

# **Mid-Term Review of the Norwegian Cooperation with South Africa in the Field of Human Rights**

Mid-Term Review

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# Mid-Term Review of the Norwegian Cooperation with South Africa in the Field of Human Rights

2005-2009



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## Acronyms and Abbreviations

CALS	Centre for Applied Legal Studies
HR	Human Rights
IDASA	Institute for Democracy in South Africa
MFA	Norwegian Ministry of Foreign Affairs
MTR	Mid-term review of Norwegian cooperation with South Africa in the field of human rights: 2007-2009
NCHR	Norwegian Centre for Human Rights
NGO	Non-governmental organisation
Norad	Norwegian Agency for Development Co-operation
PLAAS	Institute for Poverty, Land and Agrarian Studies
RSA	Republic of South Africa
The Embassy	Royal Norwegian Embassy in Pretoria
TOR	Terms of Reference for the for the Mid-term review of Norwegian cooperation with South Africa in the field of human rights: 2007-2009
CALS	Centre for Applied Legal Studies
CHR	Centre for Human Rights
CLC	Community Law Centre
CSA	Centre for the Study of AIDS
HR	Human Rights
ICTJ	International Centre for Transitional Justice
IDASA	Institute for Democracy in South Africa
LRC	Legal Resources Centre
MFA	Norwegian Ministry of Foreign Affairs
MTR	Mid-term review of Norwegian cooperation with South Africa in the field of human rights: 2007-2009
NCHR	Norwegian Centre for Human Rights
NGO	Non-governmental organisation
Norad	Norwegian Agency for Development Cooperation
ODAC	Open Democracy Advice Centre
PLAAS	Institute for Poverty, Land and Agrarian Studies
RSA	Republic of South Africa
The Embassy	Royal Norwegian Embassy in Pretoria
TLAC	Tshwaranang Legal Advocacy Centre
WLC	Women's Legal Centre

## 1 Executive Summary

The Terms of Reference (TOR) for the Mid-term review of Norwegian cooperation with South Africa in the field of human rights: 2007-2009 states that the “purpose of this midterm review is to examine the efficiency of the Programme and the extent to which the Programme is developing according to the objectives and plans”. The focus is on identifying:

- Needs for adjustments in the final year which are justifiable in this context;
- The sustainability of the projects under the Programme; and,
- Elements of the Programme which could also be sustainable in the future Human Rights cooperation with South Africa.

The Review is to evaluate the performance of the Norwegian cooperation administered by NCHR since 2005, based on the 2005-2009 Agreement/Guidelines, NCHR’s Strategy for 2005-09, focusing on the revised Strategy of 2007-2009.

The main findings and recommendations of the review team follows.

### Relevance

The strategic revision for the remaining period of 2007-2009 did not have much impact at programmatic and funding levels. NCHR continued funding almost all of the same organizations it funded before the 2007 strategic revision and most of the Programme’s funds continued to support the same organizations it funded previously. After the strategic review, NOK 33.8 million has been budgeted for continued support to pre-2007 partners and NOK 16.4 million for funding new organisation. Given that in the 2007 application round previous NCHR partners applied mostly to continue with the same lines of activities as before, the 2007 strategic revision had little impact at programmatic level.

The Strategic relevance of the Programme has been assessed by the review team as moderately relevant. The Programme supports the bilateral dialogue between South Africa and Norway and is aligned with the “Guidelines for Norwegian-South African development co-operation 2005-2009” and with the South African government's priorities include in the Constitution of the Republic of South Africa of 1996. Moreover, the programme supports the Norwegian Development policy. The planned activities, outputs and results of the projects also support the stated objectives of the Programme.

The Programmes’ focus on socio-economic rights is highly relevant to the context of South Africa, but its approach to pursue its objectives, continued focus on legal rights, has restricted the tangible impacts to beneficiaries (poor and vulnerable communities). The Programme’ strategic decision to focus on legal rights as a methodology has not captured the need to instigate and support civil society organizations work to implement rights attained in the legal arena and to maximize the possible impacts of the research supported by the Programme.

The Programme had good and continued relations with its partners, from who information about developments on the ground were sought. Programme partners are highly professional organizations that keep abreast of developments in the field of human rights in South Africa. However, because the programme mostly and continuously worked with academic and legal institutions, information feeding funding decision making were highly

influenced by such milieu. As a result, most of the Programme funds support the “cream of the crop” in the field of human rights in South Africa. Smaller organizations are being supported, but at a much smaller scale.

### **Effectiveness**

The projects in the portfolio of the Programme have been producing most of its planned outputs. The Programme is therefore effective in delivering on its objectives.

Various factors contributed to the effectiveness of the Programme. While the Programme does not fund Government institutions, several of its partners work with government, providing policy reviews and/or advice, supporting public services, and training to public officials. Moreover, activities of Programme partners support government at local, national, and international levels. Additionally, the planned activities and outputs are in line with the capacities of partner organizations. The portfolio of the Programme is being implemented by dedicated, professional and in most cases, well resourced organizations. Partners implement activities in their areas of expertise; have good local knowledge and good national and regional network connections.

Support from NCHR has also positively contributed to the effectiveness of some projects. Dr. Peris Jones and Dr. Malcolm Langford, respectively the previous and current researchers at NCHR supported by the Programme, have made substantial contributions to partners work with litigation, research, political, media advocacy and engagement with government institutions as well as in introducing them to relevant networks. The flexibility and predictability of funding provided by the NCHR have positively impacted effectiveness of the Programme as well. Receiving long-term financing (vis-à-vis yearly) has enabled partner organizations to concentrate on project activities and outputs.

Insufficient strategic partnership supported by the Programme (e.g. partnership with organisations engaged in different but complementary work such as litigation and social mobilisation, government institutions) has diminished the effectiveness of the portfolio. While the overall delivery rate of outputs by partners is high, the outreach of produced results to beneficiaries has been more modest. This has been particularly the case for partners whose activities under the Programme focused on litigations and research.

### **Efficiency**

Overall the Programme has been running efficiently. Programme partners who use complementary methods for implementation have been able to become more productive in delivering outputs. These organizations strengthen the effectiveness across their portfolio of activities through, for instance, their policy interventions and litigation draw on the very solid research produced by them. Some partners have also made strategic partnerships and believe in the value of working in networks and partnerships to achieve maximum results and cost-saving effects.

Embedding services in government structures and integrating the project into the community have incremented the project efficiency by building legitimacy to their activities (sharing effects) and incrementing beneficiary ownership of the activities. Additionally, several Programme partners have been able to very effectively mobilize and operationalize non-financial resources.



Programme partners also build upon the organizations' historical expertise, what contributes to the cost-effectiveness of their activities. The flexibility which Norwegian funding is provided has been capitalized by NCHR. The Programme management has enabled partner organizations to reallocate funds across different budget areas when it accessed it would be productive. This has been an incentive to improve partners' productivity and enhanced their ability to use Programme' funds to seize opportunities.

The inhibitors of efficiency identified in the Programme portfolio are insufficient strategic partnership, remoteness from beneficiary communities, pursuit of objectives with narrow, and limited tangible impacts on the poor. Staff turn-over, especially in research, also generates project inefficiencies in some partner organizations.

External factors that influence the efficiency of Programme operations are Government inefficiencies and capacity limitations to implement policies. Inefficiency in the court system delay litigation, incrementing project costs. Of importance, weak social movements in South Africa affect the effectiveness and efficiency of the Programme.

### **Outcome**

NCHR has developed no results frameworks which could provide management with information on the Programme's results at Output, Outcome and Impact levels. Most partner organisations do not have or use a results framework either. The review team therefore could not provide an evidence-based assessment of Programme's outcomes. What the review team provides is an analysis of *possible* outcomes and impacts of the Programme, based on a subjective analysis.

The South African Programme produced important outcomes. Together, Programme partners have influenced policy formulation and helped to entrench at consciousness level certain socio-economic rights in areas of Government and society. Partners have also contributed to human rights networking formation at continental level. The work of numerous partners with litigation has yielded important outcomes. Concrete examples of partners contributing to improving the implementation of socio-economic rights are provided in the report. Many Programme partners, however, do not monitor the outcomes of their work. Most of the projects either do not have or only have poorly defined Goal-level results and virtually no indicators that are monitorable at this level. In turn, the NCHR has not developed a results framework for the Programme, making it difficult to monitor results.

The main strategic focus of the Programme has been to promote socio-economic rights through the legal arena. Some positive outcomes have been generated by partners supported by the Programme, such as Olivia road research, advocacy and litigation which has had major impact in Johannesburg on access of poor people to housing, and other cases exemplified in the report. Given that the outcomes of litigation takes time, at this point in time, the stronger contribution of the Programme portfolio has been to help to entrench at consciousness level certain socio-economic rights in areas of government (housing, HIV/AIDS-health, water, land reform, women's and children's rights). The Programme has therefore contributed to advance democracy more at consciousness than practical level.

Given the South African context, right-based approach provides a model to achieve rights in a peaceful manner. The legal arena is important for promoting socio-economic rights, especially in view of the favourable legal framework provided by the South African constitution. But, as a partner putted it, "Laws may be amended, but the difficulty lies with

implementation". Because of the greater focus on legal rights, goal achievement of *increased implementation of socio-economic rights, including increased access to justice in a constitutional democracy* has been modest as it approaches the final phase of the Programme. As another Programme partner pointed out, "litigation without social organisation does not bring relief. It is not just the legal framework that is required, but also social and political support".

Various donors in South Africa have since late 1990s also focused their support to legal rights. Given the Programme's shortfall in coordinating with other donors in the same field, strategic funding was not sought. Insufficient support to strengthen Government capacities to implement socio-economic rights and to mobilization in civil society to demand prioritization of policy implementation was an outcome of the skewed donor support to the legal arena. The gap in directly supporting Government institution or insufficient support to partnerships between Programme partners and Government departments diminished the tangible impacts of the Programme, as well as sustainability of outputs (litigation). The Programme thus left almost untouched the ground for socio-economic rights to be effectively implemented.

NCHR is a Norwegian human rights institution and a process of consultation and interaction with South African Government institutions in key areas within which partners organizations work, should have been established. This would have contributed to enhancing the Programme outcomes. This should have been done together with the Embassy, to create links between social and political aspects of the Programme. This is the final year of the Programme, but consultations can still be held in areas prioritized jointly with the partners and the Embassy.

Some Programme partners established strong connections with their beneficiaries, integrating community views and needs into project design and implementation. These partners can provide evidence that priorities pursued by their projects have been beneficiary driven. This, however, is not the case for most partner organizations. Given the lack of consultative mechanisms with the communities many partners served, stronger organizations had greater voice in driving the socio-economic agenda supported by Norwegian development cooperation funding through the Programme than poor communities.

### **Sustainability**

The sustainability of the outputs and outcomes produced by Programme partners has up to this point mixed results. Litigations that have had positive judgement to beneficiaries are sustainable, but only producing tangible results if policies are implemented. Programme partners that mainstream project activities into Government departments or within the communities they service and/or provide training to public officials have a greater chance to attain sustainable impacts.

The knowledge produced by Programme partners through research and publication is available mostly free of charge. Although most of it is not easily accessible to beneficiaries from poor communities, access to this knowledge is easy for certain groups such as government officials, members of parliament, academic community, civil society organizations and donors.

Insufficient focus to mainstream human rights activities into Government institutions at various levels has been a limiting factor for achieving greater sustainability of outputs and outcomes in the Programme.

Besides of the internal factors and nature of some the Programme activities, the sustainability of some outputs of the Programme, and especially litigation, depend upon the ability of parliament to make the executive accountable. Moreover, political processes undermining the participatory process occasionally also impact the ability of project outputs and outcomes to achieve sustainable impacts.

Programme partners have been aware of the end of the Programme and planning for securing alternative sources of funding. Most of the organizations in the Programme are well established and have good technical and administrative capacities to attract funding. Some organizations are in an early stage of organizational development and therefore more vulnerable to the loss of future funding from the Programme. Yet other partners are fairly well resourced, but funding from NCHR has been the main support to one of their projects and this funding has enabled them to apply a more holistic rights-based approach to human rights.

### **Gender and HIV/AIDS Dimensions**

The incorporation of gender and HIV/AIDS as cross-cutting issues in the Programme has produced mixed results. While some partners have made significant progress in incorporating Gender and HIV/AIDS as a cross-cutting issue, others have not fully developed either an understanding or the necessary instruments to integrating gender and HIV/AIDS into the organizations' *modus operandi*.

It would have been useful to Programme partners if NCHR had provided a clear understanding of its expectations regarding the incorporation of gender and HIV/AIDS as cross-cutting issues. Ideally, NCHR and the partners should jointly have identified and developed guidelines in this regard early on in the Programme.

### **Lessons Learned**

During meetings with project stakeholders, the team directly solicited informants to express their views about the main lessons learned regarding their experience with projects implemented under or within the context of the Programme under review and/or partnership with the NCHR. Their inputs and those of the team are presented in the report.

### **Recommendations**

Given that resources for the final year of the Programme have already been planned for and there remains no funding for adjustments, it seems that this review can make little contribution to adjustments to the final year. The team has therefore cantered its suggestions based on resources constraint.

Adjustments to the Final Year:

It is advisable for the NCHR to ensure, as soon as possible, that all partner organizations clearly understand that the Programme and NCHR funding is ending in 2009. Clarity on perspective future funding from Norway should be provided.

The team recommend that NCHR, together with the Embassy, sponsors a discussion with partners to think through strategic issues: What collective results have been achieved? Have

we met the priority needs of beneficiaries (whose priorities are we pursuing)? What are the gaps, if any? How to proceed (including: mainstreaming activities/policies into appropriate Government Departments & level and regional issues and strategic regional partnerships).<sup>1</sup>

- The use of an experienced mediator is advised to keep focus and flow in the discussion.
- Ask partners to identify and share existing information about priorities of their poor beneficiary groups to feed into discussion.
- Invite some pertinent Government officials, some key donors, some key leading non-partner organizations in the areas covered by Programme.
- NCHR should invite a limited number of Norwegian institutions which could become relevant partners for South African partner organizations.
- It also suggested that, besides of the Programme manager, a high level representative from the NCHR should be invited to participate of this exercise. This would be a capacity building exercise for NCHR as manager of Human Rights portfolios.

The team proposes that NCHR asks CSA to provide partners with a practical approach to mainstream HIV/AIDS and RAPCAN and LRC (Women's Rights project) on gender.

NCHR could consider asking a partner organisation that has been monitoring their own project to provide a M&E workshop to other partners (CSA, PLAAS, RAPCAN, CALS, Rape Crisis).

Elements of the Programme which could also be sustainable in the future Human Rights cooperation with South Africa:

- The team recommends that future support continue focusing on socio-economic rights, but that it becomes more balanced to strengthen both Government and Civil Society capacities to implement HR. However, some discretion to consider particularly innovative and /or strategic civil and political rights interventions should remain.
- Across all types of support, it is suggested that organizations have mechanisms to ensure that project objectives and implementation methodology capture the views and need of poor, vulnerable communities.
- Support to organizations to establish strategic partnerships with communities, Government institutions and other strategic partners is advisable to cascade the effect of their work and to strengthen sustainability of outputs and outcomes. Currently, partner organizations that already engage in such an implementation model are RAPCAN, TLAC, ComaCARE, and CSA.
- Support to organizations whose approach and capacities seek to link different methods through strategic partnerships and networks at national and international

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<sup>1</sup> NCHR comment to the Draft version of this report: The NCHR is hosting a workshop with partners in September 2009 to exam the impact of socio-economic rights strategies in South Africa, which will also lead to a book. Many of these recommendations can be covered there and will be included in the planning process of the conference.

levels in pursuing achievements of socio-economic rights at national level. Currently, partner organizations that already engage in such an implementation model are LRC, CLC and PLAAS.

- High performer partner organizations, but more vulnerable to loss of support: ComaCARE, Rape Crisis, CLC (approach), CSA-PLACE (approach and CALS). CLC and CSA are fairly well resourced, but funding from NCHR has enabled them to apply a more holistic rights-based approach to human rights. CALS is extremely likely to remain sustainable as an organisation. However, litigation forms the main component of its NCHR project and very few donors are willing to fund litigation.
- The Embassy should consider strengthening articulations between the political and social arenas. During the Programme implementation, Norwegian development cooperation in the field of human rights became more distanced from the dialogue with Government institutions, international HR bodies, other donors in the field and community-based organizations. In counteracting this effect, the Embassy may consider becoming more active in arenas where dialogue regarding implementation of human rights are being discussed at political as well as at practical levels and among diverse networks.

The review team invited NCHR to submit a Position Paper addressing the questions of the TOR regarding the Programme and NCHR complied. The entire position paper submitted by NCHR can be found in Annex B of this report.

### **The Funding Model**

NCHR has been a competent fund administrator and effective in providing direction and coherence to the human rights portfolio of the Programme. However, the role of NCHR in the institutional set-up of Norwegian development cooperation requires that NCHR act beyond the role of a Programme manager. The team assesses that up to this point NCHR has not fully fulfilled its potential as a human rights institution managing a development cooperation programme for the Embassy. NCHR seems to have underplayed or misunderstood its role in supporting the work of a political body – the Embassy, and the full dimensions of development cooperation. The Embassy has until recently also underplayed its role in the Programme.

The Programme was administered competently, but the lack of institutional support to the development cooperation dimension of the Programme by NCHR made the South Africa Programme function with a more distant, insular, inwards-looking perspective. Dialogue with Government, other donors supporting human rights initiatives, and international human rights bodies in the country were nearly absent. Furthermore, NCHR underestimated the importance of transparency in the mechanism, especially when pressure was exerted to diminish the funding decision-making by the Embassy.

Given the importance of the funding model and of NCHR for Norwegian development cooperation, dialogue at appropriate institutional levels should take place between NCHR and MFA regarding adjustments if future mechanisms are to be established. This dialogue should:

- Clarify the roles of NCHR in development cooperation and cooperation with embassies, including the limitations and implications of NCHR managing programmes without a presence on the ground;
- Generate understanding on the resources, financial and human, required for NCHR to fulfil such roles;
- Agree on an institutional capacity building plan for NCHR so that the institution may have the necessary mix in staff profile (administrative, managerial and research) and to ensure that staff time, including at high level, is appropriately dedicated to the development cooperation programme. The MFA should aid NCHR in finding sufficient funding.

#### Administrative Assessment

The NCHR has been a responsible Programme administrator; that NCHR carried out financial monitoring of the Programme in a zealous fashion. NCHR has also developed a good relationship with its partner organizations and is unanimously regarded by partners as a reliable, flexible donor. Moreover, NCHR also provided added value to the work of some of its partners.

NCHR does not have a presence on the ground in South Africa and this posed some administrative challenges to the institution. This, in addition to the ceiling of NOK 1.8 million for management and administration of the Programme, which created further limitations. Staff turn over at NCHR (three managers in five years) has generated some challenges to Programme partners, the Embassy and to the income managers as well.

NCHR has made some contributions to increase competence and debate in Norway on South Africa through research publications and seminars. The ability to building human rights cooperation between Norwegian and South African institutions has been much more limited than expected by the Embassy. Limited of interest but mostly lack of capacities on the part of Norwegian institutions has been the main reason given by NCHR.

Management routines conducive to focus on results and sharing of lessons learned have been a weak side of the Programme administration (and management). Although asked by the Embassy in the beginning of phase three of the Programme, the NCHR has not developed a results framework for monitoring Programme achievements towards its objectives and goal. Given that the Programme is currently in its final year, establishing an M&E system is difficult. However, NCHR can consider in the Final Report for the Programme doing a results-based reporting. In this regard, some suggestions are provided in the report.

## 2 Introduction and Background

Government-to-government development co-operation between Norway and South Africa started after the general elections in 1994. The overall objectives and framework for the development co-operation between the two countries have been established through dialogue and mutual agreements as expressed in the Memorandum of Understanding (MoU), signed in Cape Town on 12 January 1996. During former president Mandela's visit to Norway in March 1999, a Letter of Intent for development co-operation for the period 2000-2004 was signed. Since 1994 the overall vision of the development cooperation between South Africa and Norway has been to contribute to peace, democracy and poverty alleviation efforts in South Africa and in the region. It is also an aim of the development co-operation agreement to establish ties between institutions and organisations in the two countries that are sustainable beyond the limited period of development funding.

As a result of continued dialogue and a joint review, a new period of development cooperation for 2005-2009 was agreed. The "Guidelines for Norwegian - South African Development Cooperation - 2005 - 2009", reduce the number of focus area for the future development cooperation between the two countries, concentrating on the following:

1. Democracy/Human Rights/Peace and Security
2. Higher Education and Research
3. Environment and Natural Resources
4. Energy

Regarding Human Rights, the 2005-2009 Guidelines states that further support to "individuals and organisations that are able to promote respect for political pluralism and a democratic culture, as well as promoting government accountability and the strengthening of pro-poor participation and policies" are needed. Overall Norwegian cooperation should focus on the following three specific operational objectives:

1. Cooperation in areas where the collaboration could result in long term, self-sustaining relationships;
2. Consolidation of the democratic transition;
3. Strengthening regional integration and collaboration through the utilisation of South African expertise in the region.

The 2005-2009 Guidelines further states that for the period 2005-2009, the cooperation shall be aligned with the Medium Term Expenditure Framework and national policies and with Norwegian development policies. The collaboration shall follow national procedures in South Africa. International and regional conventions and the Millennium Development Goals should be entry points for dialogue and form common reference points for the cooperation. HIV/Aids will be an important cross-cutting issue within all sectors, and will be a priority area for support to cooperation between Norwegian and South African NGOs.

For the period 1994-1999 a total of ZAR 413 million was disbursed to South African NGOs and to provincial and national government, the majority of these funds allocated to national government departments for support to reconstruction and development programmes. Norway committed to providing a total of NOK 250 million for the 2005-2009 bilateral cooperation with South Africa.

## 2.1 Context and Background

South Africa's 2008 Country Report to the Human Rights Council's Universal Periodic Review Mechanism explains that, with the advent of democracy in 1994, Government created a political space for all the rights enumerated in the Constitution to be practically enjoyed. In this regard, the political vision of democracy is predicated on a fundamental principle which affirms the inextricability between economic, social and cultural rights and the enjoyment of the right to development on the one hand, and the civil and political rights on the other. Consistent with the fundamentals of the international human rights law, South Africa upholds the notion of i) promotion, ii) protection and iii) fulfilment of all human rights and fundamental freedoms. The Republic of South Africa Constitution, Act 108 of 1996, constitutionally guarantees all human rights and fundamental freedoms and also internalizes all the core provisions of the International Bill of Human Rights.

The South African Constitutional imperatives call for the enactment of enabling legislation in substantiation of all the rights enumerated in the Constitution in order to ensure substantive equality and non-discrimination. To this end, Parliament has passed a range of fundamental legislation including the Employment Equity Act, the National Education Policy Act, the South African Schools Act, the National Health Act, the National Housing Act, the Prevention of Illegal Eviction and Unlawful Occupation of Land Act, the Rental Housing Amendment Act, the Promotion of Access to Information Act of 2000, the Land Reform Act, the Security of Land Tenure Act, the Domestic Violence Act, and the Criminal Law (Sexual Offences and Related Matters) Amendment Act.

In addition to these legislative measures, the Constitutional Court has produced several significant adjudications providing new international momentum to the notion of justifiability of economic, social and cultural rights. Government has also, in its commitment to the practical achievement of all human rights, entered into a social compact / contract with civil society, corporate sector, and organized labour in a public private partnership to generate the requisite domestic capital as well as reinvigorate the economy to make this goal realizable.<sup>2</sup>

South Africa's democracy has all the building blocks in place to facilitate democratic development and the realization of socio-economic rights. Yet, while made strides in developing a legislative and institutional framework for social, economic and cultural rights, it has struggled to progressively implement these rights.

While Government and as well as civil society organizations have played important roles in actualizing these rights, the majority of South Africans are still drowning in poverty and the wide income disparities resulting from apartheid policies are yet to be closed. Many South Africans continue to experience widespread human rights violations. Barriers to access to justice are particularly pronounced for those living in poverty, and/or living with HIV or AIDS, and/or women, all of whom experience double victimization when they do not have access to legal and non-legal support to contest these violations. These violations continue despite the existence of constitutional standards for review for state policies aimed to give effect to socio-economic rights. These are not only general standards (as explicated in *Govt of the RSA v Grootboom*) but also sector specific. The slow pace of delivery on socio-

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<sup>2</sup>[http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/ZA/A\\_HRC\\_WG6\\_1\\_ZAF\\_1\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/ZA/A_HRC_WG6_1_ZAF_1_E.pdf)



economic goods and services has been exacerbated by the government's slow and incomplete implementation of socio-economic rights achieved through court orders. Some litigation on socio-economic rights in South Africa resulted in policy implementation, the ARV-drugs case being the most notorious; but implementation of litigation on socio-economic rights has in general been very limited.

UN agencies and other stakeholders reports with regard to the South African Periodic Review also lists concerns regarding the current human rights situation.

The South African Human Rights Commission pointed to the failure of the government to meet its targets for land redistribution. There are many challenges in this area including the inability to carry out land reform due to lack of adequate resources and skills. In some instances, land reform projects have failed due to inadequate support from government.

The Special Rapporteur on adequate housing noted that few mechanisms are in place to ensure that policies are implemented. Despite the legislative framework on the right to adequate housing, evictions were taking place regularly, in breach of procedural requirements and through the inappropriate use of "urgent eviction" provisions, justified on the grounds of health threats to occupants.

UN-Habitat noted that while millions of people have been housed and gained access to clean water, the millions staying in informal settlements are angered and have protested against the long wait for service delivery.

While noting the various existing poverty reduction strategies, the Committee on the Elimination of Racial Discrimination (CERD) raised concerned at the extreme poverty of part of the population and its impact on the equal enjoyment of the human rights by the most vulnerable ethnic groups.<sup>3</sup>

## 2.2 The South African Programme

The South Africa Programme at the Norwegian Centre for Human Rights (henceforth referred as the Programme) was established in 1998 as part of the Norwegian strategy for co-operation with South Africa. The first phase of the Programme covered the period of 1998-2000, the second phase from 2001 to 2004 with a total cost of NOK 35.5 million. Financial support for the two first phases as provided by the Norwegian Agency for Development Cooperation (Norad). At the end of the second phase, the Norwegian Embassy in Pretoria decided to open a competitive process among Norwegian institutions for the management of the cooperation between Norway and South Africa in the area of Human Rights (HR) for the third period, from 2005 to 2009. The Norwegian Centre for Human Rights (NCHR) was the selected bidder and therefore continued managing the South African Programme. The Norwegian Ministry of Foreign Affairs has therefore been delegating the development and management of the Embassy's entire human rights portfolio to NCHR for the entire period of 1998 to 2009.

The Agreement between the NCHR and the Norwegian Ministry of Foreign Affairs delegates to NCHR the authorities and responsibilities to develop, administer, implement, monitor and evaluation of the Programme, based on (a) the Letter of Intent between the Governments of the Republic of South Africa and Norway, and (b) Guidelines for

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<sup>3</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G08/124/21/PDF/G0812421.pdf?OpenElement>

Norwegian-South African development co-operation 2005-2009. This involves making information publicly available about the Programme and the assessment of project proposals submitted either directly to the NCHR or through the Embassy. Recommendations are then given by the NCHR to the Norwegian Embassy, which makes the final decision as to which projects should be supported. The budget for the Programme for the period of 2005-2009 was stipulated up to NOK 65 million, including up to NOK 1.8 million to NCHR for management and administration of the Programme and competence building.

The NCHR developed a Strategy for the South Africa cooperation for 2005-09 to guide the management of The Programme. This Strategy was revised in 2007.

The goal of the Programme as stated in the 2005-2009 Strategy *is to promote respect, protection and fulfilment of human rights in a manner that consolidates democratic development in South Africa through engagement with government.* The 2005-2009 Strategy guides the programmatic development in four thematic pillars:

1. *Socio-Economic Rights and Policy formation/implementation:* To scrutinise policy formation and implementation in the area of social and economic rights.
2. *Civil rights: with particular focus upon access to justice:* To enable excluded individuals and groups to access justice and where possible to engage with government.
3. *Political rights: with particular focus upon public participation and information:* To encourage accountability in government decision-making by enabling public participation and access to information.
4. *Regional cooperation:* To monitor and encourage the respect, protection and fulfilment of human rights by the South Africa in relevant international, continental and regional fora.

The goal of the Programme as stated in the 2007-2009 Revised Strategy is *increased implementation of socio-economic rights, including increased access to justice in a constitutional democracy.* As per the Agreement, the Programme has three components:

1. Development and management of a project portfolio with South African institutions;
2. Provision of advisory services to the Embassy on human rights issues; and,
3. Contribute to competence building and debate in Norway on South Africa.

The seven objectives to be achieved by The Programme are:

1. Contribute to the respect, protection and promotion of Socio-Economic Rights
2. Contribute to the respect, protection and promotion of the Socio-Economic Right to Land
3. Contribute to the respect, protection and promotion of the Socio-Economic Rights to Housing and Water.
4. Contribute to the respect, protection and promotion of the Socio-Economic Right to Health
5. Contribute to greater access to Justice
6. To use South African expertise to contribute to the respect, protection and promotion of socio-economic rights in the region
7. Increased competence on Human Rights in South Africa within Norway

The revised Strategy also introduces four cross-cutting themes:

1. Steps to be taken towards engagement for accountability;

2. Engagement with a range of methods;
3. Assess the relevance (or not) of including civil and political rights, and
4. Gender.

It also introduces nine Criteria for selection of partners. These are:

1. The applicant's work needs to be in line with the strategy
2. The applicants that request funding needs to prove that they have expertise in the sectors described below
3. The proposals must be clear and good, especially in regard to; clear objectives, results and good justifications for reaching their objectives etc
4. The applicants must be clear on which methods they will use to achieve their goals
5. The applicants need to show that they are in a position to engage with government (accountability)
6. The applicants will be non profit organizations or institutions
7. The applicants will have to be South African or have a South African partner
8. Norwegian-based institutions can only be funded contingent upon institutional cooperation with a South African institution and the main part of the application goes to a South African applicant
9. The applicant must be willing to contribute in the Programme's network events with partners in the Programme

The Programme currently has 13 active projects in the portfolio, implemented by 14 partners, of which 12 are South African and one Norwegian organisations. Additionally, there are four closed projects previously funded under the 2005-09 Agreement (CALUSA, Centre for Conflict Resolution, IDASA, and South African Human Rights Commission). Five new projects are foreseen to start in 2009 (HURISA, DGRU, Church Land Project and COHRE)<sup>4</sup>. Total expenditure up to December 2008 is NOK 49,100,128. Total estimated expenses for 2009 is NOK 14,945,562 and budget for phasing out activities is NOK 950,000. According to the budget to date, the administrative cost for the Programme is estimated to be NOK 9,833,632, or 15% of total budget.

Table 2.1.1: Budget (2005-2010), the South African Programme

Organisation	Total Expenses NOK
Objective: Socio-Economic Rights	
CLC	5,780,624
ODAC	3,445,633
LRC	1,359,143
Seminar all partners	895,890
Book / writer's seminar	180,000
HURISA	101,595

<sup>4</sup> The project cooperation with COHRE over the Programme was halted last year, and there are no plans to restart this in 2009. The amount budget for COHRE in 2009 is therefore for incurred expenses in 2008 which COHRE have indicated that they will request to be covered.

DGRU	365,000
University of Stellenbosch	365,000
Objective: Land Rights	
PLAAS	4,711,698
Noragric	3,787,541
Objective: Housing and water Rights	
CALS	6,487,241
Church Land Project	365,000
COHRE	87,000
Objective: Right to Health	
CSA	4,415,692
ComaCARE	1,241,149
Objective: Access to justice	
TLAC	6,601,255
Rapcan	5,390,450
Rape Crisis	731,972
Womens Legal Centre	421,620
Objective: Regional project	
PLAAS regional	552,735
CHR	2,875,713
ICTJ (closed)	1,073,434
Objective: Increased competence on Human Rights in South Africa within Norway	
Norwegian institutions	74,679
Celebration of 10 year cooperation UIO – Univ. in SA	134,944
<b>Sub-total (Project grants)</b>	<b>51,445,008</b>
Evaluation of the programme	750,000
Closed Projects	2,967,052
NCHR - Administration	9,833,632
<b>Total Programme expenses</b>	<b>64,995,692</b>

Source: NCHR

## 2.3 The Review and Methodology

The Terms of Reference (TOR) for the Mid-term review of Norwegian cooperation with South Africa in the field of human rights: 2007-2009 (henceforth MTR), which can be

found in Annex A, states that the “purpose of this midterm review is to examine the efficiency of the Programme and the extent to which the Programme is developing according to the objectives and plans”. The focus is on identifying:

- Needs for adjustments in the final year which are justifiable in this context;
- The sustainability of the projects under the Programme; and,
- Elements of the Programme which could also be sustainable in the future Human Rights cooperation with South Africa.

The MTR is to evaluate the performance of the Norwegian cooperation administered by NCHR since 2005, based on the 2005-2009 Agreement/Guidelines, NCHR’s Strategy for 2005-09, focusing on the revised Strategy of 2007-2009.

### **Methodology**

Although this is called a Mid-term Review, it is actually taking place in the beginning of the final year of the Programme. This poses a constraint to the team’s ability to provide recommendations for the final phase of the Programme as most of the remaining funds are committed and timeframe for implementation is limited.

The Review team, the Norwegian Embassy and NCHR agreed on the methodology submitted by the team. This included the team’s interpretation of the Terms of Reference for the MTR and the methodological instruments.

The Programme has been analyzed according to the four evaluation criteria, which correspond to the Development Assistance Committee (DAC) criteria: Relevance, Effectiveness, Efficiency and Sustainability. The TOR recognizes that it is early days to assess the impact of the Programme. However, the TOR asks that the team look at projects in the portfolio which may have special impact relating to: (a) “Consolidation of the democratic transition”, an overall objective of the programme, and (b) gender. Gender mainstreaming became a cross-cutting theme in the 2007-2009 Revised Strategy. Additionally, the MTR is to provide an assessment of the methodology employed strategically to implement the Programme (outsourcing the Programme administration to NCHR), lessons learned and recommendations for the adjustments of the Programme in the final phase.

The MTR relies on two sources of information for its analysis: (i) Programme and projects documents made available to the team and (ii) informant interviews. Below is a discussion of the general methodological approaches and the instruments used to collect information.

### ***Programme Performance***

*Programme achievements were assessed at different levels: project, portfolio, and governance.* The analysis of the Programme was done by assessing the portfolio of projects both “from below” – looking at how projects have contributed to portfolio performance – and “from above” – how the overall portfolio performed from the perspective of the Agreement/Guidelines, NCHR’s Strategy for 2005-09, focusing on the 2007 strategic revision. Moreover, the value added of NCHR managing the Norwegian-South African cooperation was reviewed (governance dimension).

### ***Project performance***

*Project performance* was assessed against stated project objectives and expected results. This entails seeing project performance "from below". Projects were also looked at in light of their contributions to the larger objectives of the Programme – that is, "from above".

The projects were addressed through first reviewing the documentation available, and then complementing this with information from informant interviews. Project information was then systematized, analyzed and presented in standardized Project Performance Report (PPRs). PPRs constitute stand-alone results reports for each project assessed, that can be found in Annex E in the volume attached to this main report.

### **Data Collection Instruments**

***Document Review:*** The team reviewed the documentation made available by the Norwegian Embassy, the NCHR and project partners. The list of documents consulted can be found in Annex D.

***Informant Interviews:*** Interviews were conducted with NCHR staff involved in the management and implementation of the Programme, staff from project partners, staff at the Norwegian Embassy in Pretoria involved in the Programme implementation and other donors providing support to Human Rights programming in RSA, and a number of project beneficiaries for selected projects. The list of persons interviewed can be found in Annex C.

The informant interviews were guided by Conversation Guides: semi-structured lists of questions with open answers. The Conversation Guides ensured that members of the team had a systematic approach and ask the same set of core questions to all groups of informants.

***Beneficiary Focus Group or Individual Interviews:*** Beneficiaries groups from three projects were interviewed, some individually and others in group. These interviews were organized by partner organizations.

***Information validation:*** The MTR was thus be based on a combination of document reviews; informant interviews; direct observation (project implementation site visits); as well as any quantitative data on issues like project coverage, so forth that is made available. Triangulation of information was used as far as possible to ensure reliability of information: statements in the document review were compared with what was said by informants, how NCHR staff versus donors versus partners versus beneficiaries saw the Programme for example. Opportunities to correct and comment on the team's findings were provided at the end of the review process. Firstly, a de-briefing meeting at the end of the SA mission, when the team presented preliminary findings and recommendations. PPRs in draft form were sent for partner's comments. Finally, the draft report was sent to implementation partners, NCHR, and the Norwegian embassy to provide them with an opportunity for correcting information and commenting on the team's assessment.

Additionally, the review team invited NCHR to submit a Position Paper addressing the questions of the TOR. The team also considered the view of NCHR presented in this paper, which has been fully transcribed in Annex E.

## 2.4 Team, Acknowledgements and Disclaimer

The review was conducted by Dr. Riselia Bezerra (team leader) of Scanteam and Ms. Elize Delport, an independent consultant and human rights lawyer from South Africa. Mr. Gisle Hagen, Senior Advisor of the Department for Peace, Gender and Democracy of Norad took part in some meetings during this review. His keen observations and contributions are much appreciated.

The field mission was carried out from 19 January to 3 February. The team wishes to thank all the Programme partners, NCHR staff and the Norwegian Embassy for their generosity with time and information and the openness they demonstrated during long conversation sessions.

**This Report and its findings are the sole responsibility of the consultants, and do not necessarily reflect the views of the Norwegian Embassy in Pretoria, Norad, NCHR, or any other institution and organisation or informant spoken with.**

### 3 Assessment and Findings

The assessment of the South African Programme is a result of the combined performance of the projects in the portfolio selected for review. The following reporting is based on performance assessment at portfolio level. Reporting on assessments of individual projects can be found in Annex E.

#### 3.1 Relevance of the South African Programme

In September 2006, the Programme had a strategic revision for the remaining 2007-2009 period. The revised strategy placed greater focus upon socio-economic rights and access to justice. The rationale for the change in focus was that lack of access to justice was found to be a fundamental barrier to realizing human rights in contemporary South Africa. While the South African constitution provides wide human rights protections, these constitutional provisions have not been accessed by the poor population. The 2007 strategic revision thus aimed at expanding legal rights as the preferred approach to promote access to socio-economic rights to poor and vulnerable groups.

The Agreement between NCHR and MFA for the 2005-2009 period, Article 2 “Scope and Objectives”, states as an objective of the Programme: “Scrutinise and engage with government on policy formation and implementation in the area of social and economic rights.” Moreover, in the Terms of Reference for the South Africa Programme, referred in and attached to the same Agreement, it is stated: “The approach of the Programme will be to emphasize engagement with government on these themes in order to ‘promote, respect, protection and fulfillment of human rights in a manner that consolidates democratic development in South Africa’.” As seen in Table 3.1.1 below, this strategic shift of 2007 also signified a greater engagement with civil society organizations vis-à-vis engagement with government, as “engagement with government” no longer became an outcome at goal level for the 2007-2009 strategy.

Table 3.1.1: Strategic revision of the Programme

2005-2006 Strategy	2007-2009 Strategy
<p>Goal: to promote respect, protection and fulfilment of human rights in a manner that consolidates democratic development in South Africa through engagement with government.</p> <p>Focus areas:</p> <ol style="list-style-type: none"> <li>1. Socio-Economic Rights and Policy formation &amp; implementation</li> <li>2. Civil rights: access to justice</li> <li>3. Political rights: public participation &amp; information</li> <li>4. Regional cooperation</li> </ol>	<p>Goal: to increased implementation of socio-economic rights, including increased access to justice in a constitutional democracy.</p> <p>Focus areas:</p> <ol style="list-style-type: none"> <li>1. Socio-Economic Rights, focus Land, Housing and Water, Health</li> <li>2. Access to Justice</li> <li>3. Use South African expertise to promote socio-economic rights in the region</li> <li>4. Increased competence on Human Rights in South Africa within Norway</li> </ol>



As seen in Table 3.1.2 below, at the end of 2006 when the new strategy was agreed, NCHR had used approximately 33% of the budget for project funding. Although not all of the remaining funding was uncommitted (CLC agreement, 2005-2008), most budget for project funding remained uncommitted, about 67%. There was therefore sufficient funding from 2007 to effect a strategic change in the Programme.

