

Workshop convened by UCT's extra mural studies. attended by reps from 40 organizations, some of them were being investigated under the fundraising Act. Following areas covered.

### 1) Investigation of Books

Under the Fundraising Act, organizations are liable to having their books investigated. However, the following procedure must be followed by the authorities.

- Director of Fundraising must have reason to believe that contravention of Act has taken place.
- Director then empowers Inspectors to investigate books. Inspectors must have a letter from the Director + this should be presented to organizations before an inspection can take place. Police, be they Commercial Branch or Special Branch, are not + never can be Inspectors + are not entitled to investigate books at this stage.
- Inspectors have the authority to remove organizations books. They also have the power to interrogate members of the organization, but if this takes place, the members have the right of legal representation.
- The actions + results of the inspectors investigations have to be secretly reported to the Director of Fundraising. The Director then has the power to refer the ~~investigations~~ Inspectors report to the Commercial Branch for further investigation. A copy of the report should also be forwarded to the organization.

- It is only at this stage that the Police can intervene. Furthermore, in terms of the Criminal Procedure Act, members of the organization have the right to be silent + the right of a lawyer.

## 2) Fundraising Act

Initial intention of Act tabled in 1979 was to prevent illicit collection. Now being used to financially thwart organizations.

In terms of the Act, any individual or organization collecting funds has to register. Bodies exempted are those Religious, Educational, State, Political Party, or other as defined by the minister. To register, have to indicate aims + objectives of organization. Social welfare board has to approve objectives. Once registered have to send audited accounts yearly. Have to forward copy of constitution + have it approved + have to advertise for objections to registration, before registration is accepted.

Crucial words: "collecting" funds from "public." Collection is defined as soliciting, and accepting contributions which can be both goods +/or money. "Public" is everyone, except the ~~above~~ members of an organization. The definition of public is the crucial issue. If an organization enters into a contract with its funders to perform a task, the funders would no longer be defined as "public."

Penalties under the Act, are a maximum sentence of 3 yrs or R15000 or both. Members of the orgs. executive would be held accountable + would be prosecuted.

## 3) Loopholes

There appear to be two. The first, would be for organizations to enter into a contract with funders to

provide a certain service or function. A contract should be drawn up to be signed by both parties. Different contracts can be used to cover a whole range of organizational activities. Eg conscription can be commoditised + ECC would be contracted by an agency to oppose conscription. It appears that a contract can be retroactive to cover an organization's activities in the past. This needs to be investigated.

The second loophole, is to make all donors, members of the organization. The members can be both individual or corporate. As a matter of course, all donors should be made members. The provisions of the Act affect internal fundraising as well.

#### 4) Orgs being investigated

It appears as if a wide range of organizations are being investigated throughout the country, including TEAM, SAKHED, ECC, Wilgerod Fellowship, Blood Test, Grassroots, Community Video, Grahamstown Rural Committee, Alan Basal.

Some orgs are being investigated in terms of who they are giving money to, eg TEAM, and others in terms of where they are getting money from eg Basal.

The church groupings are meeting to jointly strategize responses. Orgs. in Cape Town will be holding a future workshop to explore ~~to explore~~ issues such as the contract + membership.

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