charges, was to become a familiar pattern over the WSSD period, leading to accusations that the state was using wrongful arrests to get key activists off the streets to prevent them from causing 'trouble' over the WSSD period.

During the LPM's 'Week of the Landless' preceding the WSSD, the entire leadership of the LPM were systematically harassed by the National Intelligence Agency (NIA). Two successive LPM meetings were so inundated with complaints about NIA harassment that they were forced to make this an agenda item. Activists were warned against participating in the week's activities, and that their movements were being tracked, some received visits from the NIA, whose operatives also attended LPM meetings to monitor discussions.

On 21 August 2002, the LPM held its largest ever march to the office of the Gauteng Premier. After some to-ing and fro-ing the march proceeded with the agreement of the police, and was then told to disperse when the time period expired, which they did. The police pursued the dispersing marchers and arrested 77 people, targeting the leadership of the LPM and the NLC. When NLC Director Zakes Hlatshwayo, who was not present at the march, arrived and attempted to intervene, he too was arrested. Arrests continued throughout the night, with the police even going to the extent of stopping pedestrians in the street to check under their clothing for the LPM's red 'Land! Food! Jobs!' t-shirt. When the 77 activists

appeared in court after the WSSD, the charges were dropped even before they walked into the courtroom.

In another related incident, NLC media officer Ann Eveleth was arrested at the police station while organising legal representation for the 77. She was arrested for contravening the Aliens Control Act, and was told that she would be deported. Her arrest was prompted by a letter from the Crime Intelligence Unit of the police to the Director General of the Department of Home Affairs requesting them to urgently determine Eveleth's residency status, as her actions had come to the attention of the police as someone who 'may pose a potential threat to the security of the WSSD'. She was kept in solitary confinement for seven days awaiting a court ruling which led to her release. Subsequently, she has won two court judgements against the Department of Home Affairs for these actions against her.



" ... the [Regulation of Gatherings] Act has been used by the police as a censorship device rather than a device to enable gatherings ... "

Thousands of demonstrators marching from the poor, dusty township of Alexandra to ultra-wealthy suburb of Sandton on the 31st of August 2002. They denounced the World Summit on Sustainable Development then taking place in Johannesburg as a sham and political window dressing for the benefit of capital and multi-national corporations. (Photo: Henner Frankenfeld / PictureNET Africa)

As Eveleth noted in an FXI workshop held after the WSSD to discuss these events (see below, activity entitled 'Right to Dissent'): 'The ease with which the South African public, and particularly the media, has accepted the bona fides of NIA's harassment of activists in the run-up to the WSSD is particularly disturbing. Few have questioned whether NIA needs a 'reasonable suspicion' of illegal activity to begin harassing people. Not a single commentator has questioned whether it is appropriate for the state intelligence agency to be deployed to protect the political interests of the ruling party?'

During the WSSD period, the ACP played an active role by intervening regularly on behalf of individuals and organisations to protect their right to freedom of expression. This was done through engaging directly with state officials to raise concerns about the manner in which the state was responding to assemblies and demonstrations and also by issuing press statements and action alerts.

“ The ACP also strongly condemned the state’s brutal use of force on numerous occasions to disperse peaceful demonstrators ”



Local independent filmmaker and journalist Rehad Desai peers from the back of a police van. He was arrested during the disrupted candle-lit march outside the University of the Witwatersrand and charged with ‘obstruction of justice’. The charges were later withdrawn. (Photo: Ben Cashdan)

For example the ACP had to intervene and assist members of the National Land Committee (NLC) and the Landless Peoples’ Movement (LPM) who were arrested for holding the protest march to the Gauteng Premier’s office. The ACP also helped to secure legal counsel for Eveleth. The ACP also strongly condemned the state’s brutal use of force on numerous occasions to disperse peaceful demonstrators. One such incident happened outside the University of Witwatersrand on the night of 24 August 2002 during a candle vigil procession where police used stun grenades against the marchers.

Immediately thereafter, the Director of Communications at the Provincial Police Department addressed a press conference in which she stated that no more gatherings or demonstrations would be authorised in Johannesburg during the Summit. The ACP considered this directive to be a serious violation of the constitutional rights of freedom of expression, assembly and demonstration and immediately wrote to the Provincial Police Commissioner asking for clarity over the matter and threatening to institute legal action.

In response, the Police Commissioner denied that such a directive had ever been issued and attributed the problem to a misunderstanding by the media. As it happened all applications for marches - with the exception of one which did not take place due to the failure by its organisers to turn up for a meeting with the local authority - were approved.

On September 2, the ACP once again intervened in a matter where police used water canons and rubber bullets to disperse peaceful demonstrators who were protesting the presence of the then Israeli Foreign Affairs Minister Shimon Peres at the Witwatersrand’s Johannesburg College of Education. More than eighteen people were arrested and scores suffered injuries. Some of the injured protestors had to be taken for treatment and one of them was hospitalised for

an operation on his finger.

Later discussions held within the FXI proposed that the ACP should write letters to the South African Human Rights Commission, the Independent Complaints Directorate and the National Police Commissioner's office protesting against this spectre of state brutality against peaceful demonstrators. The matter is currently under review and will be embarked upon as part of the implementation of the recommendations made during the Right to Dissent workshop, which is highlighted below.

Attacks and harassment of AENS journalists

African Eye News Service (AENS) is a press organisation, which operates mainly in Mpumalanga Province. In late September 2002, its editor Justin Arenstein sent a plea for help after three of the organisation's journalists were subjected to attacks, harassment and intimidation for reporting on court cases involving a number of individuals in the Provincial capital Nelspruit.

In affidavits sworn to the police, the three AENS journalists alleged that individuals whom they identified to the authorities had subjected them to physical attacks, intimidation and death threats. In certain instances, uniformed police officers were also present but did nothing to stop the attacks. As a result, the journalists had been forced to fear for their lives and one of them went into hiding.

The ACP immediately responded to the call and wrote a letter to the Member of Executive Council responsible for safety and security in the province, condemning the failure by police to intervene and arrest the culprits. Copies of this letter were sent to the National Commissioner of police, the Mpumalanga Provincial Police Commissioner, the director of the Public Protector's office in Mpumalanga and the provincial head of the Independent Complaints Directorate.

Also, the ACP issued a press statement on the matter and circulated an action alert on the International Freedom of Expression Exchange Network. One day after the letter of complaint, the Mpumalanga MEC for Safety and security Thabang Makwetla phoned and left a message for the head of the ACP to get in touch with him. Unfortunately the programme head was unsuccessful in this regard, because the messages which he left were not returned.

A letter was received from the office of the National Commissioner of police dated 4 October 2002, stating that the provincial police commissioner in charge of Mpumalanga Province had been requested to attend to the matter. A second response was received from the provincial office of the Public Protector on 10 October 2002, saying that a meeting had been held with the Independent Complaints Directorate and the latter had agreed to deal with the matter.

A letter was also received on 25 October in which the Deputy Provincial Police Commissioner in charge of Mpumalanga stated that discussions had been held with the affected journalists and that all relevant case dockets had been perused. He further said that instructions had been given to both investigating officers and branch commanders to finalise the process and that a report would soon follow.

The ACP has continued to monitor this case and has requested the AENS editor to keep it posted on any other developments that may arise with respect to the plight of the three journalists as well as other media workers in the region.

The Right to dissent: Workshop on freedom of expression, assembly and demonstration in South Africa

As part of its cross-cutting educational work, the ACP held an awareness raising workshop at the Johannesburg Civic Theatre in Braamfontein on November 14



2002. This workshop critically examined the legal and practical manifestations of the right to freedom of expression, assembly and demonstration in South Africa against the backdrop of the events of the World Summit on Sustainable Development.

Sixty-nine participants attended the workshop and speakers were drawn from a wide range of backgrounds and included constitutional law experts, academics, civil society activists, the local authority and the South African Police Service. Perspectives from the different speakers and deliberations by the participants have been compiled into book, which was launched on Friday 30 May at the SABC. Professor Dennis Brutus was the keynote speaker.

Two articles and an editorial about the workshop also appeared in *The Sunday Independent* of 17 November 2002 and the *Sowetan Sunday World* of 24 November 2002. One of the key recommendations made by the speakers and participants is that there is an urgent need to review the constitutionality of the Regulation of Gatherings Act.

The case of Guy Slingsby

Guy Slingsby is a social activist with the Anti-Eviction Campaign (AEC) in Johannesburg. He has been an active member of its Inner City Forum (ICF), which fights the illegal/unlawful evictions of tenants in suburbs such as Yeoville, Hillbrow, Berea and Central Johannesburg among others. In April last year, Brian Miller who is a property owner and rentier in the city filed a defamation suit against him and the AEC. This happened after the ICF led a campaign against Miller for unlawfully evicting dozens of tenants from one of his apartment buildings, Malvin Court situated in Hillbrow.

