



SOUTH AFRICA

**THE SOUTH AFRICAN CENTRE OF
PEN INTERNATIONAL**

A World Association of Writers

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To: SA PEN Members

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PEN South Africa: A December wrap - 2014

By Margie Orford



PEN South Africa has had a very busy 2014 – this letter highlights some of what we have done. There is much more in our newsletters and on the website. There have been new people, new projects, new partnerships that have enriched what we do. We have worked closely with sister PEN centres - PEN America, International, Norway and Ethiopia.

There have also been great losses. Tony Fleischer’s death in June – after an illness stoically borne – left a big Tony-sized gap in all our lives. As President of PEN he – with his wife, Dolores – shepherded PEN South Africa through a very creative decade. Tony’s rallying cry was *Write, Africa Write!* And many of the authors who won prizes in the PEN short story competitions that were adjudicated by JM Coetzee have gone on to win other prestigious awards.

Nadine Gordimer’s passing was a great loss to South African, and indeed to world literature. A vice president of PEN International for many years, hers was a fine and

principled voice that earned her the Nobel Prize for Literature. She championed freedom of expression fearlessly during the apartheid era and her opposition to the ‘Secrecy Bill’ – something that PEN South Africa has campaigned against since 2010 – was implacable. We mourn and celebrate both of them and their lifelong commitment to literature and to free expression, the foundational right of a democratic society.

Our programmes and activities – which have focused on the literature of politics and the politics of literature, have, I hope, honoured this. In the spirit of PEN’s commitment that ‘literature knows no borders’ we have partnered with Nal’ibali, a wonderful project that provides literature for children in many mother tongues spoken in South Africa (www.nalibali.org). Carole Bloch, Director of Nal’ibali had this to say:

‘The support that PEN has given to Nal’ibali to translate a Lucy and Steven Hawking book into Xhosa and Zulu is significant. The value of translation for children’s literature to grow in use and worth in South Africa is not yet widely appreciated - and so to be able to translate a science-based book like this has been a wonderful opportunity to show that through a process like this we think about and develop terminology and also we allow African language speaking children immediate access to a story which has the potential to inspire the desire to find out about the universe - and to stimulate an interest in science - something we desperately need.’

PEN South Africa is part of a global family of PEN Centres – 144 and counting – and we have worked with an increasing number of other PEN Centres over the past years. The focus of this work has been with African centres. There has been an unacceptable increase in the curtailment of freedom of expression in a number of African countries and in many writers, journalists and bloggers have been detained. South Africa put forward a motion at the PEN Congress in Bishkek that calls for the abolition of criminal defamation and insult laws – legislation used in a number of countries including South Africa – to limit what journalists and writers can say.

This work is complex and it is for this reason that we have formed a partnership with the School of Journalism at WITS University. Professor Anton Harber says that *‘with PEN we have in the last year hosted a number of writers from across the continent, an enriching experience from which we learnt enormously. These linkages serve to remind us that we are neither unique nor alone in the world, and how much we have to gain from cross-continental contact.’*

The most recent was a meeting in early December when eight representatives of PEN Centres in Africa took part in a week-long workshop at WITS, during which, as Raymond Louw reports, they discussed a range of issues starting with an overview of the use and abuse of the crime of defamation on the continent and ranging over the practice of freedom of expression and its promotion by the African Commission on Human and People’s Rights and the African Union as well as linguistic rights, education, women writers, LGBTQI – a special thanks to Justice Edwin Cameron – and freedom of expression and the strengthening of the PEN African Network (PAN). The delegates were from Ghana, Malawi, Uganda, Zambia, Afrikaans PEN and South African PEN. PEN International’s convenors were Romana Cacchioli, Paul Finegan and Sarah Clarke and the programme was funded by the Commonwealth Foundation.

A highlight of the week was a wonderful Free the Word! evening chaired by Michele Magwood at the Orbit Jazz Bar in Braamfontein. Khosi Xaba, Mandla Langa, Beatrice Lamwaka read with Masande Ntshanga who last year won PEN International's inaugural New Voices Award. Masande has just published his first novel – a very fine achievement.

