

Scoping Project, Dr Belvedere, South African History Archive

Scoping Project of Civil Society Organisations: Identifying Future Possible Interventions by SAHA's Freedom of Access to Information Programme

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1 BACKGROUND TO THE STUDY

This report provides findings of a scoping study commissioned by the South African History Archive's Freedom of Information Programme (FOIP) to assess the feasibility of establishing partnerships with civil society organisations working in key sectors to use the Promotion of Access to Information Act (PAIA) as a strategic advocacy tool. The aim of the study is to inform FOIP's programme of action for 2008, mindful of FOIP's desire to popularise the use of PAIA and empower organisations to make use of PAIA to further socio-economic rights and social justice.

In the first instance, the study sought to explore whether different organisations would be willing to rely on PAIA to access information for their campaigns and project activities. If organisations expressed an interest and commitment to using PAIA, then, as part of the partnership, FOIP would be willing to provide training on different aspects of PAIA and accompany organisations through the submission of their initial information requests, with a view to developing, over time, the capacity of organisations to submit and follow-up PAIA requests on their own.

The scoping project sought to obtain information from the organisations interviewed in relation to the following areas:

- ◊ Awareness of the work of SAHA and of PAIA;
- ◊ Experience of the organisation in using PAIA;
- ◊ Types of information required by organisations to inform their advocacy activities;
- ◊ Willingness, capacity and commitment of organisations to engage in a partnership with SAHA to use PAIA as a strategic advocacy tool, including their willingness to assist in fundraising activities and continue to use PAIA beyond SAHA's intervention; and
- ◊ Willingness of organisations to archive important records and documentation linked to their campaigns and advocacy work with SAHA.

2 METHODOLOGY

In order to assess the feasibility of partnerships with civil society organisations, and taking into consideration both time and resource limitations, a total of six sectors were identified as targets of this scoping study. Within each sector selected, key organisations were identified and contacted. The data collection was based on semi-structured interviews with representatives from the selected organisations. Each of these steps is described in more detail below.

2.1 Selection of sectors

The researcher, together with SAHA, identified six key sectors for the purposes of this scoping exercise. The selection of specific sectors was premised on their addressing pressing socio-economic and environmental issues, their having an advocacy component and their being



committed to upholding basic human rights and struggling for different forms of justice (i.e. social, economic, environmental, legal).

The following six sectors were selected for the study:

- ◊ Environment
- ◊ Gender-based violence
- ◊ HIV/AIDS
- ◊ Land reform
- ◊ Social justice and public participation
- ◊ Transitional justice

In addition to targeting specific thematic sectors, the study also canvassed the views of organisations working in the field of access to information in order to identify the scope of work of these organisations, as well as canvass their views both on possible focus areas for SAHA's Freedom of Information Programme and areas of cooperation.

2.2 Selection of organisations

Upon identification of the sectors, the researcher conducted an organisational scan to identify the most relevant organisations working in each of the sectors. The scan was informed by internet searches, knowledge of the researcher of each of the sectors identified, as well as interviews with key informants. The initial selection of organisations to be interviewed was further expanded during the course of the study through snowballing. In other words, as the researcher conducted interviews with key organisations in each of the sectors, she prompted respondents to identify other key organisations in the respective fields that should be included in the study.

A total of 42 organisations, with different scopes of operation (i.e. national, provincial), were interviewed in the course of the study. This total includes the four key organisations working in the access to information field, namely: the Open Democracy Advice Centre, the Freedom of Expression Institute, the Public Service Accountability Monitor and the South African Human Rights Commission. See Appendix A for a detailed breakdown of organisations interviewed by sector.

2.3 Data collection

The researcher contacted and interviewed representatives from each of the 42 organisations identified. Interviews were conducted either face-to-face or telephonically, depending on the location of respondents over a period of two months (March-April 2007). Representatives from organisations with offices in Gauteng were interviewed face-to-face, whereas those located outside Gauteng tended to be interviewed telephonically due to limited travel funds. Exceptions included situations where representatives from organisations outside Gauteng happened to be in Johannesburg. In these cases, face-to-face interviews were arranged to coincide with such visits.



Interviews, of approximately 30-45 minutes, were semi-structured in order to facilitate the comparison of responses across representatives and across sectors. See Appendix B for a copy of the interview instrument used.

3 MAIN FINDINGS

Even though the bulk of the report presents findings by sector, this introductory section provides some overall findings amongst the organisations interviewed related to their knowledge about the work conducted by SAHA, the Promotion of Access to Information Act (PAIA), and whether organisations interviewed have actually made use of PAIA in the course of their work.

3.1 Knowledge about the South African History Archives

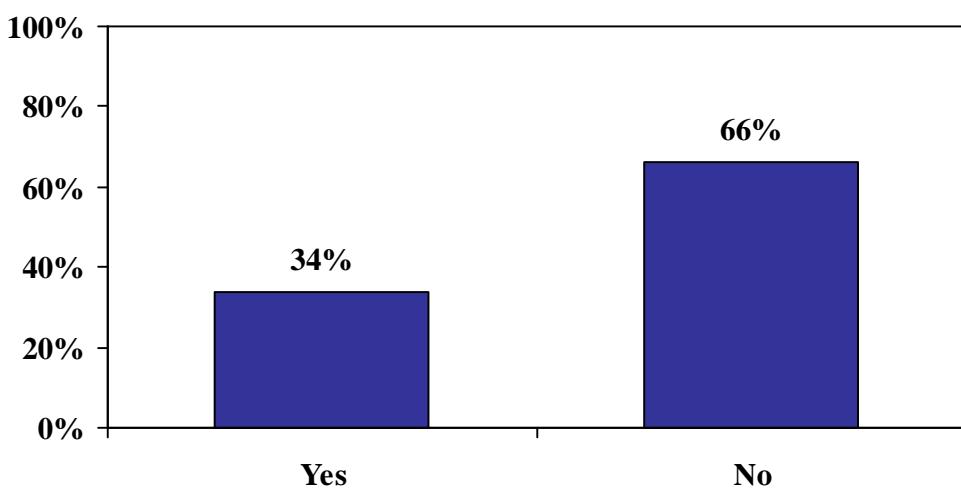


Figure 1: Does your organisation know about SAHA and the work that it does?

Of the 38 organisations interviewed, approximately one third of them (34%) had heard of SAHA and had, at least, some knowledge of the work that SAHA does. In many of these cases, however, respondents had a tendency to associate SAHA with archives and historical documents and often lacked specific knowledge about SAHA's Freedom of Information Programme. Of further concern is the fact that the majority of the respondents interviewed had not heard of SAHA at the time of the interview.

These findings seem to suggest that SAHA, and particularly FOIP, should take steps to increase its profile in the public domain through means such as information brochures or links to its website through the web pages of other organisations working in the field of access to information.



3.2 Knowledge about PAIA

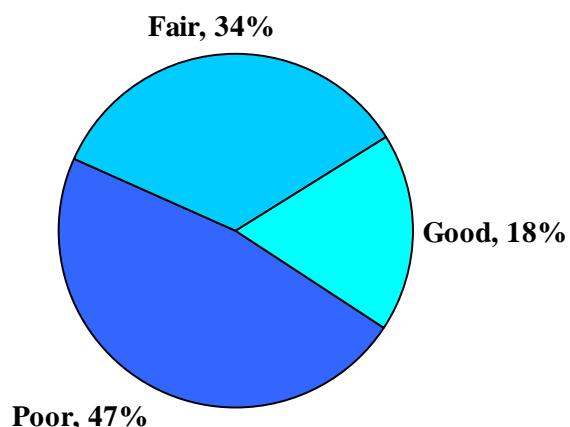


Figure 2: Level of knowledge about PAIA amongst organisations interviewed (N=38).

Almost half of all organisations interviewed had very poor knowledge of PAIA and in some instances, lacked any knowledge whatsoever. Organisations were categorised as having poor knowledge if they only knew about the existence of the Act in name, without being able to give a basic description of its purpose or, alternatively, if they provided a faulty interpretation of its purpose. For instance, in some cases, respondents emphasised that PAIA was an act used mainly to obtain what they described as ‘sensitive’ or ‘private’ information, unaware that it can also be used to obtain information that could be considered very mundane and public in character. In other cases, respondents showed their limited knowledge of PAIA, as they argued that they did not focus on it because it was necessary to rely on lawyers and courts to use PAIA. While it is true that organisations or individuals might need to rely on courts and lawyers in cases where there is non-disclosure of information, the submission of information requests and internal appeals do not require lawyers or resort to court.

One third of the organisations interviewed had a fair knowledge of PAIA. These organisations were able to provide an accurate description of PAIA’s purpose, scope and were aware of the existence of prescribed forms that need to be filled to request information. Most of these organisations had either thought about possibly using PAIA or had used PAIA ‘indirectly’. The reference to ‘indirect’ use of PAIA refers to these organisations’ having submitted requests with



the assistance of organisations like ODAC or SAHA, but where they themselves had not done the actual work of putting together the request and submitting it. In other words, these organisations had working knowledge of PAIA but nonetheless would not be in a position to submit requests on their own.

Almost one fifth of all organisations interviewed (18%) were categorised as having good knowledge of PAIA. These are organisations that use PAIA regularly, largely on their own, and understand the intricacies of the legislation, or which are involved in court cases on requests pursuant to PAIA. While these organisations have managed to establish a consistent link between the use of PAIA and their advocacy work, they unfortunately represent a minority at this point.

3.3 Actual use of PAIA

		Knowledge of PAIA			%
		Poor	Fair	Good	
Use of PAIA	Yes	1	5	7	13
	No	17	8	0	25
	Total	18	13	7	38

Table 1: Use of PAIA by Level of knowledge about PAIA (N=38).

As the table above shows, about one third of all organisations interviewed (34%) indicated that they had submitted requests pursuant to PAIA at the time of interview. This includes organisations that had submitted requests themselves and organisations that relied on the assistance of organisations like SAHA and ODAC (or the AIDS Law Project in the case of the Treatment Action Campaign) to do the actual requests. Not unexpectedly, organisations that had actually submitted requests were those that either had good or fair knowledge about PAIA.

Taken together, these overall findings have implications for the type of partnerships that SAHA might be able to pursue with different organisations. In particular, despite the fact that PAIA has now been in existence for approximately seven years - and a number of organisations, amongst them ODAC, SAHA and SAHRC have conducted training over the years with organisations in civil society on PAIA, its scope, purpose and how to use it - levels of knowledge about PAIA remain relatively low. Over and above this, and particularly of concern, is the fact that a large number of organisations involved in advocacy work have been unable (or unwilling) to make the link between PAIA and the contribution that its use could make to their own advocacy activities. In other words, PAIA is 'off their radar' – many organisations have not applied their minds to considering the benefits that they could derive from using PAIA as part of their advocacy work.

