

TABLE OF CONTENTS

Chairman's Report	1-3
Treasurer's Report	4-7
ANFASA Annual Report 2017/8	8-23
ANFASA Board Members	8
Membership	9-11
Keynote address by Andrew Mlangeni for AGM 2017	12-13
Grant Scheme for Authors	14-17
Open Access Seminar	18-19
Copyright	20-23
Financial Statements	24-42



Sihawakele Ngubane (Chairman)

ANFASA CHAIRMAN'S REPORT

It is my pleasure to welcome ANFASA members and guests to the 2018 Annual General Meeting.

The 2018 AGM takes place in the middle of the year, rather than in March as usual. The fifteen months under review are, once again, indicative of ANFASA's success in becoming a vocal member of the arts and culture sector. ANFASA's reputation, locally and internationally, was enhanced in 2017 by a short film, commissioned to be shown in King's College, London, as part of a festival highlighting arts and humanities around the world.

Earlier this year I was invited by the Norwegian Non-Fiction Writers and Translators Organisation (NFF), along with representatives of other African authors' associations, funded like us by NFF, to attend its AGM in Oslo. All of us, from our various organisations in Africa, were asked to give very short presentations. I was allocated the title 'South Africa: A country with resources – however, not for authors'. Below is an extract from my talk:

In South Africa, the book sector is not declared a national priority and does not attract funding from government. The government departments

of Trade and Industry (DTI); Arts and Culture (DAC); Small Business Development (DSBD) and Basic Education (DoE) all have connections with the book industry but levels of funding are extremely low ... That leaves private sector donorship and funding by other state agencies such as the National Arts Council (NAC) and the National Lotteries Commission (NLC). The first of these does dispense financial support, but on a very small scale. The NLC has substantial funds and an equally substantial number of nongovernmental organisations of all kinds (including ANFASA) queueing up for consideration.

Private sector donorship tends towards sport and the cultural activities with more audience appeal than books. Funds are very tight in this sector for anything else.

The NFF generously provided the seed funding which brought ANFASA to life in 2003-2004, and has continued to support ANFASA ever since. We understand that there are other sister organisations in the region which are in equally dire circumstances and the cake has to be portioned out among us all, even though our

ANFASA CHAIRMAN'S REPORT

slice grows thinner every year. In 2016, the Norwegian Ministry of Foreign Affairs through the Royal Norwegian Embassy in Pretoria, took over a large portion of ANFASA's needs – all our projects, in fact, including the grants scheme. This enabled ANFASA to breathe easily for three years, but it is coming to an end in May 2019. After that our fate is uncertain.

We do thank the NFF for its great interest in ANFASA and its generous support over the years. ANFASA believes that it has repaid the NFF by its growth and development; by the strong voice it has raised on behalf of authors' rights; by its efforts to educate authors through numerous seminars and workshops and by the information it has given out on copyright; by the many authors of non-fiction works who received grants in order to write their books. It was ANFASA that negotiated with the Publishers Association of South Africa (PASA) to draft a 'minimum terms agreement', the Author Publisher Agreement on Contract Terms (APACT); this is the only such agreement in Africa, and one of the few in the world, and ANFASA has been congratulated by the

International Authors Forum (IAF) for its pioneering work

I am very pleased to inform you that the NFF has subsequently agreed to fund ANFASA for a further three years, up until 2020.

The coming year will be one in which the ANFASA management intends to conduct a major exercise to re-evaluate its relationship with its members, to ensure that it remains relevant. A start has been made on the process by the new questionnaire currently being circulated. One of the most significant questions asked in the survey is about why the member joined, and whether he or she is satisfied with the organisation. A membership-based organisation such as ANFASA needs to maintain a strong link with those it serves, and to focus on what is important to them, so this year there will be more direct contact with members such as workshops, seminars and other meetings.