Mandla Langa, now Executive Vice President of PEN South Africa, and Nic Mhlongo visited Germany in November. The Foreign Office, in cooperation with PEN Germany and the Goethe Institute, invited them and the trip was in line with plans to establish a partnership or twinning programme between PEN South Africa and PEN Germany. Amongst other things, they attended the 90 Years PEN Germany Benefit Gala, which included a round table discussion about the situation of persecuted authors around the world with Günter Grass, Dr Josef Haslinger, PEN Germany President, and Mr Christoph Hein, Honorary President.

This is what Mandla wrote after his visit. *'The most important aspect of the visit was that we made links with writers, translators and various people involved in PEN activities and who have a real concern about the plight of imprisoned writers. There were questions, which Niq and I answered, regarding the widespread perception that South Africa was beginning to tighten the screws on press freedom and freedom of expression. We were able to brief the various meetings on the work of PEN SA, the various campaigns against the encroaching legislation and various measures threatening press freedom. A major impression Niq Mhlongo and I got was that PEN SA is highly regarded.'*

PEN South Africa hosted a number of events this year under our PEN Dialogues Series. Some highlights were: A special celebration to mark UNESCO's "International Mother Language Day"; A debate at the Book Lounge on *Sexuality and the Law: A Debate on Cultural Politics in Africa*; At the Franschoek Literary Festival we discussed *The importance of reading*.; At the Book Lounge we talked about *The Politics of Publishing and Bookselling* and partnered as always with the Book Lounge. Mervyn Sloman is now a member of the SA PEN Board and Gabeba Baderoon, Nooshin Erfani-Ghadimi and Mike van Graan agreed to be co-opted onto the SA PEN executive committee. I was elected to the Board of PEN International at the Congress in Bishkek and Mandla Langa has accepted the position of Executive Vice President of PEN South Africa. Special thanks goes to our secretary, Deborah Horn-Botha, without whom nothing would have happened!

We continue to fundraise – our work is expanding as there are increasing challenges to freedom of expression in South Africa and on the continent. However, its not all trouble. Much of our activities were focussed around celebrating the expanding and vigorous literary culture of South Africa.

I wish all of you a happy and bookish holiday season.
All the best for 2015 and I look forward to next year with you all.

Margie Orford
President, PEN South Africa
14th December 2014

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Happy festive season greetings to all SA PEN members and may 2015 be a successful word-filled year for you and yours. Kind regards from the SA PEN executive committee. Write! Africa Write! AND Read! Africa Read!

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African court almost scraps criminal defamation; now campaigners start fights in earnest

By Raymond Louw

First published in *Business Day*, 15th December 2014



The eighteen media and human rights organisations that intervened as “friends of the court” in an appeal to Africa’s highest court, the African Court on Human and Peoples’ Rights, by a Burkino Faso weekly newspaper editor against a conviction for criminally defaming a state prosecutor celebrated over the weekend after the court’s judges ruled last Friday (December 5th) that prison sentences for defamation should be scrapped except in extremely limited circumstances and the conviction and sentence on the editor and his paper be set aside.

The editor of the weekly *L’Ouragan*, Issa Lohé Konaté, was sentenced in 2012 to 12 months in prison, fined 4-million CFA francs (R85,000) and his paper closed for six months. He had published two articles about the alleged abuse of power by the office of the Burkinabe state prosecutor, Placide Nikiéma, in the handling of a high profile case of currency counterfeiting and he was charged with criminally defaming Nikiéma. After his appeal failed and his sentence upheld, Konaté took the case on a further appeal to the African continental court.

In finding in his favour, the continental court judges stated that imprisonment for defamation violates the right to freedom of expression. The court, which was set up by the African Union, is the highest judicial authority in Africa and its finding was described by Adv Pansy Tlakula, Special Rapporteur on Freedom of Expression and Access to Information in Africa, as “a landmark decision that will change the free expression landscape on the African Continent.”

