



**SOUTH AFRICAN HISTORY ARCHIVE  
ANNUAL REPORT – 2006**

## **Acknowledgements**

The South African History Archive would like to thank Atlantic Philanthropies, the Rosa Luxemburg Foundation and the Foundation for Human Rights for their financial and general support during 2006. In addition, SAHA would like to thank our hosts, the University of the Witwatersrand, without whom we would be unable to undertake the rich body of endeavours we are currently involved in.

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## **1. Background**

The South African History Archive (SAHA) is a unique independent human rights archive dedicated to documenting and expanding access to archival holdings that relate to past and contemporary struggles for justice in South Africa. Established by anti-apartheid activists in 1988, SAHA was closely connected in its formative years to the United Democratic Front, the Congress of South African Trade Unions and the African National Congress. Despite this, SAHA has always been politically non-aligned and committed to collecting materials from organisations and individuals across a broad socio-political spectrum. In the early 1990s, SAHA was registered as a trust, governed by a Board of Trustees that appoints dedicated professionals to achieve its mission. Its founding mission is to strive to recapture lost and neglected histories and to record aspects of South African history in the making. This informs our continued focus on documenting the struggles against Apartheid, as well as some of the struggles that have characterised the making of democracy. Located at the University of the Witwatersrand, SAHA is committed to weaving its collections into processes of education for democracy, and more generally to make archival materials accessible not only to the research and academic community, but also communities and constituencies ordinarily excluded from such access.

## **2. Overview of 2006: a note from SAHA's Director**

This annual report is a slight departure from previous reports, by and large retaining the structure utilized in earlier editions, but intended to be a more succinct and accessible read. SAHA's staff is keen for readers of the report to engage with the issues raised and looks forward to receiving feedback, questions, queries, suggestions, comments and criticism.

The post apartheid context in which SAHA operates presents both challenges and opportunities for engagement on a broad range of human rights issues. A justiciable Bill of Rights contained within an extremely progressive Constitution has provided a platform for engaging in the protection and promotion of an array of human rights. This has opened up unprecedented space to engage with South African history and its contemporary relevance. SAHA's repositioning in the new millennium as a human rights archive was a deliberate response to these developments and intended to make SAHA's work relevant through its own contribution to the building our understanding of what has happened in South Africa, and its relationship to the fostering of transparent and accountable governance, and more generally the building of a human rights culture. Records and archive are important tools in the development of this endeavour.

Making rights a reality remains very a work in progress and there is much to be done in ensuring South Africans are adequately equipped to effectively harness their potential to contribute towards the constitutional imperatives of respecting, protecting, promoting and fulfilling the spectrum of rights set out in the Constitution. Building a democratic dispensation that is accountable and participatory requires governance that is both transparent and engaging. Communication and information is the lifeblood that underpins these opportunities and developments.

The control of communication and access to information are critical concerns that must be addressed on an ongoing basis. This is particularly important as South Africa is still emerging from a history of propaganda and secrecy, a history in which only certain voices and perspectives were recorded and recognized. There have been efforts from a range of quarters to address these imbalances, to capture the history of

the oppressed and marginalized, both in terms of historical enquiry and efforts to memorialize. SAHA remains concerned, however, that many other voices and experiences are not being given adequate attention, if any at all.

Ten years after the Truth and Reconciliation Commission was established, there remains a multitude of unfinished business relating to deepening our understanding of what happened and why; yet, there currently appears to be little appetite for further detailed introspection into the past, from either the state or organized civil society – despite the possibilities for doing so. This is also reflected in the limited attention and resources provided to the preservation and processing of the official TRC archive, and an apparent general disinterest to determine what remain of the apartheid era security and intelligence records. We must not forget that since the release of its reports in 1998 and 2003, most South Africans have not even seen, let alone been able to engage with what the TRC found and recommended. This situation has not been ameliorated and the TRC remains unprocessed and largely inaccessible to most South Africans.

Despite this, there have been significant progress and important initiatives in the collection and preservation of important aspects of South Africa's history and culture. Important initiatives, both in the State (i.e. Constitution Hill, Robben Island, Freedom Park) and private sector (The Apartheid Museum, District Six Museum) have been undertaken, beginning the process of engendering a deeper understanding of South Africa's complex and contested past. These, largely macro initiatives and presentations and their related analyses, provide an important foundation from which individual and community experiences might be explored. Almost inevitably, they are also sites of contestation. Access to both public and private archives remains constrained and these resources are only a meaningful for those with means. Bridging these gaps in a context of massive dislocation and widespread disinterest from 'resourced' constituencies remains an overreaching challenge.

The development of inclusive community histories, albeit fraught and contested, is an essential part of rebuilding South Africa's social fabric. Building a shared understanding within and between communities of our different histories and experiences, where and how they intersect, must be a precondition for engaging with the essentials of sustainable community reconciliation. Regrettably, little attention

has been given to such initiatives, either by government or civil society and there is much outstanding work to be done in this regard.

Issues informing the reconciliation debate and more recent apartheid-era history have now been included in the new schools curriculum. Text books must be written and produced to address these issues and there remains a massive challenge to develop engaging source-based educational materials and facilitators' guides that will enable students to navigate through much that remains murky and unclear about the past.

In this context, SAHA remains dedicated to accessing hidden histories, to improving access to and exploring options for the innovative utilization of the archives. SAHA seek to facilitate discourse around and engagement with the archive as they relate to human rights issues; to strive for a broader engagement with a range of source material and related perspectives, always guarding against the imposition of rigid post-apartheid meta-narratives.

2006 presented a number of challenges and opportunities for SAHA. As noted in the 2005 annual report, that year had been a difficult year for SAHA, with the loss of its director and the erosion of staff morale. Despite these setbacks, the organisational fundamentals remained in place and adequate programmatic funding for the new Director, Piers Pigou, who took up the position in January 2006.