This, in turn, made it quite difficult at times to explore the feasibility of organisations establishing a partnership with SAHA where SAHA would train these organisations on the use of PAIA and assist them with the submission of requests. Since many organisations do not have



PAIA ‘on their radar’ (i.e. have not incorporated it into their work), and have not made the link between PAIA and its use as a strategic advocacy tool, it became premature to speak of a partnership whose focus was premised on training organisations to submit information requests.

These broad findings highlight that SAHA might have to consider different forms of interventions, pitched at different levels depending on the existing level of knowledge about PAIA and the degree to which different organisations have managed to make the link between PAIA and its benefits as a strategic advocacy tool that could not only contribute to, but also influence the character of, their advocacy activities.

3.4 Possible future interventions

For ease of reference, there are four main types of interventions that SAHA could explore, namely: production of information brochures; holding of open information sessions for civil society organisations to provide a basic understanding of PAIA and its use; incorporation of PAIA training into training interventions already undertaken by other organisations; and partnerships with key organisations that have a willingness to incorporate PAIA into their advocacy activities (or already do so to some degree) but which lack in-depth knowledge of PAIA, its use, scope and limitations.

3.4.1 Production of an information brochure

Throughout the course of the research, it became evident that a number of organisations not only had very poor knowledge of PAIA but also, and of concern, that many organisations had neither made the link between PAIA and advocacy nor considered the benefits that the use of PAIA could bring to their advocacy activities.

In order to address this, a number of organisations emphasised the desire to have access to an easy-to-read information brochure that, in addition to providing basic information about PAIA, would highlight why organisations should incorporate PAIA into their work. Many organisations were of the view that a brochure of this kind would assist them to get the ‘buy-in’ of their respective organisations into using PAIA and to incorporate it into their work. As a number of respondents noted, this brochure could include a series of frequently asked questions about PAIA (including when lawyers and court actions are needed), concrete examples of organisations that have used PAIA successfully and how it has influenced their advocacy work, as well as a basic step-by-step guide of how PAIA works.

In addition to raising basic levels of awareness about PAIA, the brochure could also assist SAHA to raise the profile of its Freedom of Information Programme, as well as invite organisations to contact SAHA for further information or briefings.



3.4.2 Open information or training workshops

Coupled to the production of an information brochure, SAHA could also consider holding open information or training workshops for civil society organisations that want to acquaint themselves with PAIA. These workshops could also assist organisations to think through key issues that their organisations are working on and the types of information or records that they might want to obtain through the use of PAIA.

These information or training workshops could either be organised thematically or geographically. A thematic focus could have the added value of enabling organisations working in the same sector to learn about PAIA directly in relation to the context within which they work; however, it could have higher financial resource implications since it would require bringing together organisations working in different geographical areas of the country.

If SAHA were to explore the holding of introductory workshops further, it would benefit from coordinating such workshops with ODAC and the SAHRC, since both of these organisations provide training on PAIA. In particular, the SAHRC has committed itself to holding a series of PAIA information workshops open to civil society organisations countrywide throughout this year and into the next. Even though these workshops will be offered from its Head Office in Johannesburg and require participants to cover their travel costs, they could prove sufficient to meet the existing demand for further training on PAIA without SAHA needing to also provide training.

In considering the holding of information workshops on PAIA, SAHA should also keep in mind ODAC's experiences with the holding of training and information sessions. Soon after PAIA came into force, ODAC conducted a number of information and training workshops with well-established NGOs with the hope that, as organisations acquainted themselves with PAIA and thought through the implications of PAIA for their work, they would begin to submit information requests. However, to ODAC's dismay, this was not necessarily the case. In other words, it is possible that civil society organisations might not sustain their interest in using PAIA beyond their attendance at information sessions.

3.4.3 Incorporation of PAIA training onto other training initiatives

Another possible intervention to extend knowledge of PAIA across NGOs and CBOs involves the incorporation of training on PAIA to the existing training initiatives of a number of advocacy organisations. During the course of the research, organisations in different sectors indicated that they provide training to more locally-based organisations and indicated a willingness to incorporate PAIA into their training activities. This would require SAHA to develop an active role in pursuing the incorporation of PAIA training and its adaptation to meet the needs of individual organisations. Specific interventions will be discussed in more detail in the next section of the report which provides key findings by each of the sectors targeted for the study.



3.4.4 Partnerships with key organisations

Even though many of the organisations interviewed were not in a position to commit themselves to establishing a working partnership with SAHA but required instead further information prior to considering this possibility, there are a number of organisations which could become future partners to SAHA. These are organisations that have some basic knowledge of PAIA, have thought about how PAIA could fit into their work, and showed a willingness to continue to use PAIA if given some training and mentoring on the submission of requests. Greater details on possible future partners by sector are provided in later sections of this report.

3.5 Willingness of organisations to archive materials with SAHA

All of the organisations interviewed in this study expressed their willingness, in principle, to deposit key records of their campaigns or projects at SAHA in the future. The majority of organisations lack formal archives or systems to catalogue their information and therefore tended to welcome this initiative. In many instances, organisations were not shy to admit that their archives are in a state of chaos but, as long as SAHA is willing to work through them to retrieve what it needs, they would be willing to have their records stored at SAHA. Organisations would like to obtain more details about how this archiving process would actually be done, especially since some organisations expressed a preference to keep copies of their materials, in addition to their being stored at SAHA.

4 CONTEXTUALISING SAHA'S WORK WITHIN THE ACCESS TO INFORMATION FIELD

In addition to SAHA, there are currently four other organisations in South Africa that work actively in the access to information field. These organisations are the Public Service Accountability Monitor (PSAM) in the Eastern Cape, the Open Democracy Advice Centre (ODAC) located in Cape Town, the Freedom of Expression Institute (FXI) in Johannesburg, and the South African Human Rights Commission (SAHRC), with its Head Office also in Johannesburg. This section provides an overview of the subject and scope of the work carried out by these organisations, and incorporates recommendations by these organisations, where provided, that could be useful to guide SAHA's work.

4.1 Public Service Accountability Monitor (PSAM)

PSAM is a non-governmental organisation located in the Eastern Cape which makes regular use of PAIA to request information from Eastern Cape provincial government departments involved in the provision of social services for monitoring and research purposes. Unlike SAHA and ODAC, PSAM does not take on PAIA requests from members of the public. Provincial departments from which PSAM requests information include Education, Health, Social Development, Housing and Treasury.



PSAM sources materials from Eastern Cape provincial government departments to monitor their performance. Most of the information that PSAM requests from different government departments is not controversial. Instead, it consists of documents that provincial government departments are required to produce as part of their regular reporting mechanisms and that, in principle, should be public information. PSAM regularly sources records such as forensic reports and audits, operational and strategic plans, performance assessments, disciplinary databases and budgets. In its tracking of provincial government expenditure, PSAM also relies on departmental annual reports, reports produced for National Treasury and Auditor General's reports. For the most part, PSAM has been successful in securing the information requested. In cases where it has had to engage in internal appeals, PSAM has sought to emphasise the use of information for research, as well as how departments could use this information for their own performance measurement.

While it uses PAIA requests to source information for monitoring and research purposes, PSAM has been lobbying provincial government departments to encourage them to make the information that PSAM requests available to the public in the first place. This would reduce the time that government officials have to devote to answering requests and would enhance transparency and accountability. Over the years, PSAM has seen an improvement in response times to requests and in some instances it has been able to source information without resorting to PAIA. Some departments have also allowed training on PAIA, while there has been an improvement by some departments in the provision of information on government websites, including details about information officers and on using PAIA. The Office of the Premier of the Eastern Cape has also appointed a person within its Monitoring and Evaluation Unit to update the provincial government website and make information more accessible to the public.

Even though PSAM's focus is on the Eastern Cape provincial government, in the next two years it plans to conduct training within SADC countries on monitoring strategies, including the value of using access to information legislation, and to illustrate this by the use of examples where PAIA has been useful.

As much as PSAM has been successful in making information produced by Eastern Cape provincial departments both public and accessible, it also recognises that its work is limited in that PSAM lacks the capacity to monitor the provision of basic services at local government level. Given the fundamental role of local government and municipalities in the provision of basic social services, PSAM suggested that SAHA should focus its activities on sourcing information at this level.

4.2 Freedom of Expression Institute (FXI)

FXI has an Access to Information Programme (ATI Programme) that was started in 2004 and is currently located within FXI's social justice programme. The aim of the programme is to strive for access to information in the area of socio-economic justice. The focus has been on establishing partnerships with social movements and organisations working in this area. The focus areas of the programme are as follows:



1. Macro-economic policy formulation (SADC-wide): In South Africa, the focus has been on the Basic Income Grant (BIG) campaign and working with organisations that need information for research and advocacy purposes;
2. Debt and Debt-related issues: An area where FXI has worked with Jubilee South Africa.
3. Municipal service delivery: Focus on the privatisation of services. FXI assisted Ebrahim Harvey to obtain records from Johannesburg Water.
4. Budget analysis: Focus on the People's Budget Process, particularly the tracking and monitoring of expenditure.

However, while FXI has in the past assisted organisations working in these areas, it currently lacks the capacity to assist members of the public with individual requests. In recent months, the focus of FXI's ATI programme has been on the SADC region and the adoption by SADC countries of access to information legislation. In particular, in each of 12 SADC countries, FXI has acquired partners which interphase with a group of NGOs dealing with socio-economic issues to test the right of access to information. In most countries (except South Africa and Zimbabwe), there is no legal framework to give effect to access to information save for Constitutional provisions, so these partner organisations have identified information requests, submitted them and are currently in the process of monitoring whether they succeed in obtaining the information. FXI will be monitoring this process until July 2007 and hopes that in two years a number of countries in the region will have access to information legislation. FXI has drafted a model law for SADC countries to use as an example/shadow legislation, even though in some countries there are already bills awaiting passage.

While FXI has been involved in working in the region, it has not identified key partners to work with in South Africa as part of this regional project. Due to resource constraints and changes linked to FXI's incorporation into Wits University, FXI is unlikely to do this in the near future. As an indication of this, matters pending from Ebrahim Harvey's information requests will be transferred to CALS due to lack of funding. In light of its limited capacity to focus on the use PAIA for the purpose of attaining socio-economic justice, FXI suggested that SAHA should move into this area and link the use of PAIA to struggles over the provision of basic services. Further, it was of the view that SAHA should aim to find partners that can talk to a number of organisations working on these issues, who are willing to take a stand and who understand that access to information is an area that involves costs and a level of expertise.