While I am on the topic of membership I should say that the strength of ANFASA, and its ability to attract funding to continue its work, depends to a significant extent on the size of its membership. The

ANFASA CHAIRMAN'S REPORT

number of members, in turn, depends on the perceived benefits of joining. This is why the questionnaire and evaluation are so important. But you, the members listening to me or reading this report, are equally important when it comes to persuading more authors to join. You are ANFASA's ambassadors.

Still looking to the future, 2018 is the year in which ANFASA will re-start its campaign on behalf of Public Lending Right. This exists in many countries of the world, and it is time that South Africa joined them. Every time an author's book is borrowed from a public library a small sum of money accrues to him or her. It is a very modest sum, but it adds up and can become a source of income for authors. More information on Public Lending Right will soon be sent to the members and we hope you will join in promoting it. Your input into the campaign will be crucial.

The year 2017 again saw a highly successful round of the annual ANFASA grant scheme for authors (AGSA), the only awards programme of its kind in South Africa. Fifteen authors received grants of around R25 000 each to help with research for their manuscripts, and their achievements were once again celebrated with a cocktail-hour event at the house of the Norwegian Ambassador in Pretoria. We extend our thanks to the Royal Norwegian Embassy which funded thirteen grants, and to the SAMRO Foundation which gave two grants for books about music, and our congratulations to the grant winners.

In looking back over 2017, I once again thank my fellow board members for their commitment to this organisation and their valuable inputs, and the national administrator, Samukelisiwe Mfuphi, who runs our office so well. I encourage ANFASA members to make more use of the office as a valuable resource and to contact the office directly with comments, opinions, suggestions and ideas. The ANFASA website and the newsletters and bulletins are one way of communicating with you, but we are always open to new ideas and look forward to more direct communication with members in future.

pstgubare

Prof Sihawukele Ngubane ANFASA Chairman



Monica Seeber (*Treasurer*)

ANFASA TREASURER'S REPORT

ANFASA TREASURER'S REPORT FINANCIAL YEAR 1 JANUARY 2017 TO 31 MARCH 2018

Dear ANFASA Board of Management and Members I am pleased to present you with ANFASA's annual financial statements for the fifteen months ending 31 March 2018. With the approval of the Board and the auditors I have altered our financial year, which from now on starts on 1 April. This is because operational funds from our Norwegian donors always arrive in April, and this change will make our spending and accounting much easier. The change also means that the annual financial audit now takes place in May, after the financial year ends, and the AGM follows in June, when the audit is over.

As I informed the membership last year, ANFASA is a nonprofit organisation (NPO). As such, it relies on donor funding. The Norwegian Non-Fiction Writers and Translators Association (NFF) is the organisation which started ANFASA up. It supports authors' associations in other African countries as well, and as

time has passed the cake has had to be cut into more but smaller slices, so that nowadays NFF money supports the office alone, and we have to look elsewhere to be able to undertake projects. Happily, the Norwegian Ministry of Foreign Affairs through the Royal Norwegian Embassy in Pretoria covers the writing grant scheme, ANFASA's flagship project. SAMRO has also been supportive over the years, and contributes to this scheme. In April, Prof Ngubane, the chairman of ANFASA, was invited to Oslo, and on the basis of the progress report he presented to the NFF we have been issued with a new contract guaranteeing funds for the next three years. This means that ANFASA's existence is secured for the foreseeable future, although the search for project funding continues. An application has been made to the National Lotteries Commission.

On behalf of ANFASA, I as treasurer wish to thank the NFF, the Royal Norwegian Embassy and SAMRO for their generosity and their confidence in our association.

ANFASA TREASURER'S REPORT

However, as I also said last year, and as the chairman has said in his report, the collection of membership fees has slumped in 2017-2018. These fees contribute only a small amount to ANFASA's budget, but their significance as an expression of support from the members outweighs their size. Once again I urge the members to renew their subscriptions when they become due.