Slingsby and his colleagues alleged that Miller was using false pretences to swindle the tenants out of their bonds. In turn Miller accused Slingsby of defaming his name and character by making statements in posters, leaflets and placards insinuating that he was conducting unfair business practices. He asked the court to award him the sum of R100 000 as damages together with interest.

Because Slingsby could not be able to fund his case, he approached the Wits Law Clinic. The ACP has subsequently provided financial assistance for a legal opinion on the merits of the case.

Thereafter, the ACP entered into a series of discussions with him and asked that he make a formal application for financial assistance backed by the Wits Law Clinic. The ACP considered that Miller was attempting to silence not only Guy Slingsby but also the Anti-Eviction Campaign in order to stop them from exposing the malpractices that he is alleged to play in regards to his properties and tenants. It also took into account Slingsby's personal financial circumstances as an unemployed activist and this coupled with the motivation and merits of his case by the law clinic, led to a decision that the programme would award him the amount in question to seek the required expert opinion.

The ACP is awaiting further developments on this case.

The case of Modisi Moila

The ACP decided not to intervene in this case as it involved what the head considered to be a chaotic and misguided attack on the integrity of the judiciary. Whereas one cannot ignore the fact that the country's judicial system is still plagued by a mountain of problems, and whereas a lot of conservative judges and magistrates from the old order still preside over matters of critical importance, respect for the judiciary as an institution of society needs to be maintained and safeguarded.

Moila was charged with contempt of court after sending letters to many departments of state alleging manifest bias and racism from the bench. He lost a case against the University of the North where he was a lecturer and he thereafter approached the Pretoria High Court for assistance. The court ruled against him and consequently, he embarked on a personal crusade, casting aspersions and character assassinations against the judge, and the University's legal team.

While it is accepted that Moila has a right to question the judgment which he views as unfair, such criticism should not be tantamount to an attack on the moral integrity of the judicial system. Unfortunately this is not what he has done, neither has he used the still many available channels to pursue his grievance by way of appeal to a court of higher jurisdiction.

The matter of Nellie Ndlela

This case involved an allegation of self-censorship against the Natal Witness. Ndlela was an employee of Thandanani Children's Foundation in Pietermaritzburg who claimed that she was forced to resign from her job due to unfair labour practices.

She then approached a journalist at the Natal Witness to run a story about certain malpractices at the Foundation including nepotism and racial discrimination. It would appear that from her discussions with the journalist and one of the sub-editors, an agreement was reached that this story would be carried out but subject to verification of the information that she had provided.

After some time, she became worried that the story had been canned due to the existence of a good relationship between the director of the foundation and the Editor of the newspaper. It is at that point that she approached the ACP for assistance.

The ACP contacted the journalist and the sub-editor in December seeking a clarification on the matter. In January the head of the ACP sent a letter sent to the Editor of the newspaper John Conyngham requesting that the matter be investigated and clarified. In this letter, the ACP pointed out that whereas editorial independence of the media must be safeguarded, the media must on the other hand ensure that it did not engage in acts of self-censorship.

Conyngham sent a reply stating that the matter would be investigated further and after the necessary facts are established, a decision will be taken about the story. This information was communicated to Ms. Ndlela and at the time of compiling this report, the ACP has not been informed of any further progress.

" whereas editorial independence of the media must be safeguarded, the media must on the other hand ensure that it did not engage in acts of self-censorship "

The case of Max Ntonyana and others

Max Ntonyana heads the Khayelitsha Anti-Eviction Campaign (AEC) in Cape Town which has been engaged in a long struggle with the State on the issue of eviction of home-owners unable to pay their bonds. He was arrested last year and held in prison for a long time facing several charges relating to protest activities against the evictions and privatisation.

Together with a number of his colleagues, he was granted bail in November but the court imposed extremely harsh conditions against them. They were ordered to refrain from: -

- Involving themselves in any public gathering or relating to evictions; or,
- Communicating with any person who has been evicted.

In December, the AEC sought assistance from the programme in order to defend the right of freedom of expression and association of its members. The FXI decided to make a financial contribution towards the case. The case has not proceeded as speedily as it should and the ACP has held meetings with the community and the

attorneys in an effort to expedite the matter. The ACP awaits further developments on this case.

The Mondi Matter

Paper manufacturing giant Mondi Ltd. operates a number of plants around the country and recently, there have been serious concerns about the impact that its operations have on the environment particularly in the region known as the South Durban Basin.

In December 2002, an environmental group called the South Durban Community Environmental Alliance (SDCEA) approached the ACP for assistance regarding a memorandum issued by the company's General Manager John Barton to employees of company. This memorandum prohibited employees of the Merebank plant from communicating with the media or publishing articles or research papers or making presentations that refer to Mondi without managerial approval.

The ACP immediately sent a letter of objection to Barton condemning the memorandum as an act of censorship and recommending that it be withdrawn. In January, Barton sent a response asking the ACP to keep out of this matter because the memorandum was "sent by Mondi as the employer to its employees pursuant to the employer/employee relationship and is of no concern to third parties".

On February 11, Barton obtained an interdict against the SDCEA in respect of a press statement the alliance had issued condemning the death of a worker at one of Mondi's manufacturing plants. The SDCEA expressed frustrations at Barton's reluctance to provide information relating to the circumstances around the worker's death.

The SDCEA sought the assistance of the Legal Resources Centre (LRC) in Durban to challenge this interdict and the matter is still pending in court. The group also contacted the ACP and asked for its intervention. Since the LRC is handling the legal aspects of this matter, the ACP has decided to use the media as a lobbying tool against Mondi's and Barton's repressive tactics. The head of the ACP wrote an opinion piece which appeared in the Sowetan Sunday World of the 16th of March highlighting the problem of corporate censorship in South Africa but using Mondi as its focal point.

This matter remains outstanding but the ACP is awaiting the outcome of the court case in order to decide what other course of action to take.

The matter of Noel Isaacs and Ivan Williams

On the 15th of March 2003 Isaacs and Williams approached the ACP with a request for legal assistance after they were brought before a disciplinary committee for writing an article in three community newspapers in Cape Town in which they criticised the activities of the President of Safa in the Western Province.

The head of the ACP has considered their application and though the issue at hand relates substantively to the right of freedom of expression, at this stage of the proceedings, the matter relates more to their right of legal representation. Their right to freedom of expression will be argued later after the question of legal counsel at the disciplinary hearing has been determined.

The Matter of John Appolis

John Appolis is an elected member of the Chemical, Energy, Paper, Printing, Wood and Allied Workers' Union (Ceppwawu). He is also a leading member of the Anti-Privatisation Forum (APF).



John Appolis (left) of the Anti-Privatisation Forum. (Photographer: Ben Cashdan)

From the 12th to the 15th of November 2002, Ceppwawu held its last National Executive Committee (NEC) meeting of the year where a resolution was adopted stating that: “Comrades in leadership positions of the union are prohibited from using other public platforms to articulate positions that are contrary to Ceppwawu policies and resolutions”.

Appolis contends that this resolution was passed in order to muzzle elected members of Ceppwawu who also happen to be members of the APF because the latter group has consistently opposed the stance taken by Ceppwawu around privatisation of public entities and services. Together with other members of Ceppwawu and the APF, he consulted the ACP seeking its intervention on the matter.

Two meetings were held in February and the ACP assisted Appolis and his colleagues to draft a letter to the Ceppwawu leadership demanding that the NEC resolution be reviewed and withdrawn as it interferes with the members’ right to freedom of expression and association. Two months later, Ceppwawu has not responded to these demands and the members have now requested the ACP to intervene directly with the leadership of the union.

In May, Appolis together with the entire Executive Committee of Ceppwawu's Wits Region were suspended by the National Executive Committee (NEC) allegedly for undermining the Union's resolutions and policies, and the FXI is pursuing the matter.

“Kill the Boer, Kill the farmer” slogan

This slogan was popularised by the late ANC MP Peter Mokaba in the early ‘90s. It has continued to create ripples across the political landscape in South Africa and during Mokaba’s burial in Limpopo in June 2002, mourners danced and chanted the slogan in the presence of many of the top leadership of the ANC including president Mbeki.

The Freedom Front brought a complaint to the South African Human Rights Commission (SAHRC) asking that the slogan be declared as hate speech and be pro-



ANC supporters display a 'Kill the boere. Kill the Farmer' poster slogan during June 16 commemoration rally at Orlando Stadium, Soweto. (Photo: Paul Velasco / PictureNET Africa)

hibited under section 16(2)(c) of the country's Constitution. In December, the SAHRC dismissed the application holding that because the slogan does "constitute an incitement to cause harm", it cannot therefore amount to hate speech.