Further, and linked to FXI's campaign for the adoption of access to information legislation in the SADC region, FXI was of the view that SAHA could use its vast experience in this area and especially with PAIA to train and build the capacity of representatives from different SADC countries on access to information legislation.

4.3 Open Democracy Advice Centre (ODAC)

ODAC's access to information programme is based on the notion that the right of access to information, in and of itself, is of no good to anyone unless it is linked to socio-economic rights.



In 2000 and 2001, ODAC conducted a number of workshops with prominent NGOs – it trained them on PAIA and how to track PAIA requests. Following this, ODAC assumed that PAIA requests would flow in. However, it found out that even prominent NGOs do not regard PAIA as a priority, whilst for many there is no link between the work that they do and using PAIA. This experience has influenced the way the programme is currently structured, and ODAC's decision to employ a field worker to engage in more long-term work on PAIA, with a focus on housing. ODAC's programme is structured along the following lines:

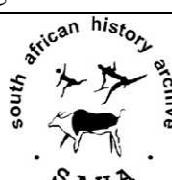
- ◊ **Outreach:** ODAC employs a fieldworker who works with communities by linking PAIA to their immediate struggles. ODAC assists communities with their first request, provides training on PAIA and devises plans, together with these communities, for advocacy and the inclusion of PAIA in them. For 2006, ODAC has also obtained funding to create a post for a campaigns officer who will work directly with communities and NGOs, specifically on housing. ODAC is already working with Abahlale (shackdwellers) in Durban.

ODAC uses a number of ways to choose the communities that it works with. For instance, some of its cases come through the Right to Know helpline run by ODAC; others are identified through the tracking of media reports, whilst some are referrals from other organisations (such as in the case of Abahlale in Durban which was referred to ODAC by the Centre for Public Participation). ODAC does not select cases in a particular geographical area.

- ◊ **Training and Advocacy:** ODAC is focusing on ensuring that the media both use PAIA and report on successful cases involving PAIA to highlight the benefits of its usage. It aims to achieve this by setting up a media fellowship where a fellow would be based at ODAC for three months to chase stories based on PAIA or report on the use of PAIA, and by encouraging a journalist exchange programme, where a journalist from either the UK or Sweden would run workshops with journalists in South Africa based on the successes with access to information in those countries.

ODAC has also obtained funding to conduct training for local government officials and municipal councillors. It has chosen to focus on local government because it is a key area for service delivery and it will also serve to supplement the SAHRC's current focus on PAIA training with local government officials.

- ◊ **Litigation:** ODAC provides PAIA litigation support to a number of organisations. Decisions over who ODAC assists are influenced by ODAC's litigation policy which prioritises support for individuals who cannot afford litigation while it also allows ODAC the discretion to pursue cases in the public interest which can contribute towards a better interpretation of PAIA and the development of case law.
- ◊ **Assistance with requests:** Besides undertaking outreach to generate requests, ODAC assists individuals who approach it directly. In these cases, ODAC assists with the PAIA process from beginning to end, including letters of demand, etc. Where organisations, rather than



individuals, approach ODAC, ODAC works to build their capacity to submit requests themselves. In these cases, ODAC usually helps organisations with their first requests and then offers to run training sessions with them (free of charge) on how to use PAIA on other campaigns that they have.

Considering that SAHA and ODAC overlap in their assistance to individuals and organisations with PAIA requests, ODAC suggested the possibility of establishing a joint website on access to information. As ODAC noted, organisations like IDASA and the Institute for Security Studies (ISS) currently run a joint website on anti-corruption activities, particularly on party funding. SAHA and ODAC could do something similar on access to information.

In terms of recommendations for possible focus areas, ODAC is of the view that SAHA could focus on the private sector application of the Act. As ODAC noted, there has been litigation against public bodies and the success rate has been very high (100%). This is in stark contrast with litigation against private bodies, whose success rate has been dismal. Whilst ODAC acknowledges the emphasis put by the first PAIA conference, and of its own work, on the public sector, it also believes that civil society should start paying more attention to the use of PAIA in relation to private bodies and whether it is working.

4.4 South African Human Rights Commission (SAHRC)

The SAHRC's PAIA Unit falls within the Information and Communications Programme at the SAHRC. This programme brings together four sub-programmes, namely: communications and publications, media, access to information and records management. The PAIA Unit deals specifically with access to information and records management.

Even though Part 5 of PAIA outlines a number of responsibilities for the SAHRC, including the production of a guide on how to use PAIA and statistics from public bodies regarding the number of requests received and their processing, the SAHRC's PAIA Unit is grossly understaffed. Since the beginning of 2007, the PAIA Unit has consisted primarily of one person based at Head Office; none of the SAHRC provincial offices have information officers. It is the SAHRC's intention, however, to have deputy director posts within the PAIA unit, who in turn have support staff.

In addition to being understaffed, SAHRC representatives indicated that PAIA is not clear on some of the powers that the SAHRC can exercise in terms of PAIA, particularly those linked to the subpoena of information and monitoring. For instance, the SAHRC must report to the National Assembly annually on statistics pertaining to requests received by public bodies. In some cases, public bodies provide information indicating that they have received no requests at all when this is not correct. In others, public bodies fail to provide the necessary information. When the SAHRC communicates the lack of cooperation from public bodies to Parliament, parliamentarians argue that the SAHRC should subpoena such information. However, PAIA does not give the SAHRC powers to subpoena information; the SAHRC derives this power from the SAHRC Act, but not from PAIA. Compliance by public bodies with PAIA is monitored



from the side of records management, through ‘inspections’ of public bodies primarily (eventually this will also incorporate private bodies).

Representatives acknowledged that the SAHRC does not do justice to its obligations under PAIA, due to its limited resources and lack of clarity provided by PAIA. They also highlighted that PAIA can be quite cumbersome and inaccessible to the public, especially due to the absence of an Information Commissioner that would be able to adjudicate on PAIA requests without needing to resort to court.

The SAHRC recently made representations to the Constitutional Review Committee headed by Prof. Kader Asmal regarding the establishment of an Information Commissioner who would have powers to enforce PAIA. It made two proposals where it envisioned that the Information Commissioner would be a body that is either part of the SAHRC or a separate body. However, considering that Parliament’s thrust at present is to rationalise the number of bodies and institutions, it is unlikely that it will consider favourably the establishment of a separate Information Commissioner. With this in mind, the SAHRC proposed the appointment of an Information Commissioner within the SAHRC, who would have a ring-fenced budget and its own staff to focus on access to information and privacy issues. This Commissioner would act as an appeal body that could take PAIA matters further in the face of non-compliance and thus reduce the costs of having to resort to the courts for the resolution of disputes. The SAHRC provided costings for both proposals; however, at the time of interview, this document had not been tabled in Parliament and was therefore not publicly available.

Leaving aside any future changes to PAIA and the possible establishment of an Information Commissioner, the SAHRC’s PAIA Unit conducts a number of activities in order to popularise PAIA as a vehicle towards promoting the achievement of other rights. Its current year plan includes the following:

◊ **Raising PAIA awareness amongst local government officials**

Throughout the year, the SAHRC will undertake nine provincial walkabouts targeting MECs for local government and municipal officials to raise its concerns regarding the implementation of PAIA at local and provincial government level. The SAHRC’s central theme for the year is “empowering communities to use access to information to fight crime”. The SAHRC plans to start these walkabouts by first meeting with the Minister of Provincial and Local Government and encourage him to issue a directive to all MECs and municipal officials to ensure compliance with PAIA provisions.

◊ **Workshops at the SAHRC’s Head Office**

The PAIA Unit plans to run bimonthly workshops from its Head Office, free of charge except for travel costs, which will target senior managers and Deputy Information Officers, primarily from municipalities, in addition to representatives from civil society. These workshops will also serve to train SAHRC Provincial Education Officers on PAIA. Information about upcoming workshops will be posted on its website; they will last one day and incorporate the basics of PAIA, its application, obstacles and case law on PAIA.



◊ **Information Officers' Forum**

The SAHRC runs a forum for (Deputy) Information Officers; however, it has not been particularly effective. The forum aims to provide deputy information officers with tools to ensure compliance with PAIA. However, Deputy Information Officers, predominantly from public bodies, attend voluntarily on a monthly or bimonthly basis. It is envisioned that the Forum will meet at least once this year, immediately before the Openness Awards in September 2007.

◊ **Openness Awards**

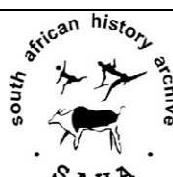
Together with ODAC and the Public Service Commission, the SAHRC hosts the *Right to Know* or *Openness* awards to recognise public bodies that emphasise transparency and commitment to access to information. The granting of these awards has been set up to coincide with the Right to Know Day on 28 September 2007.

◊ **Assistance with information requests**

The PAIA Unit assists individuals who require assistance with information requests, as well as those who expressly request the SAHRC to mediate PAIA disputes, even though mediation by the SAHRC is not explicitly mandated in PAIA. While the PAIA Unit tries to assist with PAIA requests, this is not a core business of the Unit due to its limited human resource capacity. In many instances, individuals are referred to organisations such as SAHA and ODAC for further support.

In sum, the SAHRC is focusing its activities on popularising PAIA at local government level, while also providing training to both government officials and civil society representatives. As the SAHRC commented, it does not have a programme that targets civil society directly, except through their attendance at workshops run by the SAHRC. Even then, however, these workshops provide basic awareness about PAIA and do not focus on mentoring or following through organisations that are trying to make use of PAIA and submitting requests. The SAHRC is also unable to provide material support for litigation linked to PAIA due to its limited resources and its need to prioritise existing resources to increase the human resource capacity of the PAIA Unit.

The SAHRC was of the view that SAHA should focus on building capacity of civil society at a local level as possible, despite being cognisant of the fact that civil society organisations are slow to make use of PAIA. In particular, it argued that SAHA should focus on assisting communities to access socio-economic rights such as housing and water by requesting documents like Integrated Development Plans (IDPs).



5 FINDINGS BY SECTOR

5.1 Environmental justice

Six organisations working in the environmental justice sector were interviewed, namely: Earthlife Africa (Johannesburg and Cape Town branches), Biowatch, Groundwork, Environmental Monitoring Group (EMG) and the South Africa Climate Action Network (SA CAN). The latter is a network that brings together a number of the above-mentioned organisations to focus thematically on issues related to climate change.