During the year SAHA has been active on a range of fronts, in terms of the core programmatic work (as outlined below), as well as an array of spontaneous initiatives, often resulting from specific requests and interventions. SAHA has continued to agitate for the opening up of the Truth Commission archive as well as records of apartheid era security and intelligence structures. During 2006, SAHA also initiated an exciting 12-month project (Sept 2006 – Sept 2007) working with the Sunday Times Heritage Project to enhance the depth and range of archival materials and products relating to a range of memorial sites identified by the Sunday Times. The project also includes a schools' oral history component working with 9 schools in four rural towns.

The Struggles for Justice Programme continues to be active in a range of areas, from its traditional archiving responsibilities and servicing a range of clients and queries, to the development of outreach materials and options. The hiring of a part-time curator for SAHA's extensive poster collection has already paid dividends, and has opened up an array of possibilities for work and engagement with this remarkable resource. In November, the Programme hosted an important workshop on 'Memory, Heritage, and the Public Interest' that brought together a cross section of heritage, museum, archival and education practitioners with a view to exploring what work is being carried out in South Africa in terms of increasing access to and interfaces with historical information as well as facilitating the emergence of new historiographies.

In terms of the Freedom of Information Programme, SAHA was proactive during 2006 in its efforts to ameliorate relations with some of the key government departments it engages with, holding meetings to address outstanding and unresolved issues with several information officers. The programme secured an important out of court settlement relating to the release of documents utilised during the amnesty hearings of the police officers who murdered the Eastern Cape activists known as 'The Cradock 4'. With over 800 requests submitted since the programme began in 2001, SAHA's distinctive work in the access to information field was recognised with a 'Golden Key' award from the South African Human Rights Commission and the Open Democracy Advice Centre. Plans for the publication of SAHA's five-year retrospective on its experiences of using the Promotion of Access to Information Act were delayed, although preparation of chapters, inserts and other work is well under way during 2006.

On the 'home' front, during 2006 SAHA has been preparing the ground for the renegotiation of its Memorandum of Agreement with the University of the Witwatersrand, which it expects to conclude during 2007. SAHA is committed to a long-term relationship with the University and is keen for the reworked agreement to reflect existing and potential synergies and benefits. Along with GALA, SAHA also submitted a detailed account of its outreach endeavours to the university's vice chancellor, which is being utilised by the university as part of its profile illustrating how it engages communities outside the university. This document demonstrates the unique benefits and resources that both organisations bring to the university. GALA is

in the process of finalising its transition to a fully-fledged independent organisation and has formed its own Board on which the current SAHA director sits.

SAHA continues to struggle with the impact of staff losses. Given the small size of the organisation and the range of issues and processes it engages with, it is inevitable that the loss of any particular staff member can have a significant impact on aspects of our work. During 2006, SAHA's Information Analyst and Special Project Officer both resigned. Instead of replacing them, and in line with recommendations made during the September 2005 external audit, the organisation has employed a full time assistant for the SFJ programme and a part-time assistant for the FOIP. As mentioned above, we have also employed a part-time curator for SAHA's poster collection.

There was mixed success on the fundraising front. The new director inherited a surplus of funds from our primary donor, Atlantic Philanthropies, as SAHA has consistently under-spent on its projected budgets since 2003. In order to facilitate our motivation for a renewed funding in 2008, and to address concerns about developing the organisation's outreach potential, SAHA set itself an ambitious workplan and accompanying budget for 2006. This included using a percentage of the existing surplus in a context where income was significantly less than it had been for 2005. In the end, the entire budget was not expended, as SAHA secured additional funds for FOIP project work, and the SFJ conference referred to above. Nevertheless, SAHA spent more of its budget than in previous years. At the end of 2006, the Rosa Luxemburg Foundation renewed its commitment to SAHA for a 3-year grant starting in 2007. Securing alternative funding sources for the period 2008 and beyond remains a central priority for the director in the forthcoming financial year.

## **3. Performance Report: Struggles for Justice Programme**

### **3.1 INTRODUCTION**

The Struggles for Justice Programme (SFJ) was launched in 2002, after SAHA was formally restructured. SFJ's core business is preserving and creating access to collections of records that document struggles against Apartheid, as well as the struggles that still continue in Southern Africa. SFJ carries with it the original archival motivations behind the formation of SAHA in 1988, and continues to develop its capacity to expand on these motivations, in response to the evolving challenges facing the Heritage Sector.

### **3.2 ARCHIVAL PRACTICE**

A central and ongoing activity of the programme is to build on and improve on the processes in place for the acquisition, preservation and description of our archival materials. Although these efforts may be construed by some as general administration or housekeeping, improvements in archival practice are critical for increasing the potential to access materials in our holdings for any future use of the materials. As such, the gains forged in this section impacted on the success of many other areas in subsequent sections of this report.

#### **3.2.1 Acquisition**

Early 2006 saw SAHA accept a large acquisition of material donated by Zackie Achmat and Jack Lewis, including records relating to their involvements in different capacities with: National Council for Gay and Lesbian Equality, the AIDS Law Project, the Treatment Action Campaign, the United Democratic Front, the Marxist Workers Tendency, Community Health and Media Trust, and Idol Films, among others. The archival material is currently being processed and materials will be subsequently divided between GALA and SAHA. Significant portions of the collection will be embargoed until further notice, per donors' request. 2006 also saw

the final stages of bringing collections identified for the TRC project (during 2004 and 2005) physically into the archive.

Due to significant space constraints in the William Cullen Library, both SAHA and GALA have acceded to a moratorium placed by the Library Department of the University on the acquisition of further archival collections of significant size. This presents SAHA with a considerable dilemma, as it is keen to source and take in new materials, but must then secure alternative storage space with its requisite cost and access implications. Despite the moratorium, in some cases pre-existing donors provided SAHA with new materials, as was the case with the following collections: the Centre for the Study of Violence and Reconciliation Records (AL3110), the Rudolf and Knight Jansen Papers (AL3121), Laura Pollecutt Collection (AL3215), the Janet Cherry Papers (AL2878) and the PLAN-ACT Collection (AL2566).