After this ruling, the ACP issued a press statement and action alert supporting the decision of the commission and arguing that freedom of expression needed to be given the widest possible cognisance in South Africa. But while welcoming this decision, the ACP also noted with concern the glaring inconsistencies demonstrated by the commission in handling different matters relating to freedom of expression.

An appeal against the decision of the commission was subsequently filed by the Freedom Front and set for hearing on the 6th of June. It will be heard by a panel consisting of Prof. Kathy Govender, Attorney Solly Manamela and Prof. Henk Botha. The ACP sent a written submission arguing why the slogan should not be denied constitutional protection, and was subsequently invited to make an oral arguments during the hearing.

The matter of Tascoe De Reuck

According to section 27(1) of the Films and Publications Act (FP Act-65 of 1996), possession of child pornography is absolutely prohibited and anyone found either producing, distributing or merely possessing it faces criminal sanction.

This however was not always the case because prior to the amendments effected to the FP Act in 1999, the rather broad and overly wide term 'child pornography'

had not been introduced. No defence of legitimate purposes such as bona fide art, science, documentary or literary value now exists. To produce such work, one must get the authorisation of the Film and Publications Board, which is based in Cape Town.

Tascoe De Reuck was arrested and charged with contravening section 27 of the Act while in the process of planning a documentary on child pornography. A colleague and film critique Leon Van Nierop was also arrested and charged, but this was later withdrawn.

While the Films and Publications Bill was being debated in Parliament in 1995 and 1996, the FXI expressed a view that though child pornography is reprehensible and socially detrimental in the extreme, it must however not be completely banned particularly with regard to possession and distribution. It called for the prohibition of importation and public distribution of child pornography, but argued that private possession and distribution should not be forbidden.

FXI's motivation was anchored on the argument that such regulation of private possession and distribution would lead to the invasion of homes by police and therefore an unwarranted invasion of the right to privacy contrary to section 14 of the constitution.

Soon after its establishment, the ACP entered into correspondence with De-Reuck's counsel Advocate Kobus van Rooyen and among other things discussed the possibility of inviting Ed Donnerstein, a US citizen and internationally re-known authority on pornography and violence to provide the court with an expert opinion on the question of child pornography. It was hoped that during the visit, Donnerstein would deliver a lecture(s), address a seminar or symposium and participate in a radio and TV show on the tensions between pornography/child pornography and the right to freedom of expression.

De Reuck has argued that the strict legal regime created by section 27(1) of the FP Act violates a number of fundamental rights including mainly, the right to freedom of expression as provided by section 16(1) of the Constitution. Child pornography is an issue that needs a lot of sensitivity, particularly in South Africa where the problem has hit epidemic proportions. It was for this reason that the FP Act was amended in 1999 to rigorously curb its production and circulation in the country. It is also against such background that the court found against the protestations of De Reuck in its judgment in October 2002.

The accused then referred the matter to the Constitutional Court for determination in regards to the validity of s. 27(1) of the FP Act. This case was heard on the 14th of June and judgment was reserved. The ACP is awaiting the decision of the Court in order to plan its way forward.

Matter of Justin Nurse

This case involves the question of whether the right to freedom of expression could in certain circumstances outweigh commercial interests. Justin Nurse operates a promotion company in Cape Town where he produces T-shirts and other regalia parodying well-known commercial brands such as Black Label beer, McDonalds and Coca-Cola.

Last year, South African brewing giant SAB Miller sued him for trade-mark infringement in relation to his use of a similar logo to SAB Miller's "Black Label, Carling Beer" which Nurse has replaced with the words "Black Labour, White Guilt". The ACP contacted him wanting to be enjoined in the case as amicus curiae. However, discussions floundered as there was no active response from Nurse.

" ... such regulation of private possession and distribution would lead to the invasion of homes by police and therefore an unwarranted invasion of the right to privacy "

On 16 April, the Cape High Court ruled against Nurse holding that his logo infringed the complainant's trademark and that it bordered on racism and hate speech. Later in the same day, the head of the ACP did an interview with Cape Talk Radio and argued that this judgment was an infraction of the right to freedom of expression, and that in no way could it trigger the hate speech barrier found in section 16 (2) (c) of the country's constitution. The case is now going on appeal after leave was granted by the Cape High Court in May.

The case of Jaco van der Merwe

Jaco van der Merwe was sued for defamation by Delta Motor Corporation, makers of well known car models such as Isuzu and Opel, for putting slogans on his Isuzu bakkie one of which read "The Weakest 4 X 4 by Far". He also circulated e-mails to his colleagues and friends criticising Delta and its Isuzu range of cars.

This matter arose after Van der Merwe had the chassis of his bakkie twisted during a Safari to Namibia. He appealed to his dealer to rectify the problem as the car was still under guarantee but the latter refused. He sought the intervention of Delta and it too responded negatively. On the contrary, Delta and their dealer-agent argued that the chassis had snapped as a result of abuse and this was not covered by the guarantee.

Having no other recourse, Van der Merwe resorted to the slogans and the e-mail campaign upon which Delta took legal action.

Van der Merwe approached the ACP in August 2002 and sought its support to defend his right to freedom of expression. Though the programme decided not to intervene at the court legal due to financial reasons, it nevertheless threw its whole weight behind the defendant and wrote a letter of support in December. All along and even after the final judgement, Van der Merwe has cited the support given to him by the FXI (ACP) as one of the reasons that enabled him emerge victorious.

In the first instance, the Pretoria High Court granted the Corporation a temporary interdict restraining the defendant from displaying the "offensive" slogans, but on full hearing in January 2003 this interdict was set aside and the defendant won the case. At the beginning of this year, van der Merwe brought charges of fraud and perjury against three of Delta's employees.

This matter is no longer active in our files as Delta was refused permission to appeal against the judgment. The case however remains a good rallying point for the right to freedom of expression in the country and beyond.

Campaign against the Anti-Terrorism Bill [B12-2003]

This Bill was introduced in Parliament on 10 March 2003 and subsequently referred to the Portfolio Committee on Safety and Security on March 14. The committee has invited written submissions from the public by not later than the 30 of April.

The ACP has been closely involved with this legislation since the introduction of the draft version of the bill in September 2002. In the beginning, the programme obtained a legal opinion from Benita Mandy Witcher, the expert consulted to analyse existing and up-coming legislation affecting the right to freedom of expression. The FXI also commissioned an international comparative study on Anti-Terrorism legislation from her.

Right from the start, the FXI has argued that if this Bill is passed into law, it will have a serious negative impact on individual civil and political liberties such

as the rights to freedom of expression, association, security of the person, belief, opinion, assembly and demonstration. This realisation led the ACP in February to decide to embark on a substantive lobbying, publicity, education and awareness campaign around the Bill. The objectives of the campaign are as follows:

- To publicise the ATB as widely as possible and educate the public about the dangers posed by this Bill on the fabric of human rights and fundamental freedoms in South Africa;
- To mobilise civil society with a view to exploring ways of developing appropriate intervention strategies to the proposed legislation;
- To create a united front and common platform for use by civil society to oppose the passing of this Bill; and, lastly,
- To draft submissions to and participate in discussions with members of the Portfolio Committee on Safety and Security on the undesirability of enacting this legislation.

To realise these objectives, the ACP held three planning meetings, which were attended by various civil society organisations and individuals. Two distinct approaches emerged out of these meetings; the first one called for a total rejection of the Bill and the second view called for a more calculated intervention which would include an attempt to reform those provisions of the Bill that were deemed to be contentious. This split has more or less defined the terrain in which the campaign has proceeded as well as the way that the public has engaged with the Bill. The FXI has chosen to advocate for total rejection of the Bill, and has established a common platform in this respect with organisations such as the Media Review Network, Anti-Privatisation Forum, the Media Workers Association of South Africa (Mwasa) and the Southern African Journalists Association.

The ACP also held three awareness-raising workshops were held: in Johannesburg, Cape Town and Durban, which were attended by a total of 151 participants. Some of the decisions from these workshops included creating a nationwide petition against the ATB, coordinating activities during the public hearings around the country and hold simultaneous demonstrations to the provincial legislatures, and lobbying South Africa's moral leaders to oppose the Bill. Presentations on the ATB have also been made to the NLC, the Centre for the Study of Violence and Reconciliation, the Ceasefire Campaign and the Anti-War Coalition. Also, during the demonstrations organised by the Anti-War Coalition in opposition to the US/UK invasion of Iraq in Gauteng, the FXI addressed the protestors about the ATB.

