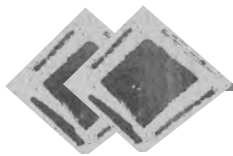


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*Sihawakele Ngubane
(Chairman)*



ANFASA CHAIRMAN'S REPORT

It is my pleasure to welcome ANFASA members and guests to the 2019 Annual General Meeting. ANFASA is in its fifteenth year of existence, and the Activity Report for the year ending 31 March 2019 indicates a higher level of activity than ever before, managed by our efficient national administrator Samukelisiwe Mfuphi and operated by our hardworking board members, to all of whom I offer sincere thanks.

Long-standing members will recall that after the ANFASA director resigned in 2013 to resume his legal career we did not replace him and instead engaged an administrator to run the organisation while the board became a working collective with specific portfolios. This has proved to be a dynamic team. Again, I thank them all.

The Activity Report on Page 10 gives a good indication of ANFASA's achievements in the past year. I should like to highlight the relationships that have made it all possible: with the Norwegian Non-Fiction Writers and Translators Association (NFFO) in Oslo, the Royal Norwegian Embassy in Pretoria, the SAMRO Foundation, and DALRO. I thank them for their generosity in supporting ANFASA. Reviewing what we accomplished in 2018/2019 I feel that we have lived up to their expectations, and sincerely hope that our friendships will continue in the coming years.

This year, our business meeting will be followed by a seminar, and I hope that all present here, even including our guests, will want to stay and to participate, because the purpose of that seminar is an important one. ANFASA regularly, once every three years, takes stock of itself and its achievements. We question our relevance, not only to our members but to our society and to our country. At the seminar everyone will be invited to consider the role of an authors' association and how it can effectively service its members' needs and interests, and at the same time make a significant contribution to cultural development.

This year, ANFASA spent a lot of time and energy in speaking up against certain provisions in the draft Copyright Amendment Bill which are 'unfriendly' to authors (a report about this features on Page 20). Although ANFASA has not succeeded in getting the Bill changed, it has worked hard to inform the public about the true nature of the proposed amendments to the Copyright Act and how they will affect authors. Apart from PEN Afrikaans, no other authors' or literary organisation in the country has spoken up on behalf of authors.

As ANFASA chairman I was personally involved in the lobbying against these potentially harmful provisions by attending consultative meetings and writing articles in the press. I chaired the ANFASA

ANFASA CHAIRMAN'S REPORT



symposium on the likely negative effects on academic authors. That was indeed an eye-opening event. The panellists enlightened many in higher education – including myself – as to how damaging the impact on scholarly writing and publishing could be, and the responses from academics in the audience showed how many in the university sector are very concerned about it.

On a lighter note, I travelled twice within Africa, this year under review, to represent ANFASA. In October 2018 I went to Lilongwe, Malawi, to the Fifth Pan African Writers' Symposium (PAWS). PAWS is a partnership between authors' associations in numerous African countries. I was joined by delegates from Zambia, Zimbabwe, Uganda, Tanzania, Malawi and Kenya. We all presented reports on activities in our countries, and shared experiences and challenges. I was honoured to be elected the chairman of PAWS.

In March 2019, I went to Dar es Salaam, Tanzania, to a meeting organised by Kopinor, the Norwegian Reproduction Rights Organisation (RRO). My presentation focused on ANFASA's key objectives and corresponding activities, and I also delivered a paper contributing to the main theme of the gathering, which was 'The need for alliances of rightsholder associations in building RROs'. In that paper I told our colleagues from other African countries that South African rightsholders were

under severe threat, as the infamous Copyright Amendment Bill would very likely be passed in our Parliament that month. I was able to point to this as an instance in which the authors' and the publishers' associations, ANFASA and PASA, had banded together with the RRO, DALRO, in an alliance to oppose what would affect all of us, and I ended my paper by saying that there is strength in numbers and that creating alliances is of benefit to us all.

