



CAMPAIGN FOR FREE EXPRESSION



Annual report

FEBRUARY 2023

'The Campaign for Free Expression (CFE) is deeply concerned about the rising rate of violent attacks against journalists ... These attacks – often by political figures and state officials – have become a form of censorship which suppresses and silences journalists and often goes unpunished.'
CFE Media Statement, 13 March 2023

Campaign for Free Expression Annual Report February 2023



Published by:

Campaign for Free Expression,
Room 201, 139 Greenway, Greenside 2034

Twitter: _FreeExpression

Facebook: campaignforfreeexpressionza

Instagram: Campaign for Free Expression

LinkedIn: Campaign for Free Expression

TikTok: campaign4freeexpression_

Printers:

Millionaire Printers, 87 Kemston Ave, Benoni

Cover photograph:

CFE Operations Manager Sesi Makhanthisa and Executive Director Anton Harber

ISBN numbers:

978-1-7764632-2-0 Report:

Annual Report 2023, Campaign for Free Expression
Print

978-1-7764632-3-7 Report:

Annual Report 2023, Campaign for Free Expression
Ebook

'Since Eswatini's political unrest of 2021, incidents of human rights violations in the country have been on the rise. And it is the right to freedom of expression, assembly and association that has suffered the most.'
CFE Media Statement, 23 August 2022

'Many public health workers ... have learnt to never speak publicly for fear of losing their jobs, intimidation, harassment and potentially getting killed. Yet, the public health sector continues on a downhill trend. Their silence comes at a high price.'

CFE Statement, 27 March 2023



Veteran journalist Thami Mazwai, centre, at the 19 October Media Freedom Day commemoration, 2022

Introduction

The Campaign for Free Expression was launched in mid-2020 with the aim of defending and enabling free expression for all across Southern Africa. It was set up as an independent non-profit company with core set-up funding from the Millennium Trust. It is strictly non-partisan.

By February 2023, the organisation had employed five full-time people (executive director, operations manager, two project managers and an intern/researcher) and two part-time staff (finance manager and fund raising officer).

Strategy

The organisation has identified four strategic pillars for its activities:

Monitoring and Response

We monitor media and are building a network of contacts to identify Freedom of Expression (FoE) issues, developments and threats, assessing in each case how to respond most usefully. This can include issuing an immediate statement, giving interviews, writing opinion pieces or explainers, convening discussions about the issue, activating allies to work with us on the issue, and sometimes planning a longer-term campaign.

Research and Publishing

For complex issues, we commission and publish research which is intended to highlight important issues and provide a factual base for our response and the responses of others to these issues. These may be around specific events, or they may be longer-term overviews of the state of FoE. On specific issues, we start with a primer that sets out the issue and the basic facts and context. Where necessary, we then commission more long-term research. We also plan to produce an annual State of FoE report that will start this coming year in South Africa and expand to other countries in the region over the coming years.

'The assassination of Thulani Maseko, a prominent human rights lawyer and fierce advocate for freedom of expression in eSwatini at his home on the evening of Saturday January 21, 2023 has attracted a chorus of condemnation and grief both internally and abroad about the political state of affairs in this kingdom.'

CFE Statement, 23 January 2023



Delegates to the 2nd Eswatini Freedom of Expression Summit in Manzini, July 2023.

Monitoring and response

Advocacy and Lobbying

Based on our research and policy primers, we do advocacy work to promote awareness and understanding of the issue in order to build capacity in dealing with the issue in allied organisations. We will also undertake lobbying, in Parliament or the appropriate forum, to have problematic laws and policies changed. We closely monitor legislative developments in order to lobby around policies and laws that may affect FoE.

Legal Support and Action

We closely monitor legislative and policy developments and work to influence them when they impact on FoE. We undertake legal interventions to defend FoE. This may take the form of appearing as amicus curiae in precedent-setting cases or of providing support for those whose FoE is under attack. Where appropriate and necessary, we will also consider strategic litigation. We are involved in the drafting or amendment of existing Acts and Bills.