Monica Seeber ANFASA Treasurer

Lhrech







ANFASA BOARD MEMBERS 2017/8

(From left to right) Samukelisiwe Mfuphi (Anfasa Administrator), Elitha van der Sandt, Prof. Keyan Tomaselli, Monica Seeber (Treasurer) Prof. Sihawukele Ngubane (Chairman), Tsietsi Winston Dennis Mohapi with the Royal Norwegian Embassy Deputy Head of Mission, Mr Paal Bjørnestad (second from the right)

(Inset - Dr. Lee-Ann Tong)

MEMBERSHIP

ANFASA is an authors' advocacy organisation. An important aspect of ANFASA's work is the promotion of authors' rights. These rights are determined by copyright legislation, national policy, publishing policy and educational policy. Participation in authorship-related activities is a prime benefit of being a member. Specifically, ANFASA delivers:

- An annual writing grant scheme
- Advice on copyright law and publishing contracts
- Training workshops on topics such as selfpublishing, copyright and contracts, biography writing, and various aspects of skills development
- Public seminars on topics including the publishing value chain, the status and role of authors in society, writing in the indigenous languages of South Africa, open access, peer review and academic publishing
- Links to collaborating publishers, book distributors and related services, and promotion of members' published works at book launches and book fairs and festivals

- A forum for debate on aspects of writing and of publishing, including national legislation affecting authors
- A voice to influence government policy
- Links to issues of writing and publishing internationally, through the International Authors' Forum.

Who should join?

- Authors working on academic and nonfiction topics including academics from any discipline
- Authors interested in copyright, publishing and research
- Authors who want to help develop a reading culture and a market for books written and published locally
- Anyone interested in the writing and dissemination of knowledge, of information and of the power and value of the written word
- Anyone with an urge to write and who seeks encouragement.

MEMBERSHIP

Strategy 2020:

OBJECTIVE	CORRESPONDING ACTIVITIES
To build a strong organisation that will support and uplift authors; make available creative opportunities; generate income and contribute to individual and community development.	Publicise the organisation throughout the country to attract more members in rural areas; partner with sponsors to raise funds; allocate funds to programmes aimed at empowerment at all levels.
To raise the status of authors in society and ensure that they receive adequate recognition; to advocate for intellectual property rights of authors and the payment of royalties.	Inform authors of their IP rights; maintain good relationships with rightsholder bodies and other sectoral stakeholders; influence legislative development; be constantly informative through the media.
To attract and maintain members by servicing their needs, interests and requirements as far as possible by offering advice and education on writing and publishing; and by providing networking opportunities.	Organise events and offer services that conform to members' expectations; use surveys and personal communication to assess how well members' needs are being met; offer incentives to authors.
To make a contribution to South African culture and heritage with a focus on social and cultural development and the role of culture in nation building, in poverty alleviation and in ending all forms of discrimination.	Sponsor and encourage the writing and publication of new non-fiction works; focus on writing by youth and women; focus on developing a literature in the indigenous languages; play a part in broadening access to new writing;

MEMBERSHIP

Membership

In 2015 ANFASA collected R38 373 in membership fees; in 2016 the figure was R28 585; in 2017 it was R24 628.

The decline in the collection of membership fees is startling and saddening. The number of members continues to grow, albeit slowly, but the payment of fees is an ongoing problem. We are aware that it could be linked to the members' perception of ANFASA's relevance and how well it meets their interests as authors. Therefore, ANFASA needs to know more about its members. One of the tools we use to access this information is the members' survey. It is important that members take the time to participate in the survey and let us know what they value and what they want, to enable us to tailor-make our programmes and services.

In April we announced the increased membership fee – from R150 to R200 per year (this fee was agreed by members at the 2017 AGM). The decision was by no means taken to reduce the decline in fees collected. It was taken in view of the rising costs of practically everything, and ANFASA had not increased its fees for five years. We would like to thank members for the smooth transition, and especially those who paid up without complaint.

Continued growth is of vital importance. To attract more members we need to raise our profile effectively by creating better awareness of our work and our successes. Members themselves are the best publicists for the association, and we urge them to tell friends and colleagues about it.