Finally, membership. The number of ANFASA members continues to grow, albeit rather slowly. There is, however, a core of long-standing members who come to the AGM every year and who participate in workshops and other events. Thanks to those members. To the others I extend an invitation to be more active in the affairs of the association and to make more use of our webpage. ANFASA's effectiveness as a developmental organisation depends as much on its membership as it does on its leadership, and I look forward to the strategic ideas that will flow from the members' seminar.

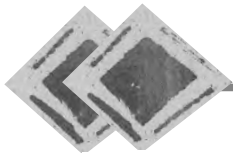
Prof Sihawukele Ngubane
ANFASA Chairman



The ANFASA chairman, Prof Sihawukele Ngubane, addresses the symposium 'Cui bono? Who benefits? The impact of the Copyright Amendment Bill on scholarly writing and knowledge production in South Africa'. On the left, Andrew Joseph of Wits University Press. On the right, Tusi Fokane of ReCreate.



*Monica Seeber
(Treasurer)*



ANFASA TREASURER'S REPORT

TREASURER'S REPORT FINANCIAL YEAR 1 APRIL 2018 TO 31 MARCH 2019

Dear ANFASA Board of Management and Members

I present you with ANFASA's annual financial statements for the year ending 31 March 2018. You will recall that ANFASA has altered our financial year to make accounting easier, because operational funds from our donors in Oslo arrive in April. The Annual General Meeting which used to take place in March is now at the end of June.

I invite you to examine the Financial Statements for the year 1 April 2018 to 31 March 2019, and to question anything that you might find obscure or ambiguous.

The Financial Statements indicate that ANFASA is in good financial health, but that is only because we spend with extreme caution and cut back costs to the very core. As far as operational funds go, we are in the middle of a funding cycle that ends in 2020 but which will, we anticipate, be extended. One cycle of project funding, from the Norwegian Embassy in Pretoria, has come to an end this year, and we are applying for a second. Other applications for project funding are going to the National Arts Council and the National Lotteries Commission.

The plusses and minuses of a non-profit organisation like ANFASA arise from its dependence on donor

funding and therefore its vulnerability to fluctuations in funds available, as is clearly seen from the Financial Statements. We have to ask ourselves what the chances are of becoming self-sustainable. In other words, how can we generate income? The obvious answer is through membership fees.

According to the latest figures from the Council of Higher Education, there are nearly 50,000 academic staff members at South African higher education institutions. Let's assume that half of them write journal articles, and a few write books as well. Then there could be around 20,000 people in South Africa who have written a general non-fiction book or magazine/newspaper article. That's 70,000 altogether. Allowing for the many who don't really think of themselves as writers as such, or who are just not interested in supporting an authors' association, let's assume that among the 70,000 there could be 7,000, one-tenth, potential ANFASA members. If they all paid the modest R200 annual membership fee, ANFASA would raise R1.4 million on its own. That, I think you will agree, is pretty much self-sustaining.

The hard reality, however, is that membership fees are an area of serious concern. In 2016 ANFASA collected R28,585 in fees; in 2017-2018 the figure was R24,628; in 2018-2019 it was R20,890. Membership numbers have not declined, and yet the sum collected has gone down over these three years.

ANFASA TREASURER'S REPORT



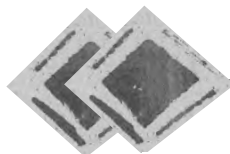
The donors in Norway are baffled by this. Their original business plan for ANFASA included the idea that as the years passed their monetary contribution would be able to go down as the pendulum swung and locally sourced funds from membership fees went up. The former has been happening over the years, but the latter has not. ANFASA is coping pretty well with the drop in funding from Oslo by cutting operational costs, but there will come a time when the cuts start to hurt – unless the members step up and pay their fees. In the year just ended, only one quarter of the members paid the full fee. It would be a great pity, and would reflect badly on South African authors, if the failure to collect membership fees were to lead to ANFASA's decline or even demise.

A handwritten signature in black ink, appearing to read 'M. Seeber', written over a light grey rectangular background.