5.1.1 Knowledge and use of PAIA

Both branches of Earthlife Africa and Biowatch have made extensive use of PAIA. However, while both Biowatch and Earthlife Africa – JHB have had direct experience in submitting requests, Earthlife Africa – CT has relied on ODAC to do all the work surrounding requests. As a result of this, Earthlife Africa – CT's knowledge of PAIA and how to submit requests is actually limited even though information requests have been submitted in their name.

EMG has not thought about using PAIA because it tends to engage in collaborative work with both government and civil society organisations and the nature of this work has not required reliance on PAIA. This being said, EMG was of the view that if it knew more about PAIA it might be interested in using it for some of its campaigns and advocacy activities. At this point, however, EMG has not thoroughly thought through how PAIA would fit into its work.

Groundwork is beginning to engage with PAIA, through its work with the South Durban Community Environmental Alliance (SDCEA) and the Vaal Environmental Justice Alliance (VEJA). However, Groundwork, SDCEA and VEJA lack sufficient knowledge to submit requests and have limited understanding of the steps to be undertaken in cases where information is requested but is initially denied.

Lastly, SA CAN has fair knowledge of PAIA but it has not submitted information requests in the name of the network. However, some of the organisations that belong to the network (such as Earthlife Africa) have submitted requests and therefore some level of knowledge and capacity to engage with PAIA already exists.

5.1.2 Types of information required by organisations to inform their advocacy activities

Organisations working in the environmental justice sector would like to use PAIA to obtain records or information from both the public and private sectors linked to the following:

- ◊ Environmental Impact Assessments (EIAs) and public participation (including whether EIAs are considered as part of permit applications since in many instances they are missing altogether);
- ◊ Measures undertaken by the public and private sectors to protect the environment and human health;



- ◊ Records that inform how decisions are made and evidence of consideration of alternatives when arriving at decisions (for instance, feasibility studies in relation to nuclear energy, location and use of GMOs);
- ◊ Contracts and articles of association, MOUs, permits awarded to different industries (conditions under which awarded; what aspects were considered when decision was made);
- ◊ Health and Safety records;
- ◊ Government policies governing the different industries (obligations; conditionalities, environmental standards to be complied with, etc);
- ◊ Statistics on import/export of hazardous waste; and

5.1.3 Willingness, capacity and commitment of organisations to engage in a partnership with SAHA

Except for EMG, which would require further knowledge of PAIA before discussing a possible partnership, all other organisations working in this sector were of the view that a partnership with SAHA would contribute positively to the advocacy work that they currently do. What varied, however, were the types of training that they proposed, depending on their existing ability to engage with PAIA.

	Training for own staff	Training for communities
Earthlife - JHB	Yes	Yes
Earthlife – CT	Yes	Yes
Biowatch	No	Yes
Groundwork	Yes	Yes
SA CAN	Yes	No

As the table above shows, except for Biowatch, all other organisations would like their own staff to receive training on PAIA. Moreover, except for SA CAN which is an organisation-based network, all other organisations would like to ensure that training is provided to the communities that they work with since it is often these communities that are at the coalface of identifying environmental issues affecting them. For instance, Earthlife Africa – CT suggested that it could prove very fruitful for SAHA to work with the newly formed Coalition for Environmental Justice (CEJ), which is made up of sixteen NGOs and CBOs that have an environmental justice thrust and whose purpose is to deal with key environmental issues affecting the Western Cape. By establishing a partnership with CEJ, SAHA would be able to build the capacity to engage with PAIA with a number of organisations at the same time, instead of approaching individual organisations. This approach would also be similar to working with SA CAN, as opposed to individual organisations.

As much as the focus should be on ensuring that PAIA is known and accessible at grassroots level, when considering training of community organisations, it is necessary to assess whether



these organisations or communities would have the capacity to follow through on PAIA requests (to ensure that requests do not get lost) and engage in the necessary steps outlined in PAIA in cases when information is refused. Otherwise, while they might benefit from training, the purpose of the training is unlikely to be sustained. When this concern was discussed with the organisations interviewed, most organisations recognised that communities, or community-based organisations, at present would not have such capacity. This being said, organisations were also open to the idea of acting as coordinators or managers of PAIA requests to ensure that requests are followed up as necessary and of playing a role in transferring skills, over time, to the respective communities or organisations with whom they work. In order to be able to do this, however, organisations highlighted the importance of SAHA assisting in the production of step-by-step PAIA guides in simple and multiple languages that organisations would be able to rely on in their work with their respective constituencies.

As can be observed from the above, there is probably too much demand for what SAHA can sustain at the moment. Keeping this in mind, it might be best for SAHA, at this time, to focus on building and/or strengthening the capacity of more established environmental organisations to use PAIA and submit requests, as the initial stage of the partnership, before venturing into building the capacity of more community-based organisations or communities themselves. Depending on how training is ultimately offered and depending on available resources, training sessions carried out by SAHA could incorporate representatives from communities, other NGOs or CBOs identified by the organisations interviewed. However, those attending would need to have a certain level of literacy and of English comprehension in order to benefit from the training.

5.1.4 Possible partners

As much as a number of organisations in this sector indicated their willingness and commitment to engage in a partnership with SAHA, it is important to consider how SAHA's resources could best be utilised to enhance the capacity to use PAIA amongst organisations that are starting to grapple with it. It could be argued that Earthlife Africa – JHB already possesses good operational capacity to use PAIA. Its counterpart in Cape Town does not have the internal capacity to submit requests, but it has developed a working relationship with ODAC and it could develop this capacity through ODAC's assistance. ODAC's current activities on PAIA include not only assisting organisations with requests but also developing their internal capacity to carry on with the submission of requests. Biowatch already has the internal capacity to use PAIA and EMG is not at a stage of entering a partnership with SAHA since it has neither given thought to PAIA in great depth nor considered how PAIA could fit into its work. Lastly, as much as working with SA CAN could allow SAHA to build the capacity of a number of organisations at the same time, some of the organisations that belong to SA CAN already have a working knowledge of PAIA.

Considering the above, it could prove fruitful for SAHA to engage in a partnership with Groundwork. Groundwork expressed a strong commitment towards using PAIA, which is illustrated by the fact that it has begun to submit PAIA requests on its own. However,



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Groundwork lacks in-depth knowledge about the grounds on which information can be refused, as well as the steps that can be taken under PAIA to challenge information refusals.

Groundwork assists communities living close to industrial facilities in South Durban and challenges such facilities to ensure that they are complying with environmental and safety regulations. It places particular emphasis on assisting vulnerable and previously disadvantaged people who are most affected by environmental injustices. It works very closely with the SDCEA and VEJA - two organisations linked to social movements in the country. In this regard, Groundwork aims to support the activities of communities committed to fighting for environmental and social justice in the face of limited resources and skills.

Through its work, Groundwork has targeted its advocacy activities at the petrochemical industry (including companies such as Sasol, Shell and Caltex), steel plants (such as Mittal), waste management (with a focus on landfill sites, the burning of industrial waste and the import/export of hazardous waste), as well as the storage of chemicals by a cluster of industries in South Durban.

Keeping the above focus areas in mind, Groundwork would be interested in obtaining documentation and/or records linked to:

- ◊ Operational permits awarded to the different facilities (including for cement kilns)
- ◊ Past environmental reports and impact assessments (EIAs)
- ◊ Contents of chemical storage tanks in South Durban
- ◊ Policies governing the industries
- ◊ Statistics on import/export of hazardous waste

Even though Groundwork does not have a large human resource capacity (it has 5 permanent project staff), it indicated that both the Director and the Research Coordinator would be willing to ensure the follow up of information requests. Aware of the limited capacity of the grassroots partners that it works with, Groundwork indicated that it would also be willing to 'hold' PAIA skills and transfer them over time to its grassroots partners. In this regard, Groundwork stressed that it would be willing to set resources aside to develop guides on PAIA that would be accessible to organisations beyond mainstream NGOs and would continue to use PAIA beyond SAHA's intervention. Whilst it is willing to support SAHA's fundraising initiatives, Groundwork will be unable to engage in joint fundraising due to its own fundraising needs.

In addition to providing SAHA with an opportunity to ground the use of PAIA in grassroots struggles, working with Groundwork would allow it to pursue PAIA requests in relation to both public and private bodies and thus possibly expand on case law affecting the private sector.

When asked specifically about the types of capacity that it would need, Groundwork would be interested in acquiring the following capacity:

- ◊ Basic knowledge of PAIA and its limitations



- ◊ Step by step training on how to use PAIA; putting in a request, filling in the forms, keeping records for follow-ups and appeals
- ◊ Understanding PAIA in relation to other legislation that limits access to information (e.g. National Key Points Act of 1980, Air Pollution Prevention Act of 1965)
- ◊ Ways to ensure responses, rather than having to wait until court action for movement on requests
- ◊ Thinking tactically about legal interventions in order not to be exposed to high litigation costs/adverse court orders (as experienced by Biowatch).

5.2 Gender-based violence sector

Nine organisations working in this sector were interviewed, namely: Tshwaranang Legal Advocacy Centre (TLAC), Gender Advocacy Programme (GAP), Rape Crisis Cape Town Trust, Sex Workers Education and Advocacy Taskforce (SWEAT), Women'sNet, People Opposing Women Abuse (POWA), Women and Men Against Child Abuse (WMACA), Nisaa Institute for Women's Development, and Mosaic Training, Services & Healing Centre for Women.

5.2.1 Knowledge and use of PAIA

Contrary to the trend found amongst environmental justice organisations, most of the organisations working in the area of gender-based violence had not only very limited knowledge of PAIA, but also had not made the connection between PAIA and its benefits for advocacy. In light of this finding, any possible partnership between SAHA and most of these organisations would need to start not only with raising awareness about PAIA and providing basic information about it, but also with making the express link between PAIA and advocacy and the benefits that the use of PAIA could bring to different organisations.

Two organisations were the exceptions to this general trend, namely TLAC and Rape Crisis Cape Town. TLAC's Director was aware of PAIA and indicated that TLAC had submitted a PAIA request with ODAC's assistance. However, TLAC recognised that since ODAC had been in charge of submitting the request, TLAC did not have the detailed knowledge about PAIA required to submit requests and the steps that can be followed in the case of non-disclosure of information. Moreover, TLAC recognised that as much as a couple of people were aware of PAIA within TLAC, this knowledge was not widespread and did not reach key project staff.