Table 3.1.2: Total budget for projects, South African Programme (2005-2009), Figures in NOK

Organisation	2005	2006	2007	2008	Estimated 2009
<b>Objective: Socio-Economic Rights</b>					
CLC	390,000	1,565,040	1,364,668	1,292,916	1,168,000
ODAC	560,000	845,000	600,833	702,500	737,300
LRC			81,590	766,553	511,000
HURISA				101,595	
DGRU					365,000
University of Stellenbosch					365,000
<b>Objective: Land Rights</b>					
PLAAS	47,500	1,112,877	1,031,163	1,206,158	1,314,000
Noragric	1,500,000	455,541	600,000	612,000	620,000
<b>Objective: Housing and water Rights</b>					
CALS		1,749,000	1,636,300	1,605,441	1,496,500
Church Land Project					365,000
COHRE					87,000
<b>Objective: Right to Health</b>					
CSA	812,000	852,481	421,347	1,410,064	919,800
ComaCARE			327,720	475,429	438,000
<b>Objective: Access to justice</b>					
TLAC	1,215,000	1,406,500	1,490,263	1,248,492	1,241,000
Rapcan	500,000	1,904,000	1,056,120	981,330	949,000
Rape Crisis	213,000		129,752	170,220	219,000
Womens Legal Centre				202,620	219,000
<b>Objective: Regional project</b>					
PLAAS regional			246,135		306,600
CHR	785,000	504,000	583,239	496,124	507,350
ICTJ			381,123	400,311	292,000
<b>Objective: Increased competence on Human Rights in South Africa within Norway</b>					
Norwegian institutions			20,290	54,389	
<b>TOTAL</b>	<b>6,022,500</b>	<b>10,394,439</b>	<b>9,970,543</b>	<b>11,726,142</b>	<b>12,120,550</b>

Budgeted funding for new organisations from 2007			1,056,858	2,000,897	2,350,000
Budgeted funding for pre-2007 organisations			8,913,685	9,725,245	9,770,550

Source of information: NCHR

In reality the strategic revision for the remaining period of 2007-2009 did not have much impact at programmatic and funding levels. NCHR continued funding almost all of the same organizations it funded before the 2007 strategic revision and most of the Programme's funds continued to support the same organizations it funded previously. After the strategic review, NOK 28.4 million has been budgeted for continued support to pre-2007 partners and NOK 5.4 million for funding new organisation. Given that in the 2007 application round previous NCHR partners applied mostly to continue with the same lines of activities as before, the 2007 strategic revision had little impact at programmatic level.

The Programme portfolio until the strategic revision was focusing on socio-economic rights and legal rights was the main supported method. Some of the new partners funded from 2007 strengthen the portfolio's focus on women (LRC women's rights, Womens Legal Centre) and another on a previously neglected social group (ComaCARE). The new remaining partners are receiving small grants, most in the last year of the Programme to make any significant strategic impact (HURISA, DGRU, University of Stellenbosch, Church Land Project, COHRE, and Norwegian Institutions).

The Strategic change of 2007 seems to have been more of political significance rather than programmatic. It was also an opportunity for the Embassy to engage in dialogue with NCHR about the development of the portfolio and its direction.

The Strategic relevance of the Programme has been assessed by the review team as moderately relevant. This based on assessing NCHR's selection of projects that would provide the best results for achieving its goal of *increased implementation of socio-economic rights*, while supporting the policy framework under which the Programme is implemented. The review also takes into consideration if there are other things the South African Programme could or should have funded instead, given its goal.

The Programme supports the bilateral dialogue between South Africa and Norway (Letter of Intent between the Governments, 1996), and is aligned with the "Guidelines for Norwegian-South African development co-operation 2005-2009". The Programme portfolio does prioritize support to organizations that promote "democratic culture, as well as promoting government accountability and the strengthening of pro-poor participation and policies". The Programme is aligned with the South African government's priorities include in the Constitution of the Republic of South Africa of 1996. Moreover, the programme supports the Norwegian Development policy in that women and children's rights are part of the programmatic focus. Furthermore, the areas covered by the Programme's objectives fall within the Norwegian government's budget for the area of human rights as approved by Parliament.

The planned activities, outputs and results of the projects also support the stated objectives of the Programme. Together, projects employed diverse methodologies, such as litigation, advocacy, research, service delivery, and networking. Some support towards monitoring the implementation of legal rights begun at the end of the Programme' phase (CLC, LRC

women's rights, Rape Crisis). The use of diverse methodologies is happening mostly internally (vis-à-vis through the Programme financing strategic partnerships); some partner organizations utilizing diverse approaches to pursue objectives.

The Programmes' focus on socio-economic rights is highly relevant to the context of South Africa, but its approach to pursue its objectives, continued focus on legal rights, has restricted the tangible impacts to beneficiaries (poor and vulnerable communities). The strategic revision of 2007 should have considered supporting organizations that could have provided a diversification of methodologies (e.g. advocacy, monitoring, and mobilization) through partnerships so they could therefore complement each other's activities to cascade the effects of, for example, litigation and research supported by the Programme.

The need for the Programme to strengthen links and collaboration between organizations was addressed in the 2004 evaluation of phase two of the Programme, where it is recommended that collaboration between and amongst Programme partners should be pursued to increase synergy in the activities supported by the Programme.<sup>5</sup> Moreover, diversification in partners could have promoted greater effectiveness in promoting pro-poor policy implementation in that articulations between social and political arenas would be supported. Moreover, the Programme' unilateral support to civil society organizations skewed the rights-based approach aimed by the Programme as there was no support to Government and no methodological diversification to promote socio-economic rights. Engagement with the Government is mandated in the Agreement between NCHR and MFA/the Embassy for the South Africa Programme. Moreover, attention to the need to discuss support to NGOs versus state institutions was called for in the 2004 Programme review and further pursued by the Embassy in various meetings.<sup>6</sup>

The Programme' strategic decision to focus on legal rights as a methodology has not captured the need to instigate and support civil society organizations work to implement rights attained in the legal arena and to maximize the possible impacts of the research supported by the Programme. It failed to contextualize the gap in funding for such organizations since 1994, which were identified by the Programme at its inception. Of importance, the Programme fell short in coordinating its funds and activities with other donors in South Africa. Absent of the ongoing dialogue amongst donors and organisation working in the human rights field, the Programme functioned with a more distant, insular, inwards-looking perspective. The need to coordinate with other donors working in the field to get an overview of what other organizations and countries were doing was recommended by the 2004 Programme Review and has been a concern of the Embassy.<sup>7</sup>

The Programme nonetheless had good and continued relations with its partners, from who information about developments on the ground were sought. Programme partners are highly professionalized organizations that keep abreast of developments in the field of human rights in South Africa. However, because the programme mostly and continuously

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<sup>5</sup> Peris Jones and Helene Smith, Review of the South African Programme, Final Report, Phase 2: 2001 – 2004.

<sup>6</sup> Minutes from meetings between the Embassy and NCHR. The team had access and consulted Programme documents at the Embassy's archives.

<sup>7</sup> Ibid.

worked with academic and legal institutions, information feeding funding decision making were highly influenced by such milieu. As a result, most of the Programme funds support the “cream of the crop” in the field of human rights in South Africa. Smaller organizations are being supported (e.g. ComaCARE), but at a much smaller scale.

### 3.2 Effectiveness of Programme

The projects in the portfolio of the Programme have been producing most of its planned outputs. The Programme is therefore effective in delivering on its objectives.

Various factor contributed to the effectiveness of the Programme. While the Programme does not fund Government institutions, several of its partners work with government, providing policy reviews and/or advice (CLC, PLAAS, CSA, TLAC, RAPCAN, Rape Crisis, LRC), supporting public services (RAPCAN, TLAC, ComaCARE, Women’s Legal Centre, CSA), and training to public officials (RAPCAN, TLAC, ComaCARE, RAPCAN, CLC, CHR). Moreover, activities of Programme partners support government at local, national, and international levels. Additionally, the planned activities and outputs are in line with the capacities of partner organizations. The portfolio of the Programme is being implemented by dedicated, professional and in most cases, well resourced organizations. Partners implement activities in their areas of expertise; have good local knowledge and good national and regional network connections.

Some partners have overestimated the capacities and resources required for research and have experienced delays in the timeframe to deliver research-based activities (ComaCARE, LRC, TLAC, ODAC). Research to support litigation is demanding on the human and financial resources of the organisation. For some of the partners, attracting, retaining and training researchers have been challenging, especially when they are not a research institution. Nevertheless, all partners have to various degree of deferment been making progress towards delivering on research activities.

Support from NCHR has also positively contributed to the effectiveness of some projects (LRC, CLC, PLAAS, CALS, CSA). Dr. Peris Jones and Dr. Malcolm Langford, respectively the previous and current researchers at NCHR supported by the Programme, have made substantial contributions to partners work with litigation, research and in introducing them to relevant networks.

The flexibility and predictability of funding provided by the NCHR have positively impacted effectiveness of the Programme as well. Receiving long-term financing (vis-à-vis yearly) has enabled partner organizations to concentrate on project activities and outputs. The ability, when the need arises, to reallocate funds across different budget areas has been an incentive to improve partner’s productivity and enhanced their ability to use Programme’ funds to seize opportunities.

Insufficient strategic partnership supported by the Programme Insufficient strategic partnership supported by the Programme (e.g. partnership with organisations engaged in different but complementary work such as litigation and social mobilisation, government institutions) has diminished the effectiveness of the portfolio. While the overall delivery rate of outputs by partners is high, the outreach of produced results to beneficiaries has been more modest. This has been particularly the case for partners whose activities under the Programme focused on litigations and research. The gap in partnership to complement

(advocacy, mobilization) and cascade (monitor, advocacy, mobilization, implementation) their activities and outputs have diminished the possible effects of their efforts. This includes close collaboration with Government institutions, partnering with loosely organized grassroots organizations, and activity planning and implementation with target community. Partners in the Programme who engage in strategic partnerships have incremented their effectiveness in delivering objectives (CSA, LRC women's right, RAPCAN, ComaCARE, CALS, Rape Crisis).

### 3.3 Efficiency of Programme

Overall the Programme has been running efficiently. Programme partners who use complementary methods for implementation have been able to become more productive in delivering outputs. These organizations strengthen the effectiveness across their portfolio of activities through, for instance, their policy interventions and litigation draw on the very solid research produced by them (CALS, LRC, CLC).

Some partners have made strategic partnerships and believe in the value of working in networks and partnerships to achieve maximum results and cost-saving effects. CALS has also entered into a strategic partnership with the Inner City Resources Centre (ICRC) which is housed at CALS and receives funding from NHCR. Through this mechanism, a number of relevant cases have been brought to CALS, but there have also been instances of conflicts being resolved by the ICRC without resorting to CALS litigation. Such work assist poor communities to access housing and basic services while ensuring that the work of CALS remains grounded. The Women Legal Centre works closely with organizations in the gender sector, offering legal advice, assisting with submissions to Parliament and representing clients referred by these organizations. On the other hand, the Women Legal Centre manages to save on legal costs from the partnerships, where counsel were prepared to work pro amico or has negotiated reduced fees with certain Advocates. Through the Paralegal Forum and interactions with the CBOs and NGOs that attend it, TLAC is able to identify ongoing training needs. Based on the needs identified, TLAC has arranged for information sessions as part of the Paralegal Forum meetings to address some of the organisations' information needs.

Embedding services in government structures (RAPCAN, TLAC, ComaCARE) and integrating the project into the community (CSA, LRC women's right) have incremented the project efficiency by building legitimacy to their activities (sharing effects) and incrementing beneficiary ownership of the activities. Rape Crisis established an MOU with the Department of Justice and Constitutional Development, which recognizes RAPCAN as the primary service-provider of child witness preparation services in the courts covered. This entitles RAPCAN to a range of benefits relating to office space in courts, and working relationships with Justice personnel.

Several Programme partners have been able to very effectively mobilize and operationalize non-financial resources such as volunteer system for court supporters (Rape Crisis) and volunteer services for patients (ComaCARE), support from government department resulting in gains in benefits and resources such as office space (TLAC, ComaCARE), secured presence in conferences to do present their work and do advocacy (ComaCARE), and secure part-time lay court support personnel (RAPCAN). Rape Crisis has received a

year's worth of pro bono work by a well known communications company HWB Communications.

Programme partners also build upon the organizations' historical expertise, what contributes to the cost-effectiveness of their activities. The flexibility which Norwegian funding is provided has been capitalized by NCHR. The Programme management has enabled partner organizations to reallocate funds across different budget areas when it accessed it would be productive. This has been an incentive to improve partners' productivity and enhanced their ability to use Programme' funds to seize opportunities.

The inhibitors of efficiency identified in the Programme portfolio are insufficient strategic partnership (CHR), remoteness from beneficiary communities (ODAC), and pursuit of objectives with long-term tangible impacts on the poor (LRC Graniti case). Staff turn-over, especially in research, also generates project inefficiencies in some partner organizations (ComaCARE, ODAC, LRC, CSA).

External factors that influence the efficiency of Programme operations are Government inefficiencies and capacity limitations to implement policies. Inefficiency in the court system delay litigation, incrementing project costs. Of importance, weak social movements in South Africa affect the effectiveness and efficiency of the Programme.

### 3.4 Programme Outcomes

NCHR has developed no results frameworks which could provide management with information on the Programme's results at Output, Outcome and Impact levels. Most partner organisations do not have or use a results framework either. The review team therefore could not provide an evidence-based assessment of Programme's outcomes. What the review team provides in this section is an analysis of *possible* outcomes and impacts of the Programme, based on a subjective analysis. The team's analysis of possible outcomes is based on personal discussions with Partners organisations, NCHR, the lessons learned provided by the partner organizations, and the team's own views. It is also informed by country literature on implementation of socio-economic rights as a result of litigation.

The South African Programme produced important outcomes. Together, Programme partners have influenced policy formulation and helped to entrench at consciousness level certain socio-economic rights in areas of Government and society. Partners have also contributed to human rights networking formation at continental level. For example, the Centre for Human Rights at the University of Pretoria (CHR), through the good governance courses and the Moot Court Competition combined, has strengthened knowledge of human rights issues and contributed to network creation in Africa. The Legal Resource Centre (LRC) has raised awareness among national and international actors regarding the potential for international trade agreements to undermine national affirmative action and human rights legislation while leading the creation of a national and international network around the issue.

ComaCARE, a nascent organisation supported by the Programme, is becoming a reference organisation for the region. Red Cross Children's Memorial Hospital (the only hospital offering the breadth of service of its kind in Africa) is looking at the model. ComaCARE, with the support of the Groote Schuur neurosurgery ward, have successfully lobbied the University of Cape Town to incorporate their training program into the curriculum for

nursing school which will then be sold to nurses across the continent. The Director of ComaCARE received the Ashoka international award in 2008, exposing the issue of comatose patients and their approach/model to coma care to an international audience.

The work of numerous partners with litigation has yielded important outcomes. The Women's Right project of the Legal Resource Centre has successfully litigated on customary law, which has set precedent and provided further clarification on the living nature of customary law. This case supported the establishment of a woman (Hosi Shilubana) as a traditional leader. The decision has thus far been sustainable and served as a basis for action by women in other rural areas to claim their right to participate in village decision making. Interventions on eviction made by the Community Law Centre (CLC) and LRC have made support to evicted communities part of Government thinking. Tswelopele, a project of the Centre for the Study of AIDS (CSA), has contributed to reducing the incidence of human rights abuses and violations in the communities it service, evidenced in the outcomes of case work and referrals. The work of the Centre for Applied Legal Studies (CALC) has made significant contributions to changes in policy and practice in South Africa with regard to water rights and, together with other partners such as CLC, in housing rights.

The Open Democracy Advice Centre (ODAC) is making contributions to increasing awareness of the possible impacts of monitoring government transactions in ensuring accountability and in curtailing corruption. PLAAS research and publications on a range of strategic and relevant issues related to land reform has stimulated public debate and understanding and has influenced policy formulation.

RAPCAN conducted a research project which assessed the levels of access and quality of detective services provided to children through the Family Violence, Child Protection and Sexual Offences Units service, which has been endorsed by the South African Police Service. As a member of the Driver Group of the Child Justice Alliance, RAPCAN worked with partners to research, facilitate and implement a Parliamentary advocacy strategy to the Child Justice Bill. This initiative yielded positive results. RAPCAN will continue to work within the Child Justice Alliance to monitor the implementation of the Bill (Act). The CLC intervention in parliamentary discussions on Basic Grants helped to clarify that the issue was a constitutional right.

TLAC has made significant contributions to the analysis and debates around the drafting and amendment of key pieces of legislation pertaining to gender-based violence (e.g. the Sexual Offences Act). TLAC compiled a report on sentencing, which was used as a basis for arguments in a case (*S v Vilakazi*) challenging the legislation on minimum sentencing for rape. As a result of this study, the Deputy Minister of Justice requested TLAC to draft a Rape Protocol based on the findings of the study. The Department of Justice also requested TLAC to draft aspects of the National Policy Framework of the Sexual Offences Act, which TLAC is doing in partnership with Sexual Offences Working Group, and to conduct research in order to evaluate the implementation of the Domestic Violence Act in the Eastern Cape, Northern Cape and North West Province. The Gauteng Provincial Government requested TLAC to assist in the development of its Rape Strategy.

Although Programme partners obtained a number of other successful judgments, the nature of the litigation cycle is such that cases may come to fruition only after a number of years. The outcomes of litigation depend mostly on Government capacities, leadership and political will to implement policies. On the other hand, Programme partners working on

service provisions have achieved more shorter-term, tangible sustainable impacts to beneficiaries (ComaCARE, RAPCAN, TLAC, Rape Crisis Centre).

Programme partners working on service provisions projects as one of their main approaches (they also worked with other approaches such as litigation, research and policy advocacy) have scored well largely due to two factors. The first was the inclusive community-driven approach to identify priorities. The other was a balance of approaches and resources to successfully implement the priorities. That is, they do not simply use community inputs to facilitate a planning process, they sought funding for their priorities, developed community organizations and skills, facilitated dialogue between communities and authorities, and have worked to strengthen communities' access to other resources. They focused on integrating important socio-economic rights into parts of the Government and therefore enable tangible impacts in the lives of their beneficiary groups, possibly in a more sustainable fashion.

Many Programme partners do not monitor the outcomes of their work at goal level (CLC, WLC, CHR, ODAC, ComaCARE, RAPCAN). A partner has started monitoring the outcome of another Programme partner (LRC monitoring impact of LRC's work) while others monitor their own (CSA, CALS). Most of the projects, as noted above, either do not have or only have poorly defined Goal-level results. The projects by and large therefore do not have operational Goal statements, and virtually no indicators that are monitorable at this level.

The strategic focus of the Programme has been to promote socio-economic rights through the legal arena. Some positive outcomes have been generated by partners supported by the Programme as above exemplified. At this point in time, the stronger contribution of the Programme portfolio has been to help to entrench at consciousness level certain socio-economic rights in areas of government (housing, HIV/AIDS (health), water, land reform, women's and children's rights). The Programme has therefore contributed to advance democracy more at consciousness than practical level.

Given the South African context, right-based approach provides a model to achieve rights in a peaceful manner. The legal arena is important for promoting socio-economic rights, especially in view of the favourable legal framework provided by the South African constitution and other legislation. But, as a partner put it, "Laws may be amended, but the difficulty lies with implementation". Because of the greater focus on legal rights, its goal achievement of *increased implementation of socio-economic rights, including increased access to justice in a constitutional democracy* has been modest as it approaches the final phase of the Programme. As another Programme partner pointed out, "litigation without social organisation does not bring relief. It is not just the legal framework that is required, but also social and political support". The LRC's Graniti is an illustrative case. LRC is still in the process of researching and developing their legal strategy, but a favourable judgment would most likely bring tangible benefits to poor, vulnerable groups if political and social mobilization at national and international levels becomes part of the strategy.

Various donors in South Africa have since late 1990s also focused their support on legal rights (e.g. European Union, Ford Foundation, Open Society Foundation, Finland and Netherlands). Given the Programme's shortfall in coordinating with other donors in the same field, strategic funding was not sought. Insufficient support to strengthen Government capacities to implement socio-economic rights and to mobilization in civil society to demand prioritization of policy implementation was an outcome of the skewed donor support to the legal arena. The gap in directly supporting Government institutions or insufficient support to partnerships between Programme partners and Government departments diminished the



tangible impacts of the Programme, as well as sustainability of outputs (litigation).<sup>8</sup> The Programme thus left almost untouched the ground for socio-economic rights to be effectively implemented.

Some Programme partners established strong connections with their beneficiaries, incorporating democratic principles in its planning and implementation processes through using community consultation methodology in planning and by integrating community views and needs into project design and implementation (CSA, LRC Women's right, TLAC). These partners can provide evidence that priorities pursued by their projects have been beneficiary driven. This, however, is not the case for most partner organizations. While undoubtedly most of the litigation and research pursued by Programme partners aim at improving the implementation of socio-economic rights to the benefit of poor communities, many have no mechanism to hear the voices of their beneficiaries in order to sort out what are their priorities, to define which legal rights are the important ones to poor, vulnerable groups to be pursued here and now (*vis-à-vis* what the organisation finds to be important) and to verify if the legal arena is their preferred battleground. Given the lack of an inclusive community-driven approach to identify priorities and a balance of resources to successfully implement the priorities, stronger organizations had greater voice in driving the socio-economic agenda supported by Norwegian development cooperation funding through the Programme than poor communities.

A partner organisation has argued that "the focus on benefit to individuals and communities in receiving a service is not the way success in the non-profit sector should be measured. The ability to force powerful actors in society to provide services, or defend rights, is rather the measure. Providing services to communities is what the State should do, and NGOs should not be substituting for state failure."<sup>9</sup> This review team does not refute the argument that the State should be accountable for public services provision. Our argument is rather on the necessary approaches to empower different sectors in society to make Government accountable for implementing what is considered priorities by these diverse sectors.

The team does not refute either that the courts can make and have made important contributions to advancing social and economic rights. What we call attention is to the need for paying attention to *who* is defining the priorities to be pursued in courts and to the *conditions* needed to make legal claims to socio-economic rights effective. We therefore make a case for a more inclusive approach to be adopted by organizations representing the interests of poor communities to ensure that the priorities of poor and marginalised groups are heard and respected, and pursued by various means, including the legal arena. We also emphasize what is commonly regarded by many Programme partners (see section 4.1) that judicial action needs political and social mobilization in order to bring about effective change. Embedding activities within communities are an important step in this regard. Mainstreaming activities within State structures is also a step forward to supporting policy

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<sup>8</sup> NCHR commented in the Draft report that a limiting factor for partner organisations has been that government's willingness to consult with civil society varies a lot in South Africa. Programme partners have to a large degree pushed for such partnerships and in some cases been invited in as a result of pushing for access (Examples: RAPCAN's partnership with NPA, ODAC's workshops on the access to information act, TLAC being contracted by the Ministry of Justice to write guidelines to sexual offences bill, CLC advising Ministry of Foreign affairs on the Optional protocol process).

<sup>9</sup> Comment received to the Draft version of this Report by a Programme partner.

change. As such, this team regards that NGOs are accountable to the priorities of their beneficiaries and therefore to the tangible outcomes NGOs' activities have in the lives of the individuals and communities they serve.

NCHR is a Norwegian human rights institution and a process of consultation and interaction with South African Government institutions in key areas within which partners organizations work, should have been established. This would have contributed to enhancing the Programme's outcomes. This should have been done together with the Embassy, to create links between social and political aspects of the Programme. This is the final year of the Programme, but consultations can still be held in areas prioritized jointly with the partners and the Embassy.

### 3.5 Sustainability

The sustainability of the outputs and outcomes produced by Programme partners has up to this point mixed results. Litigations that have had positive judgement to beneficiaries are sustainable, but only producing tangible results if policies are implemented. In other cases, such as with ODAC for example, release of information has been attained with and without recourse to litigation. ODAC's work is increasing the awareness of Government institutions about public rights to public information and contributing to making local governments more aware of the value of dialogue with stakeholders in resolving conflict and reaching common solutions. Nonetheless, both limited knowledge about the Information Act by a wide number of public officials and institutional capacity to deliver on the Act are limiting factor for the sustainability of ODAC's work.

The knowledge produced by Programme partners through research and publication is available mostly free of charge (CHR, CLC, LRC, CSA, CALS, PLAAS). Although most of it is not easily accessible to beneficiaries from poor communities, access to this knowledge is easy for certain groups such as government officials, members of parliament, academic community, civil society organizations and donors.

Programme partners that mainstream project activities into Government departments or within the communities they service and/or provide training to public officials have a greater chance to attain sustainable impacts (RAPCAN, TLAC, CHR, ComaCARE, CSA). In the case of RAPCAN, for instance, the Child Witness Project already receives around half of its funding from the Western Cape Provincial Department of Social Development. As noted in the previous section, in some of these cases, local and national Government departments are establishing policies as a result of interventions by Programme partners or with their assistance. Integrating activities into communities gradually transfer ownership of the project, a significant contributing factor for the sustainability of project outputs and outcomes. Another partner was able to insert its activities into the curriculum of a university, which clearly promotes sustainable results (ComaCARE).

Insufficient focus to mainstream human rights activities into Government institutions at various levels has been a limiting factor for achieving greater sustainability of outputs and outcomes in the Programme. This could have been accomplished in various ways, including through donor coordination at programmatic level and greater focus on partnerships between partner organizations and government institutions.

Besides of the internal factors and nature of some the Programme activities, the sustainability of some outputs of the Programme, and especially litigation, depend upon the ability of parliament to make the executive accountable. Moreover, political processes undermining the participatory process occasionally also impact the ability of project outputs and outcomes to achieve sustainable impacts.

Programme partners have been aware of the end of the Programme and planning for securing alternative sources of funding. Most of the organizations in the Programme are well established and have good technical and administrative capacities to attract funding. Some organizations are in an early stage of organizational development and therefore more vulnerable to the loss of future funding from the Programme (ComaCARE). Yet other partners are fairly well resourced, but funding from NCHR has been the main support to one of their projects and this funding has enabled them to apply a more holistic rights-based approach to human rights (CLC, CSA - PLACE).

### 3.6 Gender and HIV/AIDS Dimensions

The links between socio-economic rights, gender and HIV/AIDS are clear. For many households, multiple violations of their socio-economic rights to land, housing and water deepen their vulnerability to HIV and AIDS. They also have a gendered impact as women-headed households predominate in the poorest areas such as informal settlements and rural areas. Gender-based violence is a key factor in increasing women's risk of contracting HIV.

The incorporation of gender and HIV/AIDS as cross-cutting issues in the Programme has produced mixed results. While some partners have made significant progress in incorporating Gender and HIV/AIDS as a cross-cutting issue, others have not fully developed either an understanding or the necessary instruments to integrating gender and HIV/AIDS into the organizations' *mode of operandus*.

It would have been useful to Programme partners if NCHR had provided a clear understanding of its expectations regarding the incorporation of gender and HIV/AIDS as cross-cutting issues. Ideally, NCHR and the partners should jointly have identified and developed guidelines in this regard early on in the Programme.

#### **GENDER**

Gender mainstreaming is defined by the UN ECOSOC as : "the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all spheres so that men and women benefit equally. The ultimate goal is to achieve gender equality" (ECOSOC Resolution 1997/2). However, it should be noted that gender mainstreaming has as many definitions as it has approaches. There may well be specific instances where a women-centered approach would be justified. It would be useful for partners, together with the NCHR, to develop consensus regarding their understanding of gender mainstreaming and, within the specific context of their work in South Africa, to develop guidelines for the effective incorporation of gender issues in their activities as well as their organisations.

A number of projects in the Programme focus specifically on women. However, not all of these projects reflect a systematic approach to incorporating gender issues and do not necessarily comply with the principles of gender mainstreaming.

The approach taken by the WLC is to seek the advancement of women's human rights. WLC argues that women are not equal in society. The need to focus specifically on women's equality for the transformation of society generally is essential at this stage of our young democracy. WLC argues that the very principle of seeking to ensure that the jurisprudence of the constitutional court on the equality clause includes cases dealing with women's right to equality, is about mainstreaming women's rights.

One of CALS' stated organizational objectives is to integrate gender into all its work. CALS' internal mode of operation seeks to ensure that gender is integrated into all the work that it does. The Mazibuko water judgment explicitly addresses lack of water from a gender perspective. CALS's work on housing rights is also an area in affecting women the most. Working to improve basic services has significant gender impacts.

The TLAC project proposal states that the project is primarily intended to benefit abused women, but may also assist male family member and friends in their response to the abuse of a woman who is close to them. However, there is little evidence of the latter happening or of gender considerations being incorporated in a systematic manner.

LRC notes that gender issues are tracked into all their case work and women's rights forms a particular focus area in our case work. However, in the absence of the arguments having been crafted for the papers that are intended to be submitted to either ICSID or to the South African courts, there is no current evidence of the pursuit of gender issues in the Red Granite case.

The LRC Women's Rights project focuses on gender power relations targeting land property rights of rural women. A key component of the case surveys will be a baseline study on the relative gendered power relations, and changes over time relating to changes in legislation and law. This study will provide the information for a gender impact study (positives and negatives) on the project as it focus on the rights of women.

The Socio-Economic Rights Course offered by the CHR includes topics on women and CHR ensures that lecturers do support the aims of the CHR. The organization does not display a systematic approach to mainstreaming gender, but is currently developing a strategy to address gender in its operations.

ODAC appears sensitive to gender issues. They are, for example, conducting more outreach work to teachers and nurses unions, which are professions dominated by women. ODAC believes this will serve to ensure that they best assist women. However, ODAC has not developed an approach to mainstream gender in project activities. Gender issues identified during implementation have not been addressed either (e.g. why are more men than women using the helpline? What can we do to reach out to women? Is the instrument, telephone helpline, or the organization's outreach approach/scope/style that is generating gender unbalance in our service? etc).

Gender issues are to some extent reflected in the work of the CLC. The Project's doctoral intern is conducting research on the gender-responsiveness of the laws and policies of South Africa and other sub-Saharan countries within the context of HIV/AIDS. Two of the planned research papers for 2009 relate to gender and socio-economic rights. These are: access to

maternal health care services in South Africa; and the health rights of women experiencing HIV/AIDS.

Gender issues are also, to some extent, reflected in the research conducted by PLAAS and its partner NORAGRIC. In a detailed study of land restitution in the Levubu area, NORAGRIC has been examining what happens when land and commercial farms are restored to Claimant Communities. They have attempted to include women and gender issues in all aspects of this study. They have interviewed women members of the Communal Property Associations (CPA) (50% of the interviewees), women members of the CPA committees, the two women who are on the Board of Directors of the new Joint Venture companies, women farm workers who are also claimants to explore how they felt about working on their 'own' farms, farm managers on their thoughts and experiences with female and male farm workers. Furthermore, Gender was one of the key issues discussed on the ESTA Workshop co-organised by PLAAS, NCHR, Noragric and the Legal Aid Clinic, 27 and 28 October 2008 in Stellenbosch.

The CSA provides assistance on various gender related issues, and training has already been undertaken on gender based violence, domestic violence, etc. In addition, Tswelopele has engaged relatively more women than men. The current paralegals and advocacy team are relatively balanced in terms of gender. Further training of paralegals and advocacy team members will ensure that gender concerns are taken into account. However, gender issues are not consistently integrated in either Tswelopele or in the activities of the PLACE.

ComaCARE notes that most of the victims of violence are young men who live in sub economic communities with a high crime rate. However, ComaCARE also works with female victims of abuse and train both men and women in coma counselling and communication. ComaCARE provides for practical gender needs for patients, staff and their volunteers. They encourage men and women to be treated separately in wards rather than together because of dignity and abuse issues, they are providing training and experience to previously unemployed women. Strategically, they have provided "neutral spaces" for nurses and doctors to address each other and diminish the rank and power issues between white mainly male doctors and black mainly female nurses. They have provided training programmes for nurses which address power and rank issues.

RAPCAN has integrated a 'gender' perspective into all aspects of its work. This means that the differential experiences of women and men, boys and girls are considered in relation to each aspect of their work. All training programmes have been developed from this perspective, and there are some programmes that are directed specifically at addressing gender issues such as sexual harassment, the role of boys in families, etc.

Although the project focuses on Female and Teenage sexual violence survivors, Rape Crisis has adopted an integrated community development approach and the identified needs pertain to survivors, members of the community and various members involved in the justice system.

## **HIV/AIDS**

South Africa remains the country with the highest number of people living with HIV in sub-Saharan Africa. HIV/AIDS poses a great challenge to the enjoyment of socio-economic rights of has the potential to erode many development gains.

In the case of CSA, people living with HIV and AIDS are the major focus and the reason for the existence of this project. CSA has a systematic approach to address HIV/AIDS within the

organization; but, as a reference centers on HIV/AIDS, it should advocate the integration of this approach to partner organizations.

A number of partners have made some attempt to engage with HIV/AIDS as a cross-cutting theme:

Topics on HIV/AIDS or related to HIV/AIDS form part of the CHR Socio-Economic Rights Course content. However, this falls short of a systematic approach to mainstreaming HIV/AIDS. Rural Women Right's Project developed out of an assessment demonstrating need to promote access to rights to rural women. One of the key consequences of HIV/AIDS for households in the rural areas is the increase in the number of households headed by single women. There need for security of tenure and the certainty of being able to assert their property rights is critical in their battle to deal with the impact of the pandemic on their families.

With regard to PIAAS, the NORAGRIC project component 'Farm workers and farm dwellers in South Africa: Tenure security, livelihoods and social justice' investigates the impact of HIV/AIDS on livelihoods vulnerability and on tenure security. The project has taken a quite broad approach exactly to be able to explore a number of issues. This includes health issues, and they have particularly discussed the access to health services on the relatively isolated farms and perceptions of HIV/AIDS with some groups of workers/dwellers, as well as owners/managers.

CALS considers the impact of HIV/AIDS to be a crucial aspect of social and policy research in the housing and basic services sector and some evidence of this is reflected in the Mazibuko case. CALS asserts that, as with gender, because they deal with poor communities, HIV/AIDS is always part of their work without them actively seeking it. CALS is of the view that improved access to Socio-Economic Rights will benefit all people living with HIV/AIDS. For a direct example of HIV/AIDS being a cross-cutting issue, see the Mazibuko case, where the additional water required by people living with HIV/AIDS is one of their critical grounds for demanding more water. HIV/AIDS, along with other chronic illnesses and disabilities are included in social matrices used by CALS for research and litigation. CALS regards HIV/AIDS as an input not an output per se.

ComaCARE discovered that, due to the HIV/AIDS pandemic, ICU units are refusing to admit AIDS patients at end stages of life. This means that home care givers must be trained in coma techniques if patients are to be afforded a dignified death process. Furthermore, ComaCARE has an HIV personnel policy, many of their patients are HIV positive and they give these patients direct care when they are dying of neurological complications. ComaCARE also includes education about HIV/AIDS in their training programme.

The WLC is currently sourcing cases related to hate crimes against women who are HIV positive and HIV positive women who have been forced to consent to sterilization due to their positive status. Furthermore, the WLC has made submissions on the regulations relating to the provision of post-exposure prophylaxis to victims of sexual offences and many of the proposed changes were made to the standard forms. As a result, women will now be able to make a more informed decision in relation to HIV infection as a result of rape.

The doctoral intern of the CLC project is conducting research on the gender-responsiveness of the laws and policies of South Africa and other sub-Saharan countries within the context of HIV/AIDS. The research focuses on the links between gender and HIV/AIDS. The

research seeks to answer the question whether the laws and policies of South Africa as well as other sub-Saharan countries have been responsive to the gendered aspects of HIV/AIDS.

HIV continues to be integrated into the services that Rape Crisis provides and their prevention projects do include awareness on HIV. It is a little more complex for their counseling team as it does become stressful to support survivors who have experienced rape and then discovered that they were HIV positive. The emphasis here would be on crisis intervention counseling and referral to HIV organizations who are better equipped to provide HIV counseling and support. Part of the lobbying activities is to ensure that all survivors receive AZT or PEP and that medical officials clearly explain how the medicine is to be taken and what the possible side effects are.

HIV/AIDS is integrated into all the programmes of the RAPCAN. Specifically in relation to the Child Witness Support Project, HIV/Aids related activities involve ensuring that all children have access to Post Exposure Prophylaxis (PEP), which is meant to be provided by the provincial Department of Health. RAPCAN staff also provides information to parents and caregivers of children to ensure that they understand this treatment and may also act appropriately in the future.

HIV forms an important aspect of all of TLAC's work. All TLAC's presentations, workshops and training include aspects of HIV, access to health services and gender. TLAC drafted the submissions of the National Working Group of Sexual Offences, on the Sexual Offences Act and the Regulations to the Act looking critically at the provisions of the law and regulations relating to the provision of post-exposure prophylaxis and compulsory HIV testing of accused. The submissions, which were endorsed by 25 organisations, criticised the provision on compulsory HIV testing of accused as a measure which will negatively affect the rights of accused without the potential of any benefit to rape survivors. The project has written extensively on the availability of post-exposure prophylaxis to prevent HIV for rape survivors and this has been a focus of its research and advocacy work. TLAC is one of the active organisations in the South African National AIDS Council's Legal and Human Rights Sector Working Group and has contributed significantly to ensuring that issues relating to gender, gender-based violence and access to health care and access to justice for women are included in the National Strategic Plan on HIV document and on the SANAC agenda. TLAC's work goes beyond simply looking at the impact of HIV on rape survivors, to trying to address the impact of HIV on women in domestic violence relationships, an area which is generally neglected in health policy work. TLAC produced a discussion paper on maintenance and HIV which attempts to look at how the pandemic is affecting maintenance courts at various levels.

## 4 Lessons Learned

During meetings with project stakeholders, the team directly solicited informants to express their views about the main lessons learned regarding their experience with projects implemented under or within the context of the Programme under review and/or partnership with the NCHR. For clarification purpose, “lessons learned” refer to knowledge derived from stakeholders’ experience with their projects; they identify *strengths and weaknesses* of project/Programme development, implementation, monitoring and results achieved. The lessons learned presented in this section reflect those provided by partner organisations, followed by additional inputs from the review team.

### 4.1 By Programme Partners

Programme partners provided lessons learned that were most meaningful to them. The review team grouped their lessons learned according to what seemed to the team similar areas addressed. However, it should be clarified that partners were not asked to provide lessons to specific areas or topics. The lessons learned partners generously offered to the review team follows.

#### On capacity building:

Capacity to deliver research is often overestimated.

Building capacity to deliver research needs focused attention to attract, retain and train researcher.

Capacity requirement to carry out applied research to support litigation is underestimated.

Information about HIV/AIDS is provided widely through the radio, TV, pamphlets; but how information is given is important to ensure it is understood and can have a changing effect. Provision of information alone does not have the impact of overcoming fear and stigma.

Maintaining good working relationships with relevant government departments is important but difficult. Often government departments do not communicate or collaborate with each other. Capacity (in terms of human resources and expertise) is sometimes lacking in government departments tasked with service delivery. This generates further demand on the organisation’s side.

The work of some partners may be emotionally harrowing. It is important to teach and develop coping skills and to provide the necessary emotional and professional support to staff.

In order to retain competent staff, it is useful to develop clear career paths and to offer decent remuneration packages.

We are not able to pay market-related salaries, but we attempt to compensate by offering benefits such as generous leave provisions.



It is important to stick to your core focus / business (and not become involved with other issues that may divert your attention and energy or even lead to a clash of interests).

South Africa is a middle-income country and we believe that our clients deserve a decent level of service. There is pressure to offer scaled-down services in an attempt to ensure sustainability; maintaining professionalism in the organisation is a constant effort.

Good record-keeping systems are time consuming but very important as they can provide relevant data for management (monitor both progress of cases and the impact that the outcomes have) and possibly for future research purposes.

Targeting traditional leaders for capacity building has yielded results.

Beneficiaries should be brought in at operational level and play a part in evaluating the organisation's work.

#### Resources mobilization:

Long-term financial funding is very important for organizational development; it enables focus on project activities.

Longer-term funding enables focus on the outputs and outcomes.

Knock on all doors, but focus on those that open.

Securing funding from local companies and institutions is important in building a sense of community ownership in the work and activities of organizations.

#### Networking:

Doing work with slightly disorganized groups is worthwhile because they bring in deep linkages with the issues.

Drawing from the community (consultation, staffing, physical presence) gives project beneficiaries greater ownership.