Similarly, posters, ephemera, and photographs were donated, which supplemented pre-existing collections. This year 277 posters were donated to the poster collection, including a large donation of duplicate posters made by the ANC, as well as the materials secured by our new poster curator. The Freedom of Information Programme Collection continued to grow in 2006, as the programme made more requests. In 2006 saw the acquisition of approximately 7.4 linear feet of material, due to PAIA requests that resulted in returned materials in 2006. Activist Dilip Waghmarae donated a smaller collection of struggle related photographs, as well as documents related to, among other things, the printing of UDF posters and pamphlets.

### ***TRC Project***

In 2005, the Programme concluded a joint project with Historical Papers on archiving documents related to the South African Truth and Reconciliation Commission. One of the outcomes of this joint project was the collection of oral histories of staff members of the TRC, who worked in various capacities, ranging from Commissioners, to Statement takers, database managers, and secretaries. Using the budget surplus from this project, SAHA and Historical Papers both worked to secure further interviews in 2006, with TRC members who were unable to be interviewed previously due to scheduling conflicts. Due to these efforts, the collection (A2848), which by agreement is lodged with Historical Papers, gained 5 further interviews in 2006.

During 1996, Historical Papers and SAHA launched its *Traces of Truth* website (<http://truth.wwl.wits.ac.za>). This unique resource provides unprecedented access to archival documents relating to the TRC, as well as other resources including downloadable reports, such as a bibliography of materials relating to RSA's Commission and an audit report of TRC related archival resources.

### **3.2.2 Custody, Control and Preservation**

In 2005, the SFJ Programme inherited a large number of collections that resulted from the TRC Archival Audit, which had been concluded in 2004. The audit and corresponding collection of materials resulted in a much larger amount of material than previously anticipated. 2006 saw the completed arrangement of these materials, with considerable assistance from contract workers as well as the SFJ Archival Assistant. In the process a more consistent methodology was developed for the storage, preservation and arrangement of these materials, which in turn has facilitated the production of a guide to TRC-related archival resources.

SAHA introduced a system can also be used to determine which boxes need to be re-shelved, or which boxes are currently being reprocessed or adjusted for the inclusion of newly donated materials from the same donor. This system can be used to track which archival materials are being used, and by which researcher. The system still needs considerable fine-tuning, but it has already begin to significantly assist the Programme Co-ordinator in making the collation of information around information usage more systematic.

In 2006, the Programme renewed its focus on the digitisation of oral history tapes. The digitisation of audio cassettes accomplishes two goals: users who access the interviews via the digitised surrogates put less wear and tear on the original recording media, and the conversion of interviews to digital streams of information increases the ease by which these materials can be made available to researchers in remote locations. The SAHA Office Administrator, with assistance from an intern, aided SAHA by digitising 249 audio-cassettes this year. The bulk of these related to the Julie Friederickse collection (AL2460).

### **3.2.3 Arrangement and Description**

Efforts are made every year to explore ways of enhancing SAHA's inventory format in relation to emerging international standards, and in response to institutional requests made by the Historical Papers Department. Some of SAHA's older inventories do not feature subject indexes, and in 2006, in order to harmonise points of access, subject indexes were developed for 6 older collections, as well as all the collections that were processed for the first time in 2006. More retrospective work on inventories will continue to feature in 2007.

Some headway was made in 2006 as well in relation to the marking up of SAHA's inventories, in order for them to be made available from SAHA's website, as well as from the University of Witwatersrand's Online Public Access Catalogue. The consultant hired to assist with this project has been assigned to do retrospective conversion on the inventories of GALA, SAHA and Historical Papers, University of Witwatersrand, in aggregate, starting in 2006. After some initial fine-tuning, inventories from Historical Papers began the process, and by the years end, time began to be more available for the conversion of SAHA and GALA's inventories. These inventories should be available online during 2007.

As noted previously, in 2006, SAHA hired Esmeralda Dirks as a full time archival assistant in the SFJ Programme. After hiring, a significant portion of 2006 was also spent in training, development and evaluation of the new assistant and the new position. By the years end, the Archival Assistant has become more proficient in archival processing, responding to research requests as well as independent cataloguing of materials in the Freedom of Information Programme collection.

### **3.3 ACCESS AND USE**

This section of the annual report focuses on how the programme has improved on the services it provides to patrons that visit the archive. By and large, the majority of these patrons tend to be academic researchers, members of the media, or other

members of the public with an individual interest in materials in our holdings that relate to a specific research topic.

### **3.3.1 Reference Work**

2002 saw a marked increase in reference requests of all kinds, including those made in person, via email, or over the telephone. Some recent scenarios include: Assisting foreign researchers interested in accessing a small subset of records in a collection using a scanner, aiding production teams looking for source material for a historical documentary, assisting organisations seeking out information on their own heritage and history, as well as assisting journalists in finding crucial background context to a story. The SFJ Programme has increasingly attempted to find alternatives when assisting patrons for one request becomes a significant strain on the organisation's resources, including outsourcing large print jobs, and hiring outside contractors to select and photocopy collections materials per the researchers' specific focus.

SAHA is committed to improving its services, both in terms of facilitating access to its own archives, but also to help identify other relevant materials in other repositories. SAHA notes with some concern that South African domestic interest in this area of work remains limited, reflecting a constrained contemporary interest in the subject matter, and highlighting the importance of reaching audiences beyond the traditional archival user base.

### **3.3.2 Improving the SAHA website**

During 2006 the SAHA website was overhauled, which involved moving the website from the University of Witwatersrand website to its own domain (<http://www.saha.org.za>). This move was made for two reasons: firstly to improve the search functionality on the site (previous attempts to adopt a search tool on the SAHA website at Wits were unsuccessful due to university computing standards and requirements) and, secondly the new domain affords SAHA the opportunity to significantly improve functionality and increase the amount of information available on the site. The new website will provide further opportunities for improving finding

aids online, as well as making digitised images available for download. This will enable SAHA to more efficiently provide users with updates on recent news and will make information about SAHA's collections and services a great deal more accessible. Along with the updated guide to collections which can be downloaded in an electronic format, the revamped website includes descriptions of further 52 collections of approximately 78.9 linear metres.

### **3.3.3 Professional Support and Liaison and Advocacy**

The SFJ Programme remains committed to improving connections within the University or Witwatersrand community, with a view to ensuring SAHA's resources and services are an asset to our host and sponsor institution.