Leaflets summarising the Bill in a non-technical and easy to read manner were developed in English and then translated into Zulu, Xhosa and Afrikaans. A total of thirty eight thousand leaflets have been printed and distributed. It is important to mention that most of the leaflets have been distributed independently of the workshops by sending them as packages to individuals in different areas. Only a small portion of the leaflets was disseminated during the workshops. The FXI has made extensive use of the media campaign against the ATB, with many interviews and op-ed pieces having been run in a spread of media, including SAFM, Radio 702 and East Coast Radio, the Voice and Radio Islam, the Citizen, Independent Newspapers, the Sowetan and the Sowetan Sunday World and the South Africa Press Association (Sapa).

The FXI also compiled a substantial submission on the ATB, drawing on the commissioned legal research. This submission was sent to the Portfolio Committee on Safety and Security on the 30 April, and the FXI participated in public hearings as well.

Since the appointment of the Head of the Unit, numerous research projects have been undertaken. Projects that are undertaken under the auspices of the Unit can be divided into two; in-house projects that are undertaken by the Unit itself, and outsourced projects. The Unit has spent a great deal of time conceptualising, and fundraising for these projects.

There have been numerous problems with the Policy Unit, specifically in relation to the partnership between the FXI and the NCRF. These problems relate to competing demands on the Unit placed by the organisations, and the different mandates of the organisations and how they affect the day-to-day operations of the Unit. These concerns have been addressed through the joint Management Committee, which has put in place a number of mechanisms to ensure that the work of the Unit is run smoothly.

An advisory Board has also been established to give expert advice on conceptual and methodological issues with regard to the work of the Policy Unit, as well as the Unit's workplan. The Board should meet four times a year, and is comprised of the following individuals:

- Mandla Seleokane - Former FXI chairperson; former senior researcher at the HSRC and now Director: Access to Information - Technikon North West
- Eronino Megwa: Head: Department of Journalism - Peninsula Technikon
- Libby Lloyd: Former councillor - Icasa. Now freelance consultant
- Ravi Naidoo: Director National Labour, Education and Development Institute (Naledi)
- Tawana Kupe: Head of Media Studies – University of the Witwatersrand

As a result of the heavy workload within the Unit a need has been identified for a senior researcher to be employed. An advertising process failed to produce a suitable candidate. It was decided by the Executive Director of the FXI and the Head of the Unit that a researcher will have to be sought by way of headhunting. This suggestion has been ratified by the Executive Committee. That process is under way – a researcher will be employed on a consultancy basis for a period of six months.

Study on the size, shape and nature of the community radio sector

On an in-house basis, the Unit is currently busy with two major projects, both of them one-year projects running until the end of the year. The first one is a study on Community Radio titled *The Size, Shape and Nature of the Community Radio Sector*. It is sponsored by the Centre for Civil Society at the University of Natal.

The project deals with the state, shape and size of the community radio sector in South Africa. The community radio sector came into being from 1994 onwards, with the then-Independent Broadcasting Authority inviting applications for one-year licences, and then subsequently moving onto four year licences. However, no countrywide audit has been done yet of the extent to which the sector is fulfilling its historic mission.

Such an audit needs to be conducted soon in view of the fact that the communications regulator, the Independent Communications Authority of South Africa (Icasa), is due to complete the process of granting four-year licences. According to the Broadcasting Act of 1999, no further licencing of community radio can take place until Icasa has conducted a review of the successes and the failures of the four-year licencing process. Icasa has scheduled this review for April 2003, which will also include a review of the signal distribution tariffs for community radio (signal distribution costs are often the highest cost in the operational expenditure of community radio stations). This review will determine the future direction of the com-



A radio presenter in the studio at Alex FM, a community radio station in Alexandra township, north of Johannesburg. (Photo: Henner Frankenfeld / PictureNET Africa)

munity radio sector: hence the need for the Policy Unit to ensure it influences the review. This research project is currently underway.

Project on expansion of the South Africa Media and ICT Industries in the SADC Region

The second project is a study on the Expansion of the South Africa Media and ICT Industries in the SADC Region, funded by the Open Society Initiative for Southern Africa. The project involves an audit of the expansion of South African media and telecommunications companies into the Southern African region; the proliferation of other (both local and international) providers of ICTs; and assessing the impact of this expansion exercise on the extent of media diversity and expansion of the ICT industry in the region. Based on this assessment, the FXI will develop and implement a lobbying strategy to ensure that these developments enable rather than disable media diversity and development that can be enhanced by the ICT industry in the region.

SABC
THE PUBLIC BROADCASTER

Wat kan 'n persoon van die openbare uitsaaiër, die SABC, in terme van die wet verwag.

SABC
THE PUBLIC BROADCASTER

What can you demand from the public broadcaster, the SABC, in terms of the law?

SABC
THE PUBLIC BROADCASTER

Umthetho uthi ngeziphii izimfuno zakho ongazibhekisa kumsakazi womphakathi, I-SABC?

SABC
THE PUBLIC BROADCASTER

Go ya ka molao, ke eng seo oka se lopang go tswa go SABC?

Among a malkemisetso a SABC ke a:

- Go fana ka ditirelo tsa kgaso go Mo-Afrika Borwa otlhe;
- Go tsibogela le go diragatsa ditlhogelo tsa bareetsi le babogedi;
- Go tshoheletsa le go tswetsopela talente ya Mo-Afrika Borwa. SABC e tshwanetse go dira gore Mo-Afrika Borwa a buie ka go gaelelele. Go dira seo e tshwanetse go netafatsa gore dipua tsa Mo-Afrika Borwa di dirilwa ma mananegong. Se se ka fithelelwa ka go:
- Bontsha dikakanyo, maikutlo, meano le talente ya Mo-Afrika Borwa;
- Bontsha talente ya Mo-Afrika Borwa mo mananegong a thuto le boitapaloso;
- Go fa motlhakere otlhe chano ma dikganyeng, tshedimosetso le tshakatsheka ya ditrafalo;
- Tswelletsopela ya dikgatlhego tsa sechaba.

SABC e tshwanetse go netafatsa gore sechaba se fa malkutlo a sona mabapi le ditirelo tsa yona le go dira gore malkutlo a a jalo e tswewa tsia.

(e bonwe go tswa go Molao wa Kgaso wa ngwaga wa 1999 le Melaophetogo wa Kgaso wa ngwaga wa 2002)

Dira gore SABC e arabele ditiro tsa yona!

SABC audience research project

Recent developments within and around the public broadcaster point to a disturbing turn of events. The broadcaster is undergoing restructuring, aimed at corporatising the broadcaster and dividing it into public and public commercial services so that the latter could cross-subsidise the former. Such restructuring was effected in part to gear the SABC for financial self-sufficiency, in view of the scarce public funding for the broadcaster. However, there were indications as far back as 2000 that a number of stations will not be able to achieve the goal of financial self-sufficiency and they will consequently be unable to fulfill their public mandate.

As the most accessible and popular form of media, public radio requires particular focus. In 2001, the FXI embarked on a two-year project consisting of two stages. The first stage, undertaken in 2001, involved an assessment of the SABC from the

perspective of employees, management, the regulator, the Department of Communications (DoC) and the Portfolio Committee on Communications. The second stage, undertaken in 2002, involved qualitative audience research on the extent to which public radio was meeting its mandate. More specifically the research intended to:

- Encourage listeners to express their views on SABC services in one forum (which will make the audience research process much easier).
- Create a forum for audiences to interact with SABC stations directly.
- Inform listeners about the contents of the Broadcasting Charter if they are not aware of its contents, and facilitating discussion about whether the Charter is sufficiently reflective of the SABC's public obligations
- Encourage the organisation of listeners to speak back to the SABC about the nature and quality of its services.

The Policy Unit received support for both stages of the project from Mwasa - which endorsed the project. The following regional offices were visited and focus group interviews were held with workers, who ranged from senior producers through to presenters: Mafikeng, Polokwane, Port Elizabeth, Durban, and Bloemfontein. In two cases, the researcher even managed to interview a station manager and a regional manager.

The researcher visited the following towns/cities where focus group interviews were held with members of the public: Hazyview (Mpumalanga), Polokwane (Limpopo), Cape Town (Western Cape), Rustenburg (North West) and Durban (KwaZulu Natal). The meeting in Kimberley (Northern Cape) failed to materialise. The meeting in Umtata (Eastern Cape) did not take place but a few individuals attended and were recorded on tape.

The project had to negotiate a number of hurdles. Firstly, at the initial stages of the project the FXI had intended to collaborate with the Cape Town based Media Training Centre (MTC). However, negotiations between the Unit and the MTC failed because of clear differences of approach. The second problem was securing interviews with SABC management. It was only towards the tail end of the project that we secured an interview with Dr Ihron Rensburg, the Managing Director for SABC Education and Public and Regulatory Affairs. The same problem was faced with regard to an interview with the DoC. It was only towards the tail end of the study that we managed to have an interview with the Senior General Manager: Broadcasting, Mr Joe Mjwara.

