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Newsletter – March 2026

“...[D]emocracy is a conversation. And when that conversation was in the Agora in Greece, they had one kind of democracy. And when that conversation was during the Gutenberg era, when it took place in print..., it was a different kind of conversation.

And that was the glory period of liberal democracy during the Gutenberg era – with the best societies humans have ever made. And now we’re out of the Gutenberg era, we’re into the network era. We will never again know what is true. It’ll never be possible to have a shared reality.”

— Jonathan Haidt, author of *The Anxious Generation*, in conversation with David Remnick, *The New Yorker Radio Hour* (13 March 2026)

Even if you take issue with Haidt’s characterisation of the Gutenberg era as being “the best societies humans have ever made”, we should all be alarmed at his prediction that the digital networked era means that we’ll “never again know what is true. It’ll never be possible to have a shared reality.”

Democracy depends on at least a minimal common frame of reference – enough shared understanding of facts, events and truth claims to sustain collective decision-

Free expression, so essential to democracy in securing accountability, debating and deliberating on those values and principles, and in proposing alternatives, potentially becomes a different thing in this networked era. Trumpeted by the “tech brologarchy”, free expression in their telling is license not only to say whatever, deceitful, prejudicial fiction the users (human or not) of their platforms might wish to say, but to algorithmically supercharge and monetarily incentivize that extremist content.

Free expression proponents, such as ourselves, have to do a better job of underlining that the right is not only about the ability to speak, but also about the conditions that make meaningful expression possible – including the ability to interrogate, verify, and challenge the information that shapes our views. Otherwise there is nothing “free” about our resulting expression – our voices simply echo systems designed to influence rather than inform.

But there is a further task. In an era that fragments publics and corrodes trust, civil society must work to fashion the broadest possible agreement in support of democratic principles and values – helping to convince the widest public that, irrespective of one’s own particular circumstance or identity, these are principles worth protecting and defending.

Below is a snapshot of some of our most recent work. Judge it and us on these objectives and, as always, we’d be delighted to have your feedback.

I also wanted to take this moment to pay tribute to Steven Gruzd, head of the Africa Governance and Diplomacy Programme at the South African Institute for International Affairs (SAIIA). I wasn’t close to Steven but we had known each other over many years and I was honoured to have shared a platform with him on several occasions. We sometimes disagreed – most recently fairly fiercely in relation to reporting he’d done for the South African Jewish Report on developments at the Helen Suzman Foundation (HSF). I’d left the HSF by that point but he’d sought my comment and I believed and believe its work is to be defended and protected. Yet despite that fierce disagreement, Steven had taken the trouble to send me Christmas greetings – not a holiday he observed – the next December. That seemed typical of him: he was a mensch in every sense. It is a grave stain on our country that he should have died in the horrific way he did. But I take from his life and his memory this: we have to keep talking to each another.

Eid has just passed. Pesach and Easter are just days away. For those observing, we hope there’s been time for family celebration and gathering, for shared community, and for rest and respite.

The world and our country are certainly demanding a lot of us right now.

Wishing you peace,
Nicole and the CFE team.

RECENT LEGAL CASES



Gabrielle Goliath. (Photo: Anthea Pokroy)

CFE Admitted as Amicus in the Venice Biennale Case

CFE was admitted as amicus curiae in urgent proceedings before the Gauteng High Court concerning the removal of Gabrielle Goliath's work, *Elegy*, from South Africa's official pavilion at the Venice Biennale. The case arises from the decision of the Minister of Sport, Arts and Culture, Gayton McKenzie, to terminate the exhibition – raising important constitutional questions about the protection of artistic freedom and the proper limits of executive authority.

In its submissions, CFE advanced two core arguments. First, it argued that the Minister's intervention carries consequences beyond the immediate dispute. Where state support for artistic expression is withdrawn on the basis of disapproval of content, it signals that cultural production is subject to political permission. That signal is constitutionally suspect. Freedom of expression – particularly artistic creativity – cannot be contingent on alignment with official preferences. In a society still reckoning with its past and contesting its present, artistic expression is not peripheral to democratic life; it is one of the means through which it is constituted.

Second, CFE addressed the standard of accountability required of public officials exercising power. It argued that the reasons advanced for the termination – both

rational, and capable of scrutiny.

The High Court dismissed the application. In our view, that outcome is difficult to reconcile with the constitutional stakes engaged by the case. Ms Goliath is seeking leave to appeal, and we intend to continue participating as amicus. We do so in the conviction that the issues raised – concerning artistic freedom, the exercise of executive power, and the standards of justification required in a constitutional democracy – warrant further judicial scrutiny, and that there are strong prospects of success on appeal.

We are, however, delighted to report that Ms Goliath has independently secured both funding and a venue to exhibit *Elegy* at this year's Venice Biennale. The work – an act of mourning and witness – will have the audience it deserves, and will do what serious art does: unsettle, provoke, and compel reflection. Yet this does not resolve what is at stake. Even if the appeal succeeds, South Africa's official pavilion at the Biennale will stand empty. The absence will be conspicuous. A country whose global standing has been shaped, in no small part, by the depth and vitality of its artistic and cultural expression will, in this instance, present nothing at all. The loss is itself expressive.