EXTRACT FROM THE KEYNOTE ADDRESS WRITTEN BY

ANDREW MLANGENI FOR THE ANFASA 2017 AGM

Writers are the conscience of our country

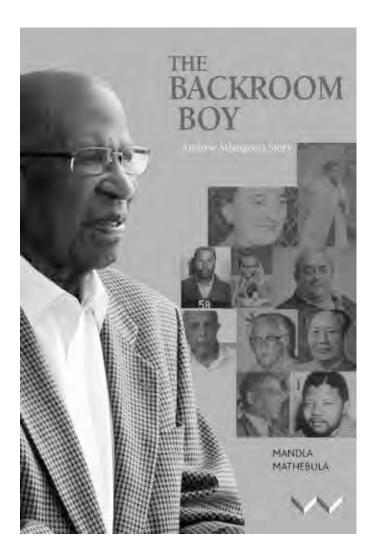
Your Annual General Meeting comes three days before Human Rights Day 21 March, a day on which, in 1960, 69 people were killed in what came to be known as the Sharpeville Massacre. Innocent people were heartlessly killed for refusing to carry documents that not only declared them persons not respected in their own land but also enforced their daily misery from birth to death. The ANFASA AGM also comes 40 days before Freedom Day, when the country marks 23 years of democracy. The common factor between 21 March and 27 April is conscience. Conscience lives in all of us to decide between what is acceptable and what is unacceptable.

Anyone who has a conscience is a potential writer ... it is that inner voice in us all that tells us to be truthful, honorable, principled, ethical and fair; to abide with justice and to rebel against tyranny and inhumanity ... conscience directs us to uphold the universal values that affirm our common humanity. The battle we wage in the fight to humanise society is a victory we seek to install for selfless outcomes. The inauguration of leaders at the point of victory is a ... duty to lead with a conscience and to serve citizens, selflessly.

Without conscience, nothing would have propelled the oppressed to take a stand against the might of a heartless oppressive order to declare first to themselves and then to the world that 'enough is enough' as they did in Sharpeville in 1960. Conscience tells us what is tolerable and what is not tolerable. My comrades and I may not have foreseen that the stand we took against the oppressive regime would land us in the treason trial that saw us sentenced to life imprisonment in 1964, but once on Robben Island we embraced the consequences of conviction without regret because we had the backing of our conscience that ours was a justifiable cause worth fighting. So, having a conscience is not without consequences. While some were assassinated, and others sentenced to death, we were sentenced to life. But because ours was a struggle that the struggling masses could not abandon, the plight of our imprisonment was not forgotten. We were not forgotten.

Outside the country's prisons, the struggle continued. The country and the world did not forget. Neither did we forget behind prison bars. Memory kept us together. Don Mattera asserted that memory is the weapon. Memory kept hope alive. That memory sustained us for more than 25 years in our unshakeable belief that someday we would all be free.

ANDREW MLANGENI FOR THE ANFASA 2017 AGM



The truth is that writers are the conscience of the country ... few may recognise the importance of writers in keeping people's consciences alive, but were writers to allow denial of their roles in society, the line between right and wrong would have been difficult to make as our collective sense of judgement would have been diminished.

While we all have a conscience, and some of us speak and act with the backing of conscience that landed my comrades and me in the Rivonia Treason Trial, not all us have the talent and gift of words to place on record the facts behind the true nature of our collective experiences ... yours is a vocation that none should be allowed to take away ... Writing accords truth permanent record. And for as long as there are people, forces and interests in society that are threatened by the truth, its suppression remains the responsibility of writers, authors and journalists to fight against it and to protect and defend it.