In 2006, the Programme Co-ordinator cooperated with Michelle Friedman in integrating an archival component to the Basic Research Skills Class offered by the Access for Success Programme at the Wits Plus Centre for Part-time Studies. The Access for Success Programme consists of eight courses at the Foundation level. Students who pass all eight courses are then enabled to apply for entry into a BA or BCom degree and transfer some credit towards those degrees. This effort marked a new phase in the Programme's quest to demonstrate the relevance of archival information in a variety of settings, including those normally not associated with research with primary source materials.

#### ***'Memory, Heritage and Public Interest' Workshop***

From the 16-18<sup>th</sup> of November, The South African History Archive and the Rosa Luxemburg Foundation convened a 2 day workshop, entitled, "Memory, Heritage and the Public Interest," held at the Devonshire Hotel in Braamfontein. This workshop brought together various heritage, museum, archival and education practitioners with a view to exploring what work is being carried out in South Africa in terms of increasing access to and interfaces with historical information as well as facilitating the emergence of new historiographies. The workshop convened with more than 100 delegates in attendance and presentations from 24 practitioners from 5 provinces. This dialogue is intended as part of a longer-term process for heritage organisations to

better understand the unique challenges and needs of various constituencies and SAHA hopes that outputs will contribute to further work in the sector. To this end, SAHA linked this initiative to recent and upcoming efforts undertaken by the Nelson Mandela Foundation as well as the ‘Archival Platform’ initiative promoted and conceived by Caroline Hamilton and Xolela Mangcu of at the University of the Witwatersrand.

The Programme intends to write up detail of the November workshop for further dissemination. During 2007, SAHA will also explore the possibility of staging several round tables to develop further awareness of best practices within the heritage sector.

#### ***‘The TRC Ten Years On’ – Conference at the Red Location Museum***

Recent years have seen several efforts by both of SAHA’s programmes in relation to the archival materials of the South African Truth and Reconciliation Commission. During December, the Programme Co-ordinator was deployed to work with the Foundation for Human Rights (FHR) to assist in the set up of exhibition materials that accompanied a 10-year retrospective conference on the Truth and Reconciliation Commission at the Red Location Museum in the New Brighton township of Port Elizabeth. The Co-ordinator, with assistance from Adrienne Cloete, prepared an exhibition space within this unique museum with posters from the collection and an internet terminal to access the Historical Papers and SAHA *Traces of Truth* website. The FHR also helped by funding the production of 2 publications from the SAHA and Historical Papers’ TRC Project were distributed at the conference and from the exhibition space. (Descriptions of these are found below in 3.3.5) SAHA’s director also made a presentation at the Conference profiling SAHA’s work and the challenges faced in accessing the TRC archive.

#### ***General advice & assistance***

The Programme offered site-visits or advice in a formal or informal capacity to the following organisations and institutions in 2006: Amnesty International, Anti Privatisation Forum, the Biko Foundation, the Centre for the Study of Violence and Reconciliation, Constitution Hill Project, Freedom Park Trust, the Khulumani Support Group, the Nelson Mandela Foundation, Robben Island Museum, the South African

Democracy Education Trust and the Wits Institute for Social and Economic Research.

### **3.3.4 Outreach**

#### ***Exhibitions***

A curator of posters was hired in 2006, to further the utilisation and accessibility of SAHA's impressive collection of 4500+ posters related to struggles within Southern Africa. The curator convened the following poster exhibitions in 2006:

(A) COSATU National Congress: In late September, the Curator organized an exhibition of approximately 100 COSATU posters for the COSATU National Congress (18-23 September). COSATU donated several additional posters; and the groundwork has been laid for several future exhibitions of SAHA posters with COSATU and trade unions. The posters in this case were displayed in the assembly area at the entrance to the conference hall.

(B) HIV and AIDS posters for Civil Society Congress (28 and 29 October, 2006 Randburg Inn): An exhibition of 60 posters dealing with HIV and AIDS was put together; however, the space at the Congress Hall was relatively limited; about 30 posters were displayed on the walls of the main Congress meeting room, including on and around the speakers podium. All posters taken for display were duplicates, encapsulated, and imaged for the database. The curator also produced a Pamphlet/text for exhibition.

(C) At COSATU's request, a targeted exhibition of 25 posters on Health and Safety plus photographs were displayed at the Department of Labour and trade union's Health and Safety Conference on 31 October (Kempton Park.)

#### ***Development of Outreach Products for use in the Classroom***

In 2006, the Programme began piloting 'SAHA in the Classroom' booklets in five schools in Gauteng that utilise documents in our collection, in order to assist students in preparing for the History matriculation exam. Recent developments in the teaching of South African history include an increased focus on the use of primary sources, as

well as an inclusion of the period of 1976-1994 in South African History curricula. Surveys were collected from students and teachers in these five schools and the data was analysed regarding the strengths and weaknesses of the initial design of the booklets.

Two more booklets were prepared in 2006 and their structure and content have improved as a result from the piloting process. In 2006, SAHA met with both the Centre for the Study of Violence and Reconciliation as well as the Department of Education in relation to exploring options for scaling up the piloting process in 2007.

### **3.3.5 Publications**

Thanks to the generous support of the Rosa Luxemburg Foundation, the South African History Archive reprinted its guidebook to its archival holdings in 2006. The update included descriptions of the 52 recent archival collections not included in the previous guide, an increase of 78.9 archival meters of material. Html descriptions as well as a PDF of the print-guide were also included in the updating of the SAHA website.

With the assistance of the Foundation for Human Rights, SAHA prepared to publications for the Conference at the Red Location, including the printing of the *Guide to Archival Collections relating to the South African TRC*, another output from the TRC Archival Audit which concluded in 2004. A PDF of this resource is included on the SAHA website. Pamphlets were also produced informing conference goers and museum attendees of the SAHA/Historical Papers *Traces of Truth* web site. SAHA also commissioned a bibliography of publications on the South African TRC.

## **3.4 SAHA & TRANSITIONAL JUSTICE**

Transitional Justice has become an increasing area of practical and academic interest. Since 2001, SAHA has focused considerable attention on the promotion of access to the records of South Africa's Truth and Reconciliation Commission and related documentation.