Monica Seeber
ANFASA Treasurer



Monica Seeber -
Presenting on 'Judging a book by its cover'
at the 2018 Self Publishing Workshop



ANFASA BOARD MEMBERS 2018/9

Professor Sihawukele Ngubane (Chairman)



is Professor of IsiZulu and Head of African Languages, Linguistics and Development Modules, School of Arts, University of KwaZulu-Natal. He holds a PhD from the University of Natal in Onomastics. He is the author of fiction and non-fiction books. He also chairs the uSiba Writers Guild and the DALRO Board of Directors

Monica Seeber (Treasurer)



is an author, editor and publishing consultant. Her area of expertise is copyright, and she has consulted internationally to IFRRO, WIPO and UNESCO in that field, and locally to PASA and DALRO. Monica is the co-author and co-compiler of *The Politics of Publishing in South Africa* (2001) and has also written numerous articles on copyright and publishing.

Elitha van der Sandt



is the Chief Executive Officer of the South African Book Development Council (SABDC). She spearheads national growth strategies for the book publishing sector. Eitha holds a BCom degree from the University of the Western Cape. She has been involved in lobbying the government to invest in the creation of a diverse book sector serving all South Africans.

Tsietsi Winston Dennis Mohapi

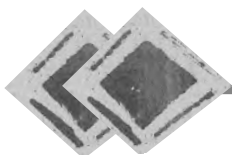


is the co-founder and chairman of MoabaSesotho, the Sesotho Writers' Association. He is a prolific Sesotho author and has received two awards for drama and novels out of his more than twenty books. He is a long-serving ANFASA board member.

Professor Keyan Tomaselli



Professor Keyan Tomaselli is Distinguished Professor at the University of Johannesburg, editor of *Critical Arts: South-North Cultural and Media Studies* and founder and co-editor of the *Journal of African Cinemas*. He is also Professor Emeritus, at the University of KwaZulu-Natal, where he was for 29 years the director of the Centre for Communication, Media and Society.



ACTIVITY REPORT

Reviewing the year's activities in order to compile this report, ANFASA began to think that although the year had been very busy up in our Braamfontein office perhaps the members were not aware of just how much ANFASA has been doing. So this year's AGM is all about the members. It is about setting up stronger lines of communication between leadership and membership, and partnering with members – as well as with other organisations having related objectives – in carrying out relevant programmes.

Focusing on membership is a notion discussed by the ANFASA board and administrator after the 2018 AGM, where there was a lively discussion among members present that led to several ideas for new initiatives and fresh outlooks:

- One suggestion was that at the next AGM members should bring their books to create a space for a 'mini trade fair' where members could exchange, sell and showcase their books.
- Another idea was to advertise members' projects on social media.
- A third proposal was that ANFASA should canvass for new members in local communities around the country.

ANFASA considered these suggestions and has started to develop them, and others. Work has commenced on a catalogue of members' books. It is going to be developed as an effective marketing tool

on the ANFASA website, displaying book covers along with information about the content of the book, and it will include some book reviews. The catalogue will also introduce the authors of the books. This is a big project, but a start has been made and members will very soon be asked to send in all these details so that they can be included in the catalogue.

At the time of writing ANFASA is hoping that members will respond to the suggestion that they come to the AGM with samples of their books to display. If the response is positive we can build on it and use the annual get-together – and even ANFASA workshops and seminars – as a marketplace for members' publications.

ANFASA took Rev Sonti up on his proposal for making contact with creatives in rural areas by making a visit to the Zakes Mda Book Week in Sterkspruit, Eastern Cape. On Page 18 you will find a report of this trip. We were enthusiastically received at the Sterkspruit Arts Centre, and aim to go back in late September 2019 to run a workshop and possibly even start to develop a small publishing programme with local writers. This could be the forerunner of other writing and publishing initiatives in rural centres, and ANFASA could look for partnerships with provincial departments of arts and culture. It is a plan for the future, and one with a lot of potential.

But, back to the past, and the ANFASA activities that took place in the year from 1 April 2018 to 31 March 2019.