Despite all these problems the process was able to yield very valuable data which resulted in a book, *Public broadcasting in the era of cost recovery: A critique of the SABC's crisis of accountability* (for more information, see publications).

Icasa review of ownership and control rules

This project was aimed at assisting both the FXI and NCRF to make an informed submission to Icasa's process of reviewing the ownership and control regulations for sound broadcasting, and took the form of a commissioned study. The main objective of the study was to develop recommendations to Icasa's public hearings on the matter, by assessing the extent to which the current ownership rules enable or disable media diversity in South Africa and the Southern African region. The study was also supposed to focus on the specific impact of current ownership rules and actually-existing ownership patterns on community media.

Mr Mashilo Gibson Boloka was commissioned to undertake the study. The Policy Unit then accompanied the NCRF to the public hearings, and led the delegation making representations to Icasa.

Development of an ICT's Policy for the FXI

The FXI also raised funds for an expert in the field of freedom of expression, access to ICT's, to assist in developing a policy and programme of action on ICT's, particularly in relation to debates on convergence, universal access and the 'digital divide'. While the policy was developed under the auspices of the Policy Unit, it has relevance to the other Programmes, and will form the basis of much of the activity of the Media and ICT's Programme.

The Association for Progressive Communications (APC) undertook the study, which was completed recently. In the report, the APC identified four programme areas of relevance to the FXI's mandate: access to ICT's, civil liberties and electronic media, ICT policy development and capacity-building. The APC further advised the FXI on the key policy issues at stake in relation to all these areas, and recommended areas of emphasis. The report was complemented by workshop discussions and a week-long training programme for civil society organisations, which was attended by two FXI staff members.

The Head of the Unit attended the Africa ICT and Civil Society conference organised by the APC in Addis Ababa, Ethiopia, in November 2002. The conference was held in preparation for the World Summit on Information Society (WSIS) which will be held in December 2003 in Geneva. The conference brought together participants from all over the continent. At the moment we are considering how to further participate in WSIS processes. In pursuance of that a process is underway to finalise a position paper on UN conferences.

Audit on African Public Broadcasting

In 2002, the FXI in partnership with Niza conceptualised a project around public broadcasting on the African continent, involving an audit of the state of public broadcasting on the continent. The main outcome of the audit would be the development of an advocacy tool for the promotion of a public broadcasting model for the continent. The study would be conducted through desk research, coupled with trips to the Maghreb, West African, East African and Southern African Regions. It was envisaged that once the study and the draft programme of action are complete, a process of consultation about its contents will take place with stakeholders. This process should result in a final programme that should then be adopted by as many stakeholders as possible.

A successful two-day planning meeting on the audit was held in Johannesburg on the 7th and 8th of April 2003. The meeting was attended by one representative from the following media organisations and unions:

- FXI (South Africa)
- Southern African Journalists Association
- Media Institute for Southern Africa
- West African Journalists Association
- East African Journalists Association
- Media Foundation for West Africa
- Sindacato dos Jornalistas Angolanos (Angola)
- Journalists in Danger (Democratic republic of Congo)
- Union Network International Media Entertainment International (Africa office – Zambia)
- African Women's Media Centre (Senegal)
- University of the Witwatersrand Media Studies)

- Chudi Ukpabi (consultant to the Netherlands Institute for Southern Africa, or Niza).

The organisations endorsed the need for the audit, and decided to establish a steering committee to take the process forward. The FXI was put in charge of implementing the project under the leadership of the steering committee. The next meeting will be held in September, possibly in Kenya. If everything goes according to plan the study will start next year (2004). The Policy Unit will coordinate the research component of the study while the administrative part will be facilitated by the FXI.

Community radio and ICT's

A project that will start any day from now is a study of community radio and ICTs, which focusses on numerous initiatives taking place at government level involving the roll-out of community electronic multimedia services, and other services that use converging technologies at community level. They are meant to take advantage of the latest innovations in ICT's to extend local level access to information, and to enable communities to practice the right to freedom of expression through the use of converged, interactive community-owned and controlled communications services. The community radio sector has been marginalised from these developments, mainly due to the lack of policy capacity in the sector in this highly specialised field: a lack which the Policy Unit was set up to address. This policy input will also be used to develop a position on numerous matters relating to the upcoming World Summit on the Information Society (WSIS), given that the above-mentioned Departments and institutions will also be feeding their work around community multi-media into the Summit. This project is being undertaken by Dr. Peter Benjamin.

" The main outcome of the audit would be the development of an advocacy tool for the promotion of a public broadcasting model for the continent "

South African Audience Research Foundation (Saarf) audience research activities

The Unit organised a meeting with Saarf. Initially this was supposed to be a workshop with community radio personnel. However, that did not happen. Instead a meeting was held with the staff of Saarf. The aim of the meeting was to assist us to understand how Saarf compiles audience radio and television figures with a view to developing an engagement strategy to be employed when dealing or even challenging Saarf. The meeting was helpful yet not exhaustive in the sense that we began to understand how these figures are compiled. The meeting was held on the 22nd of August 2002. We intend to have further meetings/workshops with Saarf.

Policy interventions

The Policy Unit remains actively engaged in policy debates, either making comment or responding to formal policy initiatives. The Unit has made the following policy interventions:

- Oral submission to the Parliamentary Portfolio committee on Communications on behalf of the NCRF, on the Broadcasting Amendment Bill.
- Written submission to Icasa on Low Power Sound Broadcasting on behalf of the FXI and NCRF. Public hearings for this process will be held on the 19th of June 2003.
- Oral submission on Ownership and control of Sound Broadcasting on behalf of the NCRF on the 10th of February 2003.

The Unit prepared a submission to the SABC on SABC Editorial Policies. The closing date for submissions was the 13th of June 2003.

All these submissions have been prepared in-house.

This Programme is still in the process of being set up, and a Head still has to be appointed. The focus of the programme is to advance the use of ICT's sector, including the print and electronic media, to realise the right to freedom of expression. More specifically, the aims of the Programme are to:

- Strengthen the independence and accountability of the public broadcaster, the SABC and the communications regulator, Icasa;
- Promote public broadcasting at regional, continental and international levels;
- Promote universal service and public service obligations in the ICT sector;
- Ensure roll-out of media and ICT's to under-serviced areas and people as well as diversification of the range of information sources and opinions;
- Ensure that South Africa plays a positive pro-media diversity and universal service role on the African continent.

In the absence of a staff member, the work falling in this programme has been undertaken when time allows by the Executive Director.

Broadcasting Amendment Bill

The Programme became heavily involved in controversies around the Broadcasting Amendment Bill, introduced to amend the Broadcasting Act of 1999. The Broadcasting Amendment Bill sought to achieve various objectives. In the main, it focussed on the SABC, attempting to correct the lacuna that the Corporation had no legal personality. In addition, it aimed to make the SABC's remit clearer by ensuring that it developed editorial policies for approval by the Minister of Communications, as well as to provide for a procedure to authorise all channels and to open the subscription television market to full competition. Television licence fees also came under the spotlight, with the Bill ushering in numerous changes to tighten procedures around these fees, including penalties in the event of non-payment.

The Broadcasting Amendment Bill proved to be extremely controversial even before it was gazetted. The Bill was leaked to the media, leading to a furore over sections of the Bill that increased the accountability of the SABC to the Minister. These sections led to accusations that the government was seeking to transform the SABC from a public broadcaster to a state broadcaster. In addition, decision to establish the regional stations as two parallel state broadcasters, outside the ambit of the SABC was also criticised, which largely clouded the positive aspects of these developments for language equity in the broadcasting sector.

The FXI participated in the public hearings and the deliberations around the Bill, making contributions until the Bill was finalised by the Portfolio Committee on Communications. In its submissions, the FXI argued for greater public access to the SABC, and more specifically to the Board, coupled with public funding for the Corporation and the de-commercialisation of its public services (especially radio). This principle was accepted by the Committee and incorporated into the Bill in a clause that required the Board '...to provide suitable means for regular inputs of public opinion on its services and ensure that such public opinion is given due consideration'. The Committee also decided that the editorial policies should be published for public comment, and once finalised, submitted to Icasa. The two regional stations will be incorporated within the SABC as wholly-owned subsidiaries, with the funding mix still to be decided after an Icasa enquiry. What is encouraging is that the government has taken a decision to move to a publicly-funded public broadcasting model over a period of time.

*“ These sections
[of the
Broadcasting
Amendment Bill]
led to accusations
that the
government was
seeking to
transform the
SABC from a
public broadcaster
to a state
broadcaster ”*



Zapiro's cartoon on the Broadcasting Amendment Bill as it appeared in the Mail & Guardian on the 19th of September 2002. Reprinted here with the permission of Jonathon Shapiro.