Apart from the dedicated TRC Project work undertaken by SAHA on the TRC Project with Historical Papers (see above), SAHA has also continued to submit PAIA requests for TRC records to the Department of Justice with a view to testing the parameters of the legislation. This has met with mixed results. In addition, SAHA has continued to advocate for the preservation, processing and improved accessibility of the TRC archive. At a meeting during 2006, SAHA was informed by the National Archivist that the TRC archive was unlikely to be available before 2012.

SAHA has continued to profile the work of the TRC and has also continued to advocate for action to be taken around a range of recommendations made by the Commission itself. SAHA has spoken with several visiting groups about the work of the TRC and the significance of records and securing access to them. This included a group of 30 Danish students visiting RSA under auspices of South Afrika Kontakt – previously the Danish Anti-Apartheid Movement, as well as Commissioners of the Liberian Truth and Reconciliation Commission.

SAHA participated in the Institute of Justice and Reconciliation's 10 year retrospective conference on the TRC, and the University of Cape Town's conference on Memory, Truth & Forgiveness. SAHA was actively involved in the Foundation for Human Rights' TRC conference at the Red Location Museum in December 2007, both in terms of exhibition materials (SAHA's posters were hung in the conference room, and an exhibition from SAHA/HP's TRC project was also compiled for the conference and the general public).

SAHA engaged in media debates around unfinished business having several newspaper articles published, either authored by SAHA staff or were about the work of SAHA. Particular attention was given to SAHA's access to information work, with reasonable coverage of the legal action taken against the Ministry of Justice for access to the 'Cradock 4' documents, and SAHA's public release of the 'Staff paper to the Steyn Inquiry' which resulted in the director being interviewed for the national broadcast of the 10pm news. SAHA's director also conducted an interview with Basque television on the relevance of the South African experience in relation to the peace process in Spain.

### **3.5 SAHA & THE SUNDAY TIMES**

The SAHA Sunday Times Heritage project has provided a unique opportunity for SAHA to explore the development of partnership with a corporate vehicle, as well as to explore new opportunities for joint heritage work. The project utilizes innovative methodologies that will assist SAHA in the development of its future outreach endeavours. The Project is also an important investment with SAHA's primary donor, Atlantic Philanthropies – demonstrating our reliability as a 'host' for such endeavours, and providing SAHA with invaluable experience to work with a broad range of outreach and educational product.

The SAHA/Sunday Times Heritage Project became operational in September 2006 and a separate office structure and staff have been employed. SAHA's director is closely involved in the project. Materials gathered during the project will be archived at SAHA.

The project involves various components;

- (A) Website development
- (B) Oral History project and related materials development
- (C) Radio Series
- (D) Heritage Supplement
- (E) Interactive DVD Rom on experiences from John Vorster Square
- (F) Heritage Book
- (G) Evaluation

A detailed report on the project will be available following the completion of the project.

## **4. Performance Report: Freedom of Information Programme**

### **4.1 INTRODUCTION**

SAHA's Freedom of Information Programme (FOIP) was launched in 2002 with a focus on the utilisation of the Promotion of Access to Information Act to access documentation and other records relating to past and contemporary struggles for justice. Since then, SAHA has submitted over 800 access to information requests with very mixed results. SAHA has litigated in a dozen cases, securing favourable out of court settlements in every matter to date. Unfortunately, these do not provide legal precedent, and despite some positive developments, the Programme continues to experience a range of (often similar) frustrations in accessing records that it has. Translating the South African government's commitment to developing an effective and efficient infrastructure to respond to access to information requests remains very much a work in progress. SAHA therefore remains a vocal advocate around a range of access to information issues, highlighting problems and anomalies and calling for changes that will further its broader objectives of enhancing transparency and accountability.

### **4.2 MANAGEMENT & INFRASTRUCTURE**

As in 2005, SAHA experienced a significant staff turnover during 2006, which impacted directly on the FOI Programme. The Information Analyst who provided some technical support to the programme left SAHA in June 2006, and the Special Projects Officer commenced working for the Wits University Graduate School under agreement that he would provide 2 days of work per week to SAHA until June 2007, working on the FOIP publication on its 5 year retrospective.

Australian Volunteers International continued to support the FOI programme during 2006 by sponsoring the recruitment of a professional volunteer to act as coordinator. The Programme Coordinator receives support from the office administrator and in

line with the September 2005 audit recommendations, in July 2006 SAHA employed a part-time assistant to the programme, to update the database and assist to assist with the generation and processing of new access to information request. New staff received database training by In Magic, the software used for SAHA's FOIP database.

During early 2006, the FOIP database was reviewed and additional fields were added to make tracking of requests more efficient. A contract worker was employed to review all physical files and ensure they corresponded with the database entries.

The FOIP Coordinator undertook Zulu and a Post-graduate certificate course in Privacy and Access to Information Law at the Wits University Law School.

## **4.3 FOIP PROJECTS**

### **4.3.1 Nuclear Weapons History Project**

SAHA did not submit any further PAIA requests during 2006 on this project, although there has been a certain amount of follow up relating to outstanding requests, internal appeals and so on. An assessment of the project and the utility of PAIA in learning more about the apartheid regime's nuclear weapons programme will be contained in a chapter of the forthcoming FOIP Publication (see below)

### **4.3.2 HIV/Aids project - private body records**

Despite expressions of interest from several organisations working in the HIV/AIDS field, 2006 did not witness any progress in taking this initiative forward. Accordingly, aside from pursuing requests, the project has been put on hold. It was also decided that the FOIP Publication would focus solely on public body requests as the HIV Aids project was the only private body focussed project and did not provide enough basis to put forward an assessment and conclusions on PAIA's utility in this regard.

### **4.3.3 Gays in the Apartheid military**

The project researcher reviewed the remaining material available at the Department of Defence Archives and has completed a final project report. This report is being used as the basis for a chapter in the forthcoming FOIP Publication, which was also completed in the reporting period. The remaining materials are being processed for addition to the project collection and will be available to researchers. The project is now finalised.