In South Africa, there have been a few major and many minor attacks on free expression which together point to a deteriorating situation in which journalists, in particular, are under attack in different and sometimes unexpected ways. We have tried to react to these in different ways, sometimes just with a statement, other times with a more concerted media reaction, always offering our support to the individuals involved, and where appropriate putting ourselves forward as amicus curiae.

In the Karyn Maughan case, when the journalist was accused of leaking a doctor's note on the health of former president Jacob Zuma which was among documents filed in court in his corruption case, we have spoken out in articles, statements and interviews to try and reinforce the notion that what she was doing was standard journalism practice. Perhaps the most unexpected line of questioning we got on this was whether it did not compromise journalistic neutrality to speak out in her defence. We have been accepted as amicus curiae for this case.

In the amaBhungane-Moti case, in which the Moti group and its head, businessman Zunaid Moti, applied in court for a gag order to keep the investigative group from using leaked documents, we again spoke out and are in discussion about teaming up with Media Monitoring Africa (MMA) and the South African National Editors' Forum (Sanef) to join as amicus curiae.

We reacted to various attacks on civil society. These include Home Affairs Minister Aaron Motsoaledi's attack on the Helen Suzman Foundation and City of Johannesburg's Member of the Mayoral Committee (MMC), Nkululeko Mbundu's incitement of violence against the Socio-Economic Rights Institute of South Africa (SERI). The attacks tend to be an attempt to deter civil society from holding government accountable. We joined 21 other like-minded organisations in signing an open letter to the South African President to raise our concern about this issue and call on him to hold officials who threaten organisations to account.

Across Southern Africa, we were called upon repeatedly to express concern about the rising rate of violent attacks against critical journalists, notably in Eswatini. We condemned assassination threats and the intimidation of journalists in Eswatini, as well as the arbitrary official labelling of journalist Zweli Martin Dlamini and his South African-based online publication, Swaziland News, as "terrorists".

Particularly shocking was the assassination of Eswatini human rights lawyer, Thulani Maseko, who had been active on free media issues in that country. We are part of an initiative to create a local human rights award in his name.

'Convicted over a peaceful placard protest, Zimbabwe's renowned filmmaker and activist Tsitsi Dangarembga has been treated like a common criminal for nothing other than exercising her right to freedom of expression.'

CFE Statement, 1 October 2022

In Zimbabwe, we spoke against the conviction of filmmaker Tsitsi Dangarembga and her ally Jane Barnes after they were charged with inciting public violence and violating Covid-19 regulations following a picket protest. After a trial over two years, Dangarembga and Barnes were handed a suspended six-month jail sentence and a fine of around US\$120. Their conviction was overturned on appeal.

We have also spoken in defence of persecuted Zimbabwean journalist Hopewell Chinono, and are assisting in his defence.

In Lesotho, we reacted strongly to the killing of well-known journalist Ralikanelo Leqhashasha Joki.

We also issued an analysis of this year's RSF Media Freed Global Rankings, highlighting that South African had moved up 10 places to 25, though this was due more to the deteriorating situation in other countries than changes here.

We are gradually building up our network across the subcontinent to react timeously and fully. In Malawi alone, we are told of 15 cases of individuals arrested for "offensive language" on the internet, all of whom appear to be have been critics of the government – and whose plight has gone largely unnoticed outside of the country.

'There should be no doubt that former President Jacob Zuma's private prosecution of journalist Karyn Maughan is an attempt to stop her doing her work as a reporter and to curb the freedom of the media to report on his many cases.'

CFE Statement, 6 September 2022



CFE intern Siphwe Ncele at a consultative meeting with representatives of community-based organisations in Ekhululeni, December 2022.

Lobbying

We made new submissions on the Prevention of Hate Crime and Hate Speech Bill, after an amended version was sent to the Council of Provinces. It appears that the lobbying from a wide range of organisations and interest groups has had an impact, as the new draft is much improved. We argue in this submission that the Bill is unnecessary, that criminalisation should only be introduced in the most serious cases and there should be a specific exemption for satire and parody.