Collaboration with partners, even difficult partnerships (e.g. Government, police), are essential to complement and enhance our work.

International networking can have tangible impacts on national HR programs.

Taking a long-term perspective [on problem resolution] allows building relationships and expertise.

Networking is crucial to developing a stronger voice.

It is important to work with like-minded partners. If not, this may impact negatively on these (and other) relationships and strategies.

Step back when another NGO has relevant expertise in the matter at hand.

The lack of powerful social movements creates a gap.

We lack information regarding the "global picture". How do things work at the United Nations, African Union and SADC levels and what opportunities for collaboration exist?

#### International / Regional perspective:

One has to be innovative in translating knowledge from one country to another (Norway to South Africa).

There is a demand from the Region to share expertise and conduct training. However, partners do not always have the time, budget or available human resources to meet this demand.

Regional collaboration is important, but it is difficult to ensure the sustainability of such collaboration.

Litigation:

It is not sufficient to secure a legal victory in court. It is essential to devise a multi-pronged follow-up strategy.

Pursuing the legal route is not always suitable for conflict management. It is necessary to balance issues and decide when to pursue the legal route and when to resort to conflict resolution.

It is a challenge to promote conflict resolution to human rights lawyers and to convince them that there are other ways to promote rights.

Test-case litigation may act as a “snow-plough”.

Laws may be amended, but the difficulty lies with implementation.

Litigation without social organisation does not bring relief. It is not just the legal framework that is required, but also social and political support.

Case loads should be developed and analyzed to provide information, not just opinions.

Ethical & Philosophical:

Genuine human interest and not remote ideological movement is the fuel for transformation.

An organisation has to make choices in values and principle to be transformational.

A legal rights approach establishes the belief in Law as a means to mediate conflict.

It is important to understand how socio-economic vulnerabilities relate to access to rights of a civil or political nature.

With regard to Donors / NCHR:

The donor could play a positive role by sharing relevant information and linking up organizations with other funders.

Lessons learned with regard to relationship with the donor:

- Go in as equal partners;
- Be upfront about the needs of your organisation. Do not pander to donor needs;
- There is huge potential in the working relationship with the donor that has not yet been fulfilled.

In fulfilling the potential of institutional cooperation between SA-Norwegian organizations:

- Make sure conditions exist for partners to engage in the cooperation as equal partners;
- All partners need to be clear, open and upfront with donors and each other about their needs;

- Ensure conditions are maintained for partners to implement activities as equal partners.

Flexibility is a highly-valued attribute in a donor.

NCHR budget cycle (end of the financial year in December) and the decision on future funding (in February) left organizations vulnerable. Decision making process needs to change to suit the shift in the changed financial year.

Regular change in Programme officers poses certain challenges.

Many donors are weary of funding litigation.

We lack information regarding the “global picture”. How do things work at the United Nations and African Union levels and what opportunities for collaboration exist? Donors could help to bring a global perspective.

Interaction with donors can bring an invaluable “outsider” perspective to the organisation.

Project design covers a three-year period. Many changes may occur in these three years. It would be useful to sit down with the donor every year to discuss developments and possible strategic changes and corresponding adjustment and re-assignment of the budget.

NCHR operates as a ‘project manager’ or ‘agent’; sees the donor funds as ‘its’ money. NCHR needs to assess its role as a national human rights institution to produce more value through its Programmes.

## 4.2 From the Review team

Partners who have embedded their work in Government institutions and in the community they service have achieved more tangible, sustainable impacts to beneficiaries.

The point with projects using community consultation methodology is that if the beneficiaries believe they have a real say in decisions, they may be willing to trade off speed for quality and relevance.

Partners who employ diversified methodologies within their organizations have been able to generate cost-effective results.

Strategic partnerships have generated cost-effective synergies in partner’s activities.

Monitoring outcomes is important in guiding activities and in developing effective targeting as well as incrementing sustainable, tangible impacts to poor communities.

Transparency and accountability asked of Government should also be exercised by those who advocate good governance.

Clarity with regard to donor’s expectations of incorporating gender and HIV/AIDS as cross-cutting issues can guide project implementers in achieving desired results.

Due attention to vulnerable groups (women, HIV/AIDS, poor communities) should not only be part of an organisation's project objectives, it should be entrenched in the organisation.

Legal rights endeavours in the Programme that were able to realize greater sustainable impacts came about when various interest groups converged around the pursued right. The cycle of social mobilization, advocacy, litigation and monitoring was fully exercised to bring forth concrete changes to beneficiaries' lives. (HIV/AIDS)

Political mobilization at national and international levels is a significant enabler of achievements in socio-economic rights at national level. (HIV/AIDS, Children Nutrition)

Expertise, but principally institutional commitment to Partnership, enables a funding mechanism to create added value to its partners and their beneficiaries.

Good Programme management and flexibility in funding are key to support the work of partners.

## 5 Recommendations

Most of the funds in the Programme have already been committed and there are plans for the remaining funds. Four new projects have already been proposed to the Embassy, two of which address the concerns about lack of social mobilisation and community participation in the Programme. Additional remaining funds are to be dedicated to the phasing out of the Programme, especially dialogue with partners about the sustainability of their activities.

Given that resources for the final year of the Programme have already been planned for and there remains no funding for adjustments, it seems that this review can make little contribution to adjustments to the final year. The team has therefore centered its suggestions based on resources and time constraints. The review team also considered the views of partner organizations in their recommendations.

### 5.1 Adjustments in the Final Year

It is advisable for the NCHR to ensure, as soon as possible, that all partner organizations clearly understand that the Programme and NCHR funding is ending in 2009. Clarity on perspective future funding from Norway should be provided.

The team recommend that NCHR, together with the Embassy, sponsors a discussion with partners to think through strategic issues: What collective results have been achieved? Have we met the priority needs of beneficiaries (whose priorities are we pursuing)? What are the gaps, if any? How to proceed (including: mainstreaming activities/policies into appropriate Government Departments & levels, discussion on regional issues and strategic regional activities).<sup>10</sup>

- The use of an experienced mediator is advised to keep focus and flow in the discussion.
- Ask partners to identify and share existing information about priorities of their poor beneficiary groups to feed into discussion.
- Invite some pertinent Government officials, some key donors, some key leading non-partner organizations in the areas covered by Programme.
- NCHR should invite a limited number of Norwegian institutions which could become relevant partners for South African partner organizations.

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<sup>10</sup> NCHR comment to the Draft version of this report: The NCHR is hosting a workshop with partners in September 2009 to exam the impact of socio-economic rights strategies in South Africa, which will also lead to a book. Many of these recommendations can be covered there and will be included in the planning process of the conference.

- It also suggested that, besides of the Programme manager, a high level representative from the NCHR should be invited to participate of this exercise. This would be a capacity building exercise for NCHR as manager of Human Rights portfolios.

The team proposes that NCHR asks CSA to provide partners with a practical approach to mainstream HIV/AIDS and RAPCAN and LRC (Women's Rights project) on gender.

NCHR could consider asking a partner organisation that has been monitoring their own project to provide an M&E workshop to other partners (CSA, PLAAS, RAPCAN, CALS, Rape Crisis).

## 5.2 Future Human Rights Cooperation with South Africa.

The timeframe for this review did not enable the team to do a deeper and wider consultation with appropriate numbers and levels of stakeholders to provide advice to the Embassy regarding a future programmatic approach. This is also a task outside of the team's TOR. Additionally, future cooperation between the two countries depends on the types of funding made available for the cooperation and the channels Norway wishes to utilize (Embassy, institutional twinning or cooperation, etc). The Embassy did not discuss these issues with the team. What follows are then are some topics the team captured through this review and is here registered as one input for the Embassy's consideration. This refers to the TOR's question regarding the elements of the Programme which could also be sustainable in the future Human Rights cooperation with South Africa.

- The team recommends that future support continue focusing on socio-economic rights, but that it becomes more balanced to strengthen both Government and Civil Society capacities to implement HR. However, some discretion to consider particularly innovative and /or strategic civil and political rights interventions should remain.
- Across all types of support, it is suggested that organizations have mechanisms to ensure that project objectives and implementation methodology capture the views and need of poor, vulnerable communities.
- Support to organizations to establish strategic partnerships with communities, Government institutions and other strategic partners is advisable to cascade the effect of their work and to strengthen sustainability of outputs and outcomes. Currently, partner organizations that already engage in such an implementation model are RAPCAN, TLAC, ComaCARE, and CSA.
- Support to organizations whose approach and capacities seek to link different methods through strategic partnerships and networks at national and international levels in pursuing achievements of socio-economic rights at national level. Currently, partner organizations that already engage in such an implementation model are LRC, CLC and PLAAS.

- High performer partner organizations, but more vulnerable to loss of support: ComaCARE, Rape Crisis, CLC (approach), CSA-PLACE (approach and CALS). CLC and CSA are fairly well resourced, but funding from NCHR has enabled them to apply a more holistic rights-based approach to human rights. CALS is extremely likely to remain sustainable as an organisation. However, litigation forms the main component of its NCHR project and very few donors are willing to fund litigation.
- The Embassy should consider strengthening articulations between the political and social arenas. During the Programme implementation, Norwegian development cooperation in the field of human rights became more distanced from the dialogue with Government institutions, international HR bodies, other donors in the field and community-based organizations. In counteracting this effect, the Embassy may consider becoming more active in arenas where dialogue regarding implementation of human rights are being discussed at political as well as at practical levels and among diverse networks.
- All partners viewed continental (or regional) activities and networking important. However, they were not articulated as a priority area of activity by many partners. What seems rather important is a limited number of very strategic regional activities designed to achieve common objectives. Yet, various new opportunities are arising to engage with regional and sub-regional institutions to move forward common human rights agendas (eg AU, SADC, SADC tribunal, NEPAD, AU Directorate for Women and Development, SADC Gender Unit).

### 5.2.1 NCHR Views

The review team invited NCHR to submit a Position Paper addressing the questions of the TOR regarding the Programme and NCHR complied. The entire position paper submitted by NCHR can be found in Annex E. The NCHR response to the question of what elements of the Programme could also be sustainable in the future Human Rights cooperation with South Africa in the Position Paper submitted to the review team is transcribed:

The answer to this question depends on the parameters for future Norwegian cooperation with South Africa including type of funding available (none, bilateral, regional) and with whom cooperation is foreseen (Embassy, Norwegian institutions, political dialogue).

Our main input at present is as follows: varying partner ability to sustain current activity levels; focus should be maintained on (selected) socio economic rights in South Africa and/or regionally; follow up regionally should address human rights addressed by inter-governmental bodies such as SADC or AU; and lastly, NCHR engagement will continue subject to alternative funding sources.

Most of the South African partners have diverse sources of funding, particularly from international donors or in-kind support from universities. South African philanthropy is beginning to emerge but not however at the rate that international donors have been leaving South Africa. Therefore, the ability of the partners to sustain their current level of activities will vary. At the same time, some of the activities have already helped catalyse movements and activities on particular issues in other parts of the country, the *Mazibuko* right to water litigation being a good example. Development organisations, including a trust funded by the government, are now looking to support more right to water-based activities.

The Norwegian Embassy should look to support selected human rights activities in South Africa also in the future, but the question of focus is obviously difficult both due to policy priorities and expected limitation of funds. We would thus recommend a strategy outlining thematic direction for such support. We believe that the achievements and insights gained during the present programme period should not be lost in future Norwegian human rights cooperation and thus care should be taken not to revert to the traditional civil and political rights focus or singularly focus on gender equality. Thus, one possible approach may be to focus on one or more socio-economic right and its implementation linked to prioritized groups (e.g. women or children). The specific right(s) to be prioritized could be made on the strength of existing partnerships and other alliances the Norwegian embassy has with government and other stakeholders. Specific rights to be prioritized could also be selected based on relevance for ongoing work by intergovernmental bodies such as SADC or the African Union.

Another possibility would be to engage with other embassies in the region to support human rights and other organisations, including some current partners, engaged with regional institutions, particularly SADC and support region-wide activities such as those involving migrants rights – particularly important in light of the large numbers of African migrant in South Africa and the newly established government in Zimbabwe.

The NCHR is already discussing how to continue cooperation with a few of the current partners after Programme funding ends in 2009. Continued cooperation will require external funding since the NCHR, as all professional institutions in Norway, only receives core funding for its core national tasks. Our primary institutional interests at present are to continue collaboration on implementation of economic and social rights, possibly including corporate social responsibility, in a single country or sub-regional context in the SADC area. We will be seeking for applied project activities (Embassy, MFA, NORAD) as well as research funding (NFR) that could be available from 2011.

### 5.2.2 Partners Views of the Way Ahead

During personal consultations, the team solicited from Programme partners their views on future support to human rights. Many partners had similar views regarding the need for continued support to legal rights, but more support to social mobilization and to organizations that can complement their work is needed. Following are summaries of partners' view of the way ahead in terms of future support:



Given the current economic crisis, organisations' ability to attract funding has dramatically changed. Given the limited pool of funding that will be available in the future, there will probably also be less funding available for projects focusing on gender and gender-based violence. This illustrates the importance of donors linking between themselves to ensure that organisations providing useful services are not forced to close down.

Legal approach needs continued support, but civil society needs to be strengthened to increment impacts of a rights-based approach.

Support needs to be channelled to organizations that can make a positive impact in improving the lives of the poor in South Africa. Support should be given to vulnerable but committed organizations.

Enforce partnership with beneficiaries/clients to ensure impacts and seizing opportunities.

Support is required to energize NGOs to advocate and mobilize.

Support civil society organizations that can complement strengthen, and cascade each other's work to ensure legal rights are implemented.

Continued support to legal rights and especially to organizations that can complement each other's approaches.

Continued funding for litigation is needed, but support for mobilization at client level needs to be strengthened.

Support to organizations whose approach and capacities seek to link different methods and networks at national and international levels in pursuing achievements of socio-economic rights at national level.

Increase support to personal, community-based outreach, network and advocacy and to change the way Government disseminates information about HIV/AIDS, especially in the Health Department.

Pooling together all research that has been done, would make a strong and useful contribution.

Address the vulnerability of school girls in poor areas, due to collective violence by boys and domestic violence due to alcohol.

## 6 The Funding Model

The Norwegian Ministry of Foreign Affairs (MFA) delegated the development and management of the Embassy's entire human rights portfolio to NCHR. This has not been the first time that the MFA outsourced an embassy's portfolio of development cooperation in human rights. The United Nations Office for Human Rights in Angola, for example, has managed the Norwegian support to human rights in that country from 1995 to 2008 when the Office closed. However, the South African Programme is the first human rights portfolio of an embassy managed by a Norwegian Human Rights institution, NCHR.

There are various reasons behind the interest of Norway, among other countries, in developing and testing diverse funding mechanisms such as the South African Programme, institutional twinings, multi-donor trust funds, and the creation of civil society foundations. The implementation of the Paris Declaration on Aid Effectiveness, the concomitant increase and spread of development aid embassies have to manage, and the slow pace at which resources are being channelled for embassies to manage development aid, have been some contributing factors. Increasing pressures, both quantitative and qualitative, on the delivery of aid in Norway have created the need for other national institutions to increasingly partake in the country's development cooperation efforts. The MFA have been facilitating this endeavour.

NCHR is a Norwegian human rights institution and therefore an obvious partner for the Ministry of Foreign Affairs through which to channel development cooperation funding in the field of human rights. The South African Programme has been a testing ground.

Like other funding managers of Norwegian development aid, NCHR was tasked with, and expected to fulfil, various roles. All aspects of development cooperation exercised by the funding mechanism and its institutional agent are therefore of interest. According to the Agreements with the MFA (or Norad) and continued dialogue with the Embassy, NCHR was tasked with all functions related to management and administration of the funding mechanism. However, Article 4 of the Agreements consigns the Embassy as the ultimate decision-maker regarding funding allocation. This Article carries the expectation of NCHR and the Embassy developing a close partnership in the South African Programme.

At the beginning of the third phase of the Programme, the Embassy delegated to the NCHR "independent responsibility for the selection of partners and projects", thereby restricting the Embassy's role to monitoring the capacities of the partners and the relevance of the projects selected.<sup>11</sup> This shift in role was at the request of NCHR, but it is significant that the Embassy conceded to it. The 2004 Review of the Programme states that the cooperation between the NCHR and the Embassy has been smooth and

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<sup>11</sup> Minutes dated 23.02.06 (archived 11.08.06), stated follow-up by appropriation document.

mutually satisfactory. It also points out that NCHR has expressed concern about compromising its professional integrity when the Embassy's decision on funding allocation contradicts theirs. It further notes that "[f]or the Embassy, who makes the final decision as to which projects are included in the portfolio, there remains a risk that decisions are made based on political considerations rather than strict concern for human rights implementation in line with the objectives of the programme."<sup>12</sup>

The above observations reflect a misunderstanding on the roles partners need to play in such mechanisms. NCHR is a national institution, but with a restricted political role in its international mandate. The Embassy is a country representative body and therefore has a political role. Given that the Programme is part of Norwegian development cooperation with South Africa, Article 4 of the Agreement appropriately recognizes that synergies between the different roles are necessary.

NCHR has been a competent fund administrator and effective in providing direction and coherence to the human rights portfolio of the Programme. However, the role of NCHR in the institutional set-up of Norwegian development cooperation requires that NCHR act beyond the role of a Programme manager. The team assesses that up to this point NCHR has not fully fulfilled its potential as a human rights institution managing a development cooperation programme for the Embassy. NCHR seems to have underplayed or misunderstood its role in supporting the work of a political body – the Embassy, and the full dimensions of development cooperation. The Embassy has until recently also underplayed its role in the Programme.

The Programme was funded to support interlinked political and development cooperation dialogues and agreements between South Africa and Norway. Engagement with the range of actors involved in these dialogues and agreements were called for, both at political and institutional levels, if the development cooperation were to become fully effective as such. Therefore, dialogue with pertinent government institutions, civil society, international bodies and other donors should have been part of the Programme. This requires close cooperation and coordination between the Embassy and NCHR. NCHR has been in continuous contact with partner organisations, but a more active interaction between the Embassy, in its capacity of being a country representative and political body, has been missing. A number of partner organisations expressed their desire for greater interaction with the Embassy.

The Programme was administered competently, but the lack of institutional support to the development cooperation dimension of the Programme by NCHR made the South Africa Programme function with a more distant, insular, inwards-looking perspective. Dialogue with Government, other donors supporting human rights initiatives, and international human rights bodies in the country were nearly absent. Furthermore,

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<sup>12</sup> Peris Jones and Helene Smith, Review of the South African Programme, Final Report, Phase 2: 2001 – 2004, page 3.

NCHR underestimated the importance of transparency in the mechanism, especially when pressure was exerted to diminish the funding decision-making by the Embassy.

The Embassy is a Norwegian public body, grounded in South Africa and accessible to human rights stakeholder in the country. NCHR does not have a presence on the ground in South Africa and did not develop a strategy to publicly announce and/or widen the reach of the funding to ensure that government institutions and civil society at large were informed about the funding mechanism. As such, the Embassy was instrumental for the transparency of the Programme.

The Programme suffered from insufficient understanding of the roles its main players had to play and therefore lacked strategic dialogue regarding the development cooperation dimension of the model. The team thus agrees with NCHR that “more effort could perhaps have been made by the Programme and the Embassy to strategically marshal the findings from selected projects and ensure they were heard by government” (and other stakeholders as well).

Given the importance of the funding model and of NCHR for Norwegian development cooperation, dialogue at appropriate institutional levels should take place between NCHR and MFA regarding adjustments if future mechanisms are to be established. This dialogue should:

- Clarify the roles of NCHR in development cooperation and cooperation with embassies, including the limitations and implications of NCHR managing programmes without a presence on the ground;
- Generate understanding on the resources, financial and human, required for NCHR to fulfil such roles;
- Agree on an institutional capacity building plan for NCHR so that the institution may have the necessary mix in staff profile (administrative, managerial and research) and to ensure that staff time, including at high level, is appropriately dedicated to the development cooperation programme. The MFA should aid NCHR in finding sufficient funding.

## 6.1 Administrative Assessment

The NCHR has been a responsible Programme administrator. Although the TOR for this review does not include a financial appraisal of the Programme and therefore the team has neither looked at the auditing history of Programme partners nor of NCHR the review team, as far as the review methodology allowed, found no indication of financial mismanagement in the Programme. Partners’ responses demonstrate that NCHR carried out financial monitoring of the Programme in a zealous fashion, checking receipts against activities and asking partners to justify expenditures for example. NCHR has also developed a good relationship with its partner organizations; NCHR is unanimously regarded by partners as a reliable, flexible donor. Moreover, NCHR also provided added value to the work of some of its partners such as CLC, CSA, and LRC.

In these cases, NCHR provided through the two Programme's sponsored researchers, substantial inputs (community consultation and substantive inputs to project design with CSA, substantive inputs to litigation to LRC and CLC), thus contributing to enhancing partner's results.

NCHR administration cost is 15% of total budget, a total of NOK 9.8 million or NOK 1.97 million per year. This is a solid administrative support to a Programme, but NCHR does not have a presence in South Africa where the Programme is implemented and this pose some administrative challenges to the institution. Because of the remote (from Oslo) management and administration of the Programme in South Africa and the full fiduciary responsibility incurred by the institution in the Programme Agreement, NCHR tended to be risk averse in the selection of partners, resulting in mostly providing funding to robust organizations with already built administrative capacities. This because the administrative costs associated with closer financial and activity monitoring would have escalated if new or yet administratively weaker organizations had been funded.

NCHR has taken steps to increase Programme transparency to stakeholders in South Africa and in Norway through posting information about the Programme in English in the NCHR website, such as the Programme's Strategy, list of institutions and organisations funded by the Programme, and information about MA scholarships (It is noteworthy that some informants commented on the inappropriateness of providing MA scholarships for Norwegians from the development cooperation budget). The disclosure of additional information in the website can increment the Programme's accountability to stakeholders, such funding information, calls for funding applications, and results achieved.

NCHR has made some contributions to increase competence and debate in Norway on South Africa through research publications and seminars. The ability to building human rights cooperation between Norwegian and South African institutions has been much more limited than expected by the Embassy. Limited of interest but mostly lack of capacities on the part of Norwegian institutions has been the main reason given by NCHR.

Management routines conducive to focus on results and sharing of lessons learned have been a weak side of the Programme administration (and management). Although asked by the Embassy in the beginning of phase three of the Programme, the NCHR has not developed a results framework for monitoring Programme achievements towards its objectives and goal. Because results monitoring at programmatic level has been missing, partners were not required to develop their own results monitoring either. This has generated difficulties in managing the project from a strategic viewpoint (e.i. are results achieved thus far leading to goal achievement? Are we selecting the right partners to deliver on our objectives and goal? Which changes, if any are needed?).

The revision of the Programme Strategy in 2007 could have benefitted from such strategic analysis, enabled by the elaboration of a results frameworks which could provide management with information on (i) the key Programme's results at Output,

Outcome and Impact levels; (ii) the two or three most important indicators for each result; (iii) which information sources would be used for generating the indicator data, including periodicity of collecting the data; (iv) how future higher-level results are expected to be recorded. Given that 2007 also a new cycle for project application, a simple results framework that could feed information to the Programme M&E could have been required of partner organizations.

The existence of a results framework could have subsequently enabled NCHR to organize a "lessons learned" workshop for all the projects, with the objectives of (i) presenting, discussing and learning from each others' M&E system, (ii) standardizing and harmonizing instruments and approaches to the extent feasible (iii) ensure that all parties leave with a common understanding of the key concepts and how to carry out and report on project performance; (iv) produce a short Memorandum to partners that captures the key "lessons learned" agreed to as far as Programme M&E is concerned.

Given that the Programme is currently in its final year, establishing an M&E system is difficult. However, NCHR can consider in the Final Report for the Programme doing a results-based reporting. The team has recommended that NCHR, together with the Embassy, sponsors a discussion with partners (see section 5.1); the results of such discussions can feed into the Final Reporting. In preparation to this discussion workshop, NCHR could develop a simple results matrix, entailing the development of four or five outcomes, process and outcome indicators to each of the outcomes, and reporting on achievements on these with inputs from partner organizations.<sup>13</sup> Information provided by this review can be a basis for such exercise, which should start as soon as possible. Additionally, Annex E of this report provides information on partner organisations' outputs from the start of their projects to December 2008. This information is supplied in a results matrix format, enabling analysis of results.

Staff turn over at NCHR (three managers in five years) has generated some challenges to Programme partners, the Embassy and to the income managers as well. This is specifically due to loss of institutional memory incurred with each staff change, creating difficulties in, for example, following up with requests and agreements made between NCHR and the embassy (e.g. development of a monitoring matrix, revised NCHR dialogue with government). The impact of staff change was augmented since the Programme counted with insufficient involvement of high level management at NCHR. Given that there was no overlap with managers when change in management took place, the institution should have secured the follow up of requests and agreements previously made with partners and the Embassy.

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<sup>13</sup> This review team is providing NCHR and the Embassy with a basic example of a Results-Framework for the South African Programme, but it is not included in this report for two reasons. Programme outcomes and indicators should preferably be developed in conjunction with partners and the time allocated for this review does not allow the consultants to engage in such consultative process.

## 6.2 NCHR Own Assessment of the Model

Following is a transcription of NCHR response in the Position Paper submitted to the review team to the question “Is the South Africa Programme a good (effective and efficient) model for supporting cooperation between RSA and Norway in the area of human rights?”

The answer to the question will depend on which aspect of cooperation is of interest i.e. the outsourcing of the Embassy’s human rights portfolio to the NCHR; the level of cooperation between various Norwegian and South African institutions; or cooperation /linkages between programme and political dialogue between Norway and South Africa.

Our view is that the South Africa Programme has been successful in providing direction and coherence to the human rights portfolio of the Norwegian Embassy; it has had some success in building human rights cooperation between Norwegian and South African institutions, but there has to our knowledge been little influence of the former two on the political dialogue at the State-to-State level.

The South Africa Programme has been a pioneering test case for delegating the development and management of a Norwegian Embassy’s entire human rights portfolio to an external partner. We believe ourselves to be a very competent partner in the field of human rights both in terms of research and in applied international programme design. The Programme design was a result of an assessment of real needs and human rights issues in South Africa, knowledge of the country’s unique standing as a laboratory for the development of international human rights jurisprudence in the field social and economic rights, and the need to be policy oriented in order to influence the level of implementation of human rights, especially for vulnerable groups. The strategy developed for the five year period has provided direction to the Programme and some identifiable results by our partners which we are proud of. This model of cooperation has been challenging for both the Embassy and the NCHR, but we have found cooperation more fruitful given the development, approval and adherence to a strategy document.

Institutional cooperation between Norwegian professional organisations and South African counterparts is challenging for many reasons, one of them being limited capacity and commitment by the Norwegian institutions to independently develop sustainable cooperative relations (ref. NCHR experience in countries where Norway has official human rights dialogues). Noragric, in addition to the NCHR, is the main institution actively engaging in long term cooperation based on mutual interest under the South Africa Programme. Noragric is working in the field of land rights, and its participation was strongly supported by a South African partner even though the cost of involving a Norwegian partner is considerable. There has also been one Masters student in Norway supported each year to write a thesis concerning South Africa and human rights. The remainder of the capacity building efforts have been more diffuse and focus on support to exchanges and cooperation building visits to South Africa (e.g., the Norwegian Children’s Ombudsmen and the Norwegian Medical Association), invitation of

programme partners with the researcher to participate in Norwegian debates and conferences on human rights (e.g., Optional Protocol to ICESCR, Commission on Legal Empowerment of the Poor, right to water and sanitation), and participate in seminars or courses with Institute of Women's Law, FAFO (Norway's leading social welfare research institute) and Christian Michelson Institute in Bergen.

The policy orientation of the South Africa Programme and human rights issues in general, is such that linkages to politically relevant discussions could be foreseen. In the three countries where Norway has a formal human rights dialogue i.e. China, Indonesia and Vietnam, the ambition is for research and advocacy emerging from programme work to be collated and incorporated into a State-to-State process. This happens with the China, Indonesia and Vietnam programmes at NCHR. The biannual human rights reports which the Programme submits to the Embassy will of course inform political discussions in a general manner and a number of seminars have been organised at the embassy to discuss current human rights issues in South Africa. To our knowledge there has not been a need or an interest on the part of the Embassy to draw on more specific research and knowledge at NCHR and partner institutions in their political dialogues with South African authorities. That being said, in 2008, together with the Norwegian embassy in South Africa, NCHR did help write the first draft of Norway's submission to the UN Human Rights Council's Universal Periodic Review of South Africa.

In hindsight, more effort could perhaps have been made by the Programme and the Embassy to strategically marshal the findings from selected projects and ensure they were heard by government. Such an approach would have had to be carefully considered given the sensitivity of various issues and differing roles of various actors. Further obstacles would include that Norway's human rights key priorities in dialogues with other countries (freedom of expression, human rights defenders, torture, death penalty) are not those of the current South Africa Programme; and the need for continuity in staff on both sides.

Yet we do see a potential for finding strategic ways in which Norway could improve its dialogue with the South African Government on socio-economic rights, and vice-versa.

One possible option for the future is that Norway may attempt to establish a specific dialogue with specific ministries, for example those working in social welfare which may be part of a development sector working group. Another alternative is for Norway to select one or two socio-economic rights issues that it prioritises in dialogue with the Government and support to local partners.



## 7 Annexes

This report has five annexes, which make up the second volume of this review.

- Annex A: Terms of Reference
- Annex B: NCHR Position Paper for the Review
- Annex C: List of Informants
- Annex D: Documents Reviewed
- Annex E: Projects Performance Reports, which provides assessments of individual projects.

# This volume contains the Annexes of the Report for the Mid-Term Review of the Norwegian Cooperation with South African in the Field of Human Rights – 2007-2009

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## 8 Annex A: Terms of Reference

### **Mid-term review of Norwegian cooperation with South Africa in the field of human rights: 2007-2009**

#### **Background**

Post-apartheid South Africa has made great strides to respect, protect and fulfill human rights through impressive human rights provisions and the legal and political framework of its constitutional democracy. Despite these efforts, many South Africans continue to experience widespread human rights violations. Barriers to access to justice are particularly pronounced for those living in poverty, and/or living with HIV or AIDS, and/or women, all of whom experience double victimization when they do not have access to legal and non-legal support to contest these violations. The context of material deprivation poses a threat to civil and political freedoms and even long term democratic stability. Universities and civil society have come to play a valuable role in South Africa in seeking to address these human rights issues through both research and action, and they have received support from the Government of Norway.

Since 1998, the human rights portfolio of development cooperation between Norway and South Africa has been administered through the Norwegian Centre of Human Rights. The Programme has undergone several changes over time, and was last adjusted with the revised Strategy of 2007. Inter alia, greater emphasis has been put on socio-economic rights.

The current phase of the Programme is administered under the contract between MFA and NCHR dated 11 November 2005 in the context of the Letter of Intent between the Governments of the Republic of South Africa and Norway, and Guidelines for Norwegian-South African development co-operation 2005-2009. These Guidelines have three overall objectives:

- a) Cooperation in areas where the collaboration could result in long term, self-sustaining relationships,
- b) Consolidation of the democratic transition,
- c) Strengthening regional integration and collaboration through the utilization of South African expertise in the region.

The Human Rights Programme expires in 2009. The development cooperation with South Africa is under transformation. The dialogue with the South African Government has just started. It is too early to conclude on the future guidelines for the cooperation, but it can be established that the Human Rights Programme in its present form falls outside the new scope. If a revised Human Rights Programme, including regional aspects, is to be considered, it would have to be in line with the Embassy's Strategic Plan for 2009-2011. This implies a clear link to the overall political priorities of the Norwegian Government and the above mentioned dialogue, both regarding content and

partners. Though these priorities are not yet clear, they will be based on supporting democracy, a stable society, combat poverty and after-effects of apartheid at a policy level.

### **Purpose**

The purpose of this mid term review is to examine the efficiency of the Programme and the extent to which the Programme is developing according to the objectives and plans. It must be taken into account that the programme is in its final phase. The focus is on identifying:

- Needs for adjustments in the final year which are justifiable in this context.
- The sustainability of the projects under the Programme.
- Elements of the Programme which could also be sustainable in the future Human Rights cooperation with South Africa.

### **Scope of work**

1. Review whether the current activities of the Programme, as October 2008, are appropriately directed towards fulfilling the objectives of the Programme as defined in the Agreement of 2005 and further elaborated in the Strategy of 2007. The main emphasis should be on the Strategy of 2007.
2. Assess to what extent a representative selection of the Programme's partners, through work on their approved plans of actions, have or are likely to contribute to the achievement of the results listed in the Strategy.
3. Assess if there are cost-effective adjustments that should be done in the last year of the Programme to improve efficiency.
4. Provide an overview of key challenges that partners face or lessons learned, especially in terms of risk management that may be useful for the Programme and its partners.
5. Provide an assessment of whether the methodology as described in the Strategy and further developed under the Programme is effective in realising the objectives of the Strategy.
6. Assess the sustainability of the Programme, i.e. to what extent Projects are preparing for the phasing out of Norwegian support, what the prospects are for continuation after these funds are phased out and if necessary, provide recommendations to ensure that Programme activities are sustained after 2009.
7. Assess if there are elements of the Programme, especially related to objective b) in the above mentioned Guidelines, which – with or without financial support - could have the potential to support the Embassy's future Human Rights dialogue with South Africa at a policy level.
8. Assess if projects under the Programme with special impact relating to gender which – with or without financial support - could have the potential to support the Embassy's future Human Rights dialogue with South Africa at a policy level.

## **Methodology**

The review should draw on the following information:

1. Key documents (listed in Annex 1).
2. Interviews with partners in South Africa.
3. Interviews with other relevant development cooperation partners to South Africa.
4. Interviews with Programme staff and Norwegian partners.
5. Dialogue with the Embassy in Pretoria on future Human Rights Cooperation with South Africa.
6. Documentation obtained from partners or elsewhere.
7. Relevant UN recommendations regarding fulfillment of Human Rights in South Africa

## **Implementation**

The review team is foreseen to consist of:

1. One South African consultant
2. One/Two Scandinavian consultant(s)
3. Preferably one representative of the Norwegian Ministry of Foreign Affairs
4. [Observer, Norwegian Embassy in South Africa]

The review shall if possible be started in 2008 for a period of two weeks followed by one week for writing time. The lead author of the evaluation will be given an extra week of writing time.

The budget for the review is NOK 300.000 which will be covered under the Programme.

A precise timetable and budget for the preparation, interviews and preparation and finalization of the report will be developed once the team has been identified.

## **Annex 1. Background documents**

1. Letter of Intent between the Governments of the Republic of South Africa and Norway, Guidelines for Norwegian-South African development co-operation 2005-2009.
2. Contract between the Norwegian Ministry of Foreign Affairs and the University of Oslo by the Norwegian Centre for Human Rights (NCHR) dated 3 November 2005.
3. Strategy for the South Africa Programme 2007-2009.
4. Strategy for the South Africa Programme 2005-2007.
5. Strategic Plan for the Embassy in Pretoria 2009-2011.
6. South Africa Programme, Report on Activities 2007 and Plan of Action 2008.
7. Partner reports 2007 and plans of action 2008.
8. Historical documents on programs (Report 1998-2000, Report 2000-2004, Report 2005-2006, Review of 1998-2000).

## 9 Annex B: NCHR Position Paper for this Review

### Position Paper for Evaluation: Reply to Questions

***Presented by International Department,***

***Norwegian Centre for Human Rights***

***Oslo, 15.02.09***

1. To what extent is the Programme developing according to the objectives and plans?

The overall goal of the programme is: "Increased implementation of socio-economic rights, including increased access to justice in a constitutional democracy." The strategy since 2001 has given high priority to policy impact. The revised programme strategy (2007) states that: "A strategic consideration is to prioritize activities aimed at encouraging engagement of partners in the Programme with policy-making and implementation. Support to partners and specific projects should aim to encourage accountability of government."

And that: "the methods to be used are expected to consist of one or more of the following: Policy-relevant applied research, monitoring, training, higher education courses, advocacy/lobbying, and access to justice implying legal redress whether through a paralegal or litigation. It is particularly encouraged that some combination of methods is demonstrated."

In all of the chosen thematic focus areas of the programme, partners have been selected who employ a combination of the methods stated above. The combination of research, advocacy and litigation where relevant are in particular forming a synergy strengthening each project's contribution to the overall plans of the programme. However, even with successful outcomes in cases chosen for litigation it can sometimes be difficult to measure what the exact long term effects of the judgements will be on the strengthening of socio-economic rights for vulnerable groups. The reason for this is that it can not necessarily be taken for granted that the relevant sections of government will comply with the judgements in a speedily and efficient manner. Based on the unique legal framework for socio-economic rights provided by South Africa's constitution we are however convinced that the timing for prioritizing this combination of strategic interventions over this programme has been the right one. In the last two years in particular we have seen partners achieving significant progress through litigation in landmark cases. There is reason to believe that this could have an important impact on the rights areas like the right to water and housing for vulnerable groups facing situations where the state is neglecting these rights.

We would like to mention some particular outstanding examples of the projects supported contributing to the overall goal of the programme:

- The Centre for Applied Legal Studies, a Programme partner, has been at the forefront of the addressing the issue of basic services in Johannesburg and increasingly elsewhere. In April 2008, Judge Tsoka ruled prepayment meters unconstitutional and Johannesburg City's Free Basic Water supply insufficient to meet the basic needs of large, multi-dwelling households. He ordered the City to provide each applicant and all similarly placed residents with 50 litres of Free Basic Water per person per day (between double and three times the current allocation) and the option of a conventional water meter. The case has received considerable exposure, internationally as well as nationally and respondents are appealing to the Supreme Court of Appeal. This case is important because it will profoundly impact the right of access to water especially in low-income households.

Another important case which CALS has been involved in has been in the area of the right to housing. CALS achieved a series of verdicts regulating the practice of forced evictions, including by private owners seeking to evict poor informal occupiers in the inner city of Johannesburg. The most significant case was *Occupiers of 51 Olivia Road and 197 Main Street, Johannesburg v the City of Johannesburg and others*. The Constitutional Court upheld CALS' appeal against an order of the Supreme Court of Appeal, authorising the City of Johannesburg to evict 450 desperately poor people from a series of properties in the inner city of Johannesburg on health and safety grounds. An agreement between the parties for alternative accommodation was implemented in August 2008 and the *Olivia Road* case develops the right to housing and law and practice around evictions in that it ensures that poor people living in unsafe buildings will be engaged with, and, if necessary provided with reasonable alternative accommodation if and when the state wishes to remove them from their homes.

- The Traditional Courts Bill was introduced to parliament in March 2008 and it centralises judicial authority to traditional leaders (as opposed to community councils). In vesting power exclusively in "senior traditional leaders" the Bill effectively sidelines customary dispute resolution processes at the local level, ignoring the role of family and community councils. It also authorises a traditional court to order any person to perform unpaid services and women have long borne the brunt of demands for free labour. The passing of the bill would have been a significant backlash on the rights of rural women. In May 2008, the Justice Portfolio Committee called for submissions concerning the bill and held public hearings. LRC, a programme partner was amongst those opposing it. The Bill was shelved by the Portfolio Committee pending public consultation hearings on the Bill. There were also a number of significant landmark legal victories in cases taken by two programme partners, LRC and Women's Legal Centre. In *Gumede case*, the Constitutional Court declared the provisions of the recognition of the Customary Marriages Act unconstitutional on the basis of discrimination on the grounds of gender. These provisions had excluded women married at customary law prior to the Act from the protection.

The LRC launched the application and the WLC acted as *amicus*. In the *Gabie Hassam Case*, the Cape High Court extended the right to interstate succession to women in polygynous Muslim marriages, accepting the WLC arguments that the failure to do so discriminated against women on grounds of their gender religion and socio economic status.

