

Notes for Input to SAHA Dialogue on PAIA

‘Socio-Economic Factors Impacting on the Utilisation of PAIA’

(Dr. Dale T. McKinley – 26 September 2012)

The Commodification of the Right of Access to Information

This is the most fundamental ‘factor’ for the majority of South Africans. When such a foundational right as access to information becomes/is treated as, a market commodity to be bought and sold then we should know there is something seriously wrong/upside-down.

This happens at three main levels:

1. The application of PAIA (access and reproduction) fees is crucial – it is a simple question of affordability. Besides the reproduction fees being beyond the means of most poor and working class South Africans, any exemption from access fees demands an effective means-testing. People therefore must prove they are ultra-poor (below a certain threshold of income – e.g. earns less than R14 712 if single and R27 192 if married!) to qualify and this is demeaning and completely unnecessary. PAIA states that requests can be withheld until appropriate fees have been paid.
2. The appeals process in PAIA (2-tiered in the case of public bodies and only 1-tier in the case of private bodies) is likewise. Commodified precisely because the vast majority cannot afford the legal fees necessary to take an appeal to court. This is more especially the case when PAIA requests involve ‘sensitive’ or human-rights related issues and information.
3. At the most basic level of accessing PAIA lays access to the necessary telecommunications infrastructure. Unfortunately, this is beyond the means of a large portion of the population and more specifically for poor and working class people. Thus, the lack of physical access to such infrastructure ensures that most are simply not able to use PAIA. The reality is that infrastructural access is largely available for urban elites and those in rural and poor communities must therefore rely on others – a circle of dependency is created. The chasm of inequality is wide.

Awareness/Knowledge

- Given that we are the most unequal society in the world and coupled to the incredibly deep and expansive levels of poverty, we have a situation in which the majority of South Africans suffer from information poverty. This is the case because those who are on the social and economic margins must necessarily rely on the public sphere to enable them to learn about their rights; relevant legislation; and thus be able to pursue access to information.

- If we take a look at our public educational system then it is not hard to see why most will never (as things stand) be given the necessary education and knowledge levels to become fully active and informed citizens
- Likewise there is very little in the way of publicly available information sources (e.g. PAIA Manuals) where the majority live and work - example of what is in an average public township library.
- Those government departments and Chapter 9 institutions (e.g. DoJ and SAHRC) responsible for PAIA awareness are not putting in the necessary public resources and effort to inform and educate poor and working class people on PAIA (not to mention those within the public service itself!).
- No wonder then that we see such low levels of demand for access to information in poor and working class communities. If someone does not even know they have a right then they surely cannot exercise it (or even try to do so) in any practical way.

Unless the right of access to information is seen/treated and practically inscribed as a socio-economic right in itself, then we will continue to chase our tails when it comes to PAIA and information access for all!