For more of our reflections on this case and its importance, see here:

Nicole Fritz, McKenzie's Shifting Justifications under Scrutiny in the Goliath Case, *Business Day* 27 February 2026: [Read More](#)



CFE Intervenes in Challenge to Publication Bans in Caroline Peters Matter

CFE, together with Moxii Africa (formerly media Monitoring Africa), was admitted as an intervening applicant in proceedings before the Western Cape High Court in a constitutional challenge brought by activist Caroline Peters and supported by the Women's Legal Centre. The case concerns provisions of the Criminal Procedure Act—sections 154(2)(b) and 335A—which impose automatic, wide-ranging publication bans in certain categories of cases, including sexual offences and extortion.

In effect, these provisions prohibit the publication of information from the point at which an offence is reported, or an accused is charged, until plea—restricting not only the media, but the public at large. The breadth of the prohibition is striking: it may extend to information necessary for public understanding and scrutiny, and, in some instances, even to speech by complainants themselves.

CFE and Moxii Africa's intervention addressed the constitutional infirmities of this regime. The impugned provisions operate as a form of blunt, automatic censorship. They are not narrowly tailored to protect legitimate interests—such as the privacy or safety of complainants—but instead impose a “one-size-fits-all” prohibition that is both overbroad and disproportionate. In doing so, they unjustifiably limit freedom of expression and media freedom, as well as the principle of open justice, which requires that the administration of justice remain subject to public scrutiny.

The regime is also arguably paternalistic in its operation. It may criminalise speech by complainants themselves, denying survivors the agency to tell their own stories or to authorise others to do so. In a constitutional order grounded in dignity and equality, such restrictions are difficult to justify—particularly where they fall most heavily on women and other vulnerable groups, including members of the LGBTQI community. Its structure is, moreover, irrational: in certain circumstances, publication is permitted prior to charge, only to become more restrictive once formal proceedings commence—precisely when transparency and accountability are most important.

Notably, the Minister of Justice and Correctional Services withdrew opposition to the constitutional portion of the challenge. CFE and Moxii Africa proposed an order declaring the provisions constitutionally invalid, together with interim relief ensuring that publication bans do not apply where a complainant elects to disclose their identity, or consents to such disclosure. Judgment has been reserved. The case presents an important opportunity to reaffirm that the protection of complainants must be carefully balanced alongside the imperatives of open justice, public accountability, and the agency of those the law seeks to protect.



Thanduxolo Jika was the keynote speaker for the 2026 Freedom of Expression Legal Network held on Tuesday, 24 March, at Webber Wentzel offices.

Second General Meeting of the Freedom of Expression Legal Network

lawyers, journalists and activists at a moment of intensifying pressure on free expression—marked by gag orders, misuse of protection orders, and acts of cultural censorship. Against this backdrop, investigative journalist Thanduxolo Jika delivered a keynote that grounded these trends in his own experience.

Jika recounted how a protection order was sought against him after he posed questions to a senior government official concerning an alleged conflict of interest. The order required him to present himself at a police station—an encounter that underscored how legal processes can be mobilised not to resolve disputes, but to intimidate and deter scrutiny. His account brought into sharp focus the personal and professional risks increasingly attached to public-interest reporting.

Yet Jika's message was not one of retreat. He urged a sober reckoning with those risks, while rejecting the normalisation of intimidation. Investigative journalism, he emphasised, is neither activism nor partisanship: "our loyalty is evidence; our duty is to truth." The task is to persist in the face of these threats.

The discussion that followed reinforced a central theme: that journalists cannot carry this burden alone. There is a shared responsibility—on media institutions, legal practitioners, and civil society—to resist the misuse of legal mechanisms that chill expression, and to act collectively in defence of those on the front line.

In this way, Jika's intervention captured the animating purpose of FELN itself: to connect legal expertise with actual experience, and to build the solidarity necessary to confront a growing architecture of constraint on free expression.

CFE coordinates FELN and encourages expression of interest from any prospective members.

For a snapshot of some of threats being faced by the media in our country and region right now, read our communications head, Ezekiel Kekana's recent opinion for The Sowetan: [Read Here](#)

NEW MEMBERS OF OUR CFE TEAM



Deborah Petersen



Divashnee Naidoo

Deborah Petersen

Deborah joins the CFE team as our Operations Manager. Deborah has been active in the civil society space for many years. Before joining CFE, Deborah was the Director of Donor Relations and Operations at the Helen Suzman Foundation and prior to this spent years at the Open Society Foundation.

Divashnee Naidoo Divashnee joined CFE as the Legal and Policy Coordinator. Divashnee is committed to advancing democratic governance, human rights, and inclusive, evidence-based public policy. She was previously a Konrad Adenauer Stiftung Research Scholar at the South African Institute of International Affairs (SAIIA), where she supported the G20 and Think20 (T20) workstreams. Her experience has been formed across NGOs, public policy think tanks, and the private sector, including her tenure at Microsoft South Africa in the Corporate and Government Affairs team, and as a Legal and Policy Researcher at the Helen Suzman Foundation.

The Campaign for Free Expression is a non-profit organisation dedicated to protecting and expanding the right to free expression for ALL and enabling EVERYONE to exercise this right to the full, whether it be by speaking out, by protesting, by revealing information, by blowing the whistle on wrong doing, by arguing, debating, writing, painting, composing or just by shouting out your opinion.

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