ACTIVITY REPORT



COPYRIGHT

The controversial Copyright Amendment Bill (CAB) continued its passage through Parliament, and ANFASA continued to monitor its progress and to do what it could to influence the lawmakers as well as public opinion with well-considered articles and press statements. A fuller report on the CAB can be found on Page 20, in the Copyright Review.

After the CAB was approved by the Select Committee of the National Council of Provinces, ANFASA organised a symposium, 'Cui bono? Who benefits? The impact of the Copyright Amendment Bill on scholarly writing and knowledge production in South Africa'. This took place on 19 February 2019. A substantial number of members are academics, and ANFASA feels strongly the responsibility of informing them if and how they will be affected once the provisions of the Bill have become law. The panellists invited to present and discuss their views included those who make the case that the new legal regime will stimulate knowledge production, and others who warn of consequences that will disincentivise South African authors. The symposium attracted such a large audience (over 80 participants) that the hall was packed out, and only a request to wind up because the hall was needed for another event brought the intense discussions to an end.

PUBLISHING CONTRACTS

In June 2018, the ANFASA treasurer, who was visiting

London, called in at the offices of the International Authors Forum (of which ANFASA was one of the first members) for a useful meeting that touched on strategic intellectual property issues including the ANFASA-PASA Agreement on Contract Terms (APACT). ANFASA is ahead of the pack with this, the first agreement of its kind to be developed by an authors' association. In 2019 APACT is due for review and updating by ANFASA and PASA. The updated version will then be workshopped with members.

APACT is an agreement between the authors' and the publishers' associations that publishing contracts should be equally fair to both parties and should provide for royalties to be paid, among other things. ANFASA has summarised the terms of the agreement into an author-friendly booklet to guide authors, especially first-time authors, in their contractual relationship with publishers. The aim for the future is to make this booklet available in at least two of the official South African languages other than English. Throughout the year the ANFASA office was available to answer questions from members about their publishing contracts. Obviously, this is an important service for members, who sometimes don't fully understand the terms and conditions of the contract they are about to sign (or have already signed), and it is one of ANFASA's most valued functions.

ANFASA GRANT SCHEME FOR AUTHORS (AGSA)

AGSA is ANFASA's flagship activity, and keeps the office busy in the last quarter of every calendar year.

ACTIVITY REPORT



The results of the scheme are tangible - the publication of the books for which the winners have received a writing grant. The scheme is a demonstrable contribution to South African writing and publishing. AGSA is funded by the Norwegian Ministry of Foreign Affairs through its Embassy in Pretoria, with a contribution from the SAMRO Foundation for two grants leading to books about music.

Applications for 2018 awards opened in June. At the closing date of 30 September, 189 applications had been received. Selection took place in October and November, and the grant-winners were announced in December.

Every year, the Royal Norwegian Embassy in Pretoria gives an evening reception for the previous year's grant-winners. This year's party, in March, was as usual an elegant affair at the Embassy residence in Waterkloof Ridge, Pretoria, where the grant winners each said a few words about the book they are in the process of writing. The diversity of topics this year was quite amazing. In 2018, fifteen authors received grants.

What makes the AGSA scheme stand out from other awards is that these grants are to assist in the writing process, whereas other literary awards take place after publication. ANFASA has started to compile a comprehensive bibliography listing every book published with a writing grant for the author – from the scheme's beginning in 2008 until the present.

WORKSHOPS

Three workshops were held in the second half of 2018, and there has been one, so far, in 2019 (in addition to the symposium mentioned above).

- 'Self-Publishing', with guest speakers from the industry, was very successful. This topic is always in demand.
- The second workshop, 'How to turn a PhD thesis into a book' was facilitated by Roshan Cader and Andrew Joseph from Wits University Press, and was also extremely well received.
- A workshop on publishing contracts took place in October, facilitated by Monica Seeber from ANFASA and Nicolaas Faasen from PASA. The workshop was well attended by both publishers and ANFASA members, and the discussions among participants were a real confirmation of how important a topic this is.
- On 28 March ANFASA once again ran its most popular workshop, 'Self-Publishing'. This time it was just as successful, attracting 40 participants.