### **4.3.4 Forced Migration Project**

Significant progress has been made with this project during 2006. A preliminary workshop, involving SAHA and the Forced Migration Project was convened in March 2006 to introduce researchers to the aims and methodology of the proposed project and elicit interest in contributions. Pursuant to and as a result of the workshop, a number of academics expressed their interest in the project's objectives and provided an overview of research they proposed to undertake.

Funds were made available by FMSP for expenses incurred until December 2006. The FMSP project coordinator undertook numerous interviews with policy makers previously or currently employed by the Department of Home Affairs and other relevant departments. These interviews formed the basis for research and drafting of PAIA requests.

An intern was employed from August to October to conduct further background research and assist with drafting of PAIA requests. The FOIP Coordinator and the FMSP Project Coordinator met with a number of departments regarding the project to discuss procedures for submission of requests and facilitate a constructive relationship in this regard. The Departments were: SAPS, Defence and Home Affairs.

Contributors were confirmed: Debra Posel (WISER), Jon Klaaren (Mandela Institute, Wits Law), Jeff Handmaker (FMSP Visiting fellow), Aurelia Wa Kabwe Segatti (IFAS), Florencia Belvedere (independent researcher and expert on refugee affairs) ,

Audie Klotz (Maxwell School of Syracuse University), Edwin Klin. These contributors have provided abstracts of their research and information regarding potential PAIA requests.

A large number of PAIA requests were submitted to SAPS and the Department of Home Affairs during 2006. Other project-related requests were submitted to the Departments of Foreign and Land Affairs, as well as a number of other statutory bodies. SAHA have received some records from the SAPS pursuant to a request made late 2005. Several funding applications have been submitted to ensure further funding for the project during 2006/7. Wits Press has agreed to publish an edited collection of papers arising out of the research following submission of funds by FMSP for publications.

#### **4.3.5 HIV/Aids Public Policy Project**

This project has not been taken forward due to lack of interest by third parties and limited capacity of GALA and SAHA.

#### **4.3.6 Earthlife Africa Project**

SAHA's collaboration with Earthlife Africa's 'Nuclear Energy Cost the Earth Campaign' has changed significantly during 2006. The project involves the submission of multiple requests for medical records and organisational documents from the Nuclear Energy Corporation of South Africa (NECSA), ESKOM and the Pebble Bed Modular Reactor (PBMR). Several hundred requests were submitted, which proved to be quite onerous on the Programme in terms of time, logistics and resources. During 2006, Earthlife Africa agreed to take over submission of requests. This has always been intended by SAHA, as it wants to encourage NGOs and others to take on these responsibilities themselves, wherever possible. SAHA nevertheless undertook to continue following up requests previously submitted and provide advice and assistance regarding requests submitted by Earthlife, if and where necessary. Most medical records have now been received. In addition, SAHA met with the National Nuclear Regulator and was successful in accessing records from them,

although there remain a number of other records still outstanding with are being pursued. This project forms the basis of a chapter in the FOIP Publication.

#### **4.4 FOIP PUBLICATION – 5 YEARS OF EXPERIENCE**

Significant progress has been made with this project and a considerable amount of time and energy in 2006 has been devoted to the preliminary production stages of a FOIP Publication examining the programme's 5 years of experience of access to information under PAIA.

During 2006, FOIP finalised a proposal for publication that was submitted to both the Human Science Research Council (HSRC) and Wits University Press – both publishers indicated their interest in receiving a manuscript with a view to publishing the book

Contributors for the book were secured: Naeem Jeenah, Sello Hatang, Chandre Gould, David Fig, Laura Pollecut, Jonathon Klaaren and Verne Harris. The following insert contributors were also secured: John Allen, David Forbes, Dale McKinley, Adele Kirsten, Colin Collins, Helene Pastoors, and Laura Pollecut. Kate Allan and Piers Pigou (SAHA staff) will also be writing chapters.

FOIP staff completed the work necessary groundwork to commence drafting of the chapters. This was carried out in several stages, and included; the employment of a contractor to review the database and ensure all entries were accurately inputted, and the preparation of relevant project materials for handover to chapter contributors. Where necessary, FOIP also facilitated interviews for relevant chapter sections.

At the end of 2006 three chapter drafts had been completed, with two further chapters, the introduction and the conclusion still to be finalised. A number of inserts were also submitted. A book designer was also employed who commenced collecting appropriate archival and other material for inclusion in the book.

A reference group consisting of local and international scholars was established to review the manuscript prior to submission to publishers.

## **4.5 ACCESS TO INFORMATION REQUESTS**

SAHA's Freedom of Information Programme has responded to a range of requests for assistance to access records and documentation through the submission of PAIA requests.

### ***(A) Security Legislation Directorate/Correctional Services files and Individual's requests for records***

The FOIP has continued to advise and assist individuals in submitting requests for their personal records, or for records relating to their research area. In this regard, assistance was provided in relation to 14 requests for Directorate of Security Legislation and Correctional Services files kept at the National Archives; A further 2 requests from the National Intelligence Agency.

### ***(B) Records on behalf of human rights activists and NGOs***

The FOIP continued to assist and advise activists in obtaining records relevant to their work. These include assistance to;

- The Ceasefire Campaign for access to 2004-2005 unpublished annual reports by the National Conventional Arms Control Committee (NCACC)
- The Freedom of Expression Institute (FXI) in relation the records of Johannesburg Water,
- The Centre for the Study of Violence and Reconciliation in relation to records that informed the development of the National Prosecuting Authority's guidelines for the prosecution of pre-1994 cases.

***(C)TRC records – 34 boxes***

The SAHA management committee has agreed to discontinue these proceedings and it was agreed that the court application be withdrawn during 2006 and an update distributed to the SAHA mailing list.

A review of the table of records released and refused by the National Directorate for Public Prosecutions was undertaken by Chandre Gould. This revealed a number of inconsistencies in the response of the Department of Justice, for example, in some cases the Dept released the English translation of a record but refused the Afrikaans version. As a result of the review it was decided that records should be pursued by individual requests.