THE ANFASA GRANT SCHEME FOR AUTHORS (AGSA)



1) Richard Conyngham:
"The Striker, the Chief Justice
and the Colonel of the Pickhandle
Brigade" Part I of "All Rise: Lost
Stories of Resistance in South Africa"



5) Lorato Trok:
"Rosina Sedibane-Modiba:
A South African Hero"



2) Ronnie Govender: "Char ous cant fight"



6) Struan Douglas: "The Story of SA Jazz Volume Two"



3) Madeleine Fullard: "Some Trace Remains"



7) Same Mdluli:
"Traversing the Rural:
Revisiting the work of
South African artist
Johannes Mashego Segogela"



4) Jonathan Ancer:"Spy: Uncovering Craig Williamson"



8) Gwinyayi Albert Dzinesa: "Security Trends In Southern Africa: Challenges and Opportunities"

THE ANFASA GRANT SCHEME FOR AUTHORS (AGSA)



9) Thato Rossouw: "Funda Community College: A History"



13) Kimon de Greef: "Confessions of a poacher"



10) Zanele Buthelezi: "Izisekelo zokulungiswa kokubhaliweyo"



14) Bongani Ndodana-Breen: "Mzansi's Other Voices" (provisional title)



11) Hazel Frankel: "Transnational Memory"



15) Raymond Suttner: "Memoirs"



12) Siyasanga M. Tyali: "The making of black radio cultures"

THE ANFASA GRANT SCHEME FOR AUTHORS (AGSA)



ANFASA SEMINAR OPEN ACCESS

Invited speakers were brought together at the Wits Club on 27 October 2017 to discuss open access (OA) and the rights of authors within this sector.

The speakers included Andrew Josephs, digital publisher, at Wits University Press, Prof Philip de Jager, of the University of Cape Town (who researched predatory OA publishing) Hetta Pieterse, commissioning editor, Unisa Press (doing an MA on OA business models for scholarly publishers) and

Sibabalwe Oscar Masinyana, managing editor at the Taylor & Francis Africa office. The event was moderated by Monica Seeber, and chaired by Prof Sihawukele Ngubane.

The event was very well attended and drew delegates including librarians, publishers and academics from a variety of institutions. Many pertinent issues were raised from the

floor and pressing issues were debated and examined in terms of the South African higher education sectors.

The usual emphasis is always on the reader's right to free access rather than the author's right to earn a living from his or her writing, or the publisher's rights to viability. Over the years, ANFASA has:

- Engaged in local, national and international public debates, including in The Conversation and The Star, and in submission to the departments of Trade and Industry and Arts and Culture and to Parliament;
- circulated regular updates on OA debates
 - to the ANFASA membership;
 - annual National Scholarly Editors Forum organised by the Academy of Science for South Africa where OA is a recurring agenda item.

participated in the

OA mostly applies to the academic sector, and most OA advocates are critical of

academic journal publishers and the editors associated with them. Backgrounding the discussion are the following issues:

a misconception that all authors are fully employed or of independent means and that they do not therefore need, merit or



ANFASA SEMINAR OPEN ACCESS

- deserve income;
- a sense that publishers (irrespective of their own costs and the livelihoods of their own employees and investors) should not be charging readers for reading publications that may have arisen from the public purse;
- that the user-pays principle is substituted with author-pays mechanisms which places a huge and ever increasing burden on authors and/or their institutions and disadvantages unfunded, under- and unemployed researchers and authors.

And two questions:

- What are the implications for the authors, their employers and the taxpayer of publishing in this sector?
- Is OA thus a barrier for authors whose research is not supported by grants from which article processing and other charges can be met?

The issue for ANFASA relates to authors' rights no matter the operating business model.



COPYRIGHT

By the beginning of 2017 it looked as if the South African Copyright Act, 98 of 1978 as amended, would finally be amended by the Copyright Amendment Bill, flawed as it was. But, no, the progress of the Bill was a halting affair, and by the end of the year it was somewhere in the care of Parliament, with no reliable schedule forthcoming.

Over the years, ANFASA had made numerous submissions on the Bill to the Department of Trade and Industry, all of which appear to have been ignored. Despite objections from a range of arts and culture activists, the DTI seemed determined to see its Bill through. When the Bill came before the Parliamentary Portfolio Committee on Trade and Industry, arts and culture stakeholders were invited to present their submissions to parliamentary hearings, and ANFASA was one of the organisations that went to Parliament in June.