ACADEMIC GROUP

The Academic Authors Interest Group operates informally under the auspices of a board member, Professor Keyan Tomaselli. Through its activities ANFASA has already made an impact, with informal

ACTIVITY REPORT



And there are more plans, still under wraps until better developed.

This year's AGM will feature a seminar at which the members themselves will have a chance to make suggestions for ANFASA projects and activities, and for the role that an authors' association such as ANFASA can play in the personal development of authors and in the cultural development of the country.

So it would be a mistake to rate ANFASA's effectiveness as an authors' association merely by the number of public events it holds. Much, if not most, of the work goes on behind the scenes: influencing legislative development; strengthening the book value chain through membership of the SABDC; forging international links through membership of the IAF; promoting authors and authorship at every opportunity; researching and linking with other creative sectors and activities, locally and regionally; and advising members individually.



Dr. Sonia Killik Presenting on Online Publishing and Marketing on a budget at the 2018 Self Publishing Workshop



Percy Mabandu: Presenting on "My successes and failures as a self published author" 2018 Self Publishing Workshop

ACTIVITY REPORT

workshops held at universities and the comments the Group made, by invitation, on ASSAf (Academy of Science for SA) evaluative reports on academic journals and their standards – in this a contribution was made to national publishing policy relating to academic journals, books and conference proceedings. Activities have included journal evaluations conducted every five years and a 2018 policy report on Open Access (done in a member's individual capacity, working with others linked to the Group) which is especially crucial in light of the Department of Higher Education and Training insistence for Open Access, particularly in respect of the state-managed Scientific Electronic Library Online (SciELO).



Mrs Kholeka Sigenu 2018 AGM

SOUTH AFRICAN BOOK FAIR

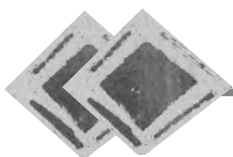
ANFASA is a member of the SA Book Development Council (SABDC), and the ANFASA chairman, Professor Sihawukele Ngubane, is on the SABDC's

Book Fair advisory panel. ANFASA exhibited at the SA Book Fair in September 2018, and also encouraged members to visit the Book Fair by distributing free passes. There was considerable interest from authors in the ANFASA exhibition stand. We wish that all those who indicated an interest in joining had followed through. ANFASA will exhibit again this year and members are urged to visit the Book Fair, which will be held at the Old Fort on Constitution Hill. The programme of events will be posted to the ANFASA website.

ANFASA AROUND THE COUNTRY

The majority of members are based in the three biggest cities: Johannesburg, Cape Town and Durban, in that order. Nevertheless, two years ago ANFASA started on a 'road show', making contact with academic and non-fiction authors in Limpopo and Free State provinces. We have established a relationship in the Eastern Cape, with the Sterkspruit project also mentioned in a separate report. Plans to recruit members in KwaZulu-Natal, starting with workshops at the universities in February-March 2019, were put on hold because of student unrest, and donor funds allocated to these activities were unspent. Next in our sights will be the two new universities in Northern Cape and Mpumalanga.

This review of 2018-2019 activities has already included some mention of plans for the year ahead. Other plans include a series of 'how-to' booklets on topics such as editing in African languages, marketing your self-published books, and making a book proposal to a publisher.



ACADEMIC WORKING GROUP

ANFASA has had a very busy period stemming from mid-2018 with regard to the Copyright Amendment Bill (CAB), which largely affects its academic membership. It will be remembered perhaps that ANFASA was launched in 2004 at the University of Natal's International Seminar on Media, Culture and Communication. Presentations from this event were edited into a special issue of *Critical Arts* (20(1) 2006), entitled, 'Intellectual Property Rights and the Political Economy of Culture'. Its editors were Helge Rønning, Pradip Thomas, Keyan Tomaselli and Ruth Teer-Tomaselli.

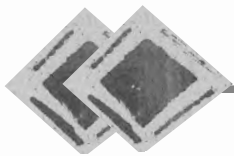
Many of the issues that arose with the Bill were already addressed in this *Critical Arts* volume. Like ANFASA's submissions along with the Copyright Coalition of nine national organisations, of which ANFASA is part, these were totally ignored by the Department of Trade and Industry, in the Parliamentary Portfolio Committee and by Select Committee of the National Council of Provinces. Nor were they, it seems, of interest to the Department of Arts and Culture.