When interviewed, Rape Crisis Cape Town indicated that it was aware of PAIA and had submitted information requests with ODAC's assistance. Because of this close working relationship with ODAC, Rape Crisis indicated that they would not be interested in a partnership with SAHA.



5.2.2 Willingness, capacity and commitment of organisations to engage in a partnership with SAHA

Due to the lack of basic knowledge about PAIA and its possible benefits for advocacy amongst many of the organisations interviewed, it was not possible to explore the idea of a partnership with SAHA. Instead, discussions with representatives from most of the organisations working in this sector centred around the need for SAHA to raise awareness and educate organisations on PAIA. In particular, many respondents emphasised the need for SAHA to produce a brochure that would explicitly make the link between PAIA and advocacy and would outline the benefits that organisations could derive from using PAIA. Put differently, respondents desired to have some documentation that they could use to ‘sell’ the idea of PAIA to their respective organisations and based on which they could take the next step of exploring how PAIA would fit into the types of work that these different organisations carry out.

5.2.3 Possible partners

In addition to considering broader awareness raising activities (whether through the production of information brochures or encouraging some of these organisations to attend the training sessions offered by the SAHRC), SAHA could pursue a partnership with TLAC. TLAC has already given thought to incorporating PAIA into its advocacy work and has, albeit not very proactively, begun to use PAIA. TLAC is made up of 4 paralegals and 2 attorneys and is currently advertising for another attorney. It also works with a network of paralegals to which TLAC provides training in the form of 2-day workshops throughout the year. In addition to providing training to TLAC staff to enhance their capacity to engage with PAIA, TLAC was of the view that training on PAIA could also be offered to their network of paralegals through their training programme.

TLAC is also a key member of the National Working Group on Sexual Offences which brings together a number of the organisations interviewed that work on sexual offences¹. Building TLAC’s capacity to engage with PAIA could also have the added benefit of enhancing the capacity of this network to submit requests in its own name.

Key issues that TLAC is working on include:

- ◊ Parole for women who have killed abusive partners
- ◊ The application of parole legislation – in particular, its differential application to men and women. There are more men than women who are paroled.

¹ The National Working Group on Sexual Offences includes the following organisations: Aids Law Project; Childline SA; Centre for Applied Legal Studies (CALS); Centre for the Study of Violence and Reconciliation (CSV); Concerned People Against Abuse; Lawyers for Human Rights; Ngata Safety and Health Promotion; Nisaa Institute for Women’s Development; People Opposing Woman Abuse (POWA); Port Elizabeth Rape Crisis Centre; Rape Crisis Cape Town Trust; Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN); Save the Children Sweden; Sex Worker Education and Advocacy Taskforce (SWEAT); Thohoyandou Victim Empowerment Programme; Tshwaranang Legal Advocacy Centre; Western Cape Network on Violence against Women; Women’s Legal Centre.



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- ◊ The workings of the Thuthuzela centres run by the Department of Justice for victims of gender-based violence
- ◊ Individual cases where the state withholds information on rights of individual clients
- ◊ Monitoring of some of the legislation on sexual violence – done jointly with the National Working Group on Sexual Offences. This includes lobbying for the adoption of the Sexual Offences Bill and its monitoring once it is passed.

Linked to the above focus areas, TLAC would like to obtain the following types of information:

- ◊ Lists of people who are paroled from the Department of Correctional Services (DCS). Information on sex and length of time served before parole per prison to assess patterns.
- ◊ Evaluation reports on Thuthuzela centres (from NPA, UNICEF, Department of Justice)
- ◊ Crime statistics on rape and violence which have not been released for many years from SAPS
- ◊ For individual clients: medical records; and records regarding how decisions affecting them have been made.

TLAC is committed to continuing to use PAIA after SAHA's intervention, especially since TLAC believes that the space is closing for civil society organisations to get information from government. As government becomes more opaque in its actions, there is a real need to engage with PAIA. TLAC also affirmed that it would have the capacity to follow up on PAIA requests not only for its individual clients, but also for its ongoing campaigns. As an added commitment to using PAIA, TLAC indicated that it would be willing to engage in joint fundraising with SAHA for this partnership, as well as support any fundraising efforts initiated by SAHA.

If TLAC were selected as a partner, it would like to increase its capacity in the following areas:

- ◊ Basic knowledge of PAIA and its limitations
- ◊ Step by step training on how to use PAIA; putting in a request, filling in the forms, record-keeping and appeals
- ◊ Framing of requests
- ◊ Assistance with thinking strategically about which areas could be targeted
- ◊ Assistance with court appearances – linking PAIA to counsel and lawyer firms on pro bono basis.

In addition to TLAC, SWEAT could also be considered as another possible partner for SAHA, especially since it is one of the few organisations nationwide that focuses on the protection of the rights of sex workers. Even though SWEAT has not submitted formal PAIA requests, some of its staff have requested information from public bodies through the use of letters where they invoke their rights in terms of PAIA. Despite its limited staff complement, SWEAT has one advocacy coordinator and one research coordinator who work actively to advocate for the health and broader human rights of sex workers and who have recently identified key information needs for their advocacy activities, which include:

- ◊ Information about arrests as a result of loitering



- ◊ Records from police stations on people arrested for loitering and then released, as well as cases that are actually prosecuted
- ◊ Hospitalisation records – sex workers hospitalised and hospitals not willing to disclose information
- ◊ Medical records: Sex workers are assaulted or raped, then treated. SWEAT needs the medical records to make cases that are taken to the Independent Complaints Directorate (ICD) stronger. Hospitals fail to release records.

SWEAT was of the view that a partnership with SAHA would be extremely valuable to the work that it is currently conducting. However, it was not possible, at the time of interview, to explore the feasibility of a partnership in great detail because SWEAT has just appointed a new Director, who is in the process of settling in, and the advocacy coordinator is on maternity leave. The Research Coordinator who was interviewed, however, was of the opinion that further discussions should be held with the Director in a couple of months' time, especially since possible partnerships would be established in the course of 2008. By this time, the Director would be settled in and the Advocacy Officer would return to her duties. Importantly, and as a sign of commitment to a future partnership, SWEAT emphasised that given its limited staff and time constraints, it would not pursue this partnership if it was not convinced that it would add value to the work of their organisation. As in the case with TLAC, building the capacity of SWEAT to engage with PAIA would also indirectly assist towards enhancing the capacity of the National Working Group on Sexual Offences to submit information requests in its own name.

5.3 HIV/AIDS

Four organisations working in the HIV/AIDS field were interviewed, namely: Aids Law Project (ALP), Treatment Action Campaign (TAC), AIDS Legal Network (ALN), and the AIDS Consortium.

5.3.1 Knowledge and use of PAIA

The ALP and TAC were found to have a fair or good knowledge of PAIA, whereas ALN and the AIDS Consortium were either not acquainted with PAIA or have minimal knowledge about it. TAC indicated that it received training on PAIA from ODAC in 2005.

ALP, on behalf of TAC, submitted an information request in 2004 to the Department of Health requesting an annexure mentioned in the executive summary of the Department's operational plan for HIV/AIDS treatment, which contained targets and timelines for implementation. Following the Department's failure to comply with the request, ALP took the matter to court, where it was finally informed by the Department that the annexure mentioned did not exist and that its mention in the executive summary was an editorial mistake. Since ALP had asked for a specific document rather than any records related to timelines and targets for implementation, it was advised that it would be unable to pursue the matter further. Even though ALP was unable to secure the desired information, it did however go back to court to secure costs incurred in the



process of submitting the request and was awarded costs in its favour. Needless to say that this experience, marred by government non-responsiveness, wasted time and resources, has not built the ALP's confidence in using PAIA in the future. Nonetheless, the ALP is aware that PAIA can be invoked as a last resort, if all other attempts to obtain information fail.

TAC, in addition to working with the ALP, has also submitted other information requests linked to more localised monitoring of HIV/AIDS treatment at public clinics in Eastern Cape. However, these requests were submitted with ODAC's assistance and therefore TAC's own internal capacity to make requests pursuant to PAIA is quite limited. TAC does participate in the Joint Civil Society Monitoring Forum, which monitors the Department of Health's operational plan for the treatment of HIV/AIDS. The Forum includes TAC, ALP, together with ODAC, IDASA, MSF and others and undertakes shadow reporting on the activities of the Department of Health and the implementation of its operational treatment plan. Even though the forum gets information from provinces such as Gauteng and Western Cape, it has been less able to get information from problematic access provinces such as Limpopo, Mpumalanga and Eastern Cape. The forum has not done PAIA requests; it has requested information by writing letters to the Minister, which often has not worked.

Neither ALN nor the AIDS Consortium have submitted information requests. Besides being linked to a lack of knowledge about PAIA, the lack of consideration of PAIA is also related to the character of the work that these organisations carry out. The advocacy activities of both the ALN and AIDS Consortium are reliant on the work carried out by partner or member organisations at provincial or more localised levels. In other words, advocacy campaigns and activities are provincially-based and differ based on the needs identified by organisations at these levels. The AIDS Consortium also recognised that its advocacy work has dwindled in the past few years and it is in the process of resuscitating it. Both organisations, however, do provide different forms of training. In the longer-term, once these two organisations acquire a more in-depth knowledge of PAIA, they could be in a position to include training of PAIA as part of the training that they offer. The training provided by ALN is directed at both organisations and paralegals, and at present mostly focused on HIV/AIDS related issues.

5.3.2 Willingness, capacity and commitment of organisations to engage in a partnership with SAHA

The ALP already has the necessary capacity to engage with PAIA and submit its own requests. However, the ALP is of the view that there could be cooperation between ALP and SAHA regarding training that the ALP undertakes with different legal service providers on improving access to legal services linked to HIV/AIDS issues, and their broader training on accessing rights. The ALP recognised that their training often does not make a direct link to PAIA. To explore this possibility further, ALP suggested that SAHA should link up with the Head of Training at ALP.

In terms of the TAC, the TAC has a desire to increase the capacity of its regional affiliates to engage in more localised monitoring at district levels. TAC has already identified six health



districts throughout the country for its targeted monitoring of provision of HIV/AIDS treatment. For this monitoring, it has identified the following information needs:

- ◊ District health plans and local health plans for access to treatment
- ◊ Number of people on treatment at district level & at local public health facilities
- ◊ If reliance on tertiary hospitals, referrals downward to district level
- ◊ Accreditation of facilities for treatment provision
- ◊ Human resources plans for health structures

TAC indicated that it has both the human and financial resource capacity to sustain a partnership with SAHA, and would be willing to identify and transport people who should be trained on PAIA. However, TAC already received training from ODAC in 2005 and has an ongoing working relationship with ODAC. According to ODAC, ODAC has provided training to TAC's Limpopo and Kwa-Zulu Natal provincial offices and is currently in discussions with the TAC to continue this training. In view of this, as much as TAC might represent a possible partner, it would seem logical for the TAC to continue working with ODAC.