***(D) Cradock 4 records***

After almost two years of litigation against the Department of Justice, SAHA was granted access to the evidence utilised in the Truth and Reconciliation Amnesty Committee hearing into the murder of four anti apartheid activists from the Eastern Cape known as the Cradock Four. The matter was settled in a court ordered agreement reached between SAHA and the Respondents on the steps of the court.

The initial request was made by filmmaker, David Forbes, for copies of both the transcripts of and the evidence utilised in the hearing. The Department of Justice (*the Department*) as the custodian of the records refused the request in the first instance and on internal appeal, citing reasons of third party privacy and potential prejudice to ongoing investigations. The refusal was inexplicable, particularly given the majority of the transcripts were published on the website of the Department. Following the commencement of court proceedings the Minister released copies of the transcripts of the hearings however refused access to a number of listed evidentiary documents on the basis that disclosure will:

- Disclose personal information about third parties in breach of their privacy;

- Implicate third parties in unlawful activities,
- Defame third parties;
- Cause trauma to the families and offend the public;
- Reasonably endanger the lives or physical safety of individuals named in the documents;
- Breach of a duty of confidentiality owed to deponents of affidavits; and
- Prejudice ongoing investigations into the deaths of the Cradock Four, investigations that will result in the prosecution of perpetrators.

The Minister also refused access on the basis that records of the South African Police, the State Security Council, and the Eastern Cape JMC are cabinet records and not subject to PAIA. The Minister also refused to concede that the Promotion of National Unity and Reconciliation Act 35 of 1995 provides that once an amnesty hearing commences, confidentiality of confidentiality of investigations materials and amnesty applications lapses, and despite an absence of any evidence to the contrary, she cannot say with certainty that the hearings were public.

SAHA was extremely disturbed by the alleged intimidation and coercion of the widows of Fort Calata and Sparrow Mkonto to obtain affidavits stating that they oppose the release of the materials. Discussions with Mrs Calata revealed that both she and Mrs Mkonto were visited without notice by representatives of the Department of Justice who pressured them into signing the affidavits which they felt they had no choice but to attest to. Despite the fact that the widows were not third parties for the purposes of the Act and were not afforded rights under PAIA to consent or reject access, it was useful for the purposes of the litigation that both widows provided SAHA with sworn counter-affidavits in which they described the pressure placed upon them, revoked their objections, and stated that they agree to the release of the records to Mr Forbes.

SAHA is pleased that it has been able to assist South Africans to realise their right of access to information. However, SAHA is concerned with the belated nature of the respondents' offer of settlement. SAHA believes this demonstrates that the Ministry of Justice failed to adequately consider the merits of the case when it was clear that

their defence was ill-founded, and have unnecessarily expended considerable public resources resisting the claim. SAHA is also concerned that settlement has prevented a judgment which would provide clarity regarding the interpretation of a number of exemptions that are being regularly and in SAHA's opinion often incorrectly used by public bodies. Most South Africans do not have the means to challenge such decisions by means of litigation, and this case again demonstrates the need for an independent Commission which has power to make binding decisions, so that requesters of information are not prevented from accessing information through unnecessary delays or a lack of resources.

### **(E) Other requests to the Department of Justice**

SAHA made eight requests to the Department of Justice (as well as a further request that was transferred to them) over the course of 2006. While most of these requests resulted in refusals which were followed by internal appeals, we were granted access to records in two cases.

First, we were granted access to all submissions made to the business hearings of the TRC. Second, we were granted access to the Final Investigation report of the TRC initiated investigation into the destruction of apartheid-era documents. Records refused include access to the amnesty application of police death squad commander, Eugene de Kock, and refused access to the electronic database of the TRC. With respect to the latter, and despite specifically pointing out that SAHA did not want access to any personal data (but rather fields of information that could be used for further quantitative analysis), SAHA has learnt that the Department of Justice has sent 22,000 letters to every named in the database, claiming that SAHA wants their personal information. Efforts to resolve this gross misrepresentation of SAHA's request were not fruitful.

While we welcome greater ease of access in these cases, we continue to be disturbed by inappropriate utilization of provisions of PAIA to our requests, and responses in the other matters which appear to be the result of 'cut and paste' methods of refusal. SAHA took steps to raise these issues with the Department over the year.

***(E) Department of Defence – transfer of records from RSA to Zimbabwe***

In 2003, John Seiler requested a number of records from the Department of Defence regarding military intelligence activities during the 1960s and 70s. He was granted access to records contained in Group 5 of former Military Intelligence collection, however was refused access to Group 4 on the basis that the records had been transferred to their country of origin, Zimbabwe.

The transfer of the records was brought to the attention of SAHA some 20 months after the initial request was made, indicating that the records were in the custody of the Department upon receipt of the request and that the transfer may have breached the provisions of the Act that aim to preserve records of public importance.

Over the following year SAHA, as Seiler's representative, requested further detail regarding the purpose/s and the steps taken by the Department in transferring the records. Despite limited verbal advice, SAHA was unable to obtain any written and comprehensive detail regarding the requests laid out in its internal appeal.

In February 2006 SAHA commenced proceedings in the High Court seeking return of the records, any explanation of the steps taken in transferring the records, including the name of the person responsible, and a declaration that the Department was in breach of PAIA and the *National Archives and Records Service Act* of 1999 (NARSA). In addition to return of the records SAHA is also seeking access to records that were explicitly or deemed refused pursuant to the request.

SAHA rejected the grounds laid out in the Department's Answering Affidavit, in particular that:

- SAHA has no standing to pursue the matter,
- SAHA is out of time as it did not file its founding papers within 30 days of deemed refusal of the internal appeal and has not applied for condonation,

- The records were obtained ‘unofficially’ by the Military Intelligence Division of the South African Defence Force in 1980 and are Rhodesian records and therefore do not fall within the ambit of South African legislation,
- in the event that the records do fall with the ambit of SA legislation, the steps taken by the Department in returning the documents were compliant with their legislative obligations,
- Preventing ‘embarrassment’ to the SA is a legitimate reason for transferring the records,
- ‘Consultation’ with the National Archivist is sufficient to satisfy the requirements of NARSA,
- The transfer is in accordance with good archival principles, and
- The court cannot order the Department to seek return of the records.