- Women's organizations such as programme partners Rape Crisis and Tswaranang Legal Advocacy Centre (TLAC) has for years advocated for a new sexual offences bill and TLAC coordinated the civil society mobilisation and advocacy while both organisations have been heavily involved in the implementation of the new law. The new bill is considered a substantial improvement over the old one, but some weaknesses that were not rectified in the new bill has been criticized. Another programme partner, RAPCAN, intervened in a case with the support of LRC to successfully have part of the law struck down – a provision allowing courts the discretion whether to apply protective measures for children – and the court found that such measures must be used in all cases. In 2008, *Tracking Justice: the rape attrition study* was also released by TLAC and it tracked the progress of 2064 rape cases through the criminal justice system. It found half of cases resulted in arrests (50.5%). However trials commenced in less than one in five cases (17.3%), and a conviction for any crime resulted in just over 1 in 20 (6.2%) cases. Immediately after the release of the study results, the Deputy Minister of Justice contacted TLAC and requested that they draft a rape protocol based on the study results as part of the *Criminal Justice Review Process*. The Department of Justice's directorate on vulnerable groups also requested that TLAC draft aspects of the *National Policy Framework* of the Sexual Offences Act. TLAC was also requested by the Gauteng Provincial Government to assist in the development of its rape strategy.
- RAPCAN's Child Witness Project is implemented at six Sexual Offences Courts in the Western Cape (Atlantis, Cape Town, Khayelitsha, Paarl, Parow and Wynberg) and aims to equip children and their care-givers with the necessary skills and knowledge to cope with the challenges relating to testifying in criminal proceedings. Late in 2006, the National Prosecuting Service (NPS) which is a division within the National Prosecuting Authority made a decision to appoint Court Preparation Officers (CPOs) in courts in the country, to prepare witnesses testifying in relation to all serious offences appearing in the Regional Courts. RAPCAN has undertaken advocacy activities with the National Prosecuting Authority (NPA), with a view to influencing: (1) the nature of the model for child witness preparation selected by the NPA for national implementation, (2) encouraging discussion relating to the funding of this service nationally given current weaknesses in funding.

2. Is the Programme delivering in an efficient manner?



Research based advocacy and litigation in particular, are not “low-cost” activities. However based on the reports from the partners funded over the programme it is definitively our impression that the projects supported is being run in a cost-efficient manner and that the outcomes achieved are in line with and often above what can be expected from the financial resources made available. Many of the partners have senior advocates working on their cases pro bono at very low cost or even for free in some cases. Some partners also have volunteers providing important services in outreach components of the projects. When delays to the plans are experienced, this is often because of change of personnel or difficulty at getting the right person with the needed qualifications for a job. As there is a general shortage in the labour market of many skills, NGOs not being able to offer very high salaries, must sometimes spend substantial time and effort to attract people with the right qualifications for the position. That said, it is our impression that the partners supported over the programme are able to attract both highly qualified and highly motivated staff. Most or all of the organizations supported have a large network of other institutions and organizations which they collaborate with. And many of the organizations in the programme cooperate extensively with each other. This is also an important factor in increasing efficiency of the output of the programme.

### 3. What are the main challenges and success?

Post-apartheid policy has struggled to re-integrate the economically vulnerable majority of the population into a reasonably prospering economy. Inefficient state and local government institutions has also resulted in service delivery in crucial areas like housing, water and electricity has lagged behind for the most vulnerable part of the population. As a result, the urban and rural poor experience multiple violations of their socio-economic rights. For many, these violations deepen their vulnerability to HIV and AIDS. These violations continue despite the existence of constitutional standards for review for state policies aimed to give effect to socio-economic rights, and that these rights are enshrined in the constitutions and other parts of the law. However there are big gaps in implementing this legislation into actual policies and practices relating to securing housing, basic services and livelihoods.

Despite the continuing reduction of international funding, South Africa still has a vibrant civil society capable of challenging and at least to a certain extent pushing government institution into better implementation of policies beneficial for the poor. Many programmes funded by international donors do good work in supporting South African actors making a difference on the socio-economic right situation for vulnerable groups, either from a human rights or a development based approach. Where this programme has been distinct however has been in it prioritizing support to litigation and research as strategic methods working in synergy towards achieving positive change in the rights situation for the poor. This has been based on the analysis that using South Africa’s strong legal framework on socio-economic rights to push for stronger policy implementation has been the most promising strategy during these years. As

outlined in the reports from us to the embassy and from the partners to NCHR there are many examples of where this strategy has produced results.

A further challenge is to more strongly embed research, advocacy and litigation into the priorities and concerns of organized groups of women, the poor and marginalised groups. This is already being done by many of our partners, particularly in the fields of women's rights, access to basic services and health rights. But is an area where which has a greater potential than what has currently been realized. This issue was identified in late 2007 as one area which needed further attention, particularly that social movements and mobilisation were not prioritised enough in the focus of the programme. In early 2008, a decision was made to support a project for national mobilisation on forced evictions, partly similar to the Treatment Action Campaign, but driven by local movements and churches alongside human rights groups. Due to staff changes the partner organisation has changed and the project will only commence in 2009. A workshop was also held with two partners (PLAAS and NorAgric) as well as the Stellenbosch Legal Clinic on farmworkers/dwellers and security of tenure in October 2008. It was attended by human rights organisations, farmworker formations (farmworker's own associations), researchers and lawyers. The relationship between the various actors was discussed and critiqued and a decision on prioritising litigation was taken collectively with the interesting result that the focus was on trying to make legal gains in long-term security of tenure instead of fire-fighting on evictions. The Programme intends to support these test case priorities in a project this year. Contact has also been made with a smaller donor in South Africa on supporting more localised test cases and farmworker awareness of rights.

4. Is the South Africa Programme a good (effective and efficient) model for supporting cooperation between RSA and Norway in the area of human rights?

The answer to the question will depend on which aspect of cooperation is of interest i.e. the outsourcing of the Embassy's human rights portfolio to the NCHR; the level of cooperation between various Norwegian and South African institutions; or cooperation /linkages between programme and political dialogue between Norway and South Africa.

Our view is that the South Africa Programme has been successful in providing direction and coherence to the human rights portfolio of the Norwegian Embassy; it has had some success in building human rights cooperation between Norwegian and South African institutions, but there has to our knowledge been little influence of the former two on the political dialogue at the State-to-State level.

The South Africa Programme has been a pioneering test case for delegating the development and management of a Norwegian Embassy's entire human rights portfolio to an external partner. We believe ourselves to be a very competent partner in the field of human rights both in terms of research and in applied international programme design. The Programme design was a result of an assessment of real needs and human rights issues in South Africa, knowledge of the country's unique standing as a laboratory

for the development of international human rights jurisprudence in the field social and economic rights, and the need to be policy oriented in order to influence the level of implementation of human rights, especially for vulnerable groups. The strategy developed for the five year period has provided direction to the Programme and some identifiable results by our partners which we are proud of. This model of cooperation has been challenging for both the Embassy and the NCHR, but we have found cooperation more fruitful given the development, approval and adherence to a strategy document.

Institutional cooperation between Norwegian professional organisations and South African counterparts is challenging for many reasons, one of them being limited capacity and commitment by the Norwegian institutions to independently develop sustainable cooperative relations (ref. NCHR experience in countries where Norway has official human rights dialogues). Noragric, in addition to the NCHR, is the main institution actively engaging in long term cooperation based on mutual interest under the South Africa Programme. Noragric is working in the field of land rights, and its participation was strongly supported by a South African partner even though the cost of involving a Norwegian partner is considerable. There has also been one Masters student in Norway supported each year to write a thesis concerning South Africa and human rights. The remainder of the capacity building efforts have been more diffuse and focus on support to exchanges and cooperation building visits to South Africa (e.g., the Norwegian Children's Ombudsmen and the Norwegian Medical Association), invitation of programme partners with the researcher to participate in Norwegian debates and conferences on human rights (e.g., Optional Protocol to ICESCR, Commission on Legal Empowerment of the Poor, right to water and sanitation), and participate in seminars or courses with Institute of Women's Law, FAFO (Norway's leading social welfare research institute) and Christian Michelson Institute in Bergen.

The policy orientation of the South Africa Programme and human rights issues in general, is such that linkages to politically relevant discussions could be foreseen. In the three countries where Norway has a formal human rights dialogue i.e. China, Indonesia and Vietnam, the ambition is for research and advocacy emerging from programme work to be collated and incorporated into a State-to-State process. This happens with the China, Indonesia and Vietnam programmes at NCHR. The biannual human rights reports which the Programme submits to the Embassy will of course inform political discussions in a general manner and a number of seminars have been organised at the embassy to discuss current human rights issues in South Africa. To our knowledge there has not been a need or an interest on the part of the Embassy to draw on more specific research and knowledge at NCHR and partner institutions in their political dialogues with South African authorities. That being said, in 2008, together with the Norwegian embassy in South Africa, NCHR did help write the first draft of Norway's submission to the UN Human Rights Council's Universal Periodic Review of South Africa.

In hindsight, more effort could perhaps have been made by the Programme and the Embassy to strategically marshal the findings from selected projects and ensure they

were heard by government. Such an approach would have had to be carefully considered given the sensitivity of various issues and differing roles of various actors. Further obstacles would include that Norway's human rights key priorities in dialogues with other countries (freedom of expression, human rights defenders, torture, death penalty) are not those of the current South Africa Programme; and the need for continuity in staff on both sides.

Yet we do see a potential for finding strategic ways in which Norway could improve its dialogue with the South African Government on socio-economic rights, and vice-versa.

One possible option for the future is that Norway may attempt to establish a specific dialogue with specific ministries, for example those working in social welfare which may be part of a development sector working group. Another alternative is for Norway to select one or two socio-economic rights issues that it prioritises in dialogue with the Government and support to local partners.

5. What elements of the Programme could also be sustainable in the future Human Rights cooperation with South Africa?

The answer to this question depends on the parameters for future Norwegian cooperation with South Africa including type of funding available (none, bilateral, regional) and with whom cooperation is foreseen (Embassy, Norwegian institutions, political dialogue).

Our main input at present is as follows: varying partner ability to sustain current activity levels; focus should be maintained on (selected) socio economic rights in South Africa and/or regionally; follow up regionally should address human rights addressed by inter-governmental bodies such as SADC or AU; and lastly, NCHR engagement will continue subject to alternative funding sources.

Most of the South African partners have diverse sources of funding, particularly from international donors or in-kind support from universities. South African philanthropy is beginning to emerge but not however at the rate that international donors have been leaving South Africa. Therefore, the ability of the partners to sustain their current level of activities will vary. At the same time, some of the activities have already helped catalyse movements and activities on particular issues in other parts of the country, the *Mazibuko* right to water litigation being a good example. Development organisations, including a trust funded by the government, are now looking to support more right to water-based activities.

The Norwegian Embassy should look to support selected human rights activities in South Africa also in the future, but the question of focus is obviously difficult both due to policy priorities and expected limitation of funds. We would thus recommend a strategy outlining thematic direction for such support. We believe that the achievements and insights gained during the present programme period should not be lost in future Norwegian human rights cooperation and thus care should be taken not to revert to the traditional civil and political rights focus or singularly focus on gender equality. Thus,

one possible approach may be to focus on one or more socio-economic right and its implementation linked to prioritized groups (e.g. women or children). The specific right(s) to be prioritized could be made on the strength of existing partnerships and other alliances the Norwegian embassy has with government and other stakeholders. Specific rights to be prioritized could also be selected based on relevance for ongoing work by intergovernmental bodies such as SADC or the African Union.

Another possibility would be to engage with other embassies in the region to support human rights and other organisations, including some current partners, engaged with regional institutions, particularly SADC and support region-wide activities such as those involving migrants rights – particularly important in light of the large numbers of African migrant in South Africa and the newly established government in Zimbabwe.

The NCHR is already discussing how to continue cooperation with a few of the current partners after Programme funding ends in 2009. Continued cooperation will require external funding since the NCHR, as all professional institutions in Norway, only receives core funding for its core national tasks. Our primary institutional interests at present are to continue collaboration on implementation of economic and social rights, possibly including corporate social responsibility, in a single country or sub-regional context in the SADC area. We will be seeking for applied project activities (Embassy, MFA, NORAD) as well as research funding (NFR) that could be available from 2011.

#### 6. Do you see any needs for adjustments in the final year of the Programme?

The major part of the Programme is committed through three year contracts and will not be adjusted as long as activities progress according to plans. A number of smaller adjustments to the programme in this final year have already been proposed to the Embassy by way of four new partners. Two of these new partners address the concerns about lack of social mobilisation and community participation in some of the focus areas. One of the key adjustments might be the focus of NCHR efforts. We see a need, for example, to dialogue with partners about the sustainability of their activities and ensure that some of the new activities proceed quickly and that funding is secured for them to be ongoing.

## 10 Annex C: List of Informants

### Partner Organizations

Dr. Dr. Ben Cousins, Director, PLAAS  
Dr. Andries Du Toit, Deputy Director, PLAAS  
Dr. Paul Wisborg, Researcher, NORAGRIC  
Mr. Steve Kahanovitz, Attorney, LRC  
Ms. Janet Love, National Director, LRC  
Ms. Hyun-Jung Anna Kim, LRC  
Mr. Henrk Smith, LRC  
Ms. Sandile Dolweni, LRC  
Ms. Anika Claassens, LRC  
Dr. Nico Steytler, Director, CLC  
Dr. Lilian Chenwi, Senior Researcher, CLC  
Ms. Alison Tilley, Chief Executive Director, ODAC  
Ms. Jan Webster, Director, ComaCARE  
Mr. Chris Gutes, Treasurer, ComaCARE  
Ms. Comfort Ero, Director: South Africa Office, Deputy Director: Africa, International Centre for Transitional Justice (Skype Teleconference)  
Ms. Cherryl-Lee Botterill, GGP: Programme Manager, CHR  
Dr. Frans Viljoen, Director, Good Governance Programme, CHR  
Dr. Danie Brand, PULP Editor, CHR  
Dr. Nyasha Chingore, Project Manager, CSA  
Dr. Pierre Brouard, Deputy Director, CSA

### Beneficiaries

Dr. Graham Fieggen, Professor and Head Division of Neurosurgery, University of Cape Town / Groote Schuur Hospital (ComaCARE)  
Dr. David Le Feuvre, Neurosurgeon, Groote Schuur Hospital (ComaCARE)  
Dr. Ben Cousins (CLC)  
Dr. Julia Sloth-Nelso (CLC)n  
Dr. Dansool Chrvot (CLC)

Mr. Thulani Muela, Community Paralegal, PLACE (CSA)

Ms. Susan Ngobeni, Labour (CSA)

Mr. Phillip Mainwane, NGO (CSA)

Ms. Tilda Nonzwakazi Dhaza, Department of Health, Health Promotion Section (CSA)

Mr. Phillan Zamchiya, Researcher, PLAAS

#### **NCHR**

Mr. Tor Kjetil Edland, Manager, South African Programme, NCHR

Mr. Malcolm Langford, Researcher of the South African Programme, NCHR (Skype Teleconference)

Ms. Charlotte Norby, Former Manager, South African Programme, NCHR (Telephone)

#### **Norwegian Embassy in Pretoria and Norad**

Ms May-Elin Stener Minister Counsellor

Ms. Ingrid Skjølaas, First Secretary

Mr. Gisle Hagen, Senior Advisor, Department for Peace, Gender and Democracy, Norad

#### **Others**

Dr. Sibonile Khoza, Director, Constitutional Responsibilities, Department of the Prerives, Western Cape

Ms. Zohra Dawood, Executive Director, Open Society Foundation for South Africa

Mr. Abongile Sipondo, Director of the Human Right and Governance Programme, Open Society Foundation for South Africa

Ms. Noria Mashumba, Senior Project Manager, Centre for Conflict Resolution

Ms. Mireille Affa's Mindzie, Senior Project Manager, Centre for Conflict Resolution

Ms Caroline Valette-Landrey, Programme Manager: Governance, Democracy and Human Rights, EU, Delegation of the European Commission to South Africa

## 11 Annex D: Documents Review

### Programme Documents

#### Management Documents:

Agreement between the Norwegian Ministry of Foreign Affairs and the University of Oslo/the Norwegian Centre for Human Rights, RSA-04/298, November 2005.

Declaration of Intent between the Governments of the Republic of South Africa and the Kingdom of Norway

SA Minister of Foreign Affairs hosted her former Norwegian Counterpart (Previous Cooperation)

[Review of RSA 037](#), "Support to the strengthening of Human Rights in South Africa in collaboration with the Norwegian Institute of Human Rights". Final Report, 18 June 2001.

TILBUD PÅ ADMINISTRASJON AV "SØR-AFRIKAPROGRAMMET" fra Norsk senter for menneskerettigheter Universitetet i Oslo. 22 November 2004.

#### NCHR Strategic and Planning Documents:

Strategisk plan for 2009-2011 og Resultatrapport for 2007 Bilateral og Regional portefølje

Updated plan 2008-2009 for the South Africa Program

Strategy for the South Africa Programme for 2007- 2009

Plans for 2007- 2009 for the South Africa Programme

Transformation of cooperation Norway - South Africa, July 2006

South Africa Programme: Strategy Paper 2005-2009

#### NCHR Reports:

Annual report 2008 for the South Africa programme

Annual report 2007 for the South Africa programme of the Norwegian Centre for Human Rights. version 2 (June 2008).

Annual report 2006 for the South Africa programme

Annual report 2005 for the South Africa programme

Peris Jones and Helene Smith, Review of the South African Programme, Final Report, Phase 2: 2001 – 2004.

Annual report January – December 2004 for the South Africa programme

Report July 2003 – December 2004 for the South Africa programme

Report July 2002 – June 2003 for the South Africa programme

Report January 2001 – June 2002 for the South Africa programme

#### Financial Reports:

Total budget submitted from SA Programme 2007-2009 (draft November 2008)

Budsjett Sør-Afrikaprogrammet 2008, Dato 17/01-2008

Oversikt over overføringer og forbruk for 2007

Regnskapsrapport, Sør-Afrika programmet 2007

Oversikt over overføringer og forbruk m.m for 2006 (oppdatert 05/09-2007)



Revidert regnskapsrapport, Sør-Afrika programmet 2006

Oversikt over overføringer og forbruk m.m for 2005 (oppdatert 121006)

### **Project Documents**

Centre for Applied Legal Studies (CALs), University of the Witwatersrand:

1. Annual Report 2008
2. Second Narrative Report (November 2006 – February 2007), 30 April 2007
3. Annual Report for 2007
4. Water and Environmental Rights for the rural/urban poor, Proposal for additional funding for CALs, 2007 (2008-2009)
5. Application Form: 2007 (2008-2009)
6. First Narrative Report (January - October 2006)

Cala University Students Association (CALUSA)

1. "Land Redistribution and Poverty Eradication in Rural South Africa: The case of Lumphaphasi Area and Delindlala Agricultural Project in the Eastern Cape. Annual Report for 2005.

Children's Budget Unit (CBU):

1. Short Narrative Progress Report, Agreement of Cooperation between Idasa and NCHR 2006 (Core Funding 2006: April-December 2006). August 2007

Center for Conflict Resolution (CCR):

1. Final Narrative Report, October 2005 – December 2005

Community Law Centre (CLC, University of the Western Cape):

1. Application Form for 2009
2. Annual Report for 2008
3. Annual Report for 2007
4. Annual Report for 2006
5. First Narrative Report, June – December 2005
6. Narrative Report 2004-2005
7. Funding Proposal, Socio-Economic Rights Project, 1 July 2005 – 30 December 2008. 15 May 2005

ComaCARE:

1. Application Form for 2009-2010
2. ComaCARE Program Planning 2009-10
3. ComaCARE's Strategic Planning for 2009, 20<sup>th</sup> September 2008
4. Annual Report, 2008
5. Annual Report, 2007
6. Application Form for 2007 (2008-2009)
7. Independent evaluation by Impact Consulting and Mthente Research and Consulting Services, 2008
8. ComaCARE's "The Pioneer Organization!", Slide
9. ComaCARE's "Where we have come from and where we are now: A story of a new initiative", Slide

## 10. ComaCARE's Executive Summary

Centre for the Study of AIDS (CSA):

1. Application Form for 2008-2009
2. Annual Report for 2008
3. Evaluation of Tswelopele 3. Irene Chetty, November 2007
4. A summary of the main achievements of the Tswelopele Project for 2007
5. Progress Report, October 2007
6. Rapid Evaluation of Tswelopele 2. Leseho M Manala, November 2006.
7. Progress Report, October 2006
8. Tswelopele 2 Summary, February 2006
9. Research Proposal 2005-2008, Tswelopele II: Promoting Access to HIV/AIDS-related Human Rights in Hammanskraal Communities. 16 October 2005.

Centre for Human Rights (CHR), Faculty of Law, University of Pretoria:

1. Statistic data, Course Socio-Economic Rights 2003, Participants Profile 2003-2008. Excel file submitted to the Mid-Term Review of the South African Programme, February 2008.
2. Statistic data, Course Socio-Economic Rights 2008, Participants Profile 2003-2008. Excel file submitted to the Mid-Term Review of the South African Programme, February 2008.
3. "Quality of Project Design", Paper submitted to the Mid-Term Review of the South African Programme, February 2008.
4. Annual Report, 2008
5. Abbreviated Funding Proposal: Social-Economic Rights Series (February 2008)
6. Annual Report, 2007
7. Application Form, 2007 (2008-2009)
8. Annual Report, 2006
9. Annual Report, 2005

The Legal Resources Centre South Africa (LRC):

1. "A few examples of cases LRC has worked on & their actual and potential impacts". Paper submitted to the Mid-term Review of the South African Programme, February 2009
2. Graniti Application Form, 2008-2009
3. Graniti Application Form, 2007 (2008-2009)
4. Graniti Report 2008
5. Women's Rights and Equality Project Annual Report 2008
6. Funding Proposal: Women's Rights and Equality Project 2007
7. LRC's Annual Report 2007-2008
8. Advancing Human Rights in South Africa & Africa: Strategic Direction for 2008 – 2012. August 2008
9. Proposal: Women's Rights and Equality Project

The International Center for Transitional Justice (ICTJ):

1. Summary Report of the Southern African Regional Assessment Workshop: 30 September-1 October 2008
2. Regional Assessment Proposal, 2007-2008 for the Regional Transitional Justice Program for Southern Africa: Angola, Mozambique, Namibia, South Africa and Zimbabwe, September 2007

Open Democracy Advice Centre (ODAC):

1. Annual Report 2008
2. ODAC's Logical framework matrix 2007
3. Application Form for 2007 (2008-2009)
4. Mid-year Report for 2007
5. Report, Litigating Matters, 2007
6. Evaluation on ODAC's RIGHT TO KNOW, RIGHT TO LIVE Outreach Strategy – 2001 TO 2005. Draft Report, 2006
7. Annual Report for 2006
8. Annual Report for 2005

Programme for Land and Agrarian Studies (PLAAS):

1. PLAAS-NORAGRIC: Joint Institutional Support and Research - Land Rights and Agrarian Change in Rural South Africa: An Informal Report, submitted by the Noragric team, 11 January 2008
2. Application Form for 2007 (2008-2009), and Appendix
3. Project Report Summary - 2007 January-September
4. Annual Report for 2006
5. Sharing of results from PhD research, Visit to Cape Town and Namaqualand, March 2006
6. Project Report Summary 2005
7. PLAAS-NORAGRIC: Joint Institutional Support and Research - Joint Annual Report 2005

Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN)

1. Proposal for 2008
2. Application Form for 2007 (2008-2009)
3. Report January – December 2007
4. Report, January to December 2006
5. Report 2005

Rape Crisis, Cape Town Trust:

1. Interim Report for 2007
2. Application 2007-2008
3. Final Report, 1 July 2005 – 30 June 2006

South African Human Rights Commission:

1. Progress report on Economic and Social Rights and Local Government in South Africa project (*the role of indigence policies in addressing the needs of vulnerable groups*. 12 April 2006.

Tshwaranang Legal Advocacy Centre (TLAC):

1. Project Proposal 2007-2009
2. Report, January – October 2006
3. Progress report on the research findings into Tshwaranang's Information Desk Project, February 2006
4. Progress report on Information Desk Project September 2005 – January 2006. February 2006

Women's Legal Centre Trust:

1. Application Form 2008-2009

### **Country Human Rights Documents**

SOUTH AFRICA'S COUNTRY REPORT TO THE HUMAN RIGHTS COUNCIL'S UNIVERSAL PERIODIC REVIEW MECHANISM: 15 APRIL 2008

Decision 8/114. Outcome of the universal periodic review: South Africa. Human Rights Council, April 2008.

Report submitted by the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, 5 March 2008. Human Rights Council, Seventh session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES

UNDER ARTICLE 19 OF THE CONVENTION, Conclusions and recommendations of the Committee against Torture. Thirty-seventh session, 6-24 November 2006

International Convention on the Elimination of all Forms of Racial Discrimination  
Concluding observations of the Committee on the Elimination of Racial Discrimination,  
COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION, Sixty-ninth  
session, 31 July-18 August 2006

Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari. 29 February 2008. HUMAN RIGHTS COUNCIL, Seventh session.

Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen. 15 December 2005.

COMMISSION ON HUMAN RIGHTS, Sixty-second session. Report submitted by Mr. Juan Miguel Petit, Special Rapporteur on the sale of children, child prostitution and child pornography, in accordance with

Commission on Human Rights resolution 2002/92. 9 January 2003. COMMISSION ON HUMAN RIGHTS, Fifty-ninth session,.

Concluding Observations of the Committee on the Rights of the Child : South Africa. 23/02/2000

Concluding Observations of the Committee on the Elimination of Discrimination against Women : South Africa. 10/07/98.

### **Norwegian Embassy Documents**

The review team had access to the archives of the Norwegian Embassy in Pretoria and consulted all files pertinent to the Programme.

## 12 Annex E: Project Performance Reports

### 12.1 CALS

#### Project Performance Report

##### Part 1: Project Description and Structure

*a. Project title: Socio-Economic Rights and Livelihood of the Poor in South Africa*

*b. Implementing institution and brief history*

The implementing partner is the Centre for Applied Legal Studies (CALS). CALS is an organisation situated within the School of Law at the University of the Witwatersrand. It is a self-governing and self-funded body. CALS was formed in 1978 as a centre for the promotion of human rights through the law. It is a legal reform organisation with an applied legal focus operating within an academic environment; its focus is on the use of law as a vehicle for the transformation of South African society. The focus of the Centre's activities is on research, policy development, the development and implementation of legislation, litigation, advocacy work, and education and training.

*c. Project Budget and Financial History*

CALS	2005	2006	2007	2008	Estimated 2009	Total
Grant amount ZAR	1,561,691		2,377,008	2,235,657	2,238,857	8,413,213
Project expenditures NOK		1,749,000	1,636,300	1,605,441	1,496,500	6,487,241

*Sources:* CALS Application 2007-2009 and NCHR's Total Budget Submitted from SA Programme 2007-2009 (draft November 2008)

*d. Project Objectives and Results*

**(i) Project objectives**

The goal of the project is to assist the poor and vulnerable in securing their socio-economic rights in urban, and subsequently rural, areas.

The objectives of the project are:

- To ensure that socio-economic rights are reflected in policies, laws and delivery
- To assist the poor and vulnerable in better claiming their rights
- To develop an inclusive and cross-sectoral approach to socio-economic rights that integrates issues of gender and HIV/AIDS
- To manage the project efficiently and effectively

## **(ii) Expected Results**

The project aims to achieve the following results:

- Improved policy options and practices that better serve the needs of the poor;
- Good legal precedents that define the content of socio-economic rights and set standards for government action;
- Improved capacity of the poor to secure their rights.

CALS indicates that they also aim to directly improve the lives of disadvantaged communities through ensuring adequate access to housing and basic services (in other words, this is more than precedent and policy, this is actually stopping unlawful evictions and securing suitable alternative accommodation, as well as stopping water disconnections and ensuring

## **(iii) Results Framework/matrix if any**

The 2007 Application form provides the following information:

Possible indicators and measurables for Result 1 – improved policy options:

- Success of advocacy iro media and amongst key policy makers and implementers. This will be measured by
  - the number of articles in the news media, which focus on or mention the fact-finding mission reports;
  - the range and size of audiences of news publications in which the research is reported;
  - the number of meetings held with key policy makers and implementers;
  - the seniority and influence of policy makers and implementers lobbied;
  - the number of written and oral responses received to the research findings from members of the public and policy makers and implementers.
- Impact of advocacy/litigation will be measured by:
  - Changes in policy;
  - Changes in practice;
  - Greater security in tenure and greater access to basic services by client communities and the poor.

Possible indicators and measurables for Result 2 – good legal precedents:

- the number of successful legal interventions and measured by:
  - number of judgements granted in our clients' favour;
  - the nature and extent of the remedy achieved for our clients, assessed in the context of the nature and extent of the breach of the legal right in question.

Possible indicators and measurables for Result 3 – improved capacity to secure rights

- The number of workshops held with inner city communities;
- The extent of participation in these workshops;
- The number of subsequent requests for assistance CALS receives from members of communities who become aware of CALS' work and their rights.
- The primary indicators of the success of the establishment of the ICRC will be:
  - Whether or not the ICRC is financially and administratively self-sustainable at the end of the three-year period;
  - The number and type of individuals and communities seeking and receiving advice and support from the ICRC over the period.

**(iv) Project Outputs to date**

Please see Table “Project Performance Framework” at the end of this document.

***e. Intended beneficiaries and geographical coverage***

People living in the urban and rural areas of South Africa in households with incomes of less than R3500. They will normally be resident in inner-city areas and informal settings, and be reliant for their income on informal livelihood strategies or low-level formal sector wage-labour.

State policy makers and implementers, to the extent that they are enabled to carry out their functions more effectively as informed by our research.

CALS estimates that:

- In excess of 2000 people will benefit from legal advice or representation provided through the project over the three year period;
- In excess of 300 people will benefit from attending community-based workshops;
- Their research products are likely to be disseminated to in excess of 1000 people over the three year period.

The indirect beneficiaries of the project in Johannesburg alone number over one million people, being people living in households earning less than R3500 per month, informally housed and earning their income from livelihood strategies or low-level formal sector wage-labour.



## 2: Project Performance

### *a. Quality of Project Design:*

- **Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).**

The Project is very well designed. It is concise, logical and there are clear links between Outputs, Outcomes and Impact. The risk assumptions are adequate and realistic.

- **Assessment of the M&E system, if any (operationality, whether baseline exists, to what extent project reporting is using the M&E system).**

As indicated in 1.d(iii) above, the foundation for an M & E system is provided. Project reporting is using this system to good effect.

- **Assessment of project planning to support “Consolidation of the democratic transition”.**

To ensure that socio-economic rights are reflected in policies, laws and delivery and to assist the poor and vulnerable in better claiming their rights, are crucial steps towards the “consolidation of the democratic transition”

- **Assessment of project planning to mainstreaming gender.**

One of CALS’ organizational objectives is to integrate gender into all its work. CALS’ internal mode of operation seeks to ensure that gender is integrated into all the work that it does. All projects are discussed regularly at CALS in formal and informal meetings. Particular attention is paid to the integration of gender with the assistance of staff who have developed gender expertise.

There appears to be little clear evidence of gender mainstreaming in the documents reviewed.

### *b. Project Relevance*

- **The extent to which the project is aligned with the Programme Objectives?**

The CALS project links very well with the objectives in NCHRs strategy for the South Africa programme by aiming to contribute to the respect, protection and promotion of socio-economic rights to land, in urban areas; to housing and water; to greater access to justice, through assisting client communities to enforce their socio-economic rights in court and in other legal settings.

- **The extent to which local context has been taken into consideration?**

The project is well-grounded in the local context. It address issues of critical concern to those who may least be able to claim their socio-economic rights.

### *c. Efficiency*

CALS has run efficiently.

Its activities are complementary. So, for instance, its policy interventions and litigation draw on the very solid research produced by CALS.

CALS has also entered into a strategic partnership with the Inner City Resources Centre (ICRC) which is housed at CALS and receives funding from NHCR.

Through this mechanism, a number of relevant cases have been brought to CALS, but there have also been instances of conflicts being resolved by the ICRC without resorting to CALS litigation. Such work assist poor communities to access housing and basic services while ensuring that the work of CALS remains grounded.

#### *d. Effectiveness*

CALS has been delivering on outputs, with no deviations apart from an increasing focus on litigation as the awareness of legal strategies grows among marginalised communities and the demand for socio-economic rights enforcement escalates, which meant that during 2008 CALS did not conduct any community workshops.

The project ensures that the poor are better able to claim their socio-economic rights, that socio-economic rights are reflected in the policies, laws and deliveries, and that there is improved networking on socio-economic rights among academics, NGO's CBO's, communities, social movements and activists.

With regard to access to housing, research and advocacy, a number of research activities have been completed.

CALS developed innovative housing-related advocacy strategies.

With regard to Basic Services, CALS has produced a research report on basic services in Johannesburg's inner-city. It has also produced a research report regarding water services across 15 Municipalities. Research has also been conducted on the electricity crisis and the possible impact on the South Africa's poor. Research has also been conducted on electricity and water reticulation in rural areas. Interesting research in progress aims to conduct research on water budgets in order to test the capacity defence.

CALS has also conducted access to housing and basic services-related litigation.

##### ▪ *NCHR Assessment (latest)*

From 2008 NCHR Annual Report: CALS has a diversity of activities and expertise, which enables them to respond to challenges on implementation of socio-economic rights in South Africa. Their combination of academic-level research with policy advocacy and direct litigation is one of the great strengths of this project. While CALS has continued to focus on urban areas in 2008 (particularly the City of Johannesburg), much of the research, networking and litigation has a national effect. In addition, with their increased focus on the right to water in their work this could increase the impact of the project in rural areas.

#### *e. Achieved, Expected Outcomes*

According to CALS, this project has significantly contributed to socio-economic rights equality and enforcement through sustained research, advocacy and public impact litigation. Within the South African context, CALS remains unique in its combination of academic-level research with policy advocacy and direct litigation. While it has continued to

focus on urban areas in 2008 (particularly the City of Johannesburg), much of the research, networking and litigation has a national effect. In addition, through their Water Services Fault Lines report, water budgeting work, a research paper on rural water and electricity provision and, particularly their environmental law work, CALS began to extend their reach to cover rural areas.

Due to the work of CALS, there has been:

- Changes in policy and practice with regard to housing and water rights
- Positive judgements secured in housing / evictions and basic services related cases.
- An increase in communities seeking assistance and claiming rights.
- Significant academic and research outputs.
- Frequent high-level meetings with government officials.
- Use by poor of the ICRC.
- Community workshops held.

#### *f. Sustainability of Results*

- **Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.**

The project itself is meant to be a free-standing initiative which will achieve most of its primary outcomes during or shortly after the funding period. However, to the extent that the project, as currently conceived, will continue its work beyond 2009, CALS expects will attempt to access donor funding from a range of sources. CALS has expressed concern that this may prove difficult.

- **With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.**

CALS is trying to build a platform for long-term sustainability of the work funded by NCHR, including the ICRC, as well as CALS more generally. CALS hopes to establish a separate litigation fund and to fund-raise around this specific function in the coming months. Beyond this, CALS aims to approach a range of funders to fund their ongoing work.

#### *g. Consequences of NCHR management at project level.*

CALS enjoys a positive and cooperative relationship with NCHR.

*h. Compliance/Contribution to Cross-cutting themes:*

<b>Theme</b>	<b>Analysis</b>
Engagement with a range of methods	<p>Methods are set out in relation to activities and include:</p> <ul style="list-style-type: none"> <li>• The production of social and legal research;</li> <li>• Monitoring of state activities;</li> <li>• Advocacy, lobbying and networking;</li> <li>• Provision of legal services;</li> <li>• Development of partnerships; and</li> <li>• Public impact litigation.</li> </ul>
Gender mainstreaming	<p>One of CALS' organizational objectives is to integrate gender into all its work. CALS' internal mode of operation seeks to ensure that gender is integrated into all the work that it does. All projects are discussed regularly at CALS in formal and informal meetings. Particular attention is paid to the integration of gender with the assistance of staff who have developed gender expertise.</p> <p>The Mazibuko water judgment explicitly addresses lack of water from a gender perspective. CALS's work on housing rights is also an area in affecting women the most. Working to improve basic services has significant gender impacts.</p>
HIV/AIDS	<p>CALS considers the impact of HIV/AIDS to be a crucial aspect of social and policy research in the housing and basic services sector. While there is no specific research project envisaged to examine this impact, the effect of HIV/AIDS on access to housing will be integrated into the projects analysis at appropriate stages in the research and advocacy project. In the past, an appreciation of the impact of HIV/AIDS related illnesses on our clients' basic service needs has been an important element of our advocacy and litigation for an increase in their free basic water supply.</p> <p>For a direct example of HIV/AIDS being incorporated as a cross-cutting issue, CALS cites the Mazibuko case, where the additional water required by PLWHA is one of their critical grounds for demanding more water – see in particular the affidavit of Desmond Martin, former director of HIV/AIDS clinicians society, as well as their legal arguments throughout about the high incidence of HIV/AIDS in Soweto. Again, HIV/AIDS, along with other chronic illnesses and disabilities are included in our social matrices for their research and litigation.</p>

### **Part 3: Performance Assessment**

**Ratings:** **A:** Highly Satisfactory; **B:** Satisfactory; **C:** Not fully satisfactory; **D:** Unsatisfactory; **X:** Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	B	The CALS project links very well with the objectives in NCHRs strategy as it supports various Programme objectives.
Efficiency	B	CALS has run efficiently. Its activities are complementary. So, for instance, its policy interventions and litigation draw on the very solid research produced by CALS. CALS has also entered into a strategic partnership with the Inner City Resources Centre (ICRC) which is housed at CALS and receives funding from NHCR.
Effectiveness	A	CALS has been delivering on outputs, with no deviations apart from an increasing focus on litigation as the awareness of legal strategies grows among marginalised communities and the demand for socio-economic rights enforcement escalates.
Outcome	B	Due to the work of CALS, this project has significantly contributed to socio-economic rights equality and enforcement through sustained research, advocacy and public impact litigation.
Sustainability of outputs/outcomes	C	CALS has yet to secure a donor to fund the activities when the NCHR funding comes to an end and has expressed concern about being able to do so.
Sustainability of organization	B	CALS is well-established and enjoys a good reputation. It should be able to secure alternative donor funding.
Compliance with cross-cutting themes	B	Some attempts have been made to address HIV/AIDS as a cross-cutting issue. However, there is not sufficient evidence of attempts to integrate gender as a cross-cutting issue. CALS' internal mode of operation seeks to ensure that gender is integrated into all the work that it does. All projects are discussed regularly at CALS in formal and informal meetings. Particular attention is paid to the integration of gender with the assistance of staff who have developed gender expertise. The Mazibuko water judgment explicitly addresses lack of water from a gender perspective. CALS's work on housing rights is also an area in affecting women the most. Working to improve basic services has significant gender impacts.

### Table CALS: Project Performance Framework

<b>Goal:</b> To assist the poor and vulnerable in securing their socio-economic rights in urban, and subsequently rural, areas.
<b>Project Objectives:</b> <ul style="list-style-type: none"><li>• To ensure that socio-economic rights are reflected in policies, laws and delivery</li><li>• To assist the poor and vulnerable in better claiming their rights</li><li>• To develop an inclusive and cross-sectoral approach to socio-economic rights that integrates issues of gender and HIV/AIDS</li><li>• To manage the project efficiently and effectively</li></ul>
<b>Indicators:</b> <p>Possible indicators and measurables for Result 1 – improved policy options:</p> <ul style="list-style-type: none"><li>• Success of advocacy in media and amongst key policy makers and implementers. This will be measured by<ul style="list-style-type: none"><li>○ the number of articles in the news media, which focus on or mention the fact-finding mission reports;</li><li>○ the range and size of audiences of news publications in which the research is reported;</li><li>○ the number of meetings held with key policy makers and implementers;</li><li>○ the seniority and influence of policy makers and implementers lobbied;</li><li>○ the number of written and oral responses received to the research findings from members of the public and policy makers and implementers.</li></ul></li><li>• Impact of advocacy/litigation will be measured by:<ul style="list-style-type: none"><li>○ Changes in policy;</li><li>○ Changes in practice;</li><li>○ Greater security in tenure and greater access to basic services by client communities and the poor.</li></ul></li></ul> <p>Possible indicators and measurables for Result 2 – good legal precedents:</p> <ul style="list-style-type: none"><li>• the number of successful legal interventions and measured by:<ul style="list-style-type: none"><li>○ number of judgements granted in our clients' favour;</li><li>○ the nature and extent of the remedy achieved for our clients, assessed in the context of the nature and extent of the breach of the legal right in question.</li></ul></li></ul> <p>Possible indicators and measurables for Result 3 – improved capacity to secure rights</p>

- The number of workshops held with inner city communities;
- the extent of participation in these workshops;
- the number of subsequent requests for assistance CALS receives from members of communities who become aware of CALS' work and their rights.
- The primary indicators of the success of the establishment of the ICRC will be:
  - Whether or not the ICRC is financially and administratively self-sustainable at the end of the three-year period;
  - The number and type of individuals and communities seeking and receiving advice and support from the ICRC over the period.