As the coordinator of the ANFASA Academic Working Group, I (with the very intensive help of Monica Seeber of the Copyright Group and of lawyers representing the Coalition), tried to engage the tertiary sector on the serious implications of the Bill for universities. These relate to plagiarism, reproduction without permission, and very wide ranging exceptions to copyright in contravention of the Berne Convention and TRIPS Agreement, to both of which South Africa is a signatory.

Apart from a number of articles on the ANFASA website and in the print media, others appeared in various electronic magazines, and in *The Conversation*. These were syndicated more widely in both print and electronic magazines, as well as on radio, and some additional interventions appeared in academic and opinion journals, like the *South African Journal of Science*.

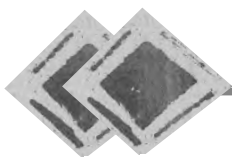
A crucial intervention was the February symposium, 'Cui bono? Who benefits? The impact of the Copyright Amendment Bill on scholarly writing and knowledge production in South Africa', held at the University of the Witwatersrand that attracted 80 senior delegates from across the country. The extensive presentations and discussion were transcribed and posted on the ANFASA website. This detailed set of interventions by informed delegates (lawyers, scientists, authors, editors, publishers) has become the key public statement on this flawed Bill. rising out of this work will be further articles and chapters to appear in academic publications. Those pre-prints already circulated would appear to have shaped the academic discourse to some extent, and this critique of the Bill will continue even if it is signed into law. If nothing else, ANFASA's leadership in publicly questioning aspects of the Bill has elevated the association into national prominence in the academic sector.

Keyan Tomaselli
ANFASA Academic Working Group



AGSA GRANT SCHEME WINNERS 2018

The Royal Norwegian Ambassador Astrid Emilie Helle (on the left)
with the AGSA Grant Certificates to the winners of 2018



ANFASA'S GRANT SCHEME FOR AUTHORS (AGSA)



Lobiyna Mitha:
Bhai Ma's Hearth Soul And Food



Bongani Nyoka:
Archie Mafeje: Social and Political Thought



Pulane Mpondo:
All I Want to do is Run



Don Makatile:
The Matron Of Brandfort



Mpho Matsitle:
MZAMBIYA: Kwaito's First Born



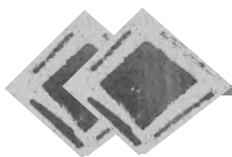
Sizwe Mpfu-Walsh:
His first book was:
*Democracy and Delusion:
10 Myths in South African Politics*



Ukhona Mlandu:
Makwande. Republic: a multi-disciplinary, re-imagination of the communal archive of Goshen village



Beth Vale:
*Chronic Countryside:
Life in the face of colliding epidemics*



ANFASA'S GRANT SCHEME FOR AUTHORS (AGSA)



Dimakatso Sedite:
*Florence Ribeiro – the holder
of the knife's sharpest end*



Sarah Haysom:
*Heroin and Hope along the Swahili Littoral:
How a transit drug route doped four
democracies*



Adrian Giles:
*Explore your country.
An illustrated map and
guide book to South Africa*



Jessica Ruthven:
*Liberating Imagination: Performance,
Health, and Recognising Diversity in
South Africa*



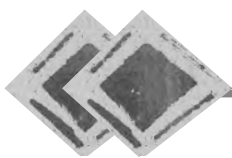
Sam Mathe:
*From Kippie to Kippies:
Biographies of South African
Jazz Artists*



Nelisa Ngqulana:
Beyond the brands



Zainul Aberdeen Dawood:
*Phoenix Buses:
The end of the line*



ZAKES MDA BOOK FAIR AT STERKSPRUIT

In November 2018 ANFASA was invited to the Zakes Mda Book Fair. The invitation presented an opportunity to introduce ANFASA to young and upcoming authors in the rural parts of the country. This opportunity came soon after ANFASA had taken a decision to travel throughout the country to meet and raise awareness among authors, with particular emphasis on youth and women – and, in the process, encourage reading and writing in indigenous African languages.