In terms of ALN and the AIDS Consortium, at this point it would be necessary for SAHA to consider inviting these organisations to a broad information session and providing them with brochures/literature that enable them to make the link between PAIA and advocacy and then explore the possibility of incorporating training on PAIA to the training that they already carry out with organisations and partners at provincial level.

5.3.3 Possible partners

Unfortunately, within this sector there do not seem to be key partners that SAHA could work with on an ongoing basis. The ALP already has the necessary capacity, TAC is undergoing training with ODAC, while the ALN and the AIDS Consortium lack the necessary information to commit to a partnership where these organisations would be trained on submitting requests and accompanied as they begin to submit their own requests. If SAHA desires to work in this sector, it would need to focus on basic awareness raising interventions before partnerships can be established.

5.4 Land reform

A total of nine organisations working in the area of land rights and land reform were interviewed, namely: Association for Rural Advancement (AFRA), Border Rural Committee (BRC), Nkuzi Development Association, Surplus People Project (SPP), The Rural Action Committee (TRAC), Southern Cape Land Committee (SCLC), Association for Northern Cape Rural Advancement (ANCRA), and Women in Farms Project. In addition to these organisations, Richard Spoor, a private attorney doing extensive work with communities affected by occupational health and mining issues, was also interviewed.



Many of these organisations do similar kinds of work but across different geographical areas of the country. In particular, many of them focus on issues linked to land restitution and redistribution, protecting the rights of farmworkers, post-settlement support to communities, and evictions (including as a result of land development projects such as golf courses, tourist attractions, etc.). Most of these organisations work closely with a number of communities, community-based committees, as well as Landless People's Movement structures.

Interestingly, most of these organisations do not focus on mining rights as a specific issue area. Some of them have dealt with disputes of this nature but only as they relate to restitution or eviction claims that they are approached to assist with. In contrast, while he also assists people with land claims who lack information on the status of their claims, Richard Spoor's focus is predominantly on the granting of mining licenses to companies and the effects that this has on local communities who usually lack any information about these developments. His work has tended to target mining companies, whereas many of the organisations working on land reform and land rights focus on farmers or government structures.

5.4.1 Knowledge and use of PAIA

Knowledge about PAIA amongst organisations working in the land sector is generally quite limited. While most organisations had at least heard of PAIA, they tended to associate the use of PAIA with lawyers, courts, a drain on time and financial resources, as well as time delays due to court rolls being full. While there is no denying that formal access to information requests can often end up in court and require the use of lawyers, these associations also highlighted the lack of knowledge amongst many of these organisations regarding the fact that initial requests and internal appeal processes do not necessarily require reliance on lawyers or courts. When the basic steps in PAIA were outlined to respondents, they were more open to considering PAIA. Nonetheless, they emphasised that before considering using PAIA they would exhaust what they considered cheaper, albeit not necessarily more effective, methods of securing information.

Some organisations argued that they had no need to use PAIA because they managed to get the information they required based on positive working relationships. Those who faced challenges in obtaining information mentioned that they predominantly relied on 'cheap' methods, such as writing threatening letters to Ministers or other authorities to secure the necessary information. In some cases this approach has worked. Where it has not, organisations have often refrained from pursuing the information further due to time and resource constraints.

The exceptions to this general finding were AFRA and TRAC, which had a better working knowledge of PAIA than the rest of the organisations interviewed. Neither of them, however, has submitted requests pursuant to PAIA. The information officer at AFRA recently participated in an information session on PAIA conducted by the SAHRC and since then AFRA has become enthusiastic about beginning to incorporate PAIA into its work. TRAC is aware of PAIA and has invoked PAIA when it has requested information from government departments, but has not submitted formal requests following the steps outlined in PAIA. Following the interview, however, TRAC requested the PAIA forms from SAHA, presumably to submit a formal request.



In contrast to most organisations working in this sector, Richard Spoor makes regular use of PAIA (and in many cases, successfully) on behalf of the communities that he works with in the area of mining rights and awarding of mining licenses. As an attorney, however, he enlists the assistance of paid lawyers in the submission of requests to minimise the room for mistakes in their wording, ensure they are submitted to the correct person, and that there is a formal proof of service – tasks that if not done correctly could frustrate the process to secure information.

5.4.2 Willingness, capacity and commitment of organisations to engage in a partnership with SAHA

Two of the organisations interviewed, namely the Border Rural Committee and the Southern Cape Land Committee declined to consider a partnership. The Border Rural Committee indicated that PAIA is not directly relevant to their work since its focus is on fighting for the incorporation of former homeland areas in the Ciskei and Transkei into the land restitution process and the information they require is obtained predominantly through oral histories with communities. For its part, the Southern Cape Land Committee, whose focus is on the conversion of agricultural land into private developments such as golf courses, indicated that it was currently stretched to capacity and PAIA was not currently one of its priority areas. However, it is open to obtaining further information about PAIA and suggested that SAHA work closely with paralegals to improve awareness and use of PAIA.

Organisations such as Nkuzi Development Association, Surplus People Project (SPP), Association for Northern Cape Rural Advancement (ANCRA), and Women in Farms Project need to be provided with basic information about the potential benefits of using PAIA to further their work before exploring a more sustained partnership. All of these organisations showed interest in learning more about PAIA, but required further understanding of it before being able to commit themselves to any form of partnership. This would also apply to AFRA. Even though AFRA seems quite willing to engage further with PAIA and has some basic knowledge of it, the information officer interviewed requested brochures or information outlining the benefits of PAIA to assist in getting the ‘buy-in’ of the organisation into using PAIA and incorporating it into their work.

5.4.3 Possible partners

One potential partner for SAHA in this sector is TRAC. TRAC showed interest in using PAIA formally (as opposed to informally invoking it in letters it sends out), particularly in relation to its recent focus on the conversion of agricultural land into residential developments, tourist facilities and golf courses. TRAC aims to expose the human and development impact of cases where people have been forced to move out to give way to these land development projects. TRAC has been asked to represent communities’ restitution claims against claims by private businesses or groups that want to develop land privately.



TRAC would be interested in obtaining information linked to restitution claims (reports based on which decisions are made; information on the status of claims), Section 9 reports from the Department of Land Affairs and municipalities (for eviction cases) which must be completed but they are often not done; information about land developments and consultations held; and access to case files. TRAC, through its 8 project staff, would be able to track requests pertaining to their individual cases and would continue to use PAIA on a needs basis after SAHA's intervention. It would also be willing to both engage in joint fundraising efforts with SAHA and support SAHA's own efforts.

In addition, TRAC highlighted that it also belongs to the Mpumalanga Access to Justice Cluster Network, which is headed by an attorney based at the Centre for Community Law and Development at the University of the North West. The Cluster is linked to the Legal Aid Board and is able to access funds for impact litigation upon assessment by the Legal Aid Board. This cluster played an important role in shaping justice centres in the province and aligning them with NGOs dealing with legal issues. The cluster works with NGOs and CBOs doing advocacy work, as well as advice offices. It undertook training of advice offices on maintenance legislation due to increased demand and could possibly incorporate training on PAIA. This could have the potential of extending the training beyond TRAC, to incorporate a number of the organisations that it works with. TRAC was of the view that both the Cluster and advice offices would be able to track progress with information requests submitted; however, this would need to be explored further since advice offices often tend to be overwhelmed by demand against limited resources.

A different type of partnership could be pursued by SAHA with Richard Spoor. He seems to be one of the few individuals who is working with communities to obtain information about mining operations affecting them. In particular, Mr. Spoor is focusing on the human and environmental impact of the granting of mining licenses on local communities who often lack basic information about these developments. While he has the necessary knowledge to engage with PAIA, he does not have the capacity to deal with demand. Mr. Spoor indicated that starting in May 2007, a lawyer based in Johannesburg will be working with him. However, this lawyer requires training on PAIA and Mr. Spoor would like to explore the possibility of SAHA training him. In addition, Mr. Spoor would like to explore any possibilities of him referring cases to SAHA to place requests.

5.5 Social justice and public participation

Six organisations working in the broad area of social justice and public participation were interviewed. These included social movements such as the Anti-Privatisation Forum (APF) and the Coalition Against Water Privatisation (CAWP) and organisations that actively struggle for the respect of socio-economic rights such as the Centre for Applied Legal Studies (CALS) (Basic services programme) and the Black Sash. Under this sector, organisations working with the labour movement, such as the National Labour and Economic Development Institute (NALEDI) were also included. Numerous attempts were made to interview COSATU representatives during a period of one month; unfortunately, however, COSATU did not respond to repeated requests for an interview. Lastly, the Centre for Public Participation (CPP) was also included in



this sector considering its commitment to strengthening governance and public participation through advocacy and training.

5.5.1 Knowledge and use of PAIA

Except for NALEDI, all other organisations interviewed within this sector have at least a fair knowledge of PAIA. The Black Sash, through its advice offices, uses PAIA regularly to request information predominantly from the Department of Social Development on issues of access to grants, particularly for children, disabled and old people. While its reliance on PAIA has been less frequent than that of the Black Sash, the APF, together with the Coalition Against Water Privatisation and SAHA's assistance, submitted requests in 2005 to Johannesburg Water and the City of Johannesburg, on the budgeting, decisions over the adoption, and installation of pre-paid water meters. This information formed the initial basis for the existing court case on the constitutionality of pre-paid water meters.

Similarly, the basic services programme run by CALS uses PAIA, on a needs-basis, linked to its advocacy and litigation work on housing and evictions in the inner city of Johannesburg. In contrast, NALEDI possesses limited knowledge of PAIA and has never submitted a request pursuant to PAIA despite the fact that representatives were able to highlight areas of their work where PAIA could prove useful.

CPP, which was started as an initiative of IDASA and has a close working relationship with ODAC, has a fairly good knowledge of PAIA but the nature of its work does not require it to submit requests. In particular, CPP does not represent specific sectors and the focus of its work is on the provision of governance and advocacy training to build the capacity of communities and strengthen public participation. Some of the training modules that CPP offers already include training on PAIA and PAJA legislation.