Below, we present a brief edited extract from the submission we made:

Many stakeholders participating in the hearings and presenting orally criticised the provisions of the Copyright Amendment Bill (CAB). The chairperson called on them to make further

submissions, specifying how they wished those provisions to be re-conceptualised and re-worded. ANFASA'S response to the CAB has been that it is unbalanced. Much has been said about the essential need of copyright legislation to balance the differing and sometimes conflicting interests of copyright owners and copyright consumers with the welfare of society. ANFASA also looked at the genesis of the CAB: the protection and support of creators. Somewhere down the line, the initial impetus swung away from the creator and towards the user. On behalf of authors, ANFASA appeals to Parliament to reinstate the rights of the creator into this Bill.

Much has been said and written about the 'flexibility' of fair use, and that the thrust of technological advance demands law that is open to dealing with innovation. With respect, we disagree. The law must provide *certainty and stability*. In amending the Copyright Act, South Africa should decide on its priorities – access and the public interest on one side and creative and cultural development on the other –

COPYRIGHT

and balance them with firm principles and parameters. 'Access' is open to misinterpretation. Undeniably, there are moves on the part of certain multinational corporations to restrict access to intellectual property. In a developing country where education is the priority, access to information is crucial. But if there is to be any information produced locally, then those who produce it must be properly regarded, respected and recompensed. This is what we as authors mean by balance. It is shockingly unbalanced to demand, as the CAB does in its present form, that for the sake of education scholarly and educational materials should be subject to free and unauthorised access.

We believe that we have already made our case against the introduction of the fair use doctrine, although not in as much detail as we would have wished. We are reluctant to re-open that argument, but feel bound to again draw the Committee's attention to the real beneficiaries of fair use.

An article which appeared in the *New York Times* on 18 April 2016 reported that judgements in the legal saga over the Google books project have been in favour of Google, even when they are manifestly unfair to athors. That is because the fair use provisions of US copyright law are so extensive that their boundaries are blurred.

A piece in *The Conversation* last week promoted fair use. It was written by one of the many academics funded by Google to write articles influencing public opinion and policy makers in favour of legislation expediting the US technology giant's business interests so that the broad exceptions would be inclusive enough to lead to pro-Google decisions when rights' owners chose to take legal action – or else settlements (relatively inexpensive for Google) would circumvent court judgements.

ANFASA acknowledges absolutely the need for copyright legislation in South Africa that will not restrict genuine innovation in the digital domain, but fears

COPYRIGHT

an open-ended right because it will inevitably be taken to extremes by the profit motive. It has been said that 'South Africa could make suitable provision for non-expressive use by simply adding the words "such as" before the list of authorised purposes in its existing fair dealing clause.' This 'simple' suggestion is deceptive. The words 'such as' open up potential uses far and wide. Almost anything might qualify, and after the use has been made only a court can rule whether it is or is not fair. The point is that both fair dealing and fair use are in reality defences against a charge of copyright infringement – that is, a potentially infringing act is committed and then the court has to rule whether the act was or was not an infringing one, depending on the allowable exceptions. With the words 'such as', the exceptions that follow are merely examples, and the court has the latitude to go way beyond the listed exceptions in finding the act noninfringing.

To summarise: fair dealing and fair use are *not* identical doctrines. Fair dealing is mindful of the certain special cases of the Berne Convention whereas fair use is an open-ended exception which permits of a wide range of cases which could be expanded almost *ad infinitum* with the words 'such as' added before the cases are listed.

The stakeholder submissions at the hearings revealed an almost impenetrable wall of ideological difference between creators of content and so-called 'users' who seek the freedom to copy it or (as in the case of Google) to digitise it. Unable to resolve such polarisation, the chairperson of the Portfolio Committee appointed a sub-committee to reexamine the draft Bill and all the submissions and to eventually bring the saga to an end.

That is where we are now, standing on the edge of a cliff. The ANFASA Copyright Committee fervently hope that by next year's Annual Report we will have seen finality brought to this long drawn-out legal struggle.











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