The ANFASA collective administration agreed that this visit would be a step towards establishing a model of how to create writers' groups all over the country.

The programme director, Rev Sonti, a long-time member of ANFASA, introduced us to the gathering. He was delighted by our presence. The Book Fair was attended mostly by young people. They, and the few adults in the audience, were impressed by what ANFASA stands for.

Rev Sonti took the ANFASA representatives around the arts and culture precinct where we saw sewing machines being used for a project to make uniforms. There was quite a wide variety of arts projects going on in the newly-built thatch-roofed offices.

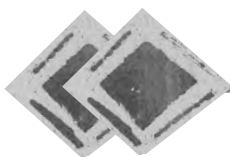
The three ANFASA delegates were afforded an opportunity to make presentations on the aims and objectives that drive the organisation. Winston Mohapi emphasised the basic aim of ANFASA to encourage reading, research and writing by capable

authors and researchers. Monica Seeber described how the organisation came to be a sustainable body by ensuring the realisation of its vision. Samu Mfuphi explained vividly what the benefits of being an ANFASA member entail, and the possibility of being offered a writing grant.

The meeting ended with the programme director emphasising the importance of the Zakes Mda Book Fair to partner with ANFASA on book development. The ANFASA representatives announced that they hoped to return next year and run a workshop on writing and publishing.



Zongezile Matshoba of NELM and Neo Mda, son of Zakes, talking at the Zakes Mda Book Fair.



COPYRIGHT REVIEW 2018/2019

Last year's Copyright Review in the Annual Report ended with these words:

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

Sadly, we haven't seen anything of the sort. Finality eludes us. The saga has been so long that even the most interested may have lost track by now, so this year's Copyright Review is an attempt to put it in context. The drafting of the CAB was a site of controversy from the start. This was largely because on the one hand the ideological slant of the Bill tries to conform to a half-baked Department of Trade and Industry (DTI) intellectual property policy dating from 2013 and on the other hand it makes a hopeless attempt at a one-size-fits-all solution to widely differing sectoral needs and interests in the sphere of copyright.

Then, to the special detriment of academic and non-fiction authors, a line of conviction took hold that as South Africa was a 'developing' country educational institutions and their students, needed 'access' (read: 'free access') to the knowledge of the global North – ignoring the growing body of local knowledge production that would be hobbled.

And then at least one of the tech giants of Silicon

Valley injected its own interests into the toxic brew by adding South Africa to the countries where it was influencing legislative development to its own benefit.

The Bill drafted by the DTI was presented to Parliament in such poor shape that Parliament took it over, and it was subjected to revision by a parliamentary group with barely a basic knowledge of copyright and none of writing and book publishing, and which was biased – possibly for political reasons – towards the advice of the free access lobby. Finally, it made its way to the National Assembly where the debate again played out along political lines; and last of all to the National Council of Provinces where it was hailed, *inter alia*, as beneficial to the authors who had been 'dying in poverty' (whereas in reality the Bill contains no benefits whatsoever for authors of books and instead erodes their rights and their entitlement to deriving income from their creativity).

Having been passed by both houses of Parliament, the CAB now awaits the signature of the president.

ANFASA kept up with it all: participated vocally in consultation meetings and in Parliamentary hearings; wrote countless letters, articles, commentaries and press statements showing how badly authors would be affected. In February 2019, ANFASA organised a symposium entitled 'Cui bono? Who benefits?', inviting authors, publishers, academics and lawyers to examine the potential

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impact of the CAB on scholarly writing and knowledge production in South Africa. The hall was crowded out, and passions ran high against the intended legislation and the motives of the DTI in pushing it forward without due consideration of its effects on all stakeholders.

ANFASA has recognised from the start that although authors and publishers have separate objectives they cannot exist without each other. The decline of the local publishing industry will mean fewer publishing opportunities for authors. Some may try to publish abroad. Others will increasingly self-publish, but that will not save South African reading, writing and publishing in the long-run if the CAB destroys publishers' profits and authors' incomes.