SAHA also expressed its concern that the records, which are likely to disclose names of persons who have engaged in military intelligence operations throughout the region, were not been adequately masked prior to the transfer and individuals may be at risk, especially in the volatile context of contemporary Zimbabwe.

These records are important for the ongoing exposition of truth in South Africa as they relate to international military relations and operations during the Apartheid era. The retention of these and other similar records is vital to ensuring the continuing establishment of a transparent and open democracy. SAHA will be pursuing the matter in the High Court in 2007.

#### **4.6 EDUCATION & TRAINING AND INFORMATION DISSEMINATION**

During 2006, the FOI Programme Coordinator attended, provided inputs and presentations at the following events:

##### *Workshops / Conferences*

- South African Law Review Commission (SALRC) Consultative meeting on the Privacy and Data Protection Bill – Indaba Hotel (February)

- Institute for Justice and Reconciliation (IJR) TRC Conference – 10 year retrospective – Cape Town (March)
- Privacy and Data Protection Teleconference – Wits Law School / Mandela Institute / SAHA (May)
- Privacy and Data Protection Workshop – Nelson Mandela Foundation (May)
- South African Human Rights Commission Forum on PAIA (May)
- Australian Volunteers International Conference – Lesotho (August)
- Open Democracy Advice Centre (ODAC) Seminar – Irish Information Commissioner Presentation (September)

### ***Training / Presentations***

- Freedom of Expression Institute / Social Movements Indaba Workshop on Freedom of Expression – Presentation on PAIA
- ODAC Litigation meeting – presentation on SAHA v Department of Defence (Zimbabwe case)
- Freedom of Expression Institute - Access to Information Programme for Economic Justice (ATIPEJ) meeting – presentation on access to information and its importance in furthering social justice (with Sello Hatang, SAHRC)
- International Centre for Transitional Justice (ICTJ) Fellows Programme – Presentation on Access to Information and Transitional Justice (with Piers Pigou - September)
- Wits School of Journalism – Investigative Journalism Workshop (with Richard Calland of ODAC – October)

### ***Other***

- Privacy and Access to Information Law – Certificate Course, Wits Law School
- ODAC / SAHRC Golden Key Awards – Received award for ‘Best use of PAIA 2006’

The FOI programme compiled regular mailing list updates that were disseminated to SAHA’s electronic mailing list and posted on the SAHA website.

### ***Insert in the Mail & Guardian’s ‘The Teacher’***

To commemorate Freedom of Information Day in September, SAHA in collaboration with ODAC secured funds from the Foundation for Human Rights to produce a double sided poster ‘insert’ that would be distributed through ‘The Teacher’, a monthly magazine distributed to every school in the country. The insert was published and distributed in collaboration with ODAC and The Library Design – the insert was

a double sided poster, with one side providing a lesson plan outlining the right of access to information and providing case studies and activities for students studying life skills.

An extra 7000 copies of the insert were produced for dissemination by SAHA and ODAC: A number of these have been provided to SAHRC and the Foundation for Human Rights for distribution.

## **4.7 LAW REFORM, COLLABORATION AND CAPACITY BUILDING**

### ***General***

FOIP has continued to monitor legislative developments and lobbied in respect of improvement to the Promotion of Access to Information Act and legislation directly impacting on the PAIA. FOIP participated with the Nelson Mandela Foundation and the Mandela Institute in a joint submission to the Privacy and Data Protection Discussion Paper released by the South African Law Reform Commission. Any other developments will continue to be monitored and responded to as required.

Despite a number of pertinent cases, SAHA retains only limited capacity to carry forward certain access to information cases to litigation. FOIP has maintained its relationships with the Wits Law Clinic and various Attorneys who provide general legal advice and pro bono representation in litigation. Further efforts will be made during 2007 to consolidate SAHA's legal options.

FOIP has continued to assist and collaborate with other civil society organisations involved in casework and FOI, including Earthlife Africa, ODAC, Jubilee (South Africa), and academic structures such as Forced Migration Studies Programme.

## **5. FINANCE & HUMAN RESOURCES**

Douglas and Velcich continued to provide audit, tax and payroll services. An independent bookkeeping consultant maintains the monthly accounting records and management reports, and prepares the annual records for audit. The Office Administrator, with supervision and training by the consultant, performs the day-to-day financial administration.

As in 2005, SAHA entered the financial year with a substantial reserve (R1,224,389). Continuing core funding from Atlantic Philanthropies ensured that both the Struggles for Justice (SFJ) and the Freedom of Information Programme (FOIP) were fully funded this year. During the year, grants for special projects were received from Atlantic Philanthropies and Rosa Luxemburg Foundation for the Sunday Times Project and the 'Memory, heritage and public Interest' conference respectively.

For 2006, SAHA secured an income of R2,828,578 (this includes interest accrued by excludes the total grant of R5,063,054 secured for the Sunday Times Project). The Board approved an operating budget of R 2,547,200 (see 2006 Workplan and Budget). Audited expenditure (including the first 3 months of the heritage project expenditure) was R2,608,784. [See SAHA 2006 Audited financial statements]

At the end of 2006, SAHA had a surplus of R1,414,866

### **Human Resources**

2006 saw significant human resource changes at SAHA with employment of a new Director, and two programme assistances, and the resignation of the Special Project officer and Information Analyst.

The FOIP Coordinator, Kate Allan, has now completed 18 months of her two year contract with SAHA. Her contract with Australian Volunteers International concludes in mid 2007. A part time assistant for the FOI programme, Kgoagelo Nchaupe, was employed in July 2006.

The SFJ Co-ordinator has now completed almost 3 years of contact, and during 2006, secured the services of a full-time assistant, Esmerelda Dirks, as part of SAHA's efforts to develop its in-house archival capacities.

The Office Administrator, Olga Pickover, in addition to her administrative duties assisted researchers and managed the Poster and Ephemera databases, and is responsible for the Oral History digitisation process. The Office Administrator also continues to support both Programme Co-ordinators. Olga also successfully completed the first of a three stage certificated archives training course with UNISA.