5.5.2 Willingness, capacity and commitment of organisations to engage in a partnership with SAHA

CPP, due to the nature of its work, and the Black Sash, given its regular use of PAIA, are not interested in pursuing a partnership with SAHA that would focus on building the capacity of these organisations to use PAIA. However, both CPP and Black Sash would be willing to work with SAHA to ensure that the training that they conduct incorporates PAIA fully. For instance, CPP indicated that it would be willing to incorporate more detail on PAIA as part of its Good Governance Training Module. This is an intervention that SAHA could possibly pursue in collaboration with ODAC, given CPP's close working relationship with them.

Similarly, the Black Sash would be willing to work with SAHA to ensure that the ongoing training that it conducts with its own offices (in Gauteng, Kwa-Zulu Natal, Eastern Cape and Southern Cape) and other legal advice offices provides a thorough and informed understanding of PAIA. Importantly, the Black Sash aims to train small NGOs and advice offices, often



located in more remote parts of the country, to counter-balance training that is often focused in large urban centres. In particular, the Black Sash is currently focusing on training paralegals in the Southern Cape on the National Credit Act. As the Black Sash argued, this training could also include training on PAIA and PAJA since it could assist persons, who apply to become debt counsellors but who are denied this opportunity, to obtain reasons for their rejection. The Black Sash is willing to explore a joint training partnership with SAHA and to fundraise jointly with SAHA to facilitate it.

In contrast, NALEDI was of the view that at this point in time it would be premature to forge a partnership with SAHA since it lacks the necessary understanding of PAIA and how it could be incorporated into its work. While it recognises that PAIA could be useful for the People's Budget Process work that it conducts for COSATU, NALEDI indicated that COSATU has not considered using PAIA. In brief, NALEDI would be interested in obtaining more information from SAHA on PAIA and its relevance for advocacy before going any further.

With regards to CALS, some individuals working in its basic services programme already have a fair level of understanding of PAIA and have incorporated it into their work. However, due to this programme's limited capacity, CALS would like its librarian to be trained on the use of PAIA so that she can provide PAIA support to this programme and be in charge of submitting and following up on requests. The nature of this capacity building is unlikely to require an ongoing partnership with SAHA; however, the CALS librarian could possibly enhance her PAIA knowledge and skills by attending one of the workshops organised by the SAHRC in Johannesburg.

The remaining organisations contacted within this sector are CAWP and the APF. CAWP is an AFP structure set up to deal thematically with issues linked to the commercialisation and privatisation of water. It is focusing on government commitments to improve access to water, how decisions are being made regarding 'free water' allocations and the installation of pre-paid meters, tenders and contracts for the provision of water, budget allocations at municipal level for water provision, and the costing of water.

While it has its own coordinator, CAWP is part of the APF, its members consist primarily of AFP affiliate representatives, and is accountable to the APF. At present, despite its commitment to use PAIA and its desire to enter into a partnership with SAHA, CAWP does not have the independent human and financial resource capacity to do this; instead, it relies primarily on the APF for the funding and implementation of its activities. As the coordinator of the CAWP suggested, by entering into a partnership with the APF, SAHA could also build the capacity of the CAWP to use PAIA.

5.5.3 Possible partners

The APF could represent an important partner for SAHA. Not only has the APF already begun to incorporate PAIA into its research and struggles but it has also identified key areas and types of information for which it would like to use PAIA. These include:



- ◊ Restructuring and tariffs pertaining to Regional Electricity Distributors (REDs), electricity more broadly, and water.
- ◊ City of Johannesburg's plans on evictions and relocation of communities. At present, the APF lacks information about the city's plans for evictions and informal settlements which would inform their advocacy activities.
- ◊ Analysis of expenditure in municipal budgets: APF affiliates want to find out what is being spent on basic services (transport, health, education, etc.) and the types of contracts that municipalities are entering into with local service providers.
- ◊ Research on HIV/AIDS focused on the linkage between water and HIV/AIDS and the types of services, if any, that the City of Johannesburg is providing to those who are infected.
- ◊ Environmental issues, focusing on SAMANCOR workers in the Vaal triangle and targeting pollution and health effects on communities. The APF wants to acquire information on programmes for workers who are retrenched and who suffer from manganese poisoning.
- ◊ Education campaign focused on budget allocations to schools in Gauteng which have been designated as 'no-fee paying' schools and their impact on the quality of education provided.
- ◊ Transportation, with a focus on the plans by the City of Johannesburg for toll roads in and around Gauteng, as well as where investment in transport is focused. The Gauteng Premier announced an investment of R1 billion in transport but it is not clear where this is going. The APF also wants to focus on government plans for a public transport component to the Gautrain (who this transport is meant for and where it will be implemented) and explore whether the City is likely to subsidise the Gautrain where contract guarantees on ridership are not met.

Even though the leadership of the APF is conversant with PAIA and is willing to continue to use PAIA, the APF recognises that it needs to strengthen and expand its knowledge of PAIA. The APF is one of the more established social movement structures in the country and has managed to increase its human and financial resource capacity to sustain its activities. When asked about the sustainability of a partnership with SAHA, the APF pointed out that it has well-established management and coordination structures. This includes research and education committees, headed by coordinators and staffed by representatives of the different APF affiliates, which would be able to integrate PAIA into their work and follow up on information requests submitted. Monitoring of the progress with PAIA requests would also be undertaken by the APF's Executive Committee, as coordinators of each of the APF's committees and CAWP provide report backs on their activities at the meetings of this Committee.

As a commitment to this partnership, the APF would be willing to identify who should attend training from amongst its 15 affiliates throughout Gauteng, provide the venue for workshops, and assist with training logistics and the transport of participants. It would also be willing to engage in joint fundraising with SAHA to facilitate this partnership.



In order to strengthen its capacity to use PAIA as a strategic advocacy tool, the APF suggested a 3-step process that SAHA could pursue in its partnership with the APF, namely:

1. **First step:** Provide introductory training on the basics of PAIA in order to obtain an overarching understanding of the legislation
2. **Second step:** Hold a workshop where APF representatives would be able to discuss key issues of interest, information being sought, whether PAIA would be applicable, and entities to which the requests should be targeted.
3. **Third step:** Workshop on the practical use of PAIA focused on ‘learning by doing’. This part of capacity building would assist to conceptualise how to obtain the information identified and would allow participants to practice filling in request forms. This session would also focus on the types of barriers or obstacles that the APF is likely to face in securing the information requested, courses of action that the APF could take, as well as the upkeep of records for follow-up purposes.

Beyond these interventions, the APF would continue to use PAIA and call on SAHA for support and advice when necessary. The APF was of the view that as key members of the APF became more familiar with PAIA, it would begin to decentralise its use by strengthening the capacity of its affiliates to use PAIA on a number of issues affecting communities.

5.6 Transitional justice

Four organisations that work in the area of transitional justice were interviewed, namely: Khulumani Support Group, the Centre for the Study of Violence and Reconciliation (CSVN), International Centre for Transitional Justice (ICTJ) and the Institute for Justice and Reconciliation (IJR). The aim of the interviews with the latter three organisations was not only to assess the feasibility of partnerships to use PAIA as a strategic advocacy tool but also, and more importantly, to assess whether some of these organisations would be willing to analyse information related to the TRC process acquired through the use of PAIA in light of SAHA’s limited capacity to conduct in-depth research and analysis on this information.

5.6.1 Knowledge and use of PAIA

Knowledge about PAIA within this sector was mixed. Both Khulumani and CSVN have a working knowledge of PAIA and have submitted requests pursuant to PAIA with the assistance of SAHA or ODAC. However, CSVN indicated that it wants to be careful about where and how CSVN uses PAIA since the use of PAIA can have a negative effect on relationships with government institutions and other bodies.

In contrast, IJR and ICTJ have a very limited knowledge of PAIA. In IJR’s view, this is due to the fact that the nature of the work that it conducts does not require it to resort to PAIA. It often works in close collaboration with government and does not experience problems in obtaining the information that it requires for its activities. Similarly, ICTJ argued that it has not given thought



to PAIA because its work has a more regional rather than South Africa-based focus. This being said, it did recognise that some of its South Africa-focused project work (such as that pertaining to reparations and use of the President's Fund, and an advocacy campaign on the NPA prosecution guidelines) could possibly benefit from the use of PAIA. Nonetheless, ICTJ indicated that the organisation has neither thought through how it will obtain the information required to run its South Africa-focused activities nor considered PAIA in any depth.

5.6.2 Willingness, capacity and commitment of organisations to engage in a partnership with SAHA

Both IJR and CSVR expressed a willingness to work with SAHA to analyse information related to the TRC obtained through PAIA processes. For IJR, this type of collaboration could be incorporated into two of its programmes namely: political and economic analysis and research; and reconciliation and reconstruction. While IJR would have the capacity to collaborate with SAHA in this sphere and would be willing to engage in joint fundraising with SAHA, it would nonetheless like to discuss this collaboration with SAHA in greater detail.

In the same vein, CSVR is in principle open to the idea of analysing TRC-related information, as long as it can fit into one of its programme areas. CSVR emphasised that at present it does not have a body of work that is directly linked to the TRC, except for some aspects of its Transitional Justice Programme which focuses on reparations and the ‘unfinished business’ of the TRC. CSVR is in the midst of drafting a strategic plan for this programme and deciding on the types of local advocacy that it will support. As a result of this, it indicated that it would have to apply its mind to how, for instance, analysing information from the TRC database or other TRC-related information could fit into its activities. This being said, CSVR would be willing to discuss this collaboration further, as well as engage in joint fundraising or support SAHA’s funding initiatives to enable it.