So much hot air was generated in the hostile public debating that it was sometimes tempting to opt out and let the fighting take its course without ANFASA involvement. It really became an 'us' and 'them' sport. On 22 April this year, the ANFASA chairman and treasurer went to a meeting in Pretoria where, as *Business Day* reported, 'Trade & industry minister Rob Davies has moved to allay fears about the controversial Copyright Amendment Bill, which industry players say will amount to the expropriation of local content without compensation if signed into law.' This meeting began with some misguided advice to divide the hall into two sides – for and against the CAB. Nothing could have been better designed to heat the tension and ignite flares of anger. This farcical meeting prompted ANFASA to write an article trying to bring it back to reality.

It is erroneous to frame the debate over the Copyright Amendment Bill as between two sides, 'for' and 'against'. The CAB contains provisions that apply across the many sectors of the creative industries, with their diverse needs, and ANFASA is not 'against' the whole CAB. It is 'against' the parts of it that threaten the livelihood of authors and the development of cultural heritage based on literary works.

Whereas the (by now, raging) debate was about the introduction of 'fair use', ANFASA has never seen the doctrine of fair use as the biggest stumbling block. Rather, we have recognised Section 12D on reproduction for educational and academic activities as the most dangerous provision. We don't think US-style fair use is better for South Africa than the current doctrine of fair dealing in our law but we can live with (most of) it if we have to. In a sense, the battle over fair use has been something of a red herring, because fair use is so manifestly misunderstood by the public and even by the lawmakers.

So, what is 'fair use'? It is *not* 'use that is fair'. It is a doctrine of law emanating in the US whereby potentially excessive use of copyright work may be judged lawful if it complies with certain mitigating factors. South African law has a similar doctrine called 'fair dealing'. To put it very simply, 'fair use' has more exceptions than 'fair dealing' and is more nebulous, so that more copying will pass the tests a court of law would apply.

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South Africa is not the only country in which copyright 'wars' are raging. In the European Union, a copyright directive (described as a 'copyright reform package' for the digital age) sparked an intensive lobbying campaign spearheaded by the tech giants of Silicon Valley; one of its provisions holds tech platforms responsible for ensuring that the content from which they profit is not infringing the rights of the content's creators and distributors (they failed to have this provision excluded from the directive).

The stakes are immeasurably high for these mega-rich multinational corporations, and they argue fiercely in support of legislation to *weaken* laws upholding the intellectual property rights of authors (often reduced by them to 'content providers'). The tech companies intervene wherever in the world they find an opportunity to influence copyright law. They sponsor US academics to write articles praising fair use, and to act as advisers to lawmakers. They set up 'astroturf' (fake grassroots) NGOs preaching the gospel that fair use will address the new challenges of developing technology and facilitate a revolution in content dissemination. The astroturf NGOs work to convince legislatures (and the public) that all forms of creative endeavour depend on access to a public domain, unrestricted by copyright, of previously originated works, which may freely be reproduced, digitised or otherwise transformed into new innovative works.

The minister of trade and industry has said the bill 'was not intended to cause harm'. In the *Business Day* report:

On concerns of the fair use clause in the bill, Davies said there are safeguards meant to ensure that the intended use is in fact fair. He said there are also 'technological protection measures' to prevent unauthorised access or use of copyright works. Content that is protected by these measures includes digital music, movies, games and software, said Davies, adding that the Copyright Tribunal will also disputes that may arise.

How telling it is that although the minister listed digital music, movies, games and software, he didn't mention measures to prevent use of the copyright works that we, the authors, are concerned about: books. That is because there are no such measures.

So, we await the conclusion of this long-running saga. Will the president sign the Bill into law, or will he refer it back to Parliament for re-consideration – as many creative workers (by no means only authors and publishers) have urged him to do? Perhaps by next year we will know our fate.

Monica Seeber
ANFASA Copyright Group



2018 Annual General Meeting