Status in 2007:

a) Changes in policy and practice

- Due to CALS' ongoing housing and evictions advocacy, research and particularly litigation work, the City of Johannesburg is no longer able to evict poor people without first meaningfully engaging with them. Part of this engagement must be the serious consideration of alternative housing. Since the Constitutional Court judgment in the San Jose/Olivia Road matter, this is now national precedent, meaning that every municipality has to abide by such policy and practice.
- There are indications that, in response to initial feedback from CALS' "A Tale of Six Buildings" Report, along with ongoing Phiri water rights litigation, the City of Johannesburg plans to amend its indigency policy in July 2008 to include, for the first time, individuals who are not property owners in the Free Basic Water and Free Basic Electricity benefits. This will directly benefit very poor people in the City of Johannesburg.

b) Judgments secured

- Since launching the Litigation Unit, CALS has settled or won all its housing/evictions and basic services related cases. Each of these cases, all representing people earning below R3 500 per month, has been taken to secure a specific legal/policy point in the public interest, as set out in the litigation matrix, attached.

c) Increase in communities seeking assistance and claiming rights

- In the past six months CALS has witnessed an unprecedented demand for its litigation services by poor and vulnerable people. Previously we had to look for cases to build public impact cases, but now we have to turn people away because we do not have the capacity to take up all the cases. In collaboration with the Inner City Resource Centre, we have provided direct legal advice and litigation support to approximately 500 poor applicants (representing many more people) in the past six months. Our litigation (see the attached litigation matrix) has resulted in the direct improvement of approximately 2 000

people's lives (who have not been evicted and who have had their water and electricity services re-connected). The knock-on effect through legal precedent, especially of the Constitutional Court decision in the San Jose/Olivia Road matter, is infinite.

d) Academic and research outputs

- Research reports are outlined in section 3.3 above.
- J Dugard. 2007. "Judging the Judges: Towards an appropriate role for the judiciary in South Africa's transformation", Leiden Journal of International Law vol. 20(4) pp. 237-253; P Bond & J Dugard. 2008. "Water, Human Rights and Social Conflict: South African Experiences", Law, Social Justice and Global Development vol. (1).

e) Frequency and level of media engagement

- CALS has retained a high level of media engagement. In particular, we provided press releases and gave multiple print, radio and television media interviews (approximately 20 in total) in connection with the Phiri water rights case (December 2007) and the San Jose/Olivia Road case (February 2008).

f) Frequency and level of meetings with government officials

- CALS has maintained frequent (usually weekly and sometimes even daily) meetings/discussions with Johannesburg City officials to discuss the following:
  - Alternative accommodation for the 420 occupiers of San Jose and 197 Main Street;
- CALS has regular meetings/discussions with Johannesburg City officials to discuss ongoing water and electricity disconnections.
- In March 2008 CALS was included as one of four other NGOs to be part of the Department of Water Affairs and Forestry's (DWAF) Regulatory framework. As such, CALS will be in a position to play a key role in DWAF's proposals to create a regulatory monitoring unit at national level. This also provides CALS with a platform for water-related advocacy, in particular arising from the basic water mapping project.
- On 20 March 2008 CALS was one of eight NGOs invited to have a stand at the Gauteng Legislature's Human Rights day exhibition. This was a good opportunity to educate officials and the general public on human rights issues and CALS' work.

g) Use by poor of, and sustainability of, Inner City Resource Centre



- Establishing the Inner City Resource Centre office at CALS has been a great success. Every day approximately 10 people visit the Centre looking for paralegal advice and information about their rights, housing, basic services etc. When a clear legal violation with a public impact component is picked up through the Centre, the matter is passed on to the Litigation Unit for consideration and resolution. This model has proved highly effective in providing public information and a conduit for sifting important cases in the public interest.

h) Community workshops held

- Apart from twenty days of full-day community meetings to discuss, plan around and secure alternative accommodation in the San Jose/Olivia Road matter, no workshops were held during the period of reporting.

Status in 2008 :

a) Changes in policy and practice

Due to CALS' ongoing housing and evictions advocacy, research and particularly litigation work, the City of Johannesburg is no longer able to evict poor people without first meaningfully engaging with them. Part of this engagement must be the serious consideration of alternative housing. Since the Constitutional Court judgment in the San Jose/Olivia Road matter, this is now national precedent, meaning that every municipality has to abide by such policy and practice.

There are indications that, in response to initial feedback from CALS' "A Tale of Six Buildings" Report, along with ongoing Phiri water rights litigation, the City of Johannesburg plans to amend its indigency policy in July 2008 to include, for the first time, individuals who are not property owners in the Free Basic Water and Free Basic Electricity benefits. This will directly benefit very poor people in the City of Johannesburg.

Although not finally decided, the Mazibuko litigation has already resulted in an increased allocation of Free Basic Water to Johannesburg's low-income households, from 6 kilolitres to 10 kilolitres per household per month. This direct result affects hundreds of thousands of people.

b) Judgments secured

Since launching the Litigation Unit, CALS has settled or won all its housing/evictions and basic services related cases. Each of these cases, all representing people earning below R3 500 per month, has been taken to secure a specific legal/policy point in the public interest, as set out in the litigation matrix, attached.

c) Increase in communities seeking assistance and claiming rights

In the past year CALS has witnessed an unprecedented demand for its litigation services by poor and vulnerable people. Previously we had to look for cases to build public impact cases, but now we have to turn people away because we do not have the capacity to take up all the cases. In collaboration with the ICRC, we have provided direct legal advice and litigation support to approximately 2 000 poor applicants (representing many more people) in the past six months. Our litigation (see the attached litigation matrix) has resulted in the direct improvement of approximately 4 000 people's lives (who have not been evicted and/or who have had their water and electricity services re-connected). The knock-on effect through legal precedent, especially of the Constitutional Court decision in the San Jose/Olivia Road matter, as well as the Mazibuko case, runs to hundreds of thousands.

d) Academic and research outputs

Research reports and academic publications are outlined in section 3.3 above.

e) Frequency and level of media engagement

CALS has retained a high level of media engagement. In particular, we provided press releases and gave multiple print, radio and television media interviews (approximately 50 in total) in connection with the San Jose/Olivia Road Constitutional Court case (February 2008), the Mazibuko High Court case (April 2008) and the Water Services Fault Lines report (November 2008).

f) Frequency and level of meetings with government officials

- CALS has maintained frequent (usually weekly and sometimes even daily) meetings/discussions with Johannesburg City officials to discuss the following:
  - Alternative accommodation for the 420 occupiers of San Jose and 197 Main Street;
- CALS has regular meetings/discussions with Johannesburg City officials to discuss ongoing water and electricity disconnections.
- In March 2008 CALS was included as one of four other NGOs to be part of the Department of Water Affairs and Forestry's (DWAF) Regulatory framework. As such, CALS will be in a position to play a key role in DWAF's proposals to create a regulatory monitoring unit at national level. This also provides CALS with a platform for water-related advocacy, in particular arising from the basic water mapping project.
- On 20 March 2008 CALS was one of eight NGOs invited to have a stand at the Gauteng Legislature's Human Rights day

exhibition. This was a good opportunity to educate officials and the general public on human rights issues and CALS' work.

g) Use by poor of, and sustainability of, ICRC

Establishing the ICRC office at CALS has been a great success. Every day approximately 10 people visit the Centre looking for paralegal advice and information about their rights, housing, basic services etc. When a clear legal violation with a public impact component is picked up through the Centre, the matter is passed on to the Litigation Unit for consideration and resolution. This model has proved highly effective in providing public information and a conduit for sifting important cases in the public interest.

h) Community workshops held

Apart from twenty days of full-day community meetings to discuss, plan around and secure alternative accommodation in the San Jose/Olivia Road matter, no workshops were held during the period of reporting.

**Source: CALS**

## 12.2 CSA

### Project Performance Report

#### Part 1: Project Description and Structure

*e. Project title: Tswelopele: Promoting Access to HIV/AIDS-related Human Rights in Hammanskraal Communities*

*f. Implementing institution and brief history*

The Centre for the Study of AIDS (CSA) is the executing partner. CSA at the University of Pretoria was established in 1999. The CSA is responsible firstly to ensure that the University as a whole is able to plan for, and cope with, the impact that HIV/AIDS will have on the institution and the tertiary education sector; secondly, to raise issues, critique and debate critical areas of HIV and AIDS; and thirdly to initiate research, policy and programme development on prevention and care regarding HIV and AIDS. The CSA, in collaboration with the Centre for Human Rights of the same institution, have established the AIDS and Human Rights Research Unit at the University of Pretoria. The Unit is engaging in research related to the stigma, discrimination and human rights and HIV/AIDS. The aim is to influence the future of the region through critical examination of current responses, policy and legislation as well as through the development of new ways of thinking about HIV/AIDS and human rights.

CSA receives grants from the NCHR since 2005 for the inception phase of the Tswelopele project. The Tswelopele project examined HIV/AIDS and Human Rights in the Hammanskraal and Temba areas of Tshwane Municipality.

*g. Project Budget and Financial History*

CSA	2005	2006	2007	2008	Estimated 2009	Total
Grant amount ZAR	812,075	1,566,200	920,700	1,309,000	1,380,500	5,988,475
Project expenditures NOK	812,000	852,481	421,347	1,410,064	919,800	4,415,692

Sources: CSA Funding proposal 2005-2008, 2007 (2008- 2009); NCHR's Total Budget Submitted from SA Programme 2007-2009 (draft November 2008)

*h. Project Objectives and Results*

**(i) Project objectives**

*The Tswelopele 1-3:*

There are four components of the proposed project to meet the goal, which arise from the recommendations from Tswelopele I, and also from ongoing communication and feedback from the community on their needs. These objectives are:

**Objective 1:** To build capacity in Hammanskraal communities to recognise HIV/AIDS-related human rights violations and to refer appropriately.

**Objective 2:** To intervene where HIV/AIDS-related human rights violations occur.

**Objective 3:** To conduct research which supports a greater understanding of HIV/AIDS-related human rights violations and issues.

**Objective 4:** To evaluate the project process and the impact of the activities in Hammanskraal communities.

#### *The Tswelopele 4*

Project continues to assist by providing access to justice for people who are living in poverty, especially PLHA. In addition, it will empower communities to be able to recognise and claim their rights from duty-holders, including the police, health care workers and Chapter 9 institutions, and to understand and address HIV-related stigma.

**Objective 1:** To build capacity in communities to recognise HIV/AIDS-related human rights violations and to refer appropriately.

**Objective 2:** To intervene where HIV/AIDS-related human rights violations occur.

**Objective 3:** To strengthen various state and non-state institutions on HIV related human rights violations.

**Objective 4:** To strengthen human rights networks between community members, the state and civil society organisations.

### **(ii) Expected Results**

#### *Tswelopele 4:*

The project will result in increased legal capital and access to justice in Hammanskraal specifically through:

- Increased capacity of Hammanskraal communities to recognise human rights violations and make appropriate referrals to seek redress
- Interventions made when human rights violations occur, through the work of the PLACE
- Increased capacity of state and non-state stakeholders on the HIV related human rights violations
- Increased number of regional initiatives on HIV and human rights
- Increased number of human rights networks established
- Increased capacity to understand and mitigate HIV-related stigma

### **(iii) Results Framework/matrix if any**

CSA has developed a results matrix to monitor project. Please see Table "Project Performance Framework" at the end.

### **(iv) Project Outputs to date.**

Please see Table "Project Performance Framework" at the end.

#### *i. Intended beneficiaries and geographical coverage*

The primary target groups of Tswelopele II are:

- PLHAs in Hammanskraal and Temba
- ASOs and other community-based organisations
- Community members
- Policy and decision makers
- Police, health workers and other government department employees

The secondary target groups of Tswelopele II are:

- Programme planners
- Academics and researchers
- Higher level policy makers e.g. provincial and national governments
- The legal fraternity
- Funders

The primary target groups of **Tswelopele 4** are:

PLHA in Hammanskraal and Temba; ASOs and other community-based organisations; community members; policy and decision makers; police, health workers and other government department employees; refugees; employees of Chapter 9 institutions; and magistrates and other legal officers. The secondary target groups of Tswelopele 4 are: programme planners; academics and researchers; higher level policy makers e.g. provincial and national governments; donors; and the legal fraternity.

Approximately 200 people will benefit directly from training that is being provided on HIV and human rights. Further, it is estimated that approximately 300 people will benefit directly at the PLACE through individual legal assistance, advice or referrals that will be provided. The door-to-door campaigns will benefit 150 people directly and 750 indirectly, as those who were contacted share information and resources with friends and family. Approximately five door-to-door campaigns will be held each year. There are eight (8) existing paralegals that currently benefit from ongoing programme activities and capacity building. There are presently eleven (11) Advocacy Team members that currently benefit from activities and capacity building. Thus, it is anticipated that thousands of people will benefit indirectly as the provision of legal services, referrals and training will cascade down to families and friends as people become aware of their rights and share the information with others. Several others will benefit indirectly through the high levels of legal capital that is created and maintained.

## 2: Project Performance

### *a. Quality of Project Design:*

CSA developed Tswelopele I project with a community participatory approach. Community consultation through focus group discussions and feedback sessions were carried out. The subsequent phases of Tswelopele were based on meeting held in Hammanskraal to discuss the way forward. Project proposals incorporate Hammanskraal's community views and needs. In the planning process CSA built in mechanisms for ensuring community ownership of the project. This process of consultation led to effective project targeting and alignment of activities with community priorities.

At design, the project identified HIV stigma and the geographical spread of the community as risk factors to appropriately reaching out target groups, which could result in an under-utilisation of the PLACE. This risk was mitigated through project activity: strengthen its stigma work and through a 'going to the community' approach through training, door-to-door campaigns and placement of paralegal(s) at organisations in the community. Potential litigation was also another identified risk as it could lead to possibility of coming into direct conflict with the Government. CSA foresaw mitigating this risk by linking up, if the need arise, with other like-minded organisations to spread the risk.

CSA also planned to continue utilizing and building upon its works with a wide network of non-profit and governmental organizations. The project has a realistic understanding about the challenges of overcoming HIV stigma and has planned to tackle this issue with a long-term perspective. It has incorporated the risk for its beneficiaries in their work in this area.

- **Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).**

Tswelopele is a well designed project. The sequencing of the project activities are well informed by the inputs of the community it serves and based on built capacities from one phase to the next. Expected results and outcomes are realistic and well aligned with objectives, planned activities and outputs. Tswelopele 4 could have been strengthened by incorporating in this phase research-based information about how communities in other countries have addressed HIV stigma and bring in this information to discuss with the PLACE and Hammanskraal community.

- **Assessment of the M&E system, if any (operationality, whether baseline exists, to what extent project reporting is using the M&E system).**

CSA developed in 2008 a matrix to monitor Tswelopele's achievements. The matrix is a simple and effective monitoring system.

- **Assessment of project planning to support "Consolidation of the democratic transition".**

CSA has incorporated democratic principles in its planning and implementation processes in developing Tswelopele by using community consultation methodology in planning and by integrating community views and needs into project design. The project itself is a

contribution to consolidation of the democratic transition as it brings access to services and justice to poor communities and disadvantaged groups.

- **Assessment of project planning to mainstreaming gender.**

In the 2007 proposal, CSA stated that the project would provide assistance on various gender related issues, and training has already been undertaken on gender based violence, domestic violence etc. In addition, Tswelopele has engaged relatively more women than men. The current paralegals and advocacy team are relatively balanced in terms of gender. Further training of paralegals and advocacy team members will ensure that this is taken into account. Personal consultations with project personnel showed that gender issues are addressed by CSA but not consistently in neither Tswelopele or in the activities of the PLACE.

***b. Project Relevance***

CSA use of various methods to address the issue of HIV/AIDS is highly relevant - Training to various stakeholder groups (e.g. paralegals, government, community organizations) provision of paralegal services, material development and dissemination and networking at community and organizational levels. Additionally, CSA network and partnerships in the area are wide so they also support policy development and monitoring activities at national and regional levels.

- **The extent to which the project is aligned with the Programme Objectives?**

The Tswelopele project supports NCHR objectives in health, access to justice and services.

- **The extent to which local context has been taken into consideration?**

Please see Quality of Project Design above.

***c. Efficiency***

Integration of the project into the community has proved cost-effective as spill over effects of project activities to other communities and organizations servicing the community (e.g. churches). CSA has to various degrees of success been integrating HIV/AIDS into the University of Pretoria through providing lectures in the University and to CHR course program and through providing inputs into research. CSA also provides counselling services at the university campus. CSA works with UNDP providing training to develop instruments and reviews for parliament in South Africa and other countries.

***d. Effectiveness***

Evaluations of the Tswelopele project (2006, 2008) asserts to the effectiveness of the project in meeting objectives. The major challenge for Tswelopele is finding an effective approach to tackle HIV stigma, an approach that would probably need to deploy from the vast network with which CSA is partnering, including bringing in international inputs. More resources and time dedication to this by CSA could advance the effort.

CSA could also become more effective in providing its partner with an approach to mainstreaming HIV/AIDS in the work of their own organization and advocate for this.



In 2006, a mini-evaluation of Tswelopele 2 was carried out and submitted to NCHR. Tswelopele 2 was found to be: running smoothly; engaged in various important activities; involved in networks; of benefit to a number of people with legal assistance or referrals and training. In addition, Tswelopele 2 was well received at the International AIDS Conference in Toronto and several people requested further information about the project.

Tswelopele 3 was the subject of a major mid-term. The evaluation found that Tswelopele 3 was meeting its objectives and had been instrumental in:

- Decreasing the incidence of human rights abuses and violations in the community
- Forming networks between organisations and at community level
- Reducing HIV-stigma at community level
- Reducing the tolerance and acceptance of human rights abuses and violations at community level.

▪ **NCHR Assessment**

From 2008 NCHR Annual Report: The Tswelopele 4 Project continued to assist by providing access to justice for people who are living in poverty, including people living with hiv/aids. In addition, it sought to empower communities to be able to recognise and claim their rights from duty-holders, including the police, health care workers and Chapter 9 institutions, and to understand and address HIV-related stigma. The Tswelopele 4 Project provided concrete and ongoing services comprised of training and one-on-one legal assistance and advice. In addition, the project worked with broader networks to address issues related to access to justice for people living with HIV/AIDS and addressing HIV-related stigma. The project was evaluated in 2007, and the evaluation concluded that the project was well conceived and integrated into the community. The main limitation of this project is that it focuses so specifically on one particular community, which means that the impact of the project is limited outside of this area. CSA is however able to use the experiences from the “hands-on” work in Hammanskraal in its more general outreach and advocacy work.

*e. Achieved, Expected Outcomes*

The project has built confidence and fostered capacities in the community to claim and access their human rights. It has also contributed to strengthen the sense of self reliability and communal achievements and coping mechanisms in Hammanskraal. However, the contribution of the project in significantly reduce social stigma has been modest.

According to Tswelopele 3 evaluation (2008) the project has been instrumental in:

- Decreasing the incidence of human rights abuses and violations in the community it service, evidenced in the outcomes of case work and referrals;
- Forming networks between organisations and at community level;
- Reducing HIV-stigma at community level;
- Reducing the tolerance and acceptance of human rights abuses and violations at community level.

*f. Sustainability of Results*

- **Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.**

The communities serviced by the Tswelopele seem to have taken great ownership of the project, greatly enhancing the sustainability of outputs and outcomes. Continued training

and networking activities support the increased demand for human rights in these communities.

- **With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.**

CSA is taking measures to improve the organizational sustainability of Tswelopele, but the project remains vulnerable to external funding. NCHR is the only source at present where funding is being sought. According to CSA report to NCHR, joint activities with other organisations involve joint funding, such as activities undertaken with the local municipality. It is hoped that the project will be taken over by the Government, Legal Aid Board and/or Department of Justice as part of their ongoing work on access to justice. The networking activities, especially with other NGOs, will ensure that the focus on legal assistance continues. As the people trained are from community based organisations, it is anticipated that they will be in a position to continue to provide legal referrals and assistance even after the project has ended. The management of Tswelopele also recognises the need to involve private businesses and other stakeholders in the project. There will be a concerted effort in Tswelopele 4 to involve business and other donors to ensure that the project continues. There is clearly also scope for a regional programme and it is proposed that this be undertaken with CSA as the lead organisation with community based organisations in Tanzania, Namibia and Malawi. The CSA can assist with the replication of the project in those countries, taking into account the local and legal frameworks.

*g. Consequences of NCHR management at project level.*

**What has been the relevance and effectiveness of NCHR as a Programme Manager/funding channel for the project (identification, project development, coordination function, monitoring of projects)?**

Peris Jones, the first researcher of NCHR South African Programme, made significant contribution to Tswelopele and CSA as his research was in the same field as that of the organization. His contribution ranged from community consultations during project development to research contribution.

*h. Compliance/Contribution to Cross-cutting themes:*

Theme	Assessment
Engagement with a range of methods	Various methodologies utilized to achieve results: materials development and dissemination; research through focus groups; training workshops; engaging in community dialogues; information sharing; networking, referrals to litigation, and advocacy.
Gender mainstreaming	Gender issues are addressed by CSA but not consistently across the activities of CSA and Tswelopele.
HIV/AIDS	The project focuses on promoting access to HIV/AIDS-related human rights. CSA has a systematic approach to address HIV/AIDS within the organization; but, as a reference centers on HIV/AIDS, it should advocate the integration of this approach to partner organizations.

**Part 3: Performance Assessment**

**Ratings:** **A:** Highly Satisfactory; **B:** Satisfactory; **C:** Not fully satisfactory; **D:** Unsatisfactory; **X:** Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	A	CSA use of various methods to address the issue of HIV/AIDS is highly relevant. Additionally, CSA network and partnerships in the area are wide so they also support policy development and monitoring activities at national and regional levels.
Efficiency	A	Integration of the project into the community has proved cost-effective as it spill over effect of project activities to other communities and organizations servicing the community.
Effectiveness	B	Evaluations of the Tswelopele project (2006 & 2008) assert the effectiveness of the projects in meeting objectives.
Outcome	B	The project has contributed to reducing the incidence of human rights abuses and violations in the communities it service. The project has also built confidence and fostered capacities in the community to claim and access their human rights. It has also contributed to strengthen the sense of self reliability and communal achievements and coping mechanisms in Hammanskraal. However, the contribution of the project in significantly reduce social stigma has been modest
Sustainability of outputs/outcomes	A	The communities serviced by the Tswelopele seem to have taken great ownership of the project, greatly enhancing the sustainability of outputs and outcomes. Continued training and networking activities support the increased demand for HR in these communities. Moreover, CSA has built a partnership with the communities it services, exchanging knowledge.
Sustainability of organization	B	CSA is a strong and well recognized organization and is taking measures to improve the organizational sustainability of Tswelopele, but the project remains vulnerable to external funding.
Compliance with cross-cutting themes	B	CSA has a systematic approach to address HIV/AIDS within the organization. Gender issues are addressed by CSA but not consistently in neither Tswelopele or in the activities of the PLACE.

**Table CSA: Project Performance Framework (monitoring matrix produced by CSA, not the review team's)**

Indicators by which the objectives/aims are fulfilled

*Objective 1: To build capacity in communities to recognise HIV/AIDS-related human rights violations and to refer appropriately.*

Proposed Activities (as per original proposal)	Indicators to measure progress	Achieved in 2008
<p>Provide ongoing and general training to community members and groups to understand HIV/AIDS as a human rights issue, and to be able to identify human rights violations when they occur</p> <p>9 workshops were planned for 2008</p>	<ul style="list-style-type: none"> <li>• Number of workshops held and number of people in attendance</li> </ul>	<ul style="list-style-type: none"> <li>• 11 workshops were held with:                             <ul style="list-style-type: none"> <li>- Community health workers from various ASO's and NGO's (24-28 March)</li> <li>- Community health workers from various ASO's and NGO's (15-18 April)</li> <li>- Traditional Leaders (23-27 June)</li> <li>- Community development workers Brits Municipality (8-11 July)</li> <li>- Community health workers from various ASO's and NGO's (19-22 August)</li> <li>- Religious leaders (7-10 October)</li> <li>- Community health workers from various ASO's and NGO's (12-15 October)</li> <li>- SATAWU (21-24 October)</li> <li>- Jubilee Hospital health care professionals and shop stewards (28-31 October)</li> <li>- The security sector (11-14 November)</li> <li>- Various civil society organisations (20-24 November)</li> </ul> </li> <li>• General evaluation of workshops was positive</li> <li>• KAP was not used</li> </ul>

	<ul style="list-style-type: none"> <li>• Shift in knowledge and attitudes (Measured through simple KAP questionnaire)</li> <li>• Follow up interviews with sample group</li> <li>• Number of referrals made to appropriate human rights institutions (e.g. South African Human Rights Commission, Equality Court)</li> <li>• Increase in number of referrals to the PLACE</li> </ul>	<ul style="list-style-type: none"> <li>• By close of office in December 2008, 175 referrals had been made, the majority related to labour matters (to the CCMA and DoL)</li> <li>• Increased referrals have been made to the PLACE as people come forward during and after workshops to share experiences</li> <li>• The Tswelopele volunteers also engaged in referrals to the PLACE when they did wellness clinic visits on Mondays to Thursdays at the 4 Wellness Clinics in the Temba and Moretele area that the project worked with in 2008.</li> <li>• Referrals were also made during the 3 door to door campaigns that were held in 2008</li> </ul>
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<ul style="list-style-type: none"> <li>• Review and adapt training materials for particular target groups (e.g. health care workers)</li> </ul>	<ul style="list-style-type: none"> <li>• Customisation of training materials</li> <li>• Customised workshop outlines/workshops depending on target audience</li> </ul>	<ul style="list-style-type: none"> <li>• All training material was reviewed before any workshop</li> <li>• Materials were customised for training with health care workers</li> <li>• Materials were customised for training with SATAWU and the Security Sector</li> <li>• The use of local language during workshops has been very positive and the levels of interaction have increased during the workshops</li> </ul>
<p>Develop legal, awareness raising and promotional materials on HIV/AIDS and human rights</p>		<ul style="list-style-type: none"> <li>• Pamphlets on the services of the PLACE and other promotional material were distributed throughout the year to various organisations</li> </ul>
<p>Capacitate existing community structures such as the ASO's coalition on HIV/AIDS and human rights issues</p> <p>Empower ASO representatives to recognise human rights violations and to provide referrals to the PLACE and to other institutions, as appropriate</p>		<ul style="list-style-type: none"> <li>• Tswelopele volunteers presented the services of the PLACE as well as the basics of HIV and human rights to 16 different ASO's and NGO's working on HIV and other health issues in and around Temba and Moretele</li> <li>• The majority of the 4 day HIV and human rights workshops facilitated by the PLACE were with ASO's and NGO's (see above)</li> </ul>

<p>Continue to strengthen through training and support, the PLHA advocacy group located at the Wellness Clinics at Jubilee and Mathibestad Clinics</p>		<ul style="list-style-type: none"> <li>• Tswelopele volunteers facilitated several support groups at the 4 wellness clinics the project works with</li> </ul>
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*Objective 2: To intervene where HIV/AIDS-related human rights violations occur.*

<b>Proposed Activities (as per original proposal)</b>	<b>Indicators to measure progress</b>	<b>Achieved in 2008</b>
<p>Continued functioning of the PLACE in Hammanskraal to provide legal assistance, referrals and training for community members</p>	<ul style="list-style-type: none"> <li>• Proper office (e.g. adequate equipment) established that is accessible and open to the public</li> <li>• Client satisfaction levels (measured e.g.</li> </ul>	<ul style="list-style-type: none"> <li>• The PLACE is fully established and functional, with 3 offices for private consultations and 3 paralegals as well as an extra room used as a kitchen, waiting room and meeting room. There is adequate equipment, i.e. computers, filing cabinets, other office furniture, telephones, etc necessary for the effective functioning of the office</li> <li>• Despite being available, clients have not used the suggestion box or filled out client satisfaction forms, however, many clients particularly those whose cases are resolved often express verbal satisfaction with the services of the PLACE</li> </ul>

	<p>though use of suggestion box and client satisfaction survey)</p> <ul style="list-style-type: none"> <li>• Use of suggestion box by staff, volunteers and clients</li>   <li>• Where appropriate, legal advice offered at community organisations (i.e. to allow for accessibility for those who are unable to come to PLACE offices)</li> </ul>	<ul style="list-style-type: none"> <li>• Staff and volunteers rarely use the suggestion box, however they do use other avenues like staff meetings to air suggestions and complaints</li>   <li>• Tswelopele volunteers visit different community organisations 2 Friday's a month and volunteers who are trained as community paralegals offer legal advice where they can or else they refer matters to the PLACE or other appropriate places. Volunteers also assist with referring clients at wellness clinics directly to the relevant organisations that can help them if a matter does not need to be referred to the PLACE</li>   <li>• PLACE policies and procedures are in place regarding confidentiality and storage of files, referrals, file index</li>   <li>• Code of conduct and commitment is signed yearly by paralegals and volunteers</li>   <li>• Paralegals submit monthly reports outlining activities and referrals made, cases opened and closed as well as summary of progress of cases</li> </ul>
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	<ul style="list-style-type: none"> <li>• Policies and proper systems in place e.g. confidentiality maintained, security in place, consent forms, proper file management</li>   <li>• Monthly report from paralegals, outlining activities and referrals made</li> <li>• Quarterly summary of cases</li>   <li>• Number of team building workshops held with volunteers, paralegals and management</li> <li>• Number of feedback meetings held with volunteers, paralegals and management</li> </ul>	<ul style="list-style-type: none"> <li>• One team building exercise was arranged for all working with the Project in 2008</li> <li>• Bi-monthly staff meetings and monthly meetings with volunteers were held</li> </ul>
<p>Skills development for paralegals and other appropriate capacity building</p>	<ul style="list-style-type: none"> <li>• Increase in skills through training</li> <li>• Better use of supervision opportunities (e.g. hours with labour law consultant, hours with law clinic)</li> <li>• Better handling of cases (e.g. follow up with clients, use of diaries, better record and document keeping)</li> <li>• Better referrals made (e.g. to appropriate institutions)</li> <li>• Number of training opportunities identified and undertaken</li> <li>• Opportunities for continuing education (e.g. through</li> </ul>	<ul style="list-style-type: none"> <li>• Tswelopele volunteers and PLACE staff were trained in the following areas:</li> </ul> <p><b>-Social Grants</b></p> <p>The refresher workshop was facilitated by PLACE staff on 11 May and at this workshop it was realised that a comprehensive</p>

	<p>participation in seminars, conferences etc.)</p>	<p>workshop on social grants was needed, this was arranged and was facilitated by South African Social Security Agency (SASSA) Moretele District on 10 April</p> <p><b>- Basic Labour Law</b></p> <p>The refresher workshop was facilitated by the Labour Consultant on 23-25 April</p> <p><b>-Basic Counselling Skills</b></p> <p>This workshop was facilitated by a staff member working on the CSA Befrienders Programme. It was a 10 day course held in three parts as follows:</p> <p>Part 1- 19-20 May</p> <p>Part 2- 23-26 June</p> <p>Part 3- 29 August -01 September</p> <p><b>- Treatment Literacy and Advocacy</b> This workshop was facilitated by Treatment Action Campaign on 26- 28 May</p> <ul style="list-style-type: none"> <li>• The following training was attended only by office based paralegal staff</li> </ul> <p>-16 February 2008; Legal Cluster workshop on workers compensation facilitated by the Legal Resources Centre</p> <p>- 29 March 2008; Legal Cluster Workshop on housing issues which was facilitated by the Municipality of Tshwane</p>
<p>Handling of cases by paralegals with proper</p>	<ul style="list-style-type: none"> <li>• Proper opening and maintaining of files</li> <li>• Proper systems in place and being followed</li> </ul>	<ul style="list-style-type: none"> <li>• Proper storage system in place for files</li> <li>• A monthly progress report of activities on case files is</li> </ul>

<p>support</p>	<ul style="list-style-type: none"> <li>• Proper storage of files</li>   <li>• Number of cases resolved, referred out, and closed</li> </ul>	<p>submitted</p> <ul style="list-style-type: none"> <li>• File index book and referral book in place</li> <li>• Paralegal referral report submitted on monthly basis</li>   <li>• As of December 2008, 175 referrals were made mainly related to: grants, unfair dismissal to DoL, CCMA, Home Affairs, Legal Aid Board, Social Development</li> <li>• As of 30 November 2008, 327 new cases were opened for the year 2008 alone bringing to a total of 635 the number of cases seen at the PLACE since it opened</li> <li>• 80 cases were finalised in 2008</li> <li>• Case supervision by project manager and labour law specialist were done on a weekly and bi-monthly basis respectively and supervision by the law clinic bi-monthly</li> <li>• Law clinic staff represent PLACE clients at the CCMA as per agreement</li> </ul>
<p>Review of cases and trends emerging in the community</p>	<ul style="list-style-type: none"> <li>• Quarterly summary of themes and cases</li>   <li>• Identification of and referral to other researchers the themes emerging</li> </ul>	<ul style="list-style-type: none"> <li>• Monthly opened cases report highlights types of cases being opened. The majority of cases continue to be labour related</li>   <li>• A formal referral and supervision system is in place between the PLACE and the law clinic</li> <li>• Standardised referral letters have been developed for Department of Social Development (for grants issues), DoL and CCMA (for labour issues)</li>   <li>• 3 interesting cases related to human rights and HIV emerged during the year, assistance and opinion of the</li> </ul>

	<ul style="list-style-type: none"> <li>• Identification of possible test cases and obtaining of legal opinions on whether to proceed with test cases</li> </ul>	<p>AIDS and Human Rights Research Unit (AHRRU) and the law clinic was sought on how to proceed. The law clinic is assisting with a civil claim for one of the cases continuing from last year, while it was decided not to proceed with the other 2 matters for several reasons</p>
Referral of cases	<ul style="list-style-type: none"> <li>• Referral to law clinics and/or attorneys and advocates, as appropriate</li> <li>• Number of cases identified for possible test case litigation</li> <li>• Legal opinions received</li> <li>• Successful resolution of cases through mediation, letters, etc</li> </ul>	<ul style="list-style-type: none"> <li>• Formal referral system in place between PLACE and law clinic</li> <li>• 3 cases identified for possible test case litigation <del>80 cases were closed during 2008</del></li> </ul>

*Objective 3: To strengthen various state and non-state institutions on HIV- related human rights violations.*

Proposed Activities (as per original proposal)	Indicators to measure progress	Achieved in 2008
Training with other governmental and non-governmental organisations/institutions	<ul style="list-style-type: none"> <li>• Number of trainings held</li> <li>• Types of organisations/people trained (e.g. refugees, magistrates, court officials, etc.)</li> <li>• Shift in knowledge and attitudes (measured through simple KAP questionnaire)</li> </ul>	<ul style="list-style-type: none"> <li>• Training on HIV and human rights for several organisations including NGO's and ASO's as indicated under objective 1 above</li> <li>• Co-facilitation of training organised by the Department of Education and Media in Trust (MIT)</li> <li>• Project manager co-facilitated six workshops for the Gauteng Provincial Department of Health in collaboration with the Siyam'kela Project of the CSA</li> </ul>

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*Objective 4: To strengthen human rights networks between community members, the state and civil society organisations.*

Proposed Activities (as per original proposal)	Indicators to measure progress	Achieved in 2008
Networking in the community to ensure the people are aware of the PLACE	<ul style="list-style-type: none"> <li>• Number of referrals to the PLACE</li> <li>• Increased visibility of the PLACE</li> <li>• Number of telephone calls / queries to the PLACE</li> <li>• Local media coverage of PLACE's work</li> </ul>	<ul style="list-style-type: none"> <li>• Relationships with the local DoH, local DoL, Home Affairs, SASSA wellness clinics, police and magistrates</li> <li>• Regular ongoing community radio presentations on various issues related to HIV and human rights and the services of the PLACE at least once a month</li> <li>• 3 door to door campaigns held to make people aware about the services of the PLACE</li> </ul>

*Objective 5: To take "lessons" learned to the region*

Proposed Activities (as per original proposal)	Indicators to measure progress	Achieved in 2007
Training on HIV and human rights	<ul style="list-style-type: none"> <li>• Number of trainings held</li> <li>• Types of organisations/people trained (e.g. refugees)</li> <li>• Shift in knowledge and attitudes (measured through simple KAP questionnaire)</li> </ul>	<ul style="list-style-type: none"> <li>• 4 training workshops held with refugees (Mozambique, Malawi, Sierra Leone and Durban) funded partly from the Tswelopele Project</li> </ul>
Collaborative projects/initiatives set up with regional stakeholders	<ul style="list-style-type: none"> <li>• Agreement on joint research initiatives</li> <li>• Number of meetings and workshops held</li> <li>• Training materials disseminated and exchanged</li> </ul>	<ul style="list-style-type: none"> <li>• Ongoing interaction with the Regional Programme of the United Nations High Commissioner for Refugees</li> <li>• <u>Pierre Brouard</u> was one of 3 guest editors of a book on the human rights issues in palliative care <a href="#">in SA</a></li> </ul>

Source: CSA

## 12.3 CHR

### Project Performance Report

#### Part 1: Project Description and Structure

*a. Project title: Socio-Economic Rights course and Human Rights and Development course.*

*b. Implementing institution and brief history*

The Centre for Human Rights (CHR) is the executing agency for the project. CHR was established in 1986 and is one of the most active human rights institutions in Africa. The Centre is part of the Faculty of Law of the University of Pretoria. The project falls within CHR's good governance programme, which focus on human rights in Africa, socio-economic rights, HIV/AIDS and gender issues. The Good Governance Programme (GGP) was established in 2000 and offered three courses in that particular year. The Programme now offers a general course on Good Governance in July, and eleven other specialised courses alternating each year. The NCHR grant finances the participation of participants in the Socio-Economic Rights Course and Human Rights and Development course who otherwise will not be able to attend the GGP courses. The project also received financial support from the Netherlands.

*c. Project Budget and Financial History*

CHR	2005	2006	2007	2008	2009	Total
Grant amount ZAR	392,224	471,028	892,100	892,100	892,100	3,539,552
Project expenditures NOK	785,000	504,000	583,239	496,124	507,350	2,875,713

Sources: CHR Funding proposal 2007 (2008- 2009); NCHR Total Budget submitted from SA Programme (2007 – 2009)

*d. Project Objectives and Results*

#### **(i) Project objectives**

The CHR aims to make significant contributions to the development of human capacity and the implementation of the principles of good governance in Southern Africa and Africa. It is further anticipated that the GGP will create a network of key officials representative of both the public and private sector to foster a culture of human rights, good governance and respect for the rule of law across Africa. The NCHR funding provide partial financial support for participants who otherwise will not be able to attend.

#### **(ii) Expected Results**

We anticipate that the GGP courses will:

- Create much needed capacity within the region enabling people to deal with contemporary concerns;
- Create a regional network to foster *inter alia* information exchange;
- Foster a culture of good governance and a respect for human rights and the rule of law;

- Train trainers at both government and NGO level to train others.

**(iii) Results Framework/matrix if any**

None

**(v) Project Outputs to date.**

Please see Table “Project Performance Framework” at the end of this report.

*e. Intended beneficiaries and geographical coverage*

Courses are aimed primarily at middle and senior level government officials, members and managers of non-governmental organisations, and academics from southern Africa and the continent. Other interested parties will also be considered for admission. Admission is on a competitive basis and the admission criteria will include working experience, academic qualifications, and the levels of commitment and professionalism displayed through past experience. In respect of South African candidates special consideration will be given to the advancement of potential applicants from previously disadvantaged groups.

During 2005 - 2008, close to 1200 participants attended courses presented by the GGP. Although participants were mainly from Africa a number of participants were representative of Europe and the USA.

## **2: Project Performance**

### ***a. Quality of Project Design:***

The project has a clear aim to develop human capacity and the implementation of the principles of good governance in Southern Africa and Africa as a continent. The approach is also clear, provision of coursework and an opportunity for network creation. The project target is middle and senior level government officials, members and managers of non-governmental organisations, and academics from southern Africa and the continent.

The rationale for CHR selection of the target group is that training on the topics that they offer are not sufficiently covered at University level. Human Rights as a subject at University level is a new development. The reason for the participants being employed and having university degree's are that CHR sees the GGP as continuing education. The CHR informs participants of new developments in international, national law and case law or instruments. The participants who have law degrees will in certain instances will be exposed for the first time to the topics at our courses. Senior NGO managers and government officials will be able to return and influence decisions. Lecturers will be equipped to teach on the topics and make sure that students are aware of new developments and ways to make a difference. When they attend the courses they take the knowledge into the working place.