The FXI is now in the process of responding to the editorial policies, and intends to follow developments around the establishment of the two regional stations, and the public funding model for the SABC, closely.

Database on the history of the Campaign for Open Media and the Campaign for Independent Broadcasting

The Programme has been managing a project funded by Niza, involving the establishment of a database of documents relating to the transformation of broadcasting in South Africa. This database is being made available in hard copy form, as well as on the internet, and includes a written account of this transformation, to give the documents a context. Most of these documents have been sourced from the archives the FXI has in its possession on the work of the Campaign for Open Media (Com) and the Campaign for Independent Broadcasting (CIB). The documents relate to the establishment of South Africa's first broadcasting regulator, the Independent Broadcasting Authority, as well as the transformation of the SABC from a state broadcaster to a public broadcaster (more specifically the process of appointing the first independent SABC Board). The intention of establishing this database is to make the information available internationally, so that it can inform broadcasting transformation in other countries. This project is almost complete, and the electronic database is currently being compiled, and will be made available shortly.



Soweto residents marching to the UBC centre to protest about water and electricity cut-offs, and attachment of goods and furniture to make up for arrears. (Photo: Len Kumalo / PictureNET Africa)

This Programme still has to be conceptualised properly and established. Notwithstanding the fact that the Programme does not exist, some access to information activities have taken place during the year.

These are as follows:

Know your rights: Access to Information Workbook

The Unit facilitated the finalisation of the workbook on the Promotion of Access to Information Act, compiled by Ahmed Veriava. The workbook is titled, Know your rights: Access to Information Workbook. In order to ensure the accuracy of the workbook, particularly in the light of some of the developments around the Act, the Unit sought the advice of Executive Committee member, Verne Harris, who is also the Director of the SA History Archives. The workbook was launched on the 30th of May 2003.

Ebrahim Harvey vs. Jo'burg Water

The FXI was approached by a Master's student at the School of Public and Development Management, University of the Witwatersrand, to assist him with an access to information problem he was experiencing with Johannesburg Water and the Greater Johannesburg Metropolitan Council (GJMC). Harvey had requested information for his thesis, dealing with the impact of the corporatisation and commercialisation of Johannesburg Water on the delivery of water services in the city. After months of attempting to access many documents from the company, and after having been told on several occasions that documents would not be disclosed for reasons of commercial confidentiality, Harvey approached the FXI for assistance. The FXI has filed an information request for the main documents on his behalf, and is now pursuing the matter legally.

Since the establishment of the Policy Unit and the ACP, requests for media interviews, opinion pieces and public appearances have shot up dramatically. Currently, the FXI receives requests for media interviews almost on a daily basis, and has maintained a consistent presence in a broad spread of media over the past year. Requests are made on a regular basis by Channel Islam International, Radio 702 and Cape Talk, Khaya FM, YFM, e.tv, SABC radio and television news and SABC radio stations, and community radio stations such as Radio 786, the Voice and the Voice of Islam, the South African Press Association, the Citizen, die Beeld, the Sowetan and Sowetan Sunday World. Recently the FXI has also been interviewed by BBC World and CNN. Topics range from the Anti-Terrorism Bill to hate speech and pornography, the media coverage of the war in Iraq, violations of the right to assembly, demonstration and picket and the situation in Zimbabwe. Requests for interviews are dealt with by the Executive Director and the Heads of Programmes.

Some of the opinion pieces written by FXI staff include the following:

Simon Kimani Ndung'u

- 'SA media must fight back', Sowetan, 18/10/2002
- SA Voices to protest', Sowetan, 27/01/2003
- 'Curtailling free speech', Sowetan Sunday World, 16/03/2003
- 'Hard to tie down terrorism', Sowetan, 4/04/2003
- 'Bill finds terrorist under every bed', Mail and Guardian, 25/04/2003
- Media must wake up over terror bill', Sowetan Sunday World, 18/05/2003

Jane Duncan

- "Anti-Terrorism Bill will trample on rights", 10/01/2003
- 'Talk left, Act Right: what constitutes transformation in Southern African media?', in Tomaselli, K. and Dunn, H. (eds). 2002. Media, Democracy and Renewal in Southern Africa. Colorado Springs: International Academic Publishers. 25-40 (chapter in book).
- 'Bill copies Western Broadcasters' (with Tleane, C), The Star, 3/01/2002
- 'SABC's independence stands at risk', Natal Mercury, 3/10/2002
- 'Bill has good intentions, but...', (with Tleane, C), Sowetan, 27/09/2002

Console Tleane

- 'Banning: no solution at all?', Sowetan, 2/07/2003

Some of the presentations made by FXI staff include the following:

- Paper by Console Tleane entitled Freedom of expression versus hate speech, delivered at the KwaZulu Natal Dialogue Initiative symposium on the 26th of July 2002 at the Elangeni Inn Hotel, Durban, KwaZulu Natal Province. The symposium was organised by the Institute for Democracy in South Africa (Idasa). This was a response to the banning by the BCCSA of playwright and musician Mbongeni Ngema's controversial song Amandiya
- Paper by Jane Duncan entitled 'Whither internet rights after the war in Iraq? Challenges to the use of the internet for civil society mobilisation (paper presented at Theta - ICT discussion Forum, Sangonet, 27th of May 2003)
- Paper by Jane Duncan entitled 'To say or not to say: The dilemma of radio broadcasting in the light of South Africa's Constitution' (Association for Christian Broadcasters' Conference paper, 11 - 12 February 2003)
- Paper by Jane Duncan entitled 'Where is the debate on civil and political

rights? Speech from World Press Freedom Day' (Speech for World Press Freedom Day, May 3, 2003)

- Paper by Simon Kimani Ndung'u entitled 'Freedom of expression vs. censorship' (Speech for COMSA 'Media and Diversity' conference, Unisa, 1 August 2002)
- Input by Simon Kimani Ndung'u at Press Freedom Day public meeting in Witbank, office of the Premier of Mpumalanga, 21 October 2002
- Input by Simon Kimani Ndung'u at the Robert Godlonton Commemorative Lecture and Seminar, 12 March 2003
- Facilitation by Console Tleane on the Promotion of Access to Information Act: Views from Civil Society at an Indaba organised by the SAHRC on the Promotion of Access to Information Act on the 22nd May 2003.

Freedom of Expression Defence Fund (FXDF)

The FXDF has been defunct since 2001, but it is in the process of being revived. However, in order to revive the fund, the activities of the FXI need to be thoroughly analysed and new policies and procedures put in place to ensure its revival on a more effective and sustainable basis. In order to evaluate what needed to be done to revive the FXDF, the FXI decided to commission an evaluation of the FXDF since its inception. The evaluation was undertaken by Advocate Salim Ebrahim, and presented to the FXI's strategic planning meeting in December 2001. Several recommendations were made in this report, and the FXI has since approached Niza to provide funding for a consultant to undertake these tasks. The consultant is about to be appointed and commence work.

Southern African Journalists' Association (Saja)

In 2001, the FXI was approached by the International Federation of Journalists to form a joint committee with the South African Union of Journalists and Mwasa to assist in the establishment of Saja. Since then, Saja has been based in the offices of the FXI, and used the Institute's finance and administrative capacity as a temporary arrangement until the Association's administrative systems were in place. This arrangement was phased out in February 2003, and Saja is now operating as an independent entity.

Ifex website

In 1999, the FXI took over the maintenance of the IFEX website, with the FXI's Communications Officer, Scotch Tagwireyi and a consultant, Fatima Bhyat, undertaking the maintenance. In 2002, Ifex took a decision to re-structure the website, and a further decision was taken that the FXI would rather maintain the mirror site, with the maintenance of the main site becoming the responsibility of IFEX once again. The consultant undertook some work on the main site for World Press Freedom Day, and located a host for the mirror site. It is expected that the mirror site will be up and running soon.

Southern African Media Law Briefing

The FXI continued to participate in the publication of the Southern African Media Law Briefing, in partnership with Misa and Article 19, the International Centre Against Censorship. The newsletter is distributed to lawyers, academic institutions and civil society organisations, with the intention of publicising examples of 'good law' in the region, that is, judgements and news legislative developments that impact positively on freedom of expression. The FXI has also been undertaking the administration of the project.

An evaluation of the project was undertaken, which identified serious weaknesses with the publication and its management by the partnership. On the basis of the evaluation, coupled with the fact that the project did not fit comfortably into any of the FXI's programmes, a decision was taken to pull out of the project.