Tlakula added: “The decision will not only give impetus to the continent-wide campaign to decriminalise defamation but will also pave the way for the decriminalisation of similar laws such as insult laws and publication of false news.”

Tlakula’s office worked closely with some of the organisations that applied to be “friends of the court” (*amici curiae*). The “friends” have interpreted the judgment as sending “a strong message that governments may not use severe criminal penalties to stifle public debate and reporting on matters of public interest.”

She launched a continent wide campaign against criminal defamation in Tunis, Tunisia, in 2012 and has reacted to the judgment with the statement that interested parties will need to do a lot of follow-up work to ensure that the judgement is executed.

In expressing that view she is acknowledging that despite the status of the court, African countries do not automatically take note of the rulings and findings of continental institutions such as the African Union organisations and implement them. For example, the African Commission of Human and Peoples' Rights passed a resolution in 2010 stating that "criminal defamation laws constitute a serious interference with freedom of expression and impede the role of the media as a watchdog, preventing journalists and media practitioners to practice their profession without fear and in good faith". Not one of the African countries which profess in their constitutions to promote freedom of the media reacted by scrapping or even reviewing their criminal defamation laws.

Tlakula points out that countries which were not parties to the case are not expected to do anything about the judgment but she draws attention to the several mechanisms provided for in the Protocol on the Establishment of the African Court that can be used as levers by official continental institutions and civil society organisations to bring about execution of the judgment on states on a wider scale than merely on Burkina Faso for which there are direct consequences such as scrapping the sentence on Konaté and repealing the country's criminal defamation law.

Tlakula says Article 29 of the protocol provides that the judgment shall be transmitted to the parties involved, to the Member States of the African Union (AU) and the Commission for Human and Peoples' Rights. She believes that the transmission of the details of the judgment to the member states is intended to result in them taking judicial notice of it.

She points out that although the Commission does not have express powers to monitor the execution of the judgment, the fact that the Court and the Commission complement each other, means that nothing prevents the Commission from monitoring the execution of the judgment by requesting Burkina Faso to inform the Commission of the steps it has taken in regard to the judgment during the presentation of its regular report to the Commission or during a promotional mission to Burkina Faso.

She adds: *"This is something that I will personally do as the Special Rapporteur."*

Tlakula states further that Article 29 also vests the responsibility of monitoring the application of the judgment with the AU's Council of Ministers who do so on behalf of the AU's Assembly of Heads of State and Government. In addition, Article 30 provides that States Parties to the protocol undertake to comply with the judgment within the time stipulated by the Court and to guarantee its execution. Finally, the reports which the Court submits at each session of the Assembly should specify the cases in which a State has not complied with its judgment (Article 31).

However, Tlakula emphasises that notwithstanding these provisions in the protocol and the intended implications for member states, civil society and organisations such

as hers “*must all be alert to ensure implementation*”. She plans to propose to the members of her Rapporteur’s campaign who are experts in the drafting of laws to propose to Burkino Faso that they submit an amendment to the criminal defamation law in that country. She also plans to urge civil society organisations in Burkino Faso to closely monitor the implementation of the judgment by engaging the authorities on the issue.

In addition, her campaign will highlight the progress being made in Burkino Faso to implement the judgment and, she says, use it as a tool to lobby countries that are parties to the protocol to repeal their criminal defamation laws while bringing the campaign’s influence to bear on national courts in other African countries by convening regional discussion workshops with the judiciaries in those countries.

On the same day that judgment was given in the Konaté case, the Pretoria High Court upheld the appeal by a South African journalist, Cecil Motsepe, against a conviction for criminal defamation and set aside the fine of R10 000 or a jail term of 10 months suspended for five years which was imposed on him in the Nigel Magistrate’s Court in 2013 for defaming a magistrate. The court, however, found that criminal defamation is not unconstitutional.

Tlakula’s approach to this set back is to propose to her campaign colleagues that they consider taking the decision on the constitutionality of criminal defamation on appeal to the South African Constitutional Court and in the arguments presented to that court refer to the Konaté judgment.

What is abundantly clear from Tlakula’s views on the effects of the judgment is that the media and human rights organisations will be required to mount extensive campaigns throughout Africa, almost country by country, to get the law of criminal defamation taken off the statute books. And it is also clear that they will need the aid of the public generally to bolster the campaign.

Though it is essentially journalists that feel the brunt of the law the real victims are the people who are prevented from knowing what is actually happening in their countries. The law is ruthlessly used to prevent information about the official abuse of power, corruption and maladministration being made public by either threatening or prosecuting journalists pursuing such stories. Without that information democracy cannot flourish.

Louw is a former editor of the Rand Daily Mail and Vice-President of PEN South Africa, another of the signatories to the “friends of the court” initiative in the Konaté case.

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Congratulations Corner!

Congratulations to **Nadia Davids** – her novel, *An Imperfect Blessing*, is one of three books shortlisted for the 2014 Etisalat Prize for Literature.



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Opening the American publisher’s back door

By Anita Giraud



Towards the successful end of my Post PhD’s research I decided that my future lay in writing for the multitudes and no longer for a select, academic minority. To this end, I loosely began to collect data on writing novels, romance in particular and this endeavour took me to the Durban Municipality’s bookshelves where I found Elizabeth George’s “*Write away.*” This book started me on my first story which I wrote casually in between other more pressing activities and when I finished, I consulted the “*Writers’ and Artists’ Yearbook*” to find a few agents in England. These either ignored me or answered that they were only interested in block busters.

More time passed where I simply forgot about the book while I prepared for my solo exhibition at the Empangeni Art Museum. Then I got steamed up again and accidentally found a treasure trove list of a whole lot of romance publishers, including minor publishers we don’t hear about, mostly in the U.S.A. I immediately submitted to all of those who didn’t require agents. They mostly turned me down with a standard refusal email. However, one of these small publishers took pity on me and sent a detailed crit, along with the suggestion that I try Savvy Authors, an American online writing school, run by published writers, for tuition and mentoring.

I tried Savvy Authors which I found to be very reasonable and where one can select and pay for specific courses, each done by a different writer. I ended up having three large, lever arch files containing a variety of lessons, my corrected responses, synopses for three stories and mentoring for two stories which I began and developed under the tutorship of mostly one Rebecca Grace. Rebecca later instructed me separately and all the combined lessons cost roughly the sum of R2 500,00 - R3 000,00 and it was well worth it. I had learnt a tremendous amount and always found the teachers to be thorough, courteous and helpful. Of course, with the weakening Rand, it would cost more nowadays, but that is not the American teachers’ fault.

I have to say that after my university academic life ended, I never once considered submitting my novel to publishers in South Africa. Preferring to spread my wings and head for the First World, I found tremendous freedom being spared all the hampering requirements and red tape of the residing S.A. ruling party which pervades all walks of life, including the arts. It is amazing how different the British and American business mentalities are to the presiding South African ones, where the trade unions have made profit a dirty word. On the contrary, overseas agents and publishers make you understand from the onset that they are only interested in a profit and if you don’t like it, you can lump it. They want to recoup their publication costs early in the day and earn a decent living and they can only do this if your book can sell nicely. Clearly, this is not a solution for members of the South African population who feel that they are Entitled.

It ended up that I submitted the rewrite of my original story to several small publishers which Rebecca found and, judging from the writers' grapevines which she was privy to, recommended as sound companies. Rebecca attends conferences in the U.S.A. and is a mine of information. I submitted to all of these new companies I was given. The interesting thing was that one of the editors told me that the pace of my story was so fast she felt dizzy. A couple of weeks later, I received my acceptance contract from another publisher who said that their editor took to my story because she liked the fast pace of my work. So this goes to show, doesn't it, that one mustn't take criticism to heart too much and that if your work doesn't appeal to one, it might appeal to another. The motto is never to feel disheartened and give up.

My American publisher, Passion in Print, a subsidiary of Mlr press, taught me a thing or two as well. First of all they sent me on a wild goose chase about an International Tax Number which SARS doesn't know about. If one Googles it there is International Tax in Britain, the U.S.A., a number of European countries and so on but not in South Africa. After weeks of asking around, I got the publisher's letter requesting an ITIN which is an Individual Taxpayer Identity Number. For this you have to Google the IRS, download the form and its instructions and also pay a visit to the American Consulate for the certified copies of a number of documents. With the postal strike, my application, sent by registered mail, has gone missing, so my employer has to send me another signed, formal letter requesting an ITIN for me in order to pay my royalties and the whole rigmarole has to be repeated; this time however, with the addition of an international courier company at some considerable cost.

I also had to get the U.S. Copyright which I did electronically for \$35. When it comes to small publishers, they each have their individual rules and regulations and what one would require may not be the norm for others. It pays to study each one of them carefully.

With respect to American publishing, I must say that they are very thorough, very conscientious about good craftsmanship and tremendously hardworking. Pip's executive editor works every day, including Sunday, as I've received several emails written to me on a Sunday by her. My romantic suspense is at present an ebook and an excerpt can be read on the publisher's web site <http://passioninprint.com/>. I go under the name Anita Jollivet-Giraud and the book's title is "*Love in a new dawn*". American publishers expect all their writers to market their books as well, so I can be found on Facebook, Reddit, Goodreads, LinkedIn, Stumble, Tumblr, Pinterest, Twitter, my web site www.anitajollivetgiraud.co.za and a number of other sites including email at giraudg@telkomsa.net. You can also see Pip's interview of my writing methods at <http://passioninprint.blogspot.com/2014/12/pip-sits-down-with-anita-jollivet-giraud.html>

For those who would like to have some help from Rebecca Grace, she is an award winning published author, can be reached on <http://www.rebecca-grace.blogspot.com> where she has interviewed me, or may be emailed at rebeccagrace66@aol.com. I have explained the dismal situation with the falling Rand to her and she replied that if she has enough South African students, she'd kindly consider lowering the price for us.

Accepting to have your book published as an ebook for starters opens the way for agents, traditional publishers and so on. There is also the audio world, films, and large print books to explore so there is lots to keep one busy and reaching out. At least with an ebook, you have something for your CV and that is one thing done. I have a long way to go, am learning all the time and have just managed to grasp the compulsory publishing package called Apache Open Office which had to be downloaded.

Although I'm still new at the game, I am willing to answer questions about my experience so far. Please contact me by email at giraudg@telkomsa.net or on my Facebook page.

For any new aspiring author, I wish you everything thing of the best, keep determined, persevere, be disciplined and *bon courage*.

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On Human Rights Day, we remember jailed human rights defenders

Dear friends,

I'm writing to bring to your attention an action by Electronic Frontier Foundation, which advocates for internet freedom, which includes an action for Alaa Abd El Fattah, an Egyptian blogger who is one of our main cases, in case you would like to participate in this action.

Go to <https://www.eff.org/deeplinks/2014/12/human-rights-day-we-remember-jailed-human-rights-defenders>. There is a petition you can sign, and advice about how to join a Twitter campaign. PEN International (*Ed. - and SA PEN*) has signed the campaign.

**Ann Harrison, Programme Director, Writers in Prison Committee
PEN International, 11th December 2014**

The text of the action is below.

This statement was drafted with SMEX, Global Voices, and individual actors. Today, on Human Rights Day, 10th December, we remind the world of our many friends who have broken the silence of oppression by expressing their thoughts, asking questions, and thinking critically and constructively about how to solve the problems before them.

We remember today Alaa Abd El Fattah and Bassel Khartabil (aka Bassel Safadi), two jailed friends who are serving arbitrary sentences that jeopardize their futures as innovators and free thinkers from the Arab region. Bassel has been behind bars in Syria since March 2011, and Alaa has been imprisoned in Egypt repeatedly since the era of Mubarak.

Break the silence with us today in this global campaign for Alaa, Bassel, and the many others who have been unjustly imprisoned because of their activism.