CHR does not yet have criteria for selecting courses participants, but the organization is now developing selection criteria based on its objectives and on data analysis of the past profile of its participants. CHR states that Participants who attend come from very poor countries such as Benin, Burundi, Botswana Cameroon, Chad, Cote d'Ivoire, DRC, Eritrea, Ethiopia, Kenya, Lesotho, Malawi, Namibia, Nigeria, Tanzania, Swaziland, Uganda, Zimbabwe, Zambia. Furthermore, the organisations that employ the participants work do not prioritise human rights training and they do not have the money for skills development. The participants have to obtain money to pay for travel to SA and in SA as well as dinners. That alone can amount to R10 000. If one adds a realistic price for attendance of a course it can be around R16000.

Universities across the continent can increment continental capacities for the implementation of good governance, but a program that trains in average 300 professionals per year can not, unless these 300 persons (average of 50 with NCHR funding) are carefully targeted, in which case a contribution can be made.

- **Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).**

The objective of the program is well linked with the activities CHR develops, including curriculum and publications, but results expected are too wide for the scale of activity (number of courses and participants per year). CHR needs to generate a greater understanding of the gaps the organization wants and is able to address and especially the target group/s that can effectively increase the sustainable impacts of their work.

- **Assessment of the M&E system, if any (operationality, whether baseline exists, to what extent project reporting is using the M&E system).**



CHR has been collecting but has not used information about course participant's profile. However, the organization has recently moved towards such monitoring, what will enable better targeting, among other things. The organization has an evaluation approach to the program (questionnaire completed by the participants before and after the course, and for a third time a few months after attending the course). CHR does use the information collected from the questionnaires to guide content of coursework and select subjects; they include and change programmes according to the comments made by the participants. According to CHR, they have limited resources and to monitor the outcome on a continuous basis will be impossible as there is insufficient capacity or funding to do that.

- **Assessment of project planning to support "Consolidation of the democratic transition".**

The project aims at contributing to improving the implementation of the principles of good governance in South Africa and at the continental level, which is an important input towards the consolidation of democracy.

- **Assessment of project planning to mainstreaming gender.**

CHR courses examine the latest developments with regard to gender equality and consider the implications thereof for the women of Africa. CHR states that when admitting participants it endeavours to include women to ensure a 50/50 attendance as far as possible. Although there were no systematic mechanism to ensure that (e.g. gender as a criteria for scholarship selection, announcements clearly stating a gender preference in admission), CHR states that "gender equality in all programmes is part of the CHR's vision and is seen as one of the most important task that we have". This can be feasible once CHR better define their target group and examine if gender is an important variable, and if so then developed a strategy for ensuring that information reaches out to the target group and that gender becomes a criteria for selecting participants. CHR has recently taken practical steps towards this.

#### ***b. Project Relevance***

The project focuses on building capacities in Africa in the field of Good Governance, which has an impact on human rights. It aims at building a continental network that promotes good governance and thus respect for human rights. However, CHR has not yet developed a strategy for ensuring that information reaches out to the target group (because this is not quite clear), and similarly, CHR has not yet established criteria for selecting participants. The project is moderately well plan, but courses provided are well regarded and in relevant areas for GG and human rights and organization firmly committed to implementation. Albeit not planned, NCHR funding also made some contribution to the Moot Court program, which has a larger beneficiary outreach.

- **The extent to which the project is aligned with the Programme Objectives?**

Good fit with NCHR Strategy, "Contribute to the respect, protection and promotion of Socio-Economic Rights.

- **The extent to which local context has been taken into consideration?**

The CHR program has a continental focus. While incrementing knowledge in good governance is a relevant goal, after years of program implementation, CHR should consider doing a needs assessment to inform decision whether to become a more focused program or remain wide in coverage. Their focus is on Africa and Human Rights that includes Socio-Economic Rights and Human Rights and Development.

### *c. Efficiency*

From the viewpoint that CHR is filling a gap, they are providing knowledge in a cost-effective manner – publications, courses, Moot Court. Compared to courses offered by other organisations, CHR is cheaper since it is a non-profit endeavour. The projects at the CHR is one in a kind and is not offered in the same way at any other institutions. They are fortunate to be part of the Faculty of Law and its wealth of knowledge.

### *d. Effectiveness*

CHR has been delivering on outputs and courses to cover target areas. Until recently CHR was not monitoring the profile of course participants in general and of scholarship recipients in particular to enable analyse if they are: (a) reaching the best target group to achieve their aims, (b) achieving the desired balance in providing scholarship to public officials and civil society staff, (b) if they are targeting right countries, (c) targeting at both middle and high management levels, and to ensure those getting scholarships are “rightly” positioned to use and/or spread knowledge/impact. Please also see Quality of Project Design above (Part Two, section a).

Data regarding course participants were provided to this review team (see tables below). This data shows that from 2003 to 2008, the number of participants has been fairly steady in the Development of Human Rights in Africa course, and increased in the Socio-Economic Rights course. The proportion of man and women participants has been balanced over time for both courses. During this period, most participants of the Development of Human Rights in Africa courses has been Government officials and NGO staff while student have by far made up the majority of the Socio-economic Rights courses, followed by Government officials.

CHR COURSE: DEVELOPMENT OF HUMAN RIGHTS IN AFRICA (2003-2008):

	2003	2004	2005	2006	2007	2008	Totals
Total Number of Students	34	28	26	38	33	28	187
Countries	15	13	14	17	15	13	
Women	15	13	15	20	20	13	96
Men	19	15	11	18	13	15	91
<b>OCCUPATION STATISTICS</b>							
Academic	1	4	3	1	1	0	10
Government	12	7	4	9	12	6	50
Legal Practitioner	0	1	1	3	3	2	10
NGO	8	7	3	15	9	13	55
Student	8	3	13	7	5	4	40

Source of data: CHR

## CHR COURSE: SOCIO-ECONOMIC RIGHTS (2003-2008):

	2003	2004	2005	2006	2007	2008	Totals
Total Number of Students	24	26		46	47	52	195
Countries	7	9		12	20	11	
Women	9	13		18	18	20	78
Men	15	13		28	29	32	117
<b>OCCUPATION STATISTICS</b>							
Academic	3	3		2	3	4	15
Government	12	10		5	7	7	41
Legal Practitioner	0	2		0	0	1	3
NGO	8	8		1	3	8	28
Student	1	3		36	32	32	104

Source of data: CHR

It is recommended that CHR increment its effort to increase the number of Government officials in the Socio-economic Rights courses. CHR could also consider making strategic planning to packaging the information to roll-out the program in strategically identified countries within the region. Fundraising could be jointly done by these countries and CHR.

The Moot Court has been effective in creating greater awareness and building capacities in HR in the continent. The coursework and Moot Court are complementary in building capacities regionally. The PULP publications are seemingly a good channel for information dissemination on a wide range of good governance and human rights topics.

#### ▪ NCHR Assessment

This project aims to create a network of key official representatives of both public and private sector to foster a culture of human rights, good governance and respect for the rule of law across Africa. With participants from many African countries who fill such key positions in their homeland it is our impression that the courses funded do indeed contribute to this goal. The Moot Court Competition is a unique project that provides aspiring young African lawyers the opportunity to formulate and present legal arguments on human rights issues. The Centre for Human Rights is a well recognized institution with a high academic level in the field of international human rights law. The centre has less of an “activist bent” than many of the other university institutions included in the programme, but they are uniquely qualified for offering the academic courses supported over the Programme.

#### *e. Achieved, Expected Outcomes*

Sufficient number of public officials, and especially from poor countries, needed to be sought out to promote the desired impact. The courses and the Moot Court combined have strengthened knowledge and network in Africa. In the 2008 report to NCHR, CHR wrote that “The courses created a basis for the promotion of socio-economic rights at all levels in the African region and promoted the mainstreaming of human rights in the development process” but offer no evidence to support this statement. According to CHR, the proof would be in the fact that the programme was offered and in the participant that attended the

course, by giving the correct knowledge to the right audience we do believe that the above was achieved. CHR, however, does not properly monitor outcomes of the courses.

*f. Sustainability of Results*

- **Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.**

It is likely but difficult to assess whether courses participants have been cascading the knowledge received through providing further training to other groups or whether public officials and NGO staff participants in the course have been applying knowledge in their work place. A sizable number of course participants are students and if they end up in the public sector or academia, they have the potential to generate an outreach of CHR programme.

- **With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.**

Courses and Moot competition have high possibility to be sustainable by organization, although external funds are needed to ensure that the projects will be offered) CHR is a strong and well resourced organization. Its reputation can attract funding. The GGP’s long-term objective is to offer courses that will be self sustainable. A number of participants are paying their own course fees and accommodation.

*g. Consequences of NCHR management at project level.*

- What has been the relevance and effectiveness of NCHR as a Programme Manager/funding channel for the project (identification, project development, coordination function, monitoring of projects)?

Flexibility in funding approach enabled better use of funding. Predictable, long-term funding enables focus on activities. Good relationship and interest from NCHR fund manager.

*h. Compliance/Contribution to Cross-cutting themes:*

Theme	Assessment
Engagement with a range of methods	The NCHR funding was to support short courses only, but the fund also supported the Moot Court and the PULP publication.
Gender mainstreaming	The courses do include topics on women and CHR ensures that lecturers do support the aims of the CHR. The organization is currently developing a strategy to address gender in its operations.
HIV/AIDS mainstreaming	Topics on HIV/AIDS or related to HIV/AIDS are part of course content.

### **Part 3: Performance Assessment**

**Ratings:** **A:** Highly Satisfactory; **B:** Satisfactory; **C:** Not fully satisfactory; **D:** Unsatisfactory; **X:** Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	B	The project focuses on building Human Resources capacities in Africa in the field of Good Governance, including Human Rights. It aims at building a continental network that promotes good governance and thus respect for HR. However, CHR needs to improve targeting.(1)
Efficiency	B	From the viewpoint that CHR is filling a gap, they are providing knowledge in a cost-effective manner. Compared to courses offered by other Law Universities, CHR is cheaper since it is a non-profit endeavour. (2)
Effectiveness	C	CHR has been delivering on outputs and courses do cover target areas, but should strengthen planning and targeting to improve effectiveness.(3)
Outcomes	B	Sufficient number of public officials, and especially from poor countries, needed to be sought out to promote the desired impact. The courses and the Moot Court combined have strengthened knowledge and network in Africa.
Sustainability of outputs/outcomes	C	It is likely but difficult to assess whether courses participants have been cascading the knowledge received through providing further training to other groups or whether public officials and NGO staff participants in the course have been applying knowledge in their work place. A sizable number of course participants are students and if they end up in the public sector or academia, they have the potential to generate an outreach of CHR programme.
Sustainability of organization	B	CHR is a strong and well regarded organization capable of attracting funding.
Compliance with cross-cutting themes	C	The courses do include topics on women and CHR ensures that lecturers do support the aims of the CHR. The organization is currently developing a strategy to address gender in its operations. Topics on HIV/AIDS or related to HIV/AIDS are part of course content.

(1) Comment from CHR: I do think that an A in this regard would be fair. We do target and get the right audience to attend our courses. We do reach a wide audience.

(2) Comment from CHR: The courses are not presented at other institutions. We offer courses in Africa with a special focus on the African region.

(3) Comment from CHR: The proof lies in the participants that do attend the courses. I don't think a C in this regard would be fair. Planning and targeting is what gets the participants at the courses.

**Table X: Project Performance Framework - Development and Human Rights**

<p><b>Goal:</b> Make significant contributions to the development of human capacity and the implementation of the principles of good governance in Southern Africa and Africa. It is further anticipated that the GGP will create a network of key officials representative of both the public and private sector to foster a culture of human rights, good governance and respect for the rule of law across Africa.</p>	<p><b>Indicators:</b></p>
<p><b>Project Objectives:</b> The project is aimed at securing partial financial support for participants who otherwise will not be able to attend the courses. Through the courses we hope to make significant contributions to the development of human capacity and the implementation of the principles of good governance in southern Africa.</p>	<p>Presenters and participants will assess the courses immediately after the course. The results will then be summarised for future reference. A short questionnaire will be completed by the participants before the start of the course and again after the course and for a third time a few months after attending the course. A report will then be compiled indicating the impact of the course.</p> <p><b>Status:</b> The courses created a basis for the promotion of socio-economic rights at all levels in the African region and promoted the mainstreaming of human rights in the development process. Facilitated the creation of a regional network of people <b>across Africa</b> and the sub-region who work in the same areas in order to encourage a coordinated approach when dealing with socio-economic rights and human rights and development issues. Raised awareness and generated informed debate and honed advocacy in order to take the fullest advantage of opportunities to promote socio-economic rights and to promote the mainstreaming of human rights in the development process. Made a significant contribution to the development of human capacity.</p>
<p><b>Activity 1: Course on Development and Human Rights</b> - Securing partial financial support for participants who otherwise were not able to attend</p>	<p><b>Indicator:</b></p>
<p><b>Planned Outputs 1:</b> 2008: 2007: Thirty-three participants were selected from senior law students, academics, government officials and lawyers based at non-governmental organisations to attend the course. The participants mainly represented the SADC region. A comprehensive list of all the participants is attached. 2006: Thirty-eight participants were selected from senior law students, academics, government officials and lawyers based at non-governmental organisations to attend the course. The participants mainly represented the SADC region. A comprehensive list of all the participants is attached.</p>	<p><b>Realized Output 1:</b> 2008: Approximately 33 participants representing a variety of institutions participated in the <b>2007</b> course. The intricate relationship between two traditionally opposing concepts, development and human rights is explored in this course. The course focused on the following issues:</p> <ul style="list-style-type: none"> <li>• Conceptions, concepts, ideologies regarding the International Law of Development;</li> <li>• Sources of International Law in the context of development;</li> <li>• Sustainable Development, Environmental Management and Human Rights;</li> <li>• UN Millenium Development Goals and Human Rights;</li> <li>• Human rights and development in Africa;</li> </ul>

	<ul style="list-style-type: none"> <li>• Good governance;</li> <li>• Women's rights and children's rights;</li> <li>• Trade;</li> <li>• International financial and monetary agencies;</li> <li>• Regional markets;</li> <li>• Right to health and development;</li> <li>• The private sector and corporate social responsibility; and</li> <li>• Foreign aid.</li> </ul> <p>2007: Thirty-three participants were selected from senior law students, academics, government officials and lawyers based at non-governmental organisations to attend the course. The participants mainly represented the SADC region. A comprehensive list of all the participants is attached.</p> <p>Approximately 38 participants representing a variety of institutions participated in the <b>2006</b> course. The intricate relationship between two traditionally opposing concepts, development and human rights is explored in this course.</p> <p>The course focused on the following issues:</p> <ul style="list-style-type: none"> <li>• Conceptions, concepts, ideologies regarding the International Law of Development;</li> <li>• Sources of International Law in the context of development;</li> <li>• UN Millenium Development Goals and Human Rights;</li> <li>• Human rights and development in Africa;</li> <li>• Good governance;</li> <li>• Women's rights and children's rights;</li> <li>• Trade;</li> <li>• International financial and monetary agencies;</li> <li>• Regional markets;</li> <li>• Right to health and development;</li> <li>• The private sector and corporate social responsibility;</li> <li>• Foreign aid; and</li> <li>• The environment.</li> </ul>
<p><b>Activity 2: Course on Socio-Economic Rights</b> - Securing partial financial support for participants who otherwise were not able to attend</p>	<p><b>Indicator:</b></p> <p><b>Status to date:</b></p>
<p><b>Planned Outputs 2: Courses in Social-economic Rights</b></p> <p>2008:</p> <p>2007: Forty seven participants were selected from senior law students, academics, government officials and lawyers based at non-governmental organisations to attend the course. The participants mainly represented the SADC region. A comprehensive list of all the participants is attached.</p>	<p><b>Realized Outputs 2:</b></p> <p>2008:</p> <p>Approximately 47 participants representing a variety of institutions participated in the <b>2007</b> course. The course placed the focus on the role of socio-economic rights in modern democratic states and the enforcement thereof. The course focused on the following issues:</p> <ul style="list-style-type: none"> <li>• Introduction to socio-economic rights;</li> <li>• The recognition of socio-economic rights at global, regional and national level;</li> </ul>

<p>2006: Forty six participants were selected from senior law students, academics, government officials and lawyers based at non-governmental organisations to attend the course. The participants mainly represented the SADC region. A comprehensive list of all the participants is attached.</p>	<ul style="list-style-type: none"> <li>• The scope and contents of specific rights;</li> <li>• State reporting obligations on socio-economic rights under international human rights law;</li> <li>• The role of the SA Human Rights Commission in monitoring and implementation of socio-economic rights; and</li> <li>• Litigating socio-economic rights.</li> </ul> <p>Approximately 46 participants representing a variety of institutions participated in the <b>2006</b> course. The course placed the focus on the role of socio-economic rights in modern democratic states and the enforcement thereof. The course focused on the following issues:</p> <ul style="list-style-type: none"> <li>• Introduction to socio-economic rights.</li> <li>• The recognition of socio-economic rights at global, regional and national level.</li> <li>• The scope and contents of specific rights.</li> <li>• State reporting obligations on socio-economic rights under international human rights law.</li> <li>• The role of the SA Human Rights Commission in monitoring and implementation of socio-economic rights.</li> <li>• Litigating socio-economic rights.</li> </ul>
<p><b>Activity 3:</b></p>	<p><b>Indicator:</b></p> <p><b>Status to date:</b></p>
<p><b>Planned Outputs 3:</b></p>	<p><b>Realized Outputs 3:</b></p>

Source: CHR and CHR Annual Reports to NCHR



## 12.4CLC

### Project Performance Report

#### Part 1: Project Description and Structure

*a. Project title: Socio-Economic Rights Project*

*b. Implementing institution and brief history*

Community Law Centre (CLC), is a privately funded research, advocacy and education institution attached to the law faculty of the University of the Western Cape. The University administers all the Centre's funds, and CLC is accountable to a Board of Trustees, a Management Committee and ultimately the University Council. The Centre has recently been granted observer status with the African Commission on Human and Peoples' Rights.

The Centre was established in 1990 with the aim of working towards realising the democratic values and human rights enshrined in the South Africa's Constitution.

The Centre's areas of focus are organised in four main projects:

- a. The *Socio-Economic Rights Project* focuses on the realisation of the socio-economic rights of groups and communities living in poverty.
- b. The *Gender Project* works towards the achievement of substantive gender equality and the realisation of women's human rights.
- c. The *Children's Rights Project* works towards the recognition and protection of children's rights in all spheres of society, with a particular focus on child justice.
- d. The *Local Government Project* assists local government to give effect to its constitutional mandate of promoting accountable and democratic governance and socio-economic development.

The Socio-Economic Rights Project, of which NCHR is a funder, was formed in 1997 with the following main objectives:

- To assist in the development of a normative framework for the effective implementation, monitoring and enforcement of socio-economic rights that is responsive to the South African context and realities.
- To advocate for policy and legislative reform in various areas pertaining to socio-economic rights, and lobby for the effective implementation of such legislation and policies.
- To develop accessible resource and educational materials on socio-economic rights.

Since 1997, the Project received grants from Norad (2005, through NCHR), the Foundation for Human Rights (EU), Atlantic Philanthropies. Core funding is sought from Ford Foundation for the Community Law Centre in general; and the Dutch Inter Church Organisation for Development Co-operation (ICCO) for the project on socio-economic rights obligations of local government.

CLC first applied to NCHR RSA Program in 2005 for a three-years grant (2005-2008) and reapplied for another one-year grant in 2008 (January-December 2009).

### *c. Project Budget and Financial History*

	2005	2006	2007	2008	Estimated 2009	Total
Grant amount ZAR		1,600,000	1,600,000	1,800,000	1,500,000	6,500,000
Project expenditures NOK	390,000	1,565,040	1,364,668	1,292,916	1,168,000	5,780,624

Sources: CLC Funding proposal 2005 (1 July 2005 – 30 December 2008) and NCHR's Total Budget Submitted from SA Programme 2007-2009 (draft November 2008)

### *d. Project Description*

#### **(i) Project Objectives:**

The Project seeks to use socio-economic rights framework as a tool to improving the living conditions of people living in poverty generally. During the next three years, the Project aims to focus its activities on such vulnerable groups as people living in extreme poverty, child headed households, people living with HIV/AIDS and the elderly. It seeks to achieve its objectives through

- a. Conducting research aimed at ensuring the effective implementation, monitoring and enforcement of socio-economic rights
- b. Engaging in advocacy activities for the realisation of these rights through law reform and policy development
- c. Developing accessible resource and educational materials on socio-economic rights aimed at capacitating civil society organisations and the society at large on how to claim and defend their rights.
- d. Intervening in cases involving socio-economic rights with the aim to develop a jurisprudence on these rights that responds to social transformational agenda.

#### **(ii) Key Focus Areas**

- a. Developing jurisprudence on socio-economic rights that contributes to improving the living conditions of disadvantaged and vulnerable groups
- b. Evaluating the implications of privatisation of basic services for the enjoyment of socio-economic rights
- c. Realising the socio-economic rights of child headed households, and the elderly
- d. Fulfilling the right of access to social security and assistance for the poor and marginalized
- e. Realising the right to food and health care for the impoverished and people living with HIV/AIDS
- f. Advancing the housing rights, including protection against arbitrary evictions.

#### **(iii) Expected Results**

- a. Production of at least two comprehensive research papers analysing key socio-economic rights issues or policy, legislation and case law on socio-economic rights, and with suggestions on how they could be improved to enhance access to socio-economic rights; and their publication.

- b. Production of four issues of the *ESR Review*, highlighting relevant topical issues, case law, policy and legislative reviews, international developments, book reviews and events pertaining to socio-economic rights, postage on our website, and the distribution of 2500 copies of each issue to relevant stakeholders
- c. Two submissions made to the relevant public institutions and organs of state on the development of policy, and law and their distribution to various civil society organizations.
- d. Two workshop, seminar or conference organised by the Project on pertinent socio-economic rights issues
- e. Participation in networking meetings, workshops, seminars and conferences organised by other organizations dealing with the focal research and advocacy areas.
- f. Production of one plain language publication dealing with relevant policy, legislation and case law developments.
- g. Intervention in socio-economic rights cases as *amicus curiae* or provision of research support.
- h. An updated Project website featuring the Project's research, submissions, workshops and conferences, amicus briefs, case law summaries and publications

**(ii) Results Framework/matrix if any: None, but the proposal provide the following as Indicators:**

The overall indicator of the impact of the project's success is whether it contributed to policy development and law reform, court judgments as well as increased awareness and knowledge, which will advance people's access to socio-economic rights. This will be measured through a number of indicators (see Table "Project Performance Framework" at end of document).

In the 2009 Project proposal, indicators were also elaborated. It is further stated that the quantitative and qualitative measure of Project results (achievement of indicators) used will be the positive use, responses and request of copies of the project's research and publications; positive court judgments; level of attendance of conferences, seminars or workshops; and number of hits on the Project's website.

**(iii) Project Outputs to date.**

Please see Table "Project Performance Framework" at end of document.

***e. Intended beneficiaries and geographical coverage***

The beneficiaries of the Project include the homeless, people living in poverty, women and children and child headed households, people living with HIV/AIDS and the elderly. The (immediate) target group of the Project is civil society organisations and public institutions. The nature of the Project does not allow for the quantification of beneficiaries. The project has a national coverage through publications, seminars, advocacy and court interventions and international coverage through publications and advocacy.

## **2: Project Performance**

### ***a. Quality of Project Design:***

CLC project's objective is ambitious, "use socio-economic rights framework as a tool to improving the living conditions of people living in poverty generally", but the project is well put together. The project uses a rights-based approach in that it works to promote and protect human rights working with both duty-bearers and duty-holders and therefore plan to support government and communities' capacities at local, national and international levels. Thus the project makes use of a number of complementary approaches. The project also monitors the implementation of human rights. Socio-economic rights are also part of the educational and publication components of the program.

- Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).

The expected results of the projects are consistent with planned activities and approaches. The identified risk has been possible increment of government animosity towards civil society, but organization did not regard this as a major impediment to the effective implementation of their activities.

- Assessment of the M&E system, if any (operationality, whether baseline exists, to what extent project reporting is using the M&E system).

Indicators are well elaborated to capture changes in attainment of objectives. However, CLC reporting to NCHR does not include monitoring of project using all the tools they have available (indicators).

- Assessment of project planning to mainstreaming gender.

Gender issues are reflected in the work of the Project. A project member is conducting research on the gender-responsiveness of the laws and policies of South Africa and other sub-Saharan countries within the context of HIV/AIDS.

### ***b. Project Relevance***

CLC has been moving towards achieving its objectives and activities to support the NCHR strategy well. CLC also seek changes that can impact lives of wide number of beneficiaries. CLC has been working to both support Government (contributions to policy development, international protocols on socio-economic rights, publications) and holding government accountable to its obligations (litigations, policy implementation monitoring, and Organizations: publications, advocacy).

- The extent to which the project is aligned with the Programme Objectives?

The Project proposal is linked to the NCHR's strategy as it focuses on improving the implementation of socio-economic rights and ensuring that they translate into tangible benefits, which is a goal of the strategy.

- The extent to which local context has been taken into consideration?

There have been various civil society organizations working on the implementation of socio-economic rights in South Africa utilizing the legal approach. Within such environment, CLC advanced the agenda by moving towards a more holistic approach and begun incorporating advocacy and monitoring into its activities. Additionally, CLC also plans activities to support government and this is a less common approach among civil society organizations working in legal rights. These are trends that need to be further pursued.

*c. Efficiency*

CLC's use of complementary methods to tackle socio-economic issues has been cost-effective in that one method reinforces the other within CLC work and the work of other organizations. CLC work also builds upon the organization's historical expertise and those of their partners. As stated by CLC, legal approach to rights is a peaceful approach. Given the South African historical context – collective culture of violence – right-based approach provides a model to achieve rights in a peaceful manner. Peaceful resolutions of conflicts promote social efficiencies.

*d. Effectiveness*

CLC has been implementing most of its planned activities and has been contributing to improving the living conditions of poor communities through instrumentalizing of the country's use of socio-economic rights framework. CLC complementary approach – research, publication, litigation, advocacy and monitoring – has been effective in promoting changes in socio-economic rights (basic income grant, right to housing, eviction) and in supporting other organizations seeking same. CLC is also complementing and strengthening work of partner organizations as they, for example, monitor impact of LRC cases. CLC acts at both national and international levels regarding focused issues (e.g. housing). Research component needs to be more focused to enable organization to be more effective in monitoring. CLC is delivering on planned activities. CLC maintains a wide network and collaborates with civil society organizations, international institutions and with government departments.

▪ **NCHR Assessment**

*e. Achieved, Expected Outcomes*

CLC interventions on eviction have made support to evicted communities part of Government thinking. CLC intervention on parliament discussion on Basic Grants helped to clarify that the issue was a constitutional right. Provision of adequate housing became part of Government obligations. CLC work has overtime increased awareness and knowledge on socio-economic rights by public institutions, civil society and the community at large.

*f. Sustainability of Results*

- Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.

CLC structure within a University and applied research focus can support the sustainability of monitoring and research program. Sustainability of outcomes depend on Government and other actors for policy implementation.

- With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.

CLC is a strong and well recognized organization, but its ability to employ different and complementary methods depend on long-term funding. According to the organization, CLC plans to seek funding from other donors and try and raise funds through consultancies in order to finance the Project beyond 2009. The Project intends to establish a collaborative partnership with the African Commission's Chairperson on economic, social and cultural rights, with regard to providing research support to the responsible Commissioner and engaging in joint activities aimed at the respect, protection and promotion of socio-economic rights in the region.

***g. Consequences of NCHR management at project level***

What has been the relevance and effectiveness of NCHR as a Programme Manager/funding channel for the project (identification, project development, coordination function, monitoring of projects)?

Peris Jones, the former researcher of NCHR's South African Programme in Oslo, helped CLC to widen its network in the area of Right to Food within the University of Oslo. There has also been exchange of scholars between NCHR and CLC. NCHR also played an advisory role in the master thesis of CLC student (Enforcing the Economic, Social and Cultural Rights in the South African Constitution: The Role of Judicial Remedies). Moreover, the former researcher of NCHR's South African Programme in Oslo assisted CLC in litigation (housing). Informed by the growing animosity between government and civil society organisations, CLC together with the NCHR co-hosted a seminar on *strengthening strategies for promoting socio-economic rights in South Africa* in 2006, which was attended by more than 40 human rights experts and activists from NGO and academic sectors. Funding provided by NCHR is flexible and predictable, enabling organization to focus on activities.

***i. Compliance/Contribution to Cross-cutting themes:***

<b>Theme</b>	<b>Assessment</b>
Engagement with a range of methods	The Project works with various methods: Advocacy, Litigation ( <i>amicus curiae</i> ), Education and training, Monitoring, Shadow reporting, Teaching, Mentoring and Publications.
Gender mainstreaming	CLC has been directly addressing issues in a systematic manner, more gender and less so HIV/AIDS.
HIV/AIDS	CLC has been directly addressing issues in a moderately systematic manner.

### **Part 3: Performance Assessment**

**Ratings:** **A:** Highly Satisfactory; **B:** Satisfactory; **C:** Not fully satisfactory; **D:** Unsatisfactory; **X:** Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	B	CLC has been moving towards achieving its objectives and activities support the NCHR strategy well. CLC also seek changes that can impact lives of wide number of beneficiaries. CLC has been working to both support Government and holding government accountable to its obligations. CLC also seek changes that can impact lives of wide number of beneficiaries from poor communities.
Efficiency	B	CLC use of complementary methods to tackle socio-economic issues has been cost-effective in that one method reinforces the other within CLC work and the work of other organizations. CLC work also builds upon the organization's expertise and those of their partners.
Effectiveness	B	CLC has been implementing most of its planned activities and has been contributing to improving the living conditions of poor communities. CLC complementary approach – Advocacy, Litigation ( <i>amicus curiae</i> ), Education and training, Monitoring, Shadow reporting, Teaching, Mentoring and Publications. – has been effective in promoting changes in socio-economic rights and in supporting other organizations seeking same. CLC is also complementing and strengthening work of partner organizations as they and acts at both national and international levels regarding focused issues. Research component needs to be more focused to enable organization to be more effective in monitoring.
Outcome	B	CLC interventions on eviction have made support to evicted communities part of Government thinking. CLC intervention on parliament discussion on Basic Grants helped to clarify that the issue was a constitutional right. Provision of adequate housing became part of Government obligations. CLC work has overtime increased awareness and knowledge on socio-economic rights by public institutions, civil society and the community at large.
Sustainability of outputs/outcomes	B	CLC structure within a University and applied research focus can support the sustainability of monitoring and research program. Sustainability of outcomes depend on Government and others actors for policy implementation.
Sustainability of organization	C	CLC is a strong and well recognized organization, but its ability to employ different and complementary methods depend on long-term funding. According to the organization, CLC plans to seek funding from other donors and try and raise funds through consultancies in order to finance the Project beyond 2009.
Compliance with cross-cutting themes	B	CLC has been directly addressing issues in a systematic manner, more gender and less so HIV/AIDS

**Table CLC: Project Performance Framework**

<p><b>Project Objective:</b> The Project seeks to use socio-economic rights framework as a tool to improving the living conditions of people living in poverty generally.</p>	<p><b>Indicators:</b> Evidence of increased awareness and knowledge on socio-economic rights by public institutions, civil society and the community at large which can be directly attributed to the Project's work</p>
<p><b>Purposes:</b> During the next three years, the Project aims to focus its activities on such vulnerable groups as people living in extreme poverty, child headed households, people living with HIV/AIDS and the elderly.</p>	
<p><b>Activity 1:</b> Conducting research aimed at ensuring the effective implementation, monitoring and enforcement of socio-economic rights</p>	<p><b>Indicator:</b> References to the Project's research papers and publications in courts and other publications, including academic and popular journals</p> <p><b>Status to date:</b> Five (5) research papers have been produced in 2007, one has been published in a peer reviewed journal, and four have been completed and will be published in books and academic journals in 2008. Seven (7) research papers have been produced in 2008, two have been published as <i>Research Series</i> and 1000 copies of each are currently being distributed (these two have been uploaded onto our website), another will be published as a <i>Research Series</i> next year, two of the other research papers have been submitted to peer-reviewed journals for consideration for publication, one will be updated and submitted for consideration for publication, and one forms a chapter of a PhD thesis.</p>
<p><b>Planned Outputs 1:</b> Producing no less than two (2) comprehensive papers analysing policy, legislation and case law on one of the focal areas mentioned above. Suggesting how policies and laws could be improved to enhance access to socio-economic rights. These will be circulated widely to the relevant stakeholders. In addition, we will publish them in academic as well as popular journals (like <i>ESR Review</i>). We will also post them onto our website.</p>	<p><b>Realized Output 1:</b> 2007: Five (5) research papers and a PhD thesis were produced 2008: Seven (7) research papers produced</p>
<p><b>Activity 2:</b> Engaging in advocacy activities for the realisation of these rights through law reform and policy development</p>	<p><b>Indicator:</b> Positive change to laws and policies as well as implementation, which can directly be attributed to the Project's interventions and networks.</p> <p><b>Status to date:</b> Hosted one (1) seminar, one (1) workshop, one (1) meeting and one (1) event – the 10th Anniversary and Book Lunch – in 2007. Also participated in a number of activities organised by other organizations. Hosted one (1) conference, two (2) seminars and one (1) meeting in 2008. Also participated in a number of events related to our research and advocacy focus areas, organised by other partner</p>