Other publications

On May 30, 2003, the FXI launched two books, which are as follows:

'The Right to Dissent: Freedom of expression, assembly and demonstrations in South Africa' *Edited by Simon Kimani Ndung'u*

In August 2002, the South African city of Johannesburg played host to the World Summit on Sustainable Development (WSSD), convened by the United Nations. During this Summit, the fundamental rights of freedom of expression, assembly and demonstration were brought sharply into focus. Conflict took place between the state and those who expressed dissent against the official agenda of the WSSD, and who chose to express themselves on the streets rather than in the formal Summit meetings.

This book focusses on the tension between the right of individuals to express themselves freely through the medium of assemblies and demonstrations as guaranteed by the constitution, and the state's authority to regulate such right in terms of national legislation. Contributors have been drawn from a wide range



Prof. Dennis Brutus, FXI Executive Committee member Raymond Louw and independent film maker Ben Cashden at the May 30 booklaunch. (Photo: Tswaledi Thobejane)



of backgrounds, and include constitutional law experts, academics, civil society activists, local government and the South African Police Service.

Public broadcasting in the era of cost recovery: a critique of the South African Broadcasting Corporation's crisis of accountability

Console Tleane and Jane Duncan

This book deals with the crisis of accountability rocking South Africa's public broadcaster, the South African Broadcasting Corporation (SABC). It has become clear that the SABC is failing to fulfill its public broadcasting mandate, and is considered widely to be unaccountable. The book focusses on why this crisis has developed, drawing on qualitative research on public service radio conducted over a two year period. It focusses on how SABC radio has been restructured for financial self-sufficiency in the absence of government funding, leading to a vigorous process of commercialisation that has been at the expense of radio services targeting South Africa's poor. This argument is backed up by qualitative research on the impact of commercial restructuring on factors such as programming formats and schedules, news coverage and accessibility of stations.



Executive Committee and staff

In 2000, a constitutional amendment was effected to change the term of office of executive members from one year to two years. The 2002 AGM marked the first year of the new Executive Committee.



Photo: Tswaledi Thobejane

The members are as follows: [Back row, left to right] Raymond Louw, Mabalane Mfundisi (Chairperson), Salim Vally, Kate Skinner (Deputy Chairperson), Mamashoabathe Noko, Andre Keet, Jane Duncan. [Inset, top to bottom] Oupa Lehulere, Katie Khan, Naeem Jeenah, Verne Harris, Ahmed Veriava, [inset, right] Nkopane Maphiri.

With respect to the staff, Gail Turton continued as the Head: Finance and Administration, Pinky Magau as the Administrator and Personal Assistant to the

Director, and Gertrude Ramela as the FXI's Receptionist and Resource Centre Co-ordinator, as did Jane Duncan as the Executive Director. The FXI's Communications Officer, Scotch Tagwireyi passed away in September after an illness.

In June 2002, the FXI appointed Console Tleane to the position of Head: Community Media Policy Unit and Simon Kimani Ndung'u to the position of Head: Anti-Censorship Programme.



Staff members are as follows: [left to right, top to bottom] Console Tleane, Jane Duncan, Simon Kimani Ndung'u, Gertrude Ramela, Gail Turton, [inset] Pinky Magau. (Photo: Tswaledi Thobejane)

Funding

The contribution of several donors has to be acknowledged, for without their continued support, the FXI would be unable to continue its work.

We would also like to acknowledge the contribution of the following organisations:

- Open Society Foundation
- IBIS/ Interfund
- Joseph Rowntree Charitable Trust
- Anglo American Chairmans' Fund
- Netherlands Institute for Southern Africa
- Friederich Ebert Stiftung
- International Freedom of Expression Exchange/ Canadian Journalists for Free Expression
- Foundation for Human Rights
- Open Society Institute of Southern Africa

The year ahead: critical challenges

On January 27, 2004, the FXI will have been in existence for ten years. A full assessment will need to be made ahead of this 'celebration' of where the FXI has come from, and where it is going to. However, some observations can be made now about the critical challenges facing the organisation in the coming year; these observations range from the most specific to the most general.

The ACP has provided a sorely-needed structure in which to deal with cases of censorship. However, the current structure, which is manned by one person, is struggling to handle the number of cases coming in. Each case is labour intensive, as the ACP deals with censorship cases by intervening and resolving them, rather than simply publicising them through press statements, action alerts and the like. This means that one case may involve a variety of strategies, including publicity, direct lobbying of the perpetrators of censorship, organising opposition to censorship through picketing or pamphleteering, and litigation. It may be necessary in the near future to expand the Programme, and the capacity needs of the Programme are now being reviewed.

Also, as a matter of principle the ACP also involves the victims of censorship at all stages of their cases, rather than conducting cases over their heads. However, it has been difficult in some instances to get the full cooperation of victims of censorship in order to mount the required defence and provide support. In certain cases the victims are reluctant to provide the required information for a host of reasons including fear of jeopardising their chances with their employers. There are also cases where confidentiality has been requested given the fact that some victims of censorship have feared reprisals from their employers: hence these cases are not listed here.

"... the ACP deals with censorship cases by intervening and resolving them, rather than simply publicising them through press statements, action alerts and the like"

Another challenge the ACP faces is striking a balance between the handling of cases which may be short term in nature, with longer-term lobbying work (such as lobbying against censorship legislation). The ACP also needs to make its work known internationally, to debunk the perception that there is no censorship in South Africa.

The Policy Unit also faces critical challenges in that it needs to raise funding on a three year basis. The Head has also found it impossible to both manage the Unit and conduct research at the same time, and a consultant is being brought in to assist with current research projects. Research capacity will have to be built on a longer term basis, and internships should be offered. The management and advisory structures of the Unit must operate better, and the partnership between the FXI and NCRF around the Unit strengthened so that any problems can be troubleshot. The work of the Policy Unit and the Media and ICT's Programme is also driving the FXI to focus more on regional and continental issues, given the increasing role of the South African government and corporates in SADC, the African Union (AU) and the New Partnership for Africa's Development (Nepad). The FXI must find a way of striking a balance between its national, regional, continental and international watchdog work given South Africa's increasingly imperialist role.

In the past year, the FXI has managed to move out of survivalist mode, and is now in a position to plan more proactively. However, much still needs to be done to ensure that the FXI is able to meet the challenges identified in the evaluation report of 2001. Funds still have to be raised for all Programmes on a three year basis, and only two of the five Programmes are fully functional at present. There is also a need for the FXI to develop a sustainability plan, which details the extent of the need for the Institute's 'services', the solution to meeting these needs and the capacity to deliver on these needs. The sustainability plan must include a long-term funding strategy that will ensure the FXI is able to achieve its mandate in a manner where it is not compromised by its funding base.

The role of the Executive Committee as a policy-making body needs to be developed further to ensure that it gives proper leadership to the FXI during AGM's. However, one area that requires more attention is the role of the members and AGM's, and the relationship of the staff and Executive Committee to the members. Since last year, the Committee has been grappling with these matters: hence the proposal to open full membership up to organisations, especially those organisations that are experiencing censorship. These challenges are of a more complex and general nature; they relate to the identity of the FXI as an organisation, how it defines its strategic orientation and the partnerships and affiliations it establishes in pursuance of that strategic orientation. The FXI has to face the fact that in theory, the Institute is a membership-driven organisation, but in practice it is not.

More specifically, the main challenge facing the FXI at the moment is how to position itself in an environment that is characterised by, amongst many other indicators, the emergence of social movements in many sectors. These movements, and their growth, are a logical development arising out of a climate of growing frustration by many communities as a result of the government's failure to deliver basic services. These social movements appear to be under attack and are experiencing repression and censorship, leading to them assuming more and more prominence in the work of the FXI, especially the ACP. Also, there is clearly scope for a social movement around media and ICT's, which the FXI is well placed to facilitate. In short, the FXI's orientation to the emerging social movements is a key challenge for the year to come. The causes of many instances of censorship in South African today are complex and often socio-economic in nature. The FXI will continue to take on cases that spring from the socio-economic contradictions described above, but the much bigger challenge is how to deal with the contradictions themselves: a critical challenge that may take decades to address.