With four other partners (Sanef, MMA, Amnesty International and The Committee to Protect Journalists), we made submissions to the United Nations Human Rights Commission's Universal Periodic Review of South Africa in 2022. We followed up with a lobbying campaign and verbal submissions.

We are working on taking our findings in our health sector research (below) to the appropriate parliamentary committees to push for changes to the public service rules and regulations that restrict health workers' capacity to speak out.

Legal Action

I have described above our intervention in the case of Karyn Maughan and possible intervention in the case against amaBhungane.

We have also assisted with the defence of Riot Hlatshwayo, a freelance journalist who is facing legal action for alleged criminal defamation in Limpopo.

We have been admitted as amicus in the Smuts-Botha case, coming before the Constitutional Court, which raises important free speech and privacy issues. Botha, a farmer, sued Smuts, an animal rights activist, for publishing photos of his treatment of baboons and his personal plot, including details, on social media. We are arguing for his right to publish the photos but not all of the personal details which were not in the public arena.

We are also applying to be amicus in the AmaBhungane-Moti Group case and are looking in to a challenge to the Presidency's decision to keep secret the Lady R investigation.

With a view to a push to introduce anti-SLAPP legislation, **we are researching the prevalence of SLAPP cases** in Southern Africa and, in partnership with the Thomson Reuters Foundation and Dario Milo of Webber Wentzel, model anti-SLAPP legislation in other countries. SLAPP, or Strategic Lawsuits Against Public Participation, are brought to silence critics.



CFE Operations Manager Sesi Makhenthisa and Mmamosa Modisadife at launch of research report, "The State of Free Expression in the Cultural Sector", Johannesburg, April 2023.

Media Defence

We are also working with Media Defence in the convening of a meeting of Women Media Litigators in Johannesburg in August 2023.

We continue to work with Media Defence of London to organise financial support for the legal defence of journalists. We have provided support in two cases: SA Grain Farmers' Association vs Food for Mzansi, a defamation case against a specialist agricultural site; and Hopewell Chinono, Zimbabwean journalist facing multiple charges.

Research Reports

We published two research reports and are using them for various advocacy efforts:

The State of Free Expression in the Cultural Sector, which explored the factors that affect and disrupt growth and sustainability in the arts and culture sector, as detailed by cultural workers. It looks at the extent to which political pressures lead to censorship and censorship to self-censorship, and the impact this has on the ability of cultural workers to engage in their sector.

We are following up by hosting a series of discussions among cultural workers on these issues.

Silent Killer: When institutional obligations restrict public health workers' duty to speak out. Following the suspension of paediatrician Dr Tim de Meyer for speaking out about poor conditions in state hospitals, we have explored more fully the restrictions on free speech in this sector and its impact on the delivery of health services. We have held a discussion with public health workers at a hospital to gauge reaction to the issue and are planning to go to the Parliamentary Committees on Public Service and Health to argue for changes to the Public Service Regulations and Policies.

'Since Eswatini's political unrest of 2021, incidents of human rights violations in the country have been on the rise. And it is the right to freedom of expression, assembly and association that has suffered the most.' **CFE Statement, 23 August 2022**

We have also commissioned what we intend to be a major annual report: The state of free expression in SA, which will record and examine the full range of issues affecting different sectors.

Eswatini

We hosted a 3 May International Media Freedom Day event in Eswatini in partnership with journalists and civil society organisations. We are also hosting a second Free Expression Summit and a workshop on free expression in relation to elections in mid-June.

Botswana

We are working with the Botswana Editors Forum to investigate a court challenge to the Media Practitioners Act, which introduces a statutory media council and register of journalists.

Malawi

CFE has begun collaborative discussions with two organisations in Malawi — Youth and Society and the Centre for Human Rights and Rehabilitation. We intend to partner with these two organisations to execute national and international advocacy strategies regarding freedom of expression issues in that country.



Professor Ibrahim Variava at CFE's consultative meeting with doctors at Tshepong Hospital.