<p><b>Planned Outputs 2:</b>  <u>2.a. Making two (2) substantial submissions</u> to the relevant public institutions or organ of state on policy development and law reform or implementation of socio-economic rights in general. These will also be widely distributed to the relevant stakeholders, publicised in the media and posted onto our website.  <u>2.b. Organising 2 workshops/seminar/conference</u> in a particular advocacy focus area to discuss our research results, policy and legislative proposals and their implementation, and devise strategies for improving access to socio-economic rights. Minutes of the workshop will be widely disseminated to the stakeholders and posted on our website.  <u>2.c. Participating in networking meetings, seminars, conferences</u> organised by (or with) other organisations dealing with the focal research and advocacy areas. Proceedings and conclusions of the events will be featured in our journals.</p>	<p>organisations and institutions.</p> <p><b>Realized Outputs 2:</b>  <b>2.a.</b> six (6) submissions in 2007 and one (1) submission in 2008 on policy development and law reform and wrote two letters to the government departments as well as issued a media statement.                  Submissions (2007)                  1. The Prevention of Illegal Eviction from and Unlawful Occupation of Land Amendment Bill, 2006, a submission to the National Department of Housing, 2 February.                  2. The Rental Housing Amendment Bill, 2006, a submission to the National Department of Housing, 2 February.                  3. The South African Human Rights Commission and its monitoring of socio-economic rights through compiling periodic reports, a submission to the Parliamentary Ad Hoc Committee on Review of State Institutions Supporting Constitutional Democracy, 12 March.                  4. Realising the right to adequate housing in South Africa: Some areas of concern, a submission to the United Nations Special Rapporteur on adequate housing, 23 April.                  5. Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, a joint submission to the Open Ended Working Group for an Optional Protocol, Fourth Session, presented by the International Coalition for an Optional Protocol of which we are a member.                  6. Human rights situation in South Africa: Some areas of concern, a submission to the office of the United Nations High Commissioner for Human Rights, Universal periodic Review Mechanism, 6 November.                  Submissions (2008)                  1. The implementation of the Hostels to Homes project in the area of Guguletu, a submission to the City of Cape Town (Municipality), 28 July.                   Letters (2007)                  1. Minister of Foreign Affairs (cc Directors at Parliamentary Office and the United Nations Reform Coordinating Unit (Department of Foreign Affairs), and Minister of Justice and Constitutional Development on the draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, including the view points of the NGO Coalition as regards the content of the draft, 27 June.                  2. The President of the Republic of South Africa (cc Department of Foreign Affairs, Department Justice and Constitutional Development, Department of Labour, Human Rights Commission, Parliament, United Nations High Commissioner for Human Rights, United Nations Special Rapporteur on adequate housing) on ratification by South Africa of the International Covenant on Economic, Social and Cultural Rights, 28 June.                   Letters (2008)                  1. Minister of Justice and Constitutional Development, Minister of Foreign Affairs (cc Directors of Economic, Social and Cultural Rights and Deputy Director at Parliamentary Office), and the South African Permanent Mission in Geneva, on the optional protocol to the International Covenant on Economic, Social and Cultural Rights drafting process, 25 March.</p>
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	<ol style="list-style-type: none"><li>2. Joint appeal letter to states to ensure finalisation and adoption of the optional protocol to the international Covenant on Economic, Social and Cultural Right, March.</li><li>3. Minister of Justice and Constitutional Development, Minister of Foreign Affairs (cc Directors of Economic, Social and Cultural Rights and Deputy Director at Parliamentary Office), and the South African Permanent Mission in Geneva, on considering sponsoring the resolution on the adoption of the optional protocol to the International Covenant on Economic, Social and Cultural Rights as well as subsequently signing and ratifying the Protocol and the Covenant, 4 December.</li></ol> <p>Media statement (2008)</p> <ol style="list-style-type: none"><li>1. Call on the South African government to immediately ratify the International Covenant on Economic, Social and Cultural rights, media statement issued together with the Centre for Applied legal Studies and the Centre on Housing Rights and Evictions, 22 April.</li></ol> <p><i>An Optional Protocol to the international Covenant on Economic, Social and Cultural Rights (OP-ICESCR). We are involved in the drafting process of the OP-ICESCR both in 2007 and 2008 and a project member seats at the Steering Committee of the NGO Coalition for an Optional Protocol.</i></p> <p><b>2.b.</b> Hosted four (4) events during 2007:</p> <ol style="list-style-type: none"><li>1. The <i>10th Anniversary and Book Launch</i> held in Cape Town on 12 April.</li><li>2. A seminar on <i>Judicial Remedies for Socio-Economic Rights Violations</i> held in Cape Town on 15 November.</li><li>3. A workshop on the <i>Comprehensive Social Security and the Basic Income Grant</i> held in Cape Town on 18 April. The workshop was attended by, amongst others, representatives of NGOs, youth institutions, academia and trade unions.</li><li>4. Organised a meeting between civil society organisations in Cape Town and the United Nations Special Rapporteur on Adequate Housing held on 23 April.</li></ol> <p>Hosted four (4) events during 2008:</p> <ol style="list-style-type: none"><li>1. A seminar on <i>Rights, legal empowerment and poverty reduction: From academic discourse to implementable policy</i> held on 26 June.</li><li>2. A conference on <i>Ensuring public participation in service delivery: Strengthening the realisation of socio-economic rights</i> held on 31 July.</li><li>3. A seminar on <i>Critical socio-economic rights issues: The right to food, social security and enforcement of court orders</i> held on 26 November.</li><li>4. Organised, together with the Gender Project of the Community Law Centre, Shelter Focus Group (Western Cape) and ACG architects an <i>Introductory meeting of the Western Cape Transitional and Special Needs Housing Forum</i> held on 12 February.</li></ol> <p><b>2.c</b> The Project's advocacy activities extend to the African continent as well as globally. The Project has:</p>
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	<ol style="list-style-type: none"> <li>1. participated in preparatory meetings organised by the Human Rights Institute of South Africa (HURISA) for the African Commission on Human and Peoples' Rights sessions.</li> <li>2. participated in the sessions of the Commission.</li> <li>3. participated in the development and drafting process of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.</li> <li>4. assisted other countries in Africa, such as Nigeria and Kenya, to build their capacity to effectively implement socio-economic rights.</li> <li>5. participated in key national and international conferences and seminars organised by government departments and other organisations.</li> </ol> <p>These events have provided a forum for the Project to share and exchange ideas and resources with colleagues from other organisations around particular research themes the Project may be working on; to get feedback on some of the work we are doing; to disseminate or distribute Project outputs; to promote collaborations with other organisations working in the same or related areas; and to promote the Project's name and maintain its wide recognition in the international community as one of the important stakeholders on socio-economic rights issues.</p> <p>In 2007 CLC has participated in a number of activities organised by other organisations:</p> <ol style="list-style-type: none"> <li>a) Special Needs Housing Workshop, organised by the City of Cape Town, held in Cape Town on 27 March.</li> <li>b) Economic, Social and Cultural Rights Workshop, organised by the Indonesia Programme of the Norwegian Centre for Human Rights, held in Yogyakarta from 16 – 18 April.</li> <li>c) Regional Symposium on Harmonisation of Laws on Children in Eastern and Southern Africa, held in Nairobi from 9 – 10 May.</li> <li>d) VII World Congress of the International Association of Constitutional Law - <i>Rethinking the Boundaries of Constitutional Law</i>, held in Athens from 11 – 15 June.</li> <li>e) Jobs and Poverty Conference, organised by Cosatu, held in Johannesburg from 18 – 19 June.</li> <li>f) Open-Ended Working Group on an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, Fourth Session, held in Geneva from 16 – 27 July.</li> <li>g) The Role of Public Participation in Service Delivery, conference organised by the Studies on Poverty and Inequality Institute, held in Johannesburg from 4 – 5 October.</li> <li>h) Socio-Economic Rights: Present and Future, conference organised by the Centre for Applied Legal Studies and the Norwegian Centre for Human Rights, held in Johannesburg on 28 – 30 October.</li> <li>i) Workshop of Young Scholars from the Global South organised by the Graduate Institute of International Studies, held in Geneva from 5-9 November.</li> <li>j) Comprehensive Social Policies – Fighting Poverty through Investing in Social Protection, organised by the Norwegian Agency for Development Cooperation (NORAD), held in Oslo on 20 November.</li> <li>k) The Limits of Law or the Poverty of Politics? Evictions and Tenure Security in Modern South Africa, organised by the Norwegian Centre for Human Rights at the University of Oslo on 27 November.</li> </ol>
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	<p>l) <i>Marking World Food Day 2007: The human rights to adequate food in Africa – How to make it happen?</i>, organised by FIAN International (Norway) and the International Programme on the Right to Adequate Food in Development at the University of Oslo, held in Oslo from 10 – 12 December.</p> <p>In 2008 CLC has participated in a number of activities organised by other organisations:</p> <p>a) African Regional Meeting on an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, organised by the government of Egypt together with the United Nations Office of the High Commissioner for Human Rights, held in Cairo from 9-10 January.</p> <p>b) Open-Ended Working Group on an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, Fifth Session, held in Geneva from 4-8 February and 31 March – 4 April.</p> <p>c) Consultative workshop for the support and promotion of research relevant to the provision of housing, organised by the National Department of Housing (South Africa), held in Pretoria on 15 February.</p> <p>d) Housing, evictions and social justice, organised by the Student Society of Law and Social Justice, held in Cape Town on 13 March.</p> <p>e) Ethno-cultural diversity in health and social care: A networking symposium, organised by the Faculty of Nursing, University of Alberta, Canada, held in Edmonton from 1 April.</p> <p>f) Universal periodic review information sharing workshop, organised by the South African Human Rights Commission, held in Cape Town on 15 April.</p> <p>g) Right to food Campaign: Western Cape, organised by the Economic Justice network, held in Cape Town on 30 April.</p> <p>h) Reflecting on Africa's riches: resources, conflict and exploitation, organised by the Faculty of Nursing, University of Alberta, Canada, held in Edmonton from 1-4 May.</p> <p>i) Interlogue 08 on water resource management in South Africa, organised by the African Water Issues Research Unit, University of Pretoria, held in Cape Town on 15 May.</p> <p>j) Water services mapping workshop, organised by Centre for Applied legal Studies, Centre on Housing Rights and Evictions and the Norwegian Centre for Human Rights, held in Johannesburg on 20 May.</p> <p>k) Enforcement of socio-economic rights in south Africa/India, organised by the University of Western Cape/India, held in Cape Town on 4 June</p> <p>l) HIV/AIDS and disability, organised by the Canadian Legal HIV/AIDS Network, the Canadian Working Group on HIV and Rehabilitation and the Interagency Coalition on AIDS and Development, held in Ottawa from 16-17 June.</p> <p>m) Electricity and food prices, organised by the Congress of South African Trade Unions, held in Johannesburg on 10 July.</p> <p>n) Roundtable on freedom from hunger and meeting with United Nations Special Rapporteur on the right to food, organised by ActionAid International, held in Johannesburg on 16 July</p> <p>o) Economic organisation and socio-economic rights, organised by the Law Faculty, University of Cape Town, held in Cape Town on 7 August.</p>
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	<p>p) Social movements and poverty reduction in South Africa, organised by the programme for Land and Agrarian Studies, university of the Western Cape, held in Cape Town on 13 August</p> <p>q) The role of public interest litigation in enforcing economic, social and cultural rights in Uganda, organised by the Human Rights and Peace Centre, Makerere University, held in Kampala from 28-29 August.</p> <p>r) HIV in the workplace: African challenges, African solutions, organised by Interventions Africa Consultants, held in Johannesburg from 28-29 August.</p> <p>s) Transformative constitutionalism: The implications for the law of contract in South Africa, organised by the Chair in Human Rights and Law Faculty, Stellenbosch University, held in Stellenbosch on 22 October.</p> <p>t) Tenure security for farm workers and dwellers: Enforcing, challenging and defending ESTA, organised by the University of Stellenbosch Legal Aid Clinic, PLAAS, the Chair in Human Rights Law, Stellenbosch Law Faculty, Norwegian Centre for Human Rights and Noragric, held in Stellenbosch from 27-28 October.</p> <p>u) Second private sector conference on HIV/AIDS, organised by the South African Business Coalition on HIV/AIDS, held in Johannesburg from 5-6 November.</p> <p>v) Expert seminar on the impact of terrorism and counter-terrorism measures on the enjoyment of economic, social and cultural rights, organised by the United nations office of the High Commissioner for Human Rights, held in Geneva from 5-7 November</p> <p>w) The 11th AWID International Forum on Women's Rights and Development, organised by the Association for Women's Rights in Development (AWID), held in Cape Town from 14-17 November.</p> <p>x) Third Committee of the 63rd Session of the General Assembly held in New York from 27-31 November.</p> <p>y) International strategy meeting on economic, social and cultural Rights and an ESCR-Net General Assembly Meeting, organised by the International Network for Economic, Social and Cultural Rights, held in Nairobi, from 1-4 December..</p> <p>z) LLM (Human Rights and Democratisation in Africa) partners' conference, organised by the Centre for Human Rights, University of Pretoria, held in Pretoria from 8-9 December.</p> <p>As part of its work on the potential of the Voluntary Guidelines to promote the right to food in South Africa, the Project has produced two editions of the booklet entitled <i>Knowing and claiming your right to food</i>, published in four languages – English, Afrikaans, IsiZulu and IsiXhosa. The first edition of the booklet was well received by a wide range of constituencies including people with no legal or human rights background, and recent demands led to the production of the second edition. The Project has also produced the second edition of the Socio-Economic Rights In South Africa resource book.</p>
<p><b>Activity 3:</b> Developing accessible resource and educational materials on socio-economic rights aimed at capacitating civil society organisations and the society at large on how to claim and defend their rights.</p>	<p><b>Indicator:</b> Evidence of increased requests or demands of, and positive responses to, the Project's publications. Evidence of increased awareness and knowledge on socio-economic rights by public institutions, civil society and the community at large which can be directly attributed to the Project's work</p>

	<p><b>Status to date:</b></p> <p>We have contributed in 2008 with twelve (12) <u>articles</u> (including summaries and updates) to the <i>ESR Review</i>. 1500 copies of the book <i>Evictions in South Africa: Relevant International and National Standards</i> have been distributed and we are currently distributing the others. 2500 copies of the English version and 2000 copies for each of the other languages of the booklet <i>Knowing and claiming your right to food</i> (Second edition) are currently being distributed. These publications have been uploaded onto our website.</p> <p>Four (4) <u>issues</u> of the <i>ESR Review</i> for 2007 have been produced and 3000 copies of the first three issues and 2500 copies of the fourth issue have been distributed.</p> <p>We have contributed ten (10) articles to the <i>ESR Review</i> for 2007 and two short articles for other publications.</p> <p>Four (4) <u>issues</u> of the <i>ESR Review</i> have been produced in 2008 and 2000 of the first issue and 2500 of the second and third issues have been distributed. We are currently distributing 2500 copies of the fourth issue. All four issues have been uploaded onto our website.</p> <p>The second edition of the resource book entitled <i>Socio-Economic Rights in South Africa</i> has been produced. We printed 3000 copies and have distributed over three-quarters of the books. We are currently in the process of uploading the book onto our website.</p>
<p><b>Planned Outputs 3:</b></p> <p><u>3.a Producing four (4) issues of the <i>ESR Review</i></u> which highlights relevant case law, policy and legislative reviews, international developments, book reviews and events pertaining to socio-economic rights. The <i>ESR Review</i> will be circulated widely to relevant stakeholders and posted onto our website.</p> <p><u>3.b Producing one (1) plain language publication</u> dealing with relevant policy, legislation and case law developments. The major one will be the second edition of the Resource Book entitled '<i>Socio-economic rights in South Africa</i>'. These publications will be circulated widely to the relevant stakeholders and posted on our website.</p> <p><u>3.c Updating and maintaining our project website.</u> The website features all the Project's research, submissions, workshops and conference, <i>amicus</i> briefs, case law summaries, and publications.</p>	<p><b>Realized Outputs 3:</b></p> <p>3.a CLC produced four (4) <i>ESR Review</i> issues in 2007. Project members contributed 10 articles (including updates/summaries) in the <i>ESR Review</i> for 2007 and 12 in 2008.</p> <p>2007:</p> <ul style="list-style-type: none"> <li>a) Celebrating ten years of translating socio-economic rights into reality: The Socio-Economic Rights Project of the Community Law Centre, <i>ESR Review</i> 8(1)</li> <li>b) Introducing our new resource book, <i>ESR Review</i> 8(1)</li> <li>c) Review of the sixth report of the South African Human rights Commission: An introduction, <i>ESR Review</i> 8(2)</li> <li>d) The right to land, <i>ESR Review</i> 8(2)</li> <li>e) The right to have access to adequate housing, <i>ESR Review</i> 8(2)</li> <li>f) The right of access to sufficient water, <i>ESR Review</i> 8(2)</li> <li>g) Strengthening the institutional mechanisms for monitoring socio-economic rights: The ad hoc Committee report, <i>ESR Review</i> 8(3)</li> <li>h) An overview of the Constitutional Court hearing of the inner-city evictions case, <i>ESR Review</i> 8(3)</li> <li>i) Towards equalising the age for accessing pensions, <i>ESR Review</i> 8(4)</li> <li>j) First reading of the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights, <i>ESR Review</i> 8(4)</li> </ul> <p>2008:</p> <ul style="list-style-type: none"> <li>a) The Constitutional protection of those facing eviction from "bad buildings" (written together with Sandra Liebenberg), <i>ESR Review</i> 9(1)</li> </ul>

	<p>b) South Africa's commitment to realising socio-economic rights in 2008, <i>ESR Review 9(1)</i>  c) The optional protocol to the International Covenant on Economic, Social and Cultural Rights, <i>ESR Review 9(1)</i>  d) Towards the adoption of the international complaints mechanism for enforcing socio-economic rights under the ICESCR, <i>ESR Review 9(2)</i>  e) Entry into force of the Disability Convention, <i>ESR Review 9(2)</i>  f) Recommendations of the United Nations Special rapporteur on Adequate Housing following his mission to South Africa, <i>ESR Review 9(2)</i>  g) Implications of the lack of community participation in service delivery, <i>ESR Review 9(3)</i>  h) Upgrading of informal settlements and the rights of the poor, <i>ESR Review 9(3)</i>  i) Prescription and the right to social security (written with Pierre de Vos), <i>ESR Review 9(3)</i>  j) Access to education for children with special needs in South Africa, <i>ESR Review 9(4)</i>  k) National strategies for realising the right to food, <i>ESR Review 9(4)</i>  l) The XVII International AIDS Conference 2008, <i>ESR Review 9(4)</i></p> <p>3.b. <i>Resource book</i>: As stated in the 2006 report, we have been working on the production of the second edition of the Resource Book entitled <i>Socio-Economic Rights in South Africa</i> since August 2005. This book was completed and launched in April 2007. We printed 3000 copies and have distributed over three-quarters of the books  In 2008, we produced the publication <i>Evictions in South Africa: Relevant International and National Standards</i>, which provides useful and accessible information on the substantive and procedural standards in international and national law relating to evictions. We printed 2500 copies and have thus far distributed 1500 copies. We have also received very positive responses to the publication and demands for more copies.  We also produced in 2008 the second edition of the plain language publication <i>Knowing and claiming your right to food</i> in four languages - English, <a href="#">Afrikaans</a>, <a href="#">IsiXhosa</a> and <a href="#">IsiZulu</a>. This booklet explains what the 'right to food' means; how it is protected in the Constitution and in international law; describes the obligations it places on the state; provides information about government policies and programmes and how to get access to them; and suggests ways and means to promote the right to food. We printed 2500 copies of the English version and 2000 copies for each of the other languages, and are currently distributing the publication.</p>
<p><b>Activity 4:</b> Intervening in cases involving socio-economic rights with the aim to develop a jurisprudence on these rights that responds to social transformational agenda.</p>	<p>Indicator: Positive court judgments in which the Project intervened as <i>amicus curiae</i></p> <p><b>Staus to date:</b>  In 2007, intervened as <i>amicus curiae</i> in, and attended hearings of, two (2) socio-economic rights cases (on housing rights as well as equality and social security rights), which are before the Constitutional Court and the Pretoria High Court, respectively.  In 2008, intervened as <i>amicus curiae</i> in, and attended hearings of, one (1) socioeconomic rights cases (on housing rights and evictions), before the Constitutional Court.</p>
<p><b>Planned Outputs 4:</b></p>	<p><b>Realized Outputs 4:</b></p>

<p>4.a. Intervening as <i>amicus curiae</i> in cases involving socio-economic rights, particularly on the themes mentioned above, and providing research material support and expertise to the lawyers as well as disseminating information about the case and judgment through the media, the ESR Review and the website as well as other publications.</p>	<p>4.a. Intervening as <i>amicus curiae</i> in court cases, the Project has intervened in seven socio-economic rights cases thus far – one on health rights [<i>Minister of Health and others v Treatment Action Campaign</i> 2002 (5) SA 721 (CC)]; five on housing rights and evictions [<i>Government of the Republic of South Africa and Others v Grootboom and Others</i> 2001 (1) SA 46 (CC); <i>President of the Republic of South Africa and Another v Modderklip Boerdery (Pty) Ltd and Others</i> 2005 (8) BCLR 786 (CC); <i>City of Johannesburg v Rand Properties (Pty) Ltd and Others</i> 2007 (6) BCLR 643 (SCA); <i>Occupiers of 51 Olivia Road and Others v City of Johannesburg and Others</i> 2008 (5) BCLR 475 (CC); <i>Thubelisha Homes and Others v Various Occupants and Others</i> Case No: 13189/07 (CC)]; and one on social security - old age pension equalization [<i>Christian Roberts and Others v Minister for Social Development and Others</i> Case No: 32838/05 (High Court)]. The Project does not only intervene in these cases by making submissions in court but is monitoring the enforcement of the court orders.</p>
<p><b>Activity 5:</b> Teaching and capacity building of CLC</p>	<p><b>Indicator:</b> Continued collaborative work with the Norwegian partners (University of Oslo) on the right to food and nutrition – e.g. student and researcher exchange programmes.</p>
<p><b>Planned Outputs 5:</b>  <u>Convening and teaching an LLM module on socio-economic rights</u>  <u>Building capacity of staff members</u> through exposing them (one member per year) to the guest research programme with the Norwegian Centre for Human Rights and others institutes.  <u>Enhancing resources for research and advocacy purposes through purchasing books</u> relating to socio-economic rights to increase resources so as to facilitate the production of the project's activities. We will also subscribe to key newspapers so as keep track and records of current affairs relating to socio-economic rights. A paper clipping and filing system will be established in the Documentation Centre. These books will be kept in the Centre's Documentation Centre, which is used by students, staff members and other stakeholders.</p>	<p><b>Realized Outputs 5:</b>  Project members presented in 2007 five guest lectures on:  i. The socio-economic rights of children under the South African Constitution, presented to LLM Students at the University of the Western Cape, 16 October;  ii. The right to food and health, presented to 30 participants at the Good Governance and Socio-Economic Rights Course offered by the Centre for Human Rights in Pretoria, 27 – 28 February;  ii. The right to food, presented to the LLM students at the University of the Western Cape, 2 October;  v. The judicial enforcement of socio-economic rights in South Africa, presented as part of the Street Law Course to the fourth year law students at the University of KwaZulu Natal, 29 August;  v. The right to food under the international and African human rights law, presented to the participants of the human rights training course in Pretoria on 14 September.  In 2007, as part of staff development (or building capacity of staff to conduct quality research), a project member attended the Advanced Course on the International Protection of Human Rights organised by the Institute for Human Rights, Åbo Akademi University, Finland, from 13 - 24 August, and was a 'guest' researcher at the same institution from 25 - 31 August. In addition, a project member was a guest researcher at the Norwegian Centre for Human Rights for over three weeks until 4 December  Project member presented in 2008 one guest lecture on:  i. Socio-economic rights, presented to LLM Students at the University of the Western Cape, 16 October</p>



	<p>In 2008, as part of staff development (or building capacity of staff to conduct quality research), a project member participated in a student exchange programme at University of Alberta, Canada for a period of five months. The project member was attached to the faculty of Nursing, working under the project 'Strengthening nurses' capacity in HIV policy development in sub-Saharan Africa and the Caribbean; and also collaborated with the health Law Institute of the same University. The exchange programme included a two month research internship on health policy and HIV/AIDS at the University of Ottawa.</p> <p>Another project member attended the Intensive Course on the Justiciability of Economic, Social and Cultural Rights, organised by the Institute for Human Rights, Åbo Akademi University, Finland, from 10 - 14 November. In addition, the project member was a guest researcher at the Norwegian Centre for Human Rights from 9 May – 9 June.</p>
<p>Inputs/Resources (Activities): Staff compliment required to implement the above activities in the proposed funding phase is:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Senior researcher and Co-ordinator</li> <li><input type="checkbox"/> Two researchers</li> <li><input type="checkbox"/> One research intern</li> <li><input type="checkbox"/> Project Administrators</li> </ul> <p>In accordance with the Centre's policy, the NCHR will be requested to contribute 10% a proportion to the Centre's core administrative salaries and 5% of the operating expenses relate to the salaries of the Centre's core staff: Finance Manager, Office Manager, Information and documentation manager, and general student assistants. The operational costs relate to the telephone, fax, stationery, office maintenance, photocopying and general maintenance of equipment. We have also made provision in the budget for auditing.</p>	<p>Inputs/Budget</p>

Sources: CLC Annual Reports to NCHR, CLC

## 12.5 Coma Care

### Project Performance Report

#### Part 1: Project Description and Structure

*a. Project title: Increasing access to socio-economic and health rights of coma patients and their family members in the public health system of South Africa.*

*b. Implementing institution and brief history*

ComaCARE is the implementing partner. ComaCARE is a new health and human rights initiative of health, legal and care professionals, coma survivors and family members dedicated to ensuring the best coma care provision in a manner which is sustainable in a developing economy.

*c. Project Budget and Financial History*

ComaCare	2005	2006	2007	2008	2009	Total
Grant amount ZAR				670,000		670,000
Project expenditures NOK			327,720	569,500		897,220

Sources: ComaCare Funding proposal 2007 (2008- 2009); NCHR (Total Budget Submitted from SA Programme 2007-2009, draft November 2008)

*d. Project Objectives and Results*

#### **(i) Project objectives**

- 1) Develop a legal pack explaining health and socio economic rights for family members of coma survivors in 5 languages (Isixhosa, Afrikaans, Sesotho, Zulu and English) to be distributed through trained professionals, social workers, the legal profession and care facilities;
- 2) Make coma information accessible to family members and the general public; Provide up to date web information in 4 languages ([www.comacare.com](http://www.comacare.com));
- 3) With a major teaching hospital conduct an eighteen month research project to fully establish the cost to the health care system and family members and develop and establish the methodology of human rights and coma care that will be practiced in health institutions in South Africa (research proposal available).

In 2008 ComaCare submitted a funding proposal for 2009 to complete the current research work and development of an extended advocacy programme for patients, families and care givers. Also to cover additional activities: support of the pan African aspect of the nurse training development, the development of a film and the publication of a book called "Hearing the silent voices" with patient testimonies.

#### **(ii) Expected Results**

This project will increase the knowledge of socio economic and health rights in the academic community of this group of individuals through the proposed eighteen month research project looking at the factors which contribute to the human rights and care of the comatose

individuals and their family members and the socio-economic factors which debilitate these rights. Through this and the other research already conducted by ComaCARE (2006) there will be increased knowledge of health rights in decision making structures within the Department of Health. There is little information drawn from an African context about coma and human rights and the research and literature produced will be high quality and unique in this situation. It is expected that the results will be published in major medical, psychological, anthropological, legal and sociological journals.

- In three years 3000 home care professionals will be trained in conjunction with the Department of Health and major home care Non Government Organizations.
- Due to the increasing numbers of AIDS patients dying at home and the high rate of violence it is likely that in three years each trained professional will reach at least 100 patients who experience coma. (4000 x 100 = 400 000)
- 5000 family members will be supported with socio –economic and legal information
- People who do not have easy access to coma information can access information through a multilingual website (currently 400 hits per month; national and international requests for information) and through our e-mail information service ( 5000)

**(iii) Results Framework/matrix if any**

Measurements will take place through:

- Training registers and evaluation forms
- Publications produced and distribution records
- Website records
- Trainees records

**(v) Project Outputs to date.**

Please see Table “Project Performance Framework” at the end of this document.

*e. Intended beneficiaries and geographical coverage*

The project beneficiaries are comatose individuals at Groote Schuur Hospital, their family members and care givers. In a three year period:

- 4000 trained care givers working with at least 100 patients per year in trauma or at end stages of life
- 400 000 comatose individuals
- 2 400 000 family members and friends (presuming at least six family members per comatose patient) through role modeling of trained carers, website information, distribution of legal pack and care booklets.

## **2: Project Performance**

### ***a. Quality of Project Design:***

The ComaCARE activities financed by the NCHR were an integral part of a pilot project. As such, both NCHR and the organization understood the risks involved in piloting a new initiative in the country. ComaCARE's approach to organizational development is realistic in terms of timeframe for activity development and for establishing trust and good working relationships, especially in view that the organization relies heavily on volunteer services. Its focus on integrating coma care treatment to patients and support to their family at Groote Schuur hospital is a sounding strategic choice as Groote Schuur is a reference hospital nationally and internationally. Working with Groote Schuur hospital as an operational base, also contributed to establishing other partnerships key to the success of ComaCARE's mission – the CANSA which is one of the largest home care systems in South Africa, and the Department of Health of the Southern Cape. As a new organization, ComaCARE planned to take important steps to establish its legitimacy through developing a research-based methodology for coma care and through building relationships with very strategic partners in its field of operation. The methodological scope - research, training, advocacy and public education is somewhat ambitious for a nascent organization. Research is a resource-consuming activity, but given the scarcity of research-based information in coma care available, ComaCARE took on an ambitious step but in the right direction to ensure that ComaCARE's work has a solid basis. Additionally, the research was conducted in partnership with the University of Grunigen through ComaCARE sponsoring two medical researchers for five months. The research was conducted at Groote Schuur, Conradie Rehabilitation Centre and the Red Cross Children's Hospital. The results of this research have guided ComaCARE strategic development and material production.

Recognizing that South Africa is developing new legislation in relation to euthanasia and road accident funds, it planned for a flexible approach to lobbying, training and information materials. It also planned for the incorporation of local language speakers to its training and volunteer services.

- Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).

ComaCARE objective is to improve and enhance the current provision of coma care in South Africa and the activities developed are consistent with their aim, the outputs slightly overambitious, especially training targets. The risk assumptions – changing legislative framework, dependency on relationships with key institutions to enable the programme to roll out – are adequate, but fail to recognize and provide mitigation to the financial vulnerability of the organization and its dependence on volunteer work.

ComaCARE shifted from being a sole provider of care through volunteers with the creation of the post of patient advocacy. 6 patient advocates are employed to work for twenty hours per week. This is a new role within the Western Cape Department of Health and has backing of the medico legal advisor.

ComaCARE worked on branding in its second year of operation as it was evident that funders were reluctant to fund an unknown organization. It now has recommendations from the heads of neurosurgery and nursing and is developing joint proposals with them.

- Assessment of the M&E system, if any.

ComaCARE has a clear mission and objective, and the organization is currently resourced with strong management both at planning and activity levels. As the organization is growing, it needs to establish as soon as possible a simple but consistent way to document its achievements (planned versus realized activities/outputs, outcomes) to support continued sound management (planning, fund raising, reporting). ComaCARE has a database of patient care undertaken and volunteer activity.

- Assessment of project planning to support “Consolidation of the democratic transition”.

Extend the right and opportunity to coma patients and their families to live as fully as possible and participate in and make decisions about their own care and status is a step towards consolidation of democracy in South Africa. Coma patients have been a historically neglected group in the country.

- Assessment of project planning to mainstreaming gender.

Most of the victims of violence are young men who live in sub economic communities with a high crime rate. ComaCARE also work with female victims of abuse and train both men and women in coma counselling and communication. ComaCARE provides for practical gender needs for patients, staff and our volunteers. We encourage men and women to be treated separately in wards rather than together because of dignity and abuse issues, we are providing training and experience to previously unemployed women. Strategically, they have provided “neutral spaces” for nurses and doctors to address each other and diminish the rank and power issues between white mainly male doctors and black mainly female nurses. We have provided training programmes for nurses which address power and rank issues. As a small organization, ComaCARE is doing well addressing gender.

### ***b. Project Relevance***

Project targets access to human rights to previously neglected minority group, mostly Black males from poor background, and victims of accident, violence and HIV/AIDS. Services incorporate support to coma patients’ families to access social services. ComaCARE is a unique service and advocacy organization in SA for coma patients and families. This pilot program has the potential to reach wider numbers of beneficiaries besides of direct beneficiaries, such as health care workers, doctors and medical students, hospital administrators, and social services workers.

- The extent to which the project is aligned with the Programme Objectives?

Good fit with 2007 Strategy, “Contribute to the respect, protection and promotion of the Socio-Economic and Right to Health”.

- The extent to which local context has been taken into consideration?

ComaCARE activities have been developed to fill the gap in comprehensive coma patient care and support to their families in South Africa and appropriate training for neurosurgery nurses to care for coma patients.

*c. Efficiency*

ComaCare is a pilot program in SA. The organization has run very efficiently, given scarce financial resources; but, it has been able to very effectively mobilize and operationalize non-financial resources such as: volunteer program, support from neurological ward of hospital, department of health support (space in hospital), secured presence to do advocacy in neurosurgery conferences, and has been forming multidisciplinary team Groote Schuur neurosurgery ward.

*d. Effectiveness*

ComaCare started operations in December 2005, NCHR funds begun flowing from 2007. The organization is on-target in delivering legal packages, conducting research and overachieving their aim in establishing access to social services to patients and their families (e.g. social grants) as the organization was able to bring Social Service Department to the hospital once a month to service comatose patients & families. ComaCare has produced other activities/outputs that complement and strengthen those financed under NCHR, such as the development of an interactive website, coaching of intern medical students in the ward, and is successfully lobbying to integrate coma care training as an area of specialization into Nursing School at the university. This aims at increasing the retention of nurses in this sector, which currently experience staff shortages in detriment to the specialised nature of care needed for coma patients.

Given the high level of violence, and car accidents, and AIDS-related coma in South Africa, ComaCARE has talked to LRC (NCHR partner) about working together to lobby for a health ombudsman for western cape and is gathering documentation of the poor service delivery at a step down facility provided by a private service supplier. They are trying to establish the norm that all service suppliers must be evaluated.

They are also seeking a researcher to conduct research into a victims support grant which will be unpopular in the current economic climate unless an innovative financing mechanism can be found.

▪ NCHR Assessment

An external evaluation of ComaCARE was conducted in 2008 by Impact Consulting and Mthente Research and Business Services. In the executive summary they write that: "After more than three years, the Trust can be seen as moving from a start-up organisation into a new growth phase. A strategic session was held in December 2007 to ensure that planning and operations are underpinned by a robust strategic thrust and ComaCARE has begun introducing policies and procedures to guide their operations. Current plans are adequate for the short- to medium-term, but a long-term strategic document that will enable performance tracking and develop a focus for the long-term activities of the organisation would be beneficial to ensure long-term sustainable growth...Even though ComaCARE initially struggled to attract funding for its pioneering work, it now has external funding, has diversified its funding base and maintains good relationships with its donors. This is impressive, particularly because the Trust is engaging in a new field of work that does not match usual funding profiles of donor agencies. The Trust has managed its financial

resources well through its financial administration and accounting processes. ComaCARE is a fledgling pioneering organisation which has been in existence for only three years and only received external funding for one of these. The Trust has achieved various successes in this short space of time and their work has had significant positive outcomes on coma patients, their families, GSH hospital staff and on ComaCARE. Further long-term strategies and formalising of policies and procedures will ensure that these outcomes are sustained and expanded.”

We agree with the evaluation that ComaCARE is on track in their process in developing from start-up organization to a more established and stable enterprise. Increasing the visibility of the organization in the time ahead will be crucial however in attracting new funders. It is still too early to say if ComaCARE will manage to ensure the financial sustainability of the organization.

*e. Achieved, Expected Outcomes*

As a pilot ComaCARE is becoming a reference organization for the region. Red Cross is looking at the model. ComaCARE, with the support of the Groote Schuur neurosurgery ward, have successfully lobbied University of Cape Town to incorporate their training program into the curriculum for nursing school which will then be sold to nurses across the continent. The Director of ComaCARE received the Ashoka international award in 2008, exposing the issue of comatose patients and their approach/model to coma care to an international audience.

*f. Sustainability of Results*

- Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.

The program is well rooted in Groote Schuur neurosurgery ward, a reasonable amount of training has been provided to health personnel in other institutions, including the Department of Health, and the human rights model developed by ComaCARE is beginning to get international exposure. Their model has a very good chance to be incorporated into Nursing teaching at the University of Cape Town.

- With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.

ComaCARE charges for training, which subsidizes the ongoing organizational costs. NCHR funding was leverage to other funding sources, but organization still financially vulnerable.

*g. Consequences of NCHR management at project level.*

What has been the relevance and effectiveness of NCHR as a Programme Manager/funding channel for the project (identification, project development, coordination function, monitoring of projects)? NCHR funding worked as a financial leverage for the organization and boosted its legitimacy. ComaCARE was also exposed to partner organizations at the 2008 partner conference organized by NCHR. This helped them develop the idea of patient advocate and consider the possibility of victims empowerment fund.

*h. Compliance/Contribution to Cross-cutting themes:*

Theme	
Engagement with a range of methods	Well balanced: Service delivery, training, research, lobbying and education.
Gender mainstreaming	Adequate to the activities and size of organization.
HIV/AIDS	<p>Due to the HIV/AIDS pandemic ICU units are refusing to admit AIDS patients at end stages of life. This means that home care givers must be trained in coma techniques if patients are to be afforded a dignified death process.</p> <p>ComaCARE approached the Department of Health with a training programme for AIDS/ TB home based care givers. They said the training that was conducted was adequate and did not need to include coma care. They argued ‘ no one dies in a coma at home in the Western Cape’’ and challenged us to provide statistics of home deaths in a coma. These statistics are not gathered and we have hit a brick wall. The training programme plan which was considered ambitious was based on us having access to rolling out our work to home based care givers, through DoH.</p> <p>Secondly, a large number of their patients are HIV + and if they disclose this ComaCARE ensures that they receive referral for suitable counseling. In training ComaCARE ensures that volunteers assume (for their own safety) that all patients are HIV +. They have also engaged an HIV policy advisor, who is being presented to the Board within the next month</p>



### **Part 3: Performance Assessment**

**Ratings:** **A:** Highly Satisfactory; **B:** Satisfactory; **C:** Not fully satisfactory; **D:** Unsatisfactory; **X:** Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	A	Project targets access to HR to previously neglected minority group. Unique service and advocacy organization in SA for coma patients & families. Good fit with NCHR Strategy.
Efficiency	A	The organization has run very efficiently, give scarce financial resources; but, it has been able to very effectively mobilize and operationalize non-financial resources
Effectiveness	B	Project delivering on planned outputs and producing other activities/outputs that complement and strengthen those financed under NCHR
Outcome	A	As a pilot ComaCare is becoming a reference organization for the region. Red Cross looking at the model. ComaCare, with the support of the Groote Schuur neurosurgery ward, have successful lobbied University of Cape Town to incorporate their training program into the curriculum for Nursing school.
Sustainability of outputs/outcomes	B	The program is well rooted in Groote Schuur neurosurgery ward, a reasonable amount of training has been provided to health personnel in other institutions, incl. Dept of Health, and the HR model developed by ComaCare is beginning to get international exposure.
Sustainability of organization	C	ComaCARE charges for training to cover some of its running costs, but the organization remains dependent on external, donor funding.
Compliance with cross-cutting themes	B	The organization has an approach to mainstream gender and HIV/AIDS.

**Table ComaCare: Project Performance Framework**

<p><b>Goal:</b> Persons in all stages of coma are afforded the same human rights as every other citizen of South Africa and that their treatment and care is in line with best practice within the constraints of a developing country.</p>	
<p><b>Project Objectives:</b></p> <p>1) Develop a legal pack explaining health and socio economic rights for family members of coma survivors in 5 languages (Isixhosa, Afrikaans, Sesotho, Zulu and English) to be distributed through trained professionals, social workers, the legal profession and care facilities (5000 packs)</p> <p>2) Make coma information accessible to family members and the general public. Provide up to date web information in 4 languages (<a href="http://www.comacare.com">www.comacare.com</a>)</p> <p>3) With a major teaching hospital conduct an eighteen month research project to fully establish the cost to the health care system and family members and develop and establish the methodology of human rights and coma care that will be practiced in health institutions in South Africa (research proposal available)</p>	<p><b>Indicators:</b></p> <p>Measurements will take place through:</p> <ul style="list-style-type: none"> <li>• Publications produced and distribution records</li> <li>• Website records</li> <li>• Trainees records</li> </ul> <p>Status in 2008 (Fund proposal 2008 (2009-10):</p> <p><b>CARE</b></p> <ul style="list-style-type: none"> <li>• Supported the recovery or dying process of over 900 patients, mainly from the public sector with a few families being supported at home.</li> <li>• Trained 41 nurses and professional care givers, significantly shifting their attitudes and knowledge while developing their skill base in learning how to communicate with comatose individuals.</li> <li>• Trained over 80 volunteers from ComaCARE, CANSA (national cancer organisation) and the Hospice.</li> <li>• Upgraded a hospital neuro-surgery ward facility by inspiring the support of local companies.</li> <li>• Set up an equipped family counselling room</li> <li>• Raised support for care packs for patients</li> </ul> <p><b>ADVOCACY</b></p> <ul style="list-style-type: none"> <li>• Supported the development of the “easy access clinic” in 2008 where patients receive an integrated care service and the more efficient delivery of grants and benefits</li> <li>• Developed information packs in three languages which explain family and patient health, socio-economic rights and benefits</li> </ul> <p><b>RESEARCH</b></p> <ul style="list-style-type: none"> <li>• Supervised research of twelve medical students from UCT and two from the University of Grunigen in the Netherlands. All projects have led to materials development or new training approaches.</li> </ul>

	<ul style="list-style-type: none"><li>• Conducted mini research projects looking at care giver attitude to brain death and following the care and treatment of patients at a step down facility.</li><li>• Interviewed thirty staff members twice in a period of nine months to assess ComaCARE impact on their compassion fatigue.</li></ul> <p>EDUCATION</p> <ul style="list-style-type: none"><li>• Addressed the international paediatric neurosurgery conference</li><li>• Lectured to third year medical students and submitted exam and assessment questions.</li><li>• Developing an interactive website which will be available in four languages.</li><li>• Lectured to other departments and hospitals</li></ul> <p>SUPPORT</p> <ul style="list-style-type: none"><li>• Provided the facilitator and participated in the first neurosurgical vision and strategic planning session</li><li>• Provided the coach for the Professor of Neurosurgery.</li><li>• Arranged for Ben Zander of the Art of Possibility to address a multidisciplinary team in Groote Schuur hospital</li><li>• Encourage the development of a multidisciplinary team in the neurosurgery ward.</li></ul>
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Source: NCHR Annual reports, ComaCARE

## 12.6 CSA

### Project Performance Report

#### Part 1: Project Description and Structure

**a. Project title: Tswelopele II: Promoting Access to HIV/AIDS-related Human Rights in Hammanskraal Communities**

**b. Implementing institution and brief history**

The Centre for the Study of AIDS (CSA) is the executing partner. CSA at the University of Pretoria was established in 1999. The CSA is responsible firstly to ensure that the University as a whole is able to plan for, and cope with, the impact that HIV/AIDS will have on the institution and the tertiary education sector; secondly, to raise issues, critique and debate critical areas of HIV and AIDS; and thirdly to initiate research, policy and programme development on prevention and care regarding HIV and AIDS. The CSA, in collaboration with the Centre for Human Rights of the same institution, have established the AIDS and Human Rights Research Unit at the University of Pretoria. The Unit is engaging in research related to the stigma, discrimination and human rights and HIV/AIDS. The aim is to influence the future of the region through critical examination of current responses, policy and legislation as well as through the development of new ways of thinking about HIV/AIDS and human rights.

CSA receives grants from the NCHR since 2005 for the inception phase of the Tswelopele project. The Tswelopele project examined HIV/AIDS and Human Rights in the Hammanskraal and Temba areas of Tshwane Municipality.

**c. Project Budget and Financial History**

CSA	2005	2006	2007	2008	Estimated 2009	Total
Grant amount ZAR	812,075	1,566,200	920,700	1,309,000	1,380,500	5,988,475
Project expenditures NOK	812,000	852,481	421,347	1,410,064	919,800	4,415,692

Sources: CSA Funding proposal 2005-2008, 2007 (2008- 2009); Revidert regnskapsrapport, Sør-Afrika programmet 2006 & 2007; Oversikt over overføringer og forbruk m.m for 2005, 2006, 2007, 2008

**d. Project Objectives and Results**

**(i) Project objectives**

**The Tswelopele 1-3:**

There are four components of the proposed project to meet the goal, which arise from the recommendations from Tswelopele I, and also from ongoing communication and feedback from the community on their needs. These objectives are:

**Objective 1:** To build capacity in Hammanskraal communities to recognise HIV/AIDS-related human rights violations and to refer appropriately.

**Objective 2:** To intervene where HIV/AIDS-related human rights violations occur.

**Objective 3:** To conduct research which supports a greater understanding of HIV/AIDS-related human rights violations and issues.

**Objective 4:** To evaluate the project process and the impact of the activities in Hammanskraal communities.

#### *The Tswelopele 4*

Project continues to assist by providing access to justice for people who are living in poverty, especially PLHA. In addition, it will empower communities to be able to recognise and claim their rights from duty-holders, including the police, health care workers and Chapter 9 institutions, and to understand and address HIV-related stigma.

**Objective 1:** To build capacity in communities to recognise HIV/AIDS-related human rights violations and to refer appropriately.

**Objective 2:** To intervene where HIV/AIDS-related human rights violations occur.

**Objective 3:** To strengthen various state and non-state institutions on HIV related human rights violations.

**Objective 4:** To strengthen human rights networks between community members, the state and civil society organisations.

### **(ii) Expected Results**

#### *Tswelopele 4:*

The project will result in increased legal capital and access to justice in Hammanskraal specifically through:

- Increased capacity of Hammanskraal communities to recognise human rights violations and make appropriate referrals to seek redress
- Interventions made when human rights violations occur, through the work of the PLACE
- Increased capacity of state and non-state stakeholders on the HIV related human rights violations
- Increased number of regional initiatives on HIV and human rights
- Increased number of human rights networks established
- Increased capacity to understand and mitigate HIV-related stigma

### **(iii) Results Framework/matrix if any**

CSA has developed a results matrix to monitor project. Please see Table "Project Performance Framework" at the end.

### **(iv) Project Outputs to date.**

Please see Table "Project Performance Framework" at the end.