" In the past year, the FXI has managed to move out of survivalist mode, and is now in a position to plan more proactively "

" ... the FXI's orientation to the emerging social movements is a key challenge for the year to come "

FREEDOM OF EXPRESSION INSTITUTE

ANNUAL FINANCIAL STATEMENTS

FOR THE YEAR ENDED

31 DECEMBER 2002



FREEDOM OF EXPRESSION INSTITUTE

**INDEX TO THE ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2002**

Contents	Page
Report of the independent auditors	1
Balance sheet	2
Income statement	3
Cash flow statement	4
Notes to the annual financial statements	5 - 6

APPROVED BY

The financial statements set out on pages 2 to 6 have been approved by the executive committee and are signed on its behalf by :-



EXECUTIVE DIRECTOR



CHAIRPERSON

REPORT OF THE INDEPENDENT AUDITORS

To the members

FREEDOM OF EXPRESSION INSTITUTE

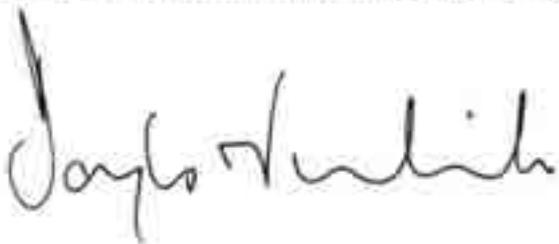
We have audited the annual financial statements of the Freedom of Expression Institute set out on pages 2 to 6 for the year ended 31 December 2002. These financial statements are the responsibility of the executive committee, while our responsibility is to express an opinion on these financial statements 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 2002 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
5 June 2003

FREEDOM OF EXPRESSION INSTITUTE

BALANCE SHEET AT 31 DECEMBER 2002

	Notes	2002 R	2001 R
ASSETS		663,296	1,244,807
Non-current assets		53,232	46,785
Equipment	2	53,232	46,785
Current assets		610,064	1,198,022
Trade and other receivables		29,136	54,730
Accrued grant income	3	-	159,342
Cash held in trust		5,505	296,986
Cash at bank and on call		575,423	686,964
Total assets		663,296	1,244,807
RESERVES AND LIABILITIES		663,296	1,244,807
Reserves		78,224	138,753
Accumulated funds		78,224	138,753
Current liabilities		585,072	1,106,054
Trade and other payables		46,519	86,020
Trust creditor - SAJA		5,505	296,986
Deferred grant income	4	518,000	708,000
Taxation		3,269	3,269
Bank overdraft		11,779	11,779
Total reserves and liabilities		663,296	1,244,807

FREEDOM OF EXPRESSION INSTITUTE

INCOME STATEMENT FOR THE
YEAR ENDED 31 DECEMBER 2002

	Notes	2002 R	2001 R
INCOME		1,695,004	1,636,592
Grants and donations	5	1,514,330	1,571,635
Contract income		100,000	-
Interest		27,422	7,608
Sundry income		53,252	57,349
EXPENDITURE		1,755,533	1,808,763
Auditors' remuneration	6	29,414	25,329
Current year		25,000	24,607
Prior year under provision		4,414	722
Accounting fees		2,400	37,950
Bank charges		3,598	5,486
Consultants' fees		-	20,256
Computer expenses		16,141	14,833
Depreciation	2	15,545	23,721
General expenses		4,564	4,057
Insurance		6,002	6,014
Interest paid		1,628	680
Leasing and hire		4,286	-
Legal costs		13,581	-
Litigation		-	47,280
Meetings, conferences and workshops		108,296	157,573
Organisational evaluation		48,415	55,200
Postage and courier		9,963	6,401
Publication, production and distribution costs		47,462	131,825
Refund to Danida		10,638	-
Refreshments		8,698	4,254
Rent, water and electricity		101,326	87,313
Repairs and maintenance		3,048	51
Research		12,000	83,768
Salaries and contributions		965,964	686,013
Staff recruitment and training		27,081	12,291
Stationery, photocopying and printing		32,157	19,486
Strategic planning		-	34,617
Subscriptions		10,799	14,531
Telephone and fax		135,386	131,579
Travel and accommodation		33,354	37,169
Website costs		103,785	160,988
Establishment		-	87,054
Maintenance		103,785	73,934
DEFICIT FOR THE YEAR		(60,529)	(172,171)
Taxation			
SA normal tax		-	(3,269)
- Underprovision in prior year		-	(3,269)
BALANCE AT BEGINNING OF YEAR		138,753	314,193
BALANCE AT END OF YEAR		78,224	138,753

FREEDOM OF EXPRESSION INSTITUTE

CASH FLOW STATEMENT FOR THE
YEAR ENDED 31 DECEMBER 2002

	2002 R	2001 R
Cash flows from operating activities		
Surplus/(deficit) for the year	(60,529)	(172,171)
Adjusted for:		
Depreciation of equipment	15,545	23,721
Interest received	(27,422)	(7,608)
(Decrease)/increase in deferred grant income	(190,000)	488,000
Decrease/(increase) in accrued grant income	159,342	(106,010)
Operating (deficit)/surplus before working capital change	<u>(103,064)</u>	<u>225,932</u>
Working capital changes	(13,907)	1,857
Decrease/(increase) in accounts receivable	25,594	(26,689)
(Decrease)/increase in accounts payable	(39,501)	28,546
Cash (utilised)/generated by operations	<u>(116,971)</u>	<u>227,789</u>
Interest received	27,422	7,608
Net cash (outflow)/inflow from operating activities	<u>(89,549)</u>	<u>235,397</u>
Cash flows utilised in investing activities	(21,992)	(10,447)
Acquisition of equipment	(21,992)	(10,447)
Net (decrease)/increase in cash and cash equivalents	<u>(111,541)</u>	<u>224,950</u>
Cash and cash equivalents at beginning of year	675,185	450,235
Cash and cash equivalents at end of year	<u><u>563,644</u></u>	<u><u>675,185</u></u>

FREEDOM OF EXPRESSION INSTITUTE

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2002

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
31/12/2002				
Net book value 1/1/2002	39,669	7,116	-	46,785
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)
Net book value 31/12/2002	33,847	17,988	1,397	53,232
Cost	92,439	162,750	63,503	318,692
Accumulated depreciation	(58,592)	(144,762)	(62,106)	(265,460)
31/12/2001				
Net book value 1/1/2001	46,052	2,799	11,208	60,059
Cost	86,713	137,713	61,827	286,253
Accumulated depreciation	(40,661)	(134,914)	(50,619)	(226,194)
Additions during the year, at cost	2,441	8,006	-	10,447
Depreciation for the year	(8,824)	(3,689)	(11,208)	(23,721)
Net book value 31/12/2001	39,669	7,116	-	46,785
Cost	89,154	145,719	61,827	296,700
Accumulated depreciation	(49,485)	(138,603)	(61,827)	(249,915)

NOTES TO THE FINANCIAL STATEMENTS FOR
THE YEAR ENDED 31 DECEMBER 2002(Continued)

	2002 R	2001 R
3. ACCRUED GRANT INCOME		
IFEX	-	90,592
The Joseph Rowntree Charitable Trust	-	68,750
	<u>-</u>	<u>159,342</u>
4. DEFERRED GRANT INCOME		
Open Society Foundation for South Africa - Grant # 01923	242,000	363,000
Open Society Foundation for South Africa - Grant # 01783	-	220,000
Open Society Foundation for South Africa - Grant # 02061	276,000	-
Interfund - Ibis/ DANIDA	-	125,000
	<u>518,000</u>	<u>708,000</u>

5. GRANTS AND DONATIONS

Afonet - SAHRINGON
 Anglo American Chairman's Fund
 EU Foundation for Human Rights in South Africa - 232/6/97
 EU Foundation for Human Rights in South Africa - 529/1
 Friedrich Ebert Stiftung
 Heinrich Boll Stiftung
 IFEX
 Received
 Accrued in 2001
 Interfund - Ibis/ DANIDA
 Received
 Deferred from 2001
 NIZA
 Open Society Foundation for South Africa
 Grant # 01923
 Received
 Deferred from 2001
 Deferred to 2003
 Grant # 01783
 Received
 Deferred in 2000
 Deferred from 2001
 Grant # 02061
 Received
 Deferred to 2003

-	66,045
-	75,000
-	30,000
12,000	-
100,000	81,195
5,248	29,400
-	434,878
-	344,266
-	90,592
258,000	94,527
133,000	219,527
125,000	(125,000)
270,197	185,771
842,000	330,000
484,000	-
363,000	363,000
363,000	(363,000)
(242,000)	-
220,000	330,000
-	330,000
220,000	220,000
-	(220,000)
220,000	-
136,000	-
414,000	-
(276,000)	-
-	-
-	6,000
106,250	225,000
175,000	175,000
-	(18,750)
(68,750)	68,750
-	13,819
-	46,401
-	(34,582)
11,634	-
<u>1,614,330</u>	<u>1,571,635</u>

6. AUDITORS' REMUNERATION

Current year	25,000	18,000
Current year - interfund audit	-	6,600
Prior year under provision	4,414	729
	<u>29,414</u>	<u>25,329</u>





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.

Address:

5th Floor, Argon House
87 Juta Street
Braamfontein
Johannesburg

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

Fax: (27-11) 339-4109

E-mail: fxi@fxi.org.za

WEB: www.fxi.org.za

Postal Address:

P O Box 30688
Braamfontein
2017
South Africa