5.6.3 Possible partners

Over and above a possible collaboration between SAHA and organisations that conduct research in the transitional justice field, SAHA could work with Khulumani to strengthen its capacity to use PAIA as a strategic advocacy tool. Khulumani has already submitted requests pursuant to PAIA, albeit with the assistance of organisations like SAHA and ODAC, and has identified a series of focus areas within which it would like to make use of PAIA. As a victim-support organisation, Khulumani not only feels excluded from many government processes affecting victims but also finds itself being denied information that it has requested repeatedly. For these reasons, Khulumani regards a more forceful engagement with PAIA to be both timely and beneficial for its work. In particular, at its Annual General Meeting held in December 2006, Khulumani committed itself to developing victim-driven activities on the following key issues and has begun to identify the types of information that it will require. Key issue areas and types of information include:



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- ◊ *Community reparations:* Despite government's commitment in 2003 to develop proposals and policy on this issue, these have yet to be made available to the public.
- ◊ *TRC Unit:* By the end of 2005, the TRC Unit was set up and during 2006, 8 staff were appointed. Khulumani put together a dossier of issues for the TRC Unit and also developed an agenda for meetings to establish a working relationship; however, there has been limited consultation. Khulumani would like to obtain records pertaining to the Unit's strategic and action plans, budgets, and incorporation of public participation.
- ◊ *Recognition of victims:* In March 2005, a public participation campaign for Freedom Park was announced. While a website was launched, there has been no public participation. Khulumani would like to obtain information on envisioned activities and processes for Freedom Park, particularly opportunities for public participation. It would also like to obtain information on: (a) people who were accused of being spies during the apartheid era to enable them to clear their names and regain acceptance and respect within their own communities; and (b) victims who have been blacklisted and are now unable to be employed in the public service.
- ◊ *Reparations and expenditure of public funds:* Khulumani wants to know what is happening with the President's Fund and who have been paid reparations. It also wants to obtain the names of those who have not been paid so that it can assist in locating them. Khulumani gave the Department of Justice its entire reparations database but the Department has not communicated on progress in the payment of reparations.
- ◊ *Evaluation of government's implementation of TRC recommendations:* Khulumani was not allowed to participate in a 2005 meeting where government shared its progress in implementing TRC recommendations and wants to assess this process.
- ◊ *Provision of services to victims (meeting their practical needs):* Khulumani wants to find out about the types of policies that different government departments might be implementing to facilitate service provision to victims in the areas of psycho-social services, health and housing, amongst others with a view to lobbying for their adoption where they do not exist.

Khulumani expressed its commitment to continue to use PAIA beyond SAHA's intervention. When asked about the sustainability of a future partnership with SAHA, Khulumani argued that it possessed both the human resource capacity and the morale to sustain this partnership. More specifically, it indicated that each of its nine provincial steering committees has an advocacy and information officer who could be trained on how to submit requests and ensure the follow-up of requests. As a further commitment to this partnership, Khulumani indicated its willingness to engage in joint fundraising with SAHA and lend its support to SAHA's own fundraising initiatives, as well as to ensure that PAIA skills filter down to the rest of the organisation.



6 RECOMMENDATIONS

Based on the levels of knowledge and use of PAIA by different organisations across the six sectors analysed in this report, four key types of interventions by SAHA have been highlighted. These include: the production of an information brochure on PAIA, the holding of open information or training sessions on PAIA for civil society organisations, the incorporation of training on PAIA into the training already offered by other organisations, and the establishment of partnerships with a select number of organisations to provide targeted training and support to enable such organisations to use PAIA on their own over the medium-term.

The production of an information brochure on PAIA, which includes positive examples of PAIA use, frequently asked questions about PAIA and its scope, and which highlights some of the advocacy-related benefits that organisations could derive from its use, could have a number of positive spin-offs. First, it would assist SAHA in raising the profile of its Freedom of Information Programme. Second, it could provide organisations which possess only a limited knowledge of PAIA with basic information about this Act to enable them to start thinking about how PAIA could fit into their advocacy activities. Third, the brochure could also possibly serve as a conduit for organisations that want to learn more about PAIA and its use, to take the initiative to do so. In this regard, as organisations become acquainted with the basics of PAIA, they might want to contact SAHA or one of the other organisations that work in the field of access to information to discuss training on PAIA, obtain more information, and so on. The key aspect in this regard is to provide organisations with sufficient information to attract their interest about PAIA whilst also allowing them to take the initiative to engage further with PAIA. Another initiative that SAHA could pursue to increase the general level of awareness and interest on PAIA and its use is the establishment of a joint website with ODAC and the SAHRC which highlights positive uses of PAIA, case law on PAIA, developments related to the implementation of the legislation, as well as basic information about PAIA and who to contact for more assistance.

Related to the above, a number of organisations which had poor knowledge of PAIA stressed their desire for SAHA to host open information or introductory training sessions on PAIA to enable them to learn more about PAIA, its use and its advocacy-related benefits. Whilst there is no denying that a number of organisations genuinely would like to understand PAIA better and how it could be incorporated into their advocacy activities, past experience with the provision of PAIA training without organisations' having given much thought to how PAIA could relate to their work have not born fruit. It is for this reason that the production of an information brochure that would enable organisations to begin digesting the basics of PAIA and its relevance is being emphasised before training sessions are provided. Moreover, considering SAHA's competing demands and limited resources, it might be best at this point for SAHA to encourage organisations that require introductory training on PAIA to send their representatives to the PAIA information sessions that are to be hosted by the SAHRC, as opposed to SAHA holding parallel information sessions.



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Rather than focusing on the holding of separate and open information sessions on PAIA, SAHA should actively pursue the incorporation of training on PAIA into the training activities and programmes of organisations that have already expressed a willingness to do so. This relates, in particular, to organisations such as the AIDS Law Project and the Black Sash. Besides responding to the immediate needs of these organisations, this intervention would also enable SAHA to develop its own training modules on PAIA that could be accessed more widely by organisations that provide paralegal training across a number of sectors. SAHA could consider the development of training modules as a joint initiative between itself, ODAC and the SAHRC given the overlap in their training focus.

In addition to exploring interventions to enable broader awareness and training on PAIA across civil society, SAHA should pursue actively specific partnerships with a select number of organisations across five of the six sectors targeted in this study. These organisations have already expressed a commitment towards incorporating PAIA as part of their advocacy activities and include: Groundwork, Tshwaranang Legal Advocacy Centre, The Rural Action Committee, the Anti-Privatisation Forum and the Khulumani Support Group. All of these organisations have at least a basic knowledge of PAIA, have submitted requests pursuant to PAIA and have already expressed a willingness to continue to rely on PAIA as an advocacy tool to advance their activities. Moreover, these organisations work closely with communities and are committed towards struggling for social justice. By working with these organisations SAHA would not only be able to ground the use of PAIA in everyday matters that affect destitute communities at a very local level but also facilitate a skills transfer over the medium to longer term to enable community members to engage with PAIA themselves.

Whilst each of the above-mentioned organisations is committed to enter into partnerships with SAHA and assist SAHA in its fundraising efforts, SAHA needs to decide whether it will have the capacity to sustain partnerships with five organisations simultaneously. If this is the case, then SAHA should formally approach each of these possible partners in order to start a process of formalising both the character and content of future partnerships. SAHA should be as explicit as possible about the types of assistance and support that it will be willing to provide to the different organisations, as well as about what it expects from each organisation as part of these partnerships. The latter could include the identification of specific individuals that will liaise on an ongoing basis with SAHA in order to ensure the continuity of future partnerships, as well as expected work product (such as copies of requests, follow-up correspondence, and so on).

As suggested by some organisations, SAHA could initially commit itself to a 3-step process with each of the organisations identified composed of an initial introductory training session on PAIA, followed by a workshop where representatives from each of the organisations are able to discuss pressing issues and how PAIA could be used to obtain information about these, culminating in a ‘learning-by-doing’ workshop where representatives, with SAHA’s assistance, would prioritise one information request and obtain practical experience in filling in the required forms, ensuring the requests are addressed correctly and adequate and clear language is used.



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Beyond this initial process, and cognisant of the fact that partnerships will require a level of fluidity, SAHA will need to decide how it structures its partnerships to ensure that organisations not only continue to follow up on submitted requests but also submit new requests beyond the initial ones submitted jointly. In this regard, SAHA will need to be specific about report backs that it will require for monitoring purposes, including possible evidence of how PAIA has or has not assisted these organisations in furthering their advocacy activities.



7 APPENDIX A: ORGANISATIONS INTERVIEWED BY SECTOR

Name of organisation contacted	Interviewed?
HIV/AIDS	
Aids Consortium	Yes
Aids Law Project	Yes
Aids Legal Network	Yes
TAC	Yes
Land rights	
Richard Spoor	Yes
Association for Rural Advancement (AFRA)	Yes
Border Rural Committee (BRC)	Yes
Nkuzi Development Association	Yes
Surplus People Project (SPP)	Yes
The Rural Action Committee (TRAC)	Yes
Programme for Agrarian Land Studies (PLAAS)	No answer
Southern Cape Land Committee (SCLC)	Yes
Trust for Community Outreach and Education (TCOE)	No answer
Association for Northern Cape Rural Advancement (ANCRA)	Yes
Free State Rural Development Association	No answer
Women in Farms Project	Yes
Gender and violence	
Tshwaranang Legal Advocacy Centre	Yes
Gender Advocacy Programme (GAP)	Yes
Rape Crisis Cape Town Trust	Yes
Sex Workers Education and Advocacy Taskforce (SWEAT)	Yes
Women'sNet	Yes
People Opposing Women Abuse (POWA)	Yes
Women and Men Against Child Abuse (WMACA)	Yes
Nisaa Institute for Women's Development	Yes
Mosaic Training, Services & Healing Centre for Women	Yes
Environmental Justice	
Earthlife Africa - JHB	Yes
Earthlife Africa - CT	Yes
Biowatch	Yes
Environmental Monitoring Group (EMG)	Yes
Groundwork	Yes



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SA Climate Action Network (SA CAN)	Yes
Social Justice	
Anti-Privatisation Forum	Yes
Coalition Against Water Privatisation	Yes
CALS - Basic services programme	Yes
NALEDI	Yes
COSATU	No answer
Centre for Public Participation	Yes
Black Sash	Yes
Transitional Justice	
Khulumani Support Group	Yes
International Centre for Transitional Justice	Yes
Institute for Justice & Reconciliation	Yes
Centre for Study of Violence and Reconciliation	Yes
Organisations working with ATI	
Public Service Accountability Monitoring	Yes
FXI	Yes
ODAC	Yes
SA Human Rights Commission	Yes

8 APPENDIX B: INTERVIEW INSTRUMENT

**Freedom of Information Programme
Scoping Project
February 2007
Questions for interviews**

1. What does the organisation know about SAHA and its work?
2. What knowledge does the organisation / individual have of the Promotion of Access to Information Act 2 of 2000 (PAIA)?
3. Has the organisation / individual submitted a request pursuant to PAIA?
4. Is the organisation interested in partnering / engaging in a project utilising PAIA to access records which may be utilised in their campaigns / projects?
5. What issues is the organisation working on?
6. What documentation / records is the organisation interested in obtaining?
7. Would a partnership contribute to an existing project / campaign?
8. What capacity does the organisation / individual have to engage in a project?
9. What commitment can the organisation make to undertaking a joint project?
10. Would the organisation be prepared to engage in joint fundraising initiatives with SAHA &/or support any relevant fundraising by SAHA for project work?
11. What is the interest of the organisation in capacity building?
12. Would the organisation continue to use PAIA following the finalisation of SAHA's involvement in the project?
13. Would the organisation be interested in depositing records of their campaigns / projects at SAHA in the future?