#### *e. Intended beneficiaries and geographical coverage*

The primary target groups of Tswelopele II are:

- PLHAs in Hammanskraal and Temba
- ASOs and other community-based organisations
- Community members
- Policy and decision makers

- Police, health workers and other government department employees

The secondary target groups of Tswelopele II are:

- Programme planners
- Academics and researchers
- Higher level policy makers e.g. provincial and national governments
- The legal fraternity
- Funders

The primary target groups of **Tswelopele 4** are:

PLHA in Hammanskraal and Temba; ASOs and other community-based organisations; community members; policy and decision makers; police, health workers and other government department employees; refugees; employees of Chapter 9 institutions; and magistrates and other legal officers. The secondary target groups of Tswelopele 4 are: programme planners; academics and researchers; higher level policy makers e.g. provincial and national governments; donors; and the legal fraternity.

Approximately 200 people will benefit directly from training that is being provided on HIV and human rights. Further, it is estimated that approximately 300 people will benefit directly at the PLACE through individual legal assistance, advice or referrals that will be provided. The door-to-door campaigns will benefit 150 people directly and 750 indirectly, as those who were contacted share information and resources with friends and family. Approximately five door-to-door campaigns will be held each year. There are eight (8) existing paralegals that currently benefit from ongoing programme activities and capacity building. There are presently eleven (11) Advocacy Team members that currently benefit from activities and capacity building. Thus, it is anticipated that thousands of people will benefit indirectly as the provision of legal services, referrals and training will cascade down to families and friends as people become aware of their rights and share the information with others. Several others will benefit indirectly through the high levels of legal capital that is created and maintained.

## 2: Project Performance

### *a. Quality of Project Design:*

CSA developed Tswelopele I project with a community participatory approach. Community consultation through focus group discussions and feedback sessions were carried out. The subsequent phases of Tswelopele were based on meeting held in Hammanskraal to discuss the way forward. Project proposals incorporate Hammanskraal's community views and needs. In the planning process CSA built in mechanisms for ensuring community ownership of the project. This process of consultation led to effective project targeting and alignment of activities with community priorities.

At design, the project identified HIV stigma and the geographical spread of the community as risk factors to appropriately reaching out target groups, which could result in an under-utilisation of the PLACE. This risk was mitigated through project activity: strengthen its stigma work and through a 'going to the community' approach through training, door-to-door campaigns and placement of paralegal(s) at organisations in the community. Potential litigation was also another identified risk as it could lead to possibility of coming into direct conflict with the Government. CSA foresaw mitigating this risk by linking up, if the need arise, with other like-minded organisations to spread the risk.

CSA also planned to continue utilizing and building upon its works with a wide network of non-profit and governmental organizations. The project has a realistic understanding about the challenges of overcoming HIV stigma and has planned to tackle this issue with a long-term perspective. It has incorporated the risk for its beneficiaries in their work in this area.

- **Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).**

Tswelopele is a well designed project. The sequencing of the project activities are well informed by the inputs of the community it serves and based on built capacities from one phase to the next. Expected results and outcomes are realistic and well aligned with objectives, planned activities and outputs. Tswelopele 4 could have been strengthened by incorporating in this phase research-based information about how communities in other countries have addressed HIV stigma and bring in this information to discuss with the PLACE and Hammanskraal community.

- **Assessment of the M&E system, if any (operationality, whether baseline exists, to what extent project reporting is using the M&E system).**

CSA developed in 2008 a matrix to monitor Tswelopele's achievements. The matrix is a simple and effective monitoring system.

- **Assessment of project planning to support "Consolidation of the democratic transition".**

CSA has incorporated democratic principles in its planning and implementation processes in developing Tswelopele by using community consultation methodology in planning and by integrating community views and needs into project design. The project itself is a

contribution to consolidation of the democratic transition as it brings access to services and justice to poor communities and disadvantaged groups.

- **Assessment of project planning to mainstreaming gender.**

In the 2007 proposal, CSA stated that the project would provide assistance on various gender related issues, and training has already been undertaken on gender based violence, domestic violence etc. In addition, Tswelopele has engaged relatively more women than men. The current paralegals and advocacy team are relatively balanced in terms of gender. Further training of paralegals and advocacy team members will ensure that this is taken into account. Personal consultations with project personnel showed that gender issues are addressed by CSA but not consistently in neither Tswelopele or in the activities of the PLACE.

***b. Project Relevance***

CSA use of various methods to address the issue of HIV/AIDS is highly relevant - Training to various stakeholder groups (e.g. paralegals, government, community organizations) provision of paralegal services, material development and dissemination and networking at community and organizational levels. Additionally, CSA network and partnerships in the area are wide so they also support policy development and monitoring activities at national and regional levels.

- **The extent to which the project is aligned with the Programme Objectives?**

The Tswelopele project supports NCHR objectives in health, access to justice and services.

- **The extent to which local context has been taken into consideration?**

Please see Quality of Project Design above.

***c. Efficiency***

Integration of the project into the community has proved cost-effective as spill over effects of project activities to other communities and organizations servicing the community (e.g. churches). CSA has to various degrees of success been integrating HIV/AIDS into the University of Pretoria through providing lectures in the University and to CHR course program and through providing inputs into research. CSA also provides counselling services at the university campus. CSA works with UNDP providing training to develop instruments and reviews for parliament in South Africa and other countries.

***d. Effectiveness***

Evaluations of the Tswelopele project (2006, 2008) asserts to the effectiveness of the project in meeting objectives. The major challenge for Tswelopele is finding an effective approach to tackle HIV stigma, an approach that would probably need to deploy from the vast network with which CSA is partnering, including bringing in international inputs. More resources and time dedication to this by CSA could advance the effort.

CSA could also become more effective in providing its partner with an approach to mainstreaming HIV/AIDS in the work of their own organization and advocate for this.



In 2006, a mini-evaluation of Tswelopele 2 was carried out and submitted to NCHR. Tswelopele 2 was found to be: running smoothly; engaged in various important activities; involved in networks; of benefit to a number of people with legal assistance or referrals and training. In addition, Tswelopele 2 was well received at the International AIDS Conference in Toronto and several people requested further information about the project.

Tswelopele 3 was the subject of a major mid-term. The evaluation found that Tswelopele 3 was meeting its objectives and had been instrumental in:

- Decreasing the incidence of human rights abuses and violations in the community
- Forming networks between organisations and at community level
- Reducing HIV-stigma at community level
- Reducing the tolerance and acceptance of human rights abuses and violations at community level.

▪ **NCHR Assessment**

From 2008 NCHR Annual Report: The Tswelopele 4 Project continued to assist by providing access to justice for people who are living in poverty, including people living with hiv/aids. In addition, it sought to empower communities to be able to recognise and claim their rights from duty-holders, including the police, health care workers and Chapter 9 institutions, and to understand and address HIV-related stigma. The Tswelopele 4 Project provided concrete and ongoing services comprised of training and one-on-one legal assistance and advice. In addition, the project worked with broader networks to address issues related to access to justice for people living with HIV/AIDS and addressing HIV-related stigma. The project was evaluated in 2007, and the evaluation concluded that the project was well conceived and integrated into the community. The main limitation of this project is that it focuses so specifically on one particular community, which means that the impact of the project is limited outside of this area. CSA is however able to use the experiences from the “hands-on” work in Hammanskraal in its more general outreach and advocacy work.

*e. Achieved, Expected Outcomes*

The project has built confidence and fostered capacities in the community to claim and access their human rights. It has also contributed to strengthen the sense of self reliability and communal achievements and coping mechanisms in Hammanskraal. However, the contribution of the project in significantly reduce social stigma has been modest.

According to Tswelopele 3 evaluation (2008) the project has been instrumental in:

- Decreasing the incidence of human rights abuses and violations in the community it service, evidenced in the outcomes of case work and referrals;
- Forming networks between organisations and at community level;
- Reducing HIV-stigma at community level;
- Reducing the tolerance and acceptance of human rights abuses and violations at community level.

*f. Sustainability of Results*

- **Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.**

The communities serviced by the Tswelopele seem to have taken great ownership of the project, greatly enhancing the sustainability of outputs and outcomes. Continued training

and networking activities support the increased demand for human rights in these communities.

- **With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.**

CSA is taking measures to improve the organizational sustainability of Tswelopele, but the project remains vulnerable to external funding. NCHR is the only source at present where funding is being sought. According to CSA report to NCHR, joint activities with other organisations involve joint funding, such as activities undertaken with the local municipality. It is hoped that the project will be taken over by the Government, Legal Aid Board and/or Department of Justice as part of their ongoing work on access to justice. The networking activities, especially with other NGOs, will ensure that the focus on legal assistance continues. As the people trained are from community based organisations, it is anticipated that they will be in a position to continue to provide legal referrals and assistance even after the project has ended. The management of Tswelopele also recognises the need to involve private businesses and other stakeholders in the project. There will be a concerted effort in Tswelopele 4 to involve business and other donors to ensure that the project continues. There is clearly also scope for a regional programme and it is proposed that this be undertaken with CSA as the lead organisation with community based organisations in Tanzania, Namibia and Malawi. The CSA can assist with the replication of the project in those countries, taking into account the local and legal frameworks.

*g. Consequences of NCHR management at project level.*

**What has been the relevance and effectiveness of NCHR as a Programme Manager/funding channel for the project (identification, project development, coordination function, monitoring of projects)?**

Peris Jones, the first researcher of NCHR South African Programme, made significant contribution to Tswelopele and CSA as his research was in the same field as that of the organization. His contribution ranged from community consultations during project development to research contribution.

*h. Compliance/Contribution to Cross-cutting themes:*

Theme	Assessment
Engagement with a range of methods	Various methodologies utilized to achieve results: materials development and dissemination; research through focus groups; training workshops; engaging in community dialogues; information sharing; networking, referrals to litigation, and advocacy.
Gender mainstreaming	Gender issues are addressed by CSA but not consistently across the activities of CSA and Tswelopele.
HIV/AIDS	The project focuses on promoting access to HIV/AIDS-related human rights. CSA has a systematic approach to address HIV/AIDS within the organization; but, as a reference centers on HIV/AIDS, it should advocate the integration of this approach to partner organizations.

### **Part 3: Performance Assessment**

**Ratings:** **A:** Highly Satisfactory; **B:** Satisfactory; **C:** Not fully satisfactory; **D:** Unsatisfactory; **X:** Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	A	CSA use of various methods to address the issue of HIV/AIDS is highly relevant. Additionally, CSA network and partnerships in the area are wide so they also support policy development and monitoring activities at national and regional levels.
Efficiency	A	Integration of the project into the community has proved cost-effective as it spill over effect of project activities to other communities and organizations servicing the community.
Effectiveness	B	Evaluations of the Tswelopele project (2006 & 2008) assert the effectiveness of the projects in meeting objectives.
Outcome	B	The project has contributed to reducing the incidence of human rights abuses and violations in the communities it service. The project has also built confidence and fostered capacities in the community to claim and access their human rights. It has also contributed to strengthen the sense of self reliability and communal achievements and coping mechanisms in Hammanskraal. However, the contribution of the project in significantly reduce social stigma has been modest
Sustainability of outputs/outcomes	A	The communities serviced by the Tswelopele seem to have taken great ownership of the project, greatly enhancing the sustainability of outputs and outcomes. Continued training and networking activities support the increased demand for HR in these communities. Moreover, CSA has built a partnership with the communities it services, exchanging knowledge.
Sustainability of organization	C	CSA is a strong and well recognized organization and is taking measures to improve the organizational sustainability of Tswelopele, but the project remains vulnerable to external funding.
Compliance with cross-cutting themes	B	CSA has a systematic approach to address HIV/AIDS within the organization. Gender issues are addressed by CSA but not consistently in neither Tswelopele or in the activities of the PLACE.

**Table CSA: Project Performance Framework (monitoring matrix produced by CSA, not the review team's)**

Indicators by which the objectives/aims are fulfilled

*Objective 1: To build capacity in communities to recognise HIV/AIDS-related human rights violations and to refer appropriately.*

Proposed Activities (as per original proposal)	Indicators to measure progress	Achieved in 2008
<p>Provide ongoing and general training to community members and groups to understand HIV/AIDS as a human rights issue, and to be able to identify human rights violations when they occur</p> <p>9 workshops were planned for 2008</p>	<ul style="list-style-type: none"> <li>• Number of workshops held and number of people in attendance</li> </ul>	<ul style="list-style-type: none"> <li>• 11 workshops were held with:                             <ul style="list-style-type: none"> <li>- Community health workers from various ASO's and NGO's (24-28 March)</li> <li>- Community health workers from various ASO's and NGO's (15-18 April)</li> <li>- Traditional Leaders (23-27 June)</li> <li>- Community development workers Brits Municipality (8-11 July)</li> <li>- Community health workers from various ASO's and NGO's (19-22 August)</li> <li>- Religious leaders (7-10 October)</li> <li>- Community health workers from various ASO's and NGO's (12-15 October)</li> <li>- SATAWU (21-24 October)</li> <li>- Jubilee Hospital health care professionals and shop stewards (28-31 October)</li> <li>- The security sector (11-14 November)</li> <li>- Various civil society organisations (20-24 November)</li> </ul> </li> <li>• General evaluation of workshops was positive</li> <li>• KAP was not used</li> </ul>

	<ul style="list-style-type: none"> <li>• Shift in knowledge and attitudes (Measured through simple KAP questionnaire)</li> <li>• Follow up interviews with sample group</li> <li>• Number of referrals made to appropriate human rights institutions (e.g. South African Human Rights Commission, Equality Court)</li> <li>• Increase in number of referrals to the PLACE</li> </ul>	<ul style="list-style-type: none"> <li>• By close of office in December 2008, 175 referrals had been made, the majority related to labour matters (to the CCMA and DoL)</li> <li>• Increased referrals have been made to the PLACE as people come forward during and after workshops to share experiences</li> <li>• The Tswelopele volunteers also engaged in referrals to the PLACE when they did wellness clinic visits on Mondays to Thursdays at the 4 Wellness Clinics in the Temba and Moretele area that the project worked with in 2008.</li> <li>• Referrals were also made during the 3 door to door campaigns that were held in 2008</li> </ul>
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<ul style="list-style-type: none"> <li>• Review and adapt training materials for particular target groups (e.g. health care workers)</li> </ul>	<ul style="list-style-type: none"> <li>• Customisation of training materials</li> <li>• Customised workshop outlines/workshops depending on target audience</li> </ul>	<ul style="list-style-type: none"> <li>• All training material was reviewed before any workshop</li> <li>• Materials were customised for training with health care workers</li> <li>• Materials were customised for training with SATAWU and the Security Sector</li> <li>• The use of local language during workshops has been very positive and the levels of interaction have increased during the workshops</li> </ul>
<p>Develop legal, awareness raising and promotional materials on HIV/AIDS and human rights</p>		<ul style="list-style-type: none"> <li>• Pamphlets on the services of the PLACE and other promotional material were distributed throughout the year to various organisations</li> </ul>
<p>Capacitate existing community structures such as the ASO's coalition on HIV/AIDS and human rights issues</p> <p>Empower ASO representatives to recognise human rights violations and to provide referrals to the PLACE and to other institutions, as appropriate</p>		<ul style="list-style-type: none"> <li>• Tswelopele volunteers presented the services of the PLACE as well as the basics of HIV and human rights to 16 different ASO's and NGO's working on HIV and other health issues in and around Temba and Moretele</li> <li>• The majority of the 4 day HIV and human rights workshops facilitated by the PLACE were with ASO's and NGO's (see above)</li> </ul>

<p>Continue to strengthen through training and support, the PLHA advocacy group located at the Wellness Clinics at Jubilee and Mathibestad Clinics</p>		<ul style="list-style-type: none"> <li>• Tswelopele volunteers facilitated several support groups at the 4 wellness clinics the project works with</li> </ul>
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*Objective 2: To intervene where HIV/AIDS-related human rights violations occur.*

<b>Proposed Activities (as per original proposal)</b>	<b>Indicators to measure progress</b>	<b>Achieved in 2008</b>
<p>Continued functioning of the PLACE in Hammanskraal to provide legal assistance, referrals and training for community members</p>	<ul style="list-style-type: none"> <li>• Proper office (e.g. adequate equipment) established that is accessible and open to the public</li> <li>• Client satisfaction levels (measured e.g.</li> </ul>	<ul style="list-style-type: none"> <li>• The PLACE is fully established and functional, with 3 offices for private consultations and 3 paralegals as well as an extra room used as a kitchen, waiting room and meeting room. There is adequate equipment, i.e. computers, filing cabinets, other office furniture, telephones, etc necessary for the effective functioning of the office</li> <li>• Despite being available, clients have not used the suggestion box or filled out client satisfaction forms, however, many clients particularly those whose cases are resolved often express verbal satisfaction with the services of the PLACE</li> </ul>

	<p>though use of suggestion box and client satisfaction survey)</p> <ul style="list-style-type: none"> <li>• Use of suggestion box by staff, volunteers and clients</li>   <li>• Where appropriate, legal advice offered at community organisations (i.e. to allow for accessibility for those who are unable to come to PLACE offices)</li> </ul>	<ul style="list-style-type: none"> <li>• Staff and volunteers rarely use the suggestion box, however they do use other avenues like staff meetings to air suggestions and complaints</li>   <li>• Tswelopele volunteers visit different community organisations 2 Friday's a month and volunteers who are trained as community paralegals offer legal advice where they can or else they refer matters to the PLACE or other appropriate places. Volunteers also assist with referring clients at wellness clinics directly to the relevant organisations that can help them if a matter does not need to be referred to the PLACE</li>   <li>• PLACE policies and procedures are in place regarding confidentiality and storage of files, referrals, file index</li>   <li>• Code of conduct and commitment is signed yearly by paralegals and volunteers</li>   <li>• Paralegals submit monthly reports outlining activities and referrals made, cases opened and closed as well as summary of progress of cases</li> </ul>
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	<ul style="list-style-type: none"> <li>• Policies and proper systems in place e.g. confidentiality maintained, security in place, consent forms, proper file management</li>   <li>• Monthly report from paralegals, outlining activities and referrals made</li>   <li>• Quarterly summary of cases</li>   <li>• Number of team building workshops held with volunteers, paralegals and management</li> <li>• Number of feedback meetings held with volunteers, paralegals and management</li> </ul>	<ul style="list-style-type: none"> <li>• One team building exercise was arranged for all working with the Project in 2008</li>   <li>• Bi-monthly staff meetings and monthly meetings with volunteers were held</li> </ul>
<p>Skills development for paralegals and other appropriate capacity building</p>	<ul style="list-style-type: none"> <li>• Increase in skills through training</li> <li>• Better use of supervision opportunities (e.g. hours with labour law consultant, hours with law clinic)</li> <li>• Better handling of cases (e.g. follow up with clients, use of diaries, better record and document keeping)</li> <li>• Better referrals made (e.g. to appropriate institutions)</li> <li>• Number of training opportunities identified and undertaken</li> <li>• Opportunities for continuing education (e.g. through</li> </ul>	<ul style="list-style-type: none"> <li>• Tswelopele volunteers and PLACE staff were trained in the following areas:</li> </ul> <p><b>-Social Grants</b></p> <p>The refresher workshop was facilitated by PLACE staff on 11 May and at this workshop it was realised that a comprehensive</p>

	<p>participation in seminars, conferences etc.)</p>	<p>workshop on social grants was needed, this was arranged and was facilitated by South African Social Security Agency (SASSA) Moretele District on 10 April</p> <p><b>- Basic Labour Law</b></p> <p>The refresher workshop was facilitated by the Labour Consultant on 23-25 April</p> <p><b>-Basic Counselling Skills</b></p> <p>This workshop was facilitated by a staff member working on the CSA Befrienders Programme. It was a 10 day course held in three parts as follows:</p> <p>Part 1- 19-20 May</p> <p>Part 2- 23-26 June</p> <p>Part 3- 29 August -01 September</p> <p><b>- Treatment Literacy and Advocacy</b> This workshop was facilitated by Treatment Action Campaign on 26- 28 May</p> <ul style="list-style-type: none"> <li>• The following training was attended only by office based paralegal staff</li> </ul> <p>-16 February 2008; Legal Cluster workshop on workers compensation facilitated by the Legal Resources Centre</p> <p>- 29 March 2008; Legal Cluster Workshop on housing issues which was facilitated by the Municipality of Tshwane</p>
<p>Handling of cases by paralegals with proper</p>	<ul style="list-style-type: none"> <li>• Proper opening and maintaining of files</li> <li>• Proper systems in place and being followed</li> </ul>	<ul style="list-style-type: none"> <li>• Proper storage system in place for files</li> <li>• A monthly progress report of activities on case files is</li> </ul>

<p>support</p>	<ul style="list-style-type: none"> <li>• Proper storage of files</li>   <li>• Number of cases resolved, referred out, and closed</li> </ul>	<p>submitted</p> <ul style="list-style-type: none"> <li>• File index book and referral book in place</li> <li>• Paralegal referral report submitted on monthly basis</li>   <li>• As of December 2008, 175 referrals were made mainly related to: grants, unfair dismissal to DoL, CCMA, Home Affairs, Legal Aid Board, Social Development</li> <li>• As of 30 November 2008, 327 new cases were opened for the year 2008 alone bringing to a total of 635 the number of cases seen at the PLACE since it opened</li> <li>• 80 cases were finalised in 2008</li> <li>• Case supervision by project manager and labour law specialist were done on a weekly and bi-monthly basis respectively and supervision by the law clinic bi-monthly</li> <li>• Law clinic staff represent PLACE clients at the CCMA as per agreement</li> </ul>
<p>Review of cases and trends emerging in the community</p>	<ul style="list-style-type: none"> <li>• Quarterly summary of themes and cases</li>   <li>• Identification of and referral to other researchers the themes emerging</li> </ul>	<ul style="list-style-type: none"> <li>• Monthly opened cases report highlights types of cases being opened. The majority of cases continue to be labour related</li>   <li>• A formal referral and supervision system is in place between the PLACE and the law clinic</li> <li>• Standardised referral letters have been developed for Department of Social Development (for grants issues), DoL and CCMA (for labour issues)</li>   <li>• 3 interesting cases related to human rights and HIV emerged during the year, assistance and opinion of the</li> </ul>

	<ul style="list-style-type: none"> <li>• Identification of possible test cases and obtaining of legal opinions on whether to proceed with test cases</li> </ul>	<p>AIDS and Human Rights Research Unit (AHRRU) and the law clinic was sought on how to proceed. The law clinic is assisting with a civil claim for one of the cases continuing from last year, while it was decided not to proceed with the other 2 matters for several reasons</p>
Referral of cases	<ul style="list-style-type: none"> <li>• Referral to law clinics and/or attorneys and advocates, as appropriate</li> <li>• Number of cases identified for possible test case litigation</li> <li>• Legal opinions received</li> <li>• Successful resolution of cases through mediation, letters, etc</li> </ul>	<ul style="list-style-type: none"> <li>• Formal referral system in place between PLACE and law clinic</li> <li>• 3 cases identified for possible test case litigation <del>80 cases were closed during 2008</del></li> </ul>

*Objective 3: To strengthen various state and non-state institutions on HIV- related human rights violations.*

Proposed Activities (as per original proposal)	Indicators to measure progress	Achieved in 2008
Training with other governmental and non-governmental organisations/institutions	<ul style="list-style-type: none"> <li>• Number of trainings held</li> <li>• Types of organisations/people trained (e.g. refugees, magistrates, court officials, etc.)</li> <li>• Shift in knowledge and attitudes (measured through simple KAP questionnaire)</li> </ul>	<ul style="list-style-type: none"> <li>• Training on HIV and human rights for several organisations including NGO's and ASO's as indicated under objective 1 above</li> <li>• Co-facilitation of training organised by the Department of Education and Media in Trust (MIT)</li> <li>• Project manager co-facilitated six workshops for the Gauteng Provincial Department of Health in collaboration with the Siyam'kela Project of the CSA</li> </ul>

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*Objective 4: To strengthen human rights networks between community members, the state and civil society organisations.*

<b>Proposed Activities (as per original proposal)</b>	<b>Indicators to measure progress</b>	<b>Achieved in 2008</b>
Networking in the community to ensure the people are aware of the PLACE	<ul style="list-style-type: none"> <li>• Number of referrals to the PLACE</li> <li>• Increased visibility of the PLACE</li> <li>• Number of telephone calls / queries to the PLACE</li> <li>• Local media coverage of PLACE's work</li> </ul>	<ul style="list-style-type: none"> <li>• Relationships with the local DoH, local DoL, Home Affairs, SASSA wellness clinics, police and magistrates</li> <li>• Regular ongoing community radio presentations on various issues related to HIV and human rights and the services of the PLACE at least once a month</li> <li>• 3 door to door campaigns held to make people aware about the services of the PLACE</li> </ul>

*Objective 5: To take "lessons" learned to the region*

<b>Proposed Activities (as per original proposal)</b>	<b>Indicators to measure progress</b>	<b>Achieved in 2007</b>
Training on HIV and human rights	<ul style="list-style-type: none"> <li>• Number of trainings held</li> <li>• Types of organisations/people trained (e.g. refugees)</li> <li>• Shift in knowledge and attitudes (measured through simple KAP questionnaire)</li> </ul>	<ul style="list-style-type: none"> <li>• 4 training workshops held with refugees (Mozambique, Malawi, Sierra Leone and Durban) funded partly from the Tswelopele Project</li> </ul>
Collaborative projects/ initiatives set up with regional stakeholders	<ul style="list-style-type: none"> <li>• Agreement on joint research initiatives</li> <li>• Number of meetings and workshops held</li> <li>• Training materials disseminated and exchanged</li> </ul>	<ul style="list-style-type: none"> <li>• Ongoing interaction with the Regional Programme of the United Nations High Commissioner for Refugees</li> <li>• Pierre Brouard was one of 3 guest editors of a book on the human rights issues in palliative care in SA</li> </ul>

Source: CSA

## 12.7 LRC Graniti

### Project Performance Report

#### Part 1: Project Description and Structure

*a. Project title: : The Red Graniti Matter*

*b. Implementing institution and brief history*

Legal Resources Centre South Africa (LRC) is the executing partner. LRC was established in 1979 as a legal service centre for people disenfranchised by the apartheid government. Since the inception of democracy, the LRC has used the new Constitution and Bill of Rights as a basis for assisting many poor people.

The Red Graniti Matter project is to enable the LRC to develop precedent that ensures that any international trade obligations entered into by the South African government are not used to undermine the human rights obligations of the government as enshrined in the South African Constitution. While some of these issues were addressed around the issue of generic medicines, there is a great deal more that needs to be clarified within the South African context. In addition, internationally there is an issue that has wide implications for all countries: can international economic and trade agreements and principles be allowed to thwart the human rights obligations to which the international community subscribes. The 2007 (2008-2009) grant was LRC's first grant with regard to the Graniti case.

The Graniti case concerns an Italian and a Belgium-Luxembourg mining companies who are suing the South African government before an international arbitration panel (ICSID) in accordance with two bilateral investment treaties (BITS). The new minerals legislation of 2004 requires transformation of former mineral rights into licenses, which are conditional on companies meeting a number of black empowerment objectives. The new legislation and the Mining Charter has as its primary objectives to facilitate the transfer of 26% of shares in the mining sector to black investors by 2014 and to appoint historically disadvantaged citizens in 40% of its management positions by 2009.

The Graniti companies claim that this is expropriation and unfair treatment since their investments in South African took place after 1994 and thus subsequent to the apartheid regime and in the context of the two BITS. They also claim to have been disadvantaged in comparison to South African citizens. The companies claim that by giving preference to BEE companies, the South African government has breached the part of the agreement by which the government is obliged to ensure "*fair and just*" treatment of Italian Investors and offer Italian investors "*no less favourable treatment that investments from its own investors*".

This case if successful is likely to have far-reaching implications for human rights worldwide particularly as more and more BITS govern trade relationships.

The Legal Resources Centre in South Africa on behalf of cooperation organisations from South African civil society and with the support of NCHR in 2007 are developing a litigation strategy on a number of fronts to make sure that human rights in the South African constitution and international human rights law are not compromised by the actions of foreign investors.

The main issues of the Graniti case centre on the relationship between international trade obligations and national human rights law, on the one hand, and the relationship between international investment law and international human rights obligations, on the other. If the claimants are successful, bilateral trade and investment agreements will be enabled to circumvent local laws, including constitutional rights. Internationally, it will lend support to the undermining of international human rights treaties using global trade agreements.

### *c. Project Budget and Financial History*

LRC Graniti	2005	2006	2007	2008	2009	Total
Grant amount ZAR			100,000	500,000		600,000
Project expenditures NOK			85,000	532,000		617,000

Sources: Revidert regnskapsrapport, Sør-Afrika programmet 2007; Oversikt over overføringer og forbruk m.m for 2007, 2008

### *d. Project Objectives and Results*

#### **(i) Project objectives**

To develop a litigation strategy on a number of fronts to make sure that human rights in the South African constitution and international law are not compromised by action from foreign investors.

#### **(ii) Expected Results**

According to the 2007 Funding Application, the expected results of the project are:

- Maximum understanding of and support around the issues from the interested civil society organizations including but not limited to the Treatment Action Campaign, TRAC, Nkuzi Development Association, and the National Union of Mine Workers (NUM) and, in the event of a decision that the case is useful to pursue, on-going understanding and support of these endeavors.
- A strategy for an approach to the ICSID and parties in the arbitration and, in the event that the case is regarded as a good one, a successful application to join as a 'third party'.
- A published academic paper in the South African Journal on Human Rights.

#### **(iii) Results Framework/matrix if any**

In the 2008-2009 Fund Application, LRC states the following indicators:

1. There will be an increased awareness by civil society of the quasi-judicial processes that pertain to international trade agreements between South Africa and other countries.
2. A resource base to engage on the impact of international trade on international and human rights will be established.
3. There will be both experience and precedent established around access to information.
4. Whether the LRC and/or its NGO clients and potential litigation partners are admitted as a 'third party' to the ICSID process or not, the challenge within South

Africa under SA Constitutional law will begin to address the dichotomy inherent in the BITs.

**(iv) Project Outputs to date.**

Please see Table “Project Performance Framework” at the end of this report.

*e. Intended beneficiaries and geographical coverage*

According to the Fund Application, all previously disadvantaged South Africans including those who stand to benefit from the mineral and resource wealth of South Africa are potential beneficiaries of the project. The direct beneficiaries, as clients of the LRC, are TAC, Nkuzi Development Association, TRAC and NUM whose collective membership numbers in excess of 1.2 million. Indirectly, the whole economy will benefit from greater certainty and clarity and in particular the poorest will be able to pursue their rights with greater certainty and confidence.



## **2: Project Performance**

### ***a. Quality of Project Design:***

The project objective is to develop a litigation strategy to counteract the Graniti companies claim in order to protect the rights of those who are to benefit from the mineral and resource wealth of South African. The potential for trade agreements to undermine affirmative action and human rights legislation is an underlying issue of the Red Graniti case. LRC approach to mobilize partners and generate a network and pool of information to strengthen their ability to litigate is appropriate, especially since main stakeholders such as National Union of Mine Workers and the Department of Minerals and Energy were included in the project planning for consultation. There is a reliance by the LRC on its clients to play the primary role in bringing information about the Red Graniti case to a wider public sphere. It would be important for the LRC itself to indicate the work it intends to undertake as the case unfolds in order to ensure that there is wider public understanding of the issues at stake. Publicizing the case in an academic paper was planned but not in the media. The risk assumptions are presented but mitigating actions not fully presented, but the NCHR funding for this project was provided for the assessment phase of the case.

- Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).

Objectives and activities are consistent as well as expected results.

- Assessment of the M&E system, if any (operationality, whether baseline exists, to what extent project reporting is using the M&E system). None. LRC is still in the process of researching and developing their legal strategy.
- Assessment of project planning to mainstreaming gender.

LRC notes that gender issues are tracked into all our case work and women's rights forms a particular focus area in our case work. However, in the absence of the arguments having been crafted for the papers that are intended to be submitted to either ICSID or to the South African courts, there is no current evidence of the pursuit of gender issues in the Red Graniti case.

### ***b. Project Relevance***

The relevance of the Graniti Case is to test (challenge) an international trade mechanism's (in this case the BITS') ability to override national human rights and the consequent legal obligations (such as affirmative action). International trade obligations govern a huge number of issues ranging from intellectual property (an issue which was only partially addressed in the negotiations around generic medicines) to the acceptable profit margins of the private sector that relate to the delivery of infrastructure such as water. LRC rational for pursuing this case at the expense of other cases is "the fact that this particular case deals with mining does not in any way mean that the implications will not have a direct bearing on HIV-AIDS medication (part of the TAC interest in the matter), free basic water supply to the poorest and so on."

As part of the NCHR portfolio, the Case is regarded relevant, but with limited repercussion in terms of medium-term impact on wider beneficiaries.

- The extent to which the project is aligned with the Programme Objectives?

According to LRC, the issues focus upon the need to secure socio-economic rights and access to justice in South Africa without having to sacrifice these as a consequence of international trade and it raises this in a context where rights exist in terms of the Constitution and law, but there is a worsening poverty and marginalisation. It confronts a key area of ensuring that recognition of rights is integrated into all policy (including that of trade) in an innovative way.

- The extent to which local context has been taken into consideration?

Regarding the objective, the project is to pursue conditions for the litigation. The LRC recognises that there are a number of issues that indirectly affect the ability of the South African government to deliver on the promises of the life implied in the Constitution. A key instance of this is the international trade regime. Should the application of Graniti succeed, there will be crippling financial consequences for the South African government as a result of Graniti's claim and the many subsequent applications that would likely follow as a result of the primacy of the narrow enrichment and profit motives by those in the private sector who have not recognised the importance to the sustainability of democracy in the South Africa of redress and ensuring the demographic and distributive transformation of the South African economy. Tackling such indirect threats to ensuring the success of change in the country are regarded as important by the LRC and its clients in addition to addressing the immediate and direct problems experienced by the poorest.

### *c. Efficiency*

Since the Graniti case had already been brought before the international trade regime's quasi-judicial process (ICSID), engaging in both the ICSID process and in the judicial processes within South Africa were the two paths available. Strategic partnerships including through its attorney-client relations with NGOs and national & international organizations and institutions have also been established to strengthen and complement these approaches.

### *d. Effectiveness*

The project has been delivering planned activities and creating wider networks to address the case. LRC has sought and established strategic partnerships. The project is therefore moving towards attaining its objectives.

LRC is considering action at two different levels: (1) the international arbitration. It is indicative of the importance of this case that the ICJ and possibly the OCHR are considering involvement, and (2) the SA Constitutional Court – where they are most likely to obtain a favourable judgment. Enforcement / implementation of a favourable judgment would likely prove difficult as the political and financial consequences would be considerable. Mobilization at the political level would therefore have to be part of the strategy for the effective implementation of a favourable judgment.

- NCHR Assessment

2008 NCHR Annual report is not available yet.

*e. Achieved, Expected Outcomes*

Main outcome depends on the resolution of the case if LRC is admitted to the ICSID process and/or engages in the litigation. The case is intended to signal to national and international trade organizations the need to confront the conflicts between human rights and commercial treaties. Another expected outcome is the formation of networks generated by raised awareness among national and international actors regarding the issue and its implications.

LRC is still in the process of researching and developing their legal strategy. If political mobilization at national and international levels becomes part of the strategy, a favourable judgment would most likely bring tangible benefits to poor, vulnerable groups. If a precedent is established this would also, for instance, provide TAC with some ammunition to tackle the issue of pharmaceutical companies and patents.

*f. Sustainability of Results*

- Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.

The form that this takes will depend on the ICSID process and any court outcome. In addition, within the international context the NGOs involved would be able to relate this to other cases and issues from other countries as well.

- With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.

LRC is a strong and well recognized organization, the Red Graniti case is at a stage where alternative sources of funding and support are in the process of being secured.

*g. Consequences of NCHR management at project level.*

What has been the relevance and effectiveness of NCHR as a Programme Manager/funding channel for the project (identification, project development, coordination function, monitoring of projects)?

In particular, the researcher for the NCHR’s South African Programme has been supporting LRC with the Graniti case, including providing important inputs regarding precedent cases in other countries (Argentina). Other support provided by the researcher and others in NCHR has been associated with extending the international network of interest and support for the project.

*h. Compliance/Contribution to Cross-cutting themes:*

Theme	Assessment
Engagement with a range of methods	The project engages with networking, litigation, publication.
Gender mainstreaming	It is not yet clear how/whether the Graniti Case will take into account impact on women.

HIV/AIDS	It is not yet clear how the Graniti Case will take into account impact on HIV/AIDS; however, the impact of the generic medicines issue on HIV/AIDS has been very significant.
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### **Part 3: Performance Assessment**

**Ratings:** **A:** Highly Satisfactory; **B:** Satisfactory; **C:** Not fully satisfactory; **D:** Unsatisfactory; **X:** Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	B	The relevance of the Graniti Case is to test (challenge) an international trade mechanism's (in this case BITS) ability to override national HR and the consequent legal obligations (such as affirmative action). International trade obligations govern a huge number of issues that relate to the needs of the poorest. The Case is relevant but with limited repercussion in terms of medium-term impact on wider poor beneficiaries.
Efficiency	B	Since the Graniti case had already been brought before the international trade regime's quasi-judicial process, engaging in both the ICSID process and the judicial processes within South Africa were the two paths available. Strategic partnerships including through its attorney-client relations with NGOs and national & international org & institutions have also been established to strengthen & complement litigation approach.
Effectiveness	B	Project is moving towards achieving its objective. It has been delivering planned activities and creating wider networks to address the Case. Strategic partnerships been sought and established
Outcome	X	Main outcome depends on the resolution of the Case if LRC is admitted to the ICSID process and/or engages in the litigation. The case is intended to signal to national and international trade organizations the need to confront conflicts between HR and commercial treaties. Network formation generated by project raised awareness among international, national and regional actors regarding the issue and implications.
Sustainability of outputs/outcomes	X	The form that this takes will depend on the ICSID process and any court outcome.
Sustainability of organization	B	LRC is a strong and well recognized organization capable of attracting funds.
Compliance with cross-cutting themes	C	It is not yet clear how/whether the Graniti Case will take into account impact on women and/or how it will impact on HIV/AIDS.

**Table X: Project Performance Framework**

<p><b>Goal:</b> To investigate possibilities in relation to this case of how to establish the relationship between the international trade activities of the state and its obligation to uphold human rights.</p>	<p><b>Indicators:</b></p>
<p><b>Project Objectives:</b> To develop a litigation strategy on a number of fronts to make sure that human rights in the South African constitution and international law are not compromised by action from foreign investors.</p>	<p>Status: Timeline                      18 September 2007: The arbitration claim was registered at the International Centre for Settlement of Investments Disputes (ICSID, a World Bank body set up to mediate investment disputes between corporations and sovereign states) and a Tribunal was constituted.                      December 2007: A procedural hearing in December will likely set a timetable for an exchange of written legal arguments                      January 2008: LRC discussed various strategies with TAC.                      April 2008: The request for information under Promotion of Access to Information Act (No 2 of 2000) (PAIA) submitted.                      May 2008: Seminar took place. One of the PAIA requests was refused by the government departments.                      June 2008: First tranche of documents received.                      July 2008: Counsel Geoff Budlender and Arthur Chaskalson, together with other lawyers from the LRC's Constitutional Litigation Unit, consider prospects of success of local litigation.                      October 2008: The International Commission of Jurist (ICJ) indicates their interest to be a third party in the ICSID arbitration.</p>
<p><b>Activity 1:</b> Building a resource network</p>	<p><b>Indicator:</b></p> <p><b>Status to date:</b></p>
<p><b>Planned Outputs 1:</b> Two workshops during this period 2008-09.</p>	<p><b>Realized Output 1:</b> The first workshop was held at the University of the Witwatersrand on 26<sup>th</sup> and 27<sup>th</sup> 2008. The Mandela Institute co-hosted day one of the workshop. Day one was the</p>

	<p>public workshop attended by delegates from the Mandela Institute and various universities, government and the judiciary as well as by the LRC's national director and LRC lawyers. A number of participants – notably those from overseas - withdrew at a very late stage and the workshop went ahead with fewer delegates than intended.</p> <p>The second proposed workshop had not yet been held and is planned for the second quarter of 2009.</p>
<p><b>Activity 2:</b> Engaging parties to the Tribunal</p>	<p><b>Indicator:</b></p> <p><b>Status to date:</b></p>
<p><b>Planned Outputs 2:</b></p>	<p><b>Realized Outputs 2:</b></p> <p>During 2007 the LRC had written to both parties to the arbitration proceedings giving notice of LRC's intention to apply for permission to file a submission as a non-disputing party. While the LRC has therefore made known to ICSID and the parties its interest, it will only be in a position to submit a formal application to be heard once it has seen Graniti's Memorial (which Graniti has submitted