Other activities

We held a consultative meeting with Gauteng community-based organisations (CBOs) to gauge interest in working with us on free expression issues. We have envisaged a sustained campaign with CBOs across the country, but this will require specific project funding.

We joined the SOS Support our Public Broadcaster coalition to work on ensuring freedom of expression in the public broadcaster.

Events

CFE partnered with the Aggrey Klaaste Foundation and Sanef to commemorate Media Freedom Day on 19 October with an event at the Alex Mall.

We co-hosted, with the Committee for the Protection of Journalists (CPJ) and the African Investigative Journalism Conference (AIJC2022) the Carlos Cardosa Memorial Lecture, which highlighted the persecution of journalists in Africa.

CFE affiliated itself to the Defend our Democracy movement and was represented at its launch on May 27.

CFE participated in the Artfluence Festival in May 2023 for World Press Freedom Day. CFE moderated a session titled Arts Coverage in the Media: where is it and what now?

CFE was represented and presented at the Digital Rights and Responsibilities in Africa Conference which took place in Windhoek, 30 May-2 June.

We were also represented at the Stockholm Internet Forum on 30-31 May and presented at the Media Summit of the Democracy and Development Programme in Durban on 18 May.

Media

We have written a number of recent op-eds:

- Drop Parts of the Hate Crimes Bill by Anton Harber, published in News24.
- Patronage, Mismanagement and Censorship in the Cultural Sector by Thokozane Mbwana, published in the Daily Maverick.
- Shut up and toe the line by Hanifa Manda, published in the Daily Maverick.
- The red flag of censorship goes up amid the lawlessness by Anton Harber, published in Business Day.

We have also done interviews on these and other topics on Radio 702, Cape Talk, SAfm, Kayafm, Enca, SABC News, Radio 786 and ChaiFM.



Journalist Amina Ferense at the October 19 Media Freedom Day event, Alex Mall.

Staffing

We have five full-time staff and two part-time. We are currently recruiting a communications specialist and a fundraiser.

Board

We are fortunate to have a skilled and supportive board. Chaired by Advocate Carol Steinberg, it includes Dr Ismail Mohamed, Prof Tawana Kupe and Adriaan Basson. After the end of the financial year, Prof Tawana Kupe tendered his resignation, and we are in the process of identifying at least one new member.

Fundraising

We are grateful for the consistent generosity of the Millennium Trust, our core funder. Fundraising, however, has been frustrating area, as we have submitted many applications but have had limited success. We have made applications to, inter alia, Yellowoods (successful) Open Society Foundation (pending), Claude Leon Foundation (pending),

Raith Foundation (declined), Luminate (declined), European Union (declined), Journalists for Justice (declined), Sigrid Rausing Foundation (pending), Google (declined), Facebook (declined), Commonwealth Fund (declined).

Millennium have asked us to submit an application for another three years, so our base funding is in place. For the rest, we are brushing up on our skills and contacts in this regard by attending some seminars on fundraising and recruiting a new part-time fundraiser.

Going forward

To adjust to the fundraising situation, we are re-calibrating to focus on our core tasks and will only add projects beyond that when they are funded. We see our core tasks as monitoring, responding, researching and publishing, lobbying, strategic legal activity and public education.

Thanks

We owe special thanks to the legal team that works tirelessly for us, mostly pro bono. They have done sterling work in recent months and we are greatly indebted to them.



Recent examples of CFE branding and collateral

'The ongoing attacks on civil society organisations by government officials are concerning and must receive urgent attention. These attacks are unacceptable, go against our country's Constitution, and undermine our democracy.'

23 civil society organisations in open letter to the president. 4 August 2022



‘South Africa is facing several threats to freedom of expression with at least 59 separate incidents where journalists were subjected to physical or verbal attacks and harassment’

CFE, Amnesty International South Africa, Committee to Protect Journalists, Media Monitoring Africa, and the South African National Editors’ Forum on World Press Freedom Day. 3 May 2022.