

at such times one finds the poetry has moved into a kind of abstraction, an exploration of mechanisms or structures of feelings or ideas or relationships not specifically attached to any one object. (It is good that the above poem ends with Azania, but it need not have done.)

The writers of stories are generally happier with style (linguistic style) than the poets. (Maybe prose can digest a headier montage of dialects safely — or else the prose-writers are simply more experienced.) Mtutuzeli Matshoba for instance has an amazing fertility and facility with the different masks of language, welding the biblical to the slangy, to the mock-pedantic, to the romantic. He makes a speciality of **beginning** stories. He can go on beginning a story for a full column, letting off fireworks right and left. It's almost a disappointment (after the first surprise) when he gets to the story and you find out what he's been talking about. He is a virtuoso, a natural. At the other end of the scale is Miriam Tlali who is happiest in a mode close to reportage, able to distil her tremendous humanity and commitment into that form. Her story about a police 'hi-jack' of buses setting out for Biko's funeral (in **Staff- rider** no. 1) is an unforgettable account of brutality and insult; the sense it gives of an immeasurable solidarity growing up among the oppressed is something which, in some form or the other, makes itself felt in almost all the writings that make up **Staffrider**. It is one of the things

that keep it (in spite of political realities) from being a depressing magazine.

I mentioned earlier that **Staffrider** had a 'Reader, you can become a contributor' philosophy. The photographs have a function in the whole that accords with this philosophy, though the invitation they extend is of an even broader kind. Two types of photograph may appear in a newspaper or in a magazine: the one portrays the superstar — of one kind or another — and the superstar subject is there also in the treatment, the other is the picture of the anonymous human being. The first editor of **Drum** discovered that it was the second type that held the gaze of the reader. For the reader saw the anonymous subject as himself, and this discovery of his presence in the newspaper was a confirmation of his reality. Nor is this invitation and confirmation something that the photographer confers alone. There is also the sense in which the subject of the photograph acts as unconscious contributor. That is why some of the greatest photographs have shown people looking straight into the camera: a man's attitude to being photographed (however unconscious as an attitude) is perhaps the quality of character that concerns us most when it is in a photograph that we meet him — and it is a central clue to his nature not a peripheral one. What **Drum** once understood **Staffrider** seems to understand more profoundly: each face, each silhouette, is a blend of anonymity and personality, each element in that pairing being strong. □

THE FUND-RAISING ACT

by a Lawyer

With the publication in the Gazette on the 30th June, 1978 of the Fund-Raising Act, the State's tight control over the collection of funds is one step away. Only the promulgation is still required. It is anyone's guess when this will happen, as obviously the bureaucratic machinery must be set up first.

The Act prohibits the collection of contributions by any person or organization unless authorised in terms of the Act and unless the collection takes place in accordance with the provisions of the Act.

The key words are "collect" and "contributions". "Collect" is given an all-embracing meaning in relation to contributions. It means "in any manner whatsoever, soliciting, accepting, collecting or obtaining contributions from the public or attempting to collect".

However, any contributions solicited, accepted or obtained from any person or organization outside the Republic are *deemed* to have been collected from the public in the Republic.

The definition of "contributions" is convoluted. In short, the definition of "contributions" can, for all practical purposes, be said to mean the transferring of goods and money except where there is a legally enforceable obligation (excluding gifts and donations) without a right to claim a consideration by the mere transfer. This excludes the consideration relating to competitions, contests, games and the like where a prize can be won.

Section 33 exempts the collection of contributions which are:

- (a) collected in terms of any other law;
- (b) collected by or for or on behalf of an institution managed or maintained exclusively by the State or a local authority or a hospital board established by or under any law;
- (c) collected from any person by virtue of his membership of the organization collecting the contributions;
- (d) collected by or on behalf of a religious body during a religious service or in terms of the written authority of such body and exclusively for the purpose of promoting the religious work of such body;
- (e) collected for or on behalf of any educational institution from a former student or scholar of such institution or from the parent, guardian or foster parent of a person who is or was a student or scholar of such institution;
- (f) collected for or on behalf of a political party;
- (g) collected under the supervision and control of the council of a university in the Republic or of a college of advanced technical education, and for the purposes of the development of such university or college;

- (h) collected for or on behalf of or by an organization designated by the Minister for the purposes of this Section.

Any individual or organization which seeks to collect contributions from the public will have to be authorised by the Director of Fund-Raising and, if this is to be other than on an occasional basis, the organization will have to be registered under the Fund-Raising Act.

The term "organization" is extremely widely defined as including any body, group or association of persons, any institution, federation, society, movement, trust or fund, incorporated or unincorporated, and whether or not it has been established or registered in accordance with any law.

The Director of Fund-Raising is appointed by the Minister and will exercise the powers and perform the functions which are conferred on him in terms of the Act. However, in addition to these powers, he is given wide authority to take such steps as he may deem necessary or desirable to regulate or to coordinate the collection of contributions.

In giving his written authority to an organization to collect contributions, he may prescribe conditions, including the area within which the collections may be collected and the purpose of such collection. There is no reason why these conditions should not include a prohibition on collecting from abroad or from any particular donor.

The Act provides for the registration of branches and for the withdrawal of the registration of branches, and any person who collects contributions on behalf of an organization or branch must have written permission from the organization and this must be in the possession of such collector. However, excluded from the provisions requiring written permission, are bazaars, sales, exhibitions and the like which are under the direct control of a person who has permission from the organization. Excluded, also, are street collections which are conducted in accordance with the bye-laws of any local authority.

The Director has wide powers to amend authorities, to replace or withdraw them. There is a right of appeal against the decisions of the Director (but not to the Courts) but this right of appeal does not apply to the original conditions under which he has given authority.

The Act requires the organizations or their branches to keep records of all money received and spent and they must furnish the Director with financial reports and returns. In addition, the Director has wide powers of search and seizure. He may at any time, with the approval of the Minister, cause the affairs of an organization to be inspected and may further cause to be inspected the affairs of any other organization or persons connected with the collecting or disbursement of the contributions by or on behalf of the first-mentioned organization. There are wide grounds on which an organization may be investigated and these include the situation where the Director is requested by any person and he is satisfied "on the ground or facts" declared

under Oath that the inspection of any organization or person who is collecting contributions is necessary or desirable.

The Director or inspector who carries out an inspection may, after obtaining the approval of the Minister but without prior notice, enter any premises of the organization or person and, without a warrant, may search for moneys, records, accounts and documents and may demand the delivery to him of these items. The inspector may seize these documents and may demand explanations of any entry in the records, accounts or documents, and he may interrogate on oath a member of the organization or its management, or an auditor, accountant or representative of the organization. It is an offence not to answer questions or to fail to hand over the records and accounts of an organization and, although an organization has the right during office hours and under the supervision of the Director or an inspector to examine and make entries in, or extracts from, the seized records, this provision if abused can effectively terminate the activities of an organization.

Where a person received any unsolicited contribution from any other person and the receipt of such contribution is in conflict with the provisions of the Act (such as money being received by an unregistered organization), then the recipient must return the contribution and if this is not practicable (as in the case of an anonymous donation), the Minister shall determine the manner in which it is to be used.

Registration certificates already in existence at the date of commencement of the Act — for instance under the old Welfare Act — shall continue for two years.

There are extensive penalties provided for the contravention of the Act. For example, the contravention of Section 2 (which prohibits the collection of contributions without the necessary authority) would result in a fine not exceeding R500,00 or imprisonment not exceeding three years, or both.

Finally, regard should be had to the all-embracing Section 29 which can render all other sections meaningless. This Section provides that if the Minister deems it to be in the public interest he may by notice in the Government Gazette and notwithstanding any other provisions of the Act, prohibit the collection of contributions for any purpose or in any manner or by or on behalf of any organization he may so name. No authority or permission shall be granted and no contributions shall be collected in conflict with such a prohibition.

In the ordinary course of events, most charitable organizations will not be severely affected by this Act, although many of them may well have to tighten up their book-keeping and accounting and records. The activities of professional fund-raising bodies will be checked, and this is to be welcomed. However, those organizations whose activities do not meet with the approval of the authorities may reasonably expect that they will be kept under close surveillance. Ultimately, those "unpopular" organizations which depend on donations from the public may be forced to close down because of the withdrawal of permission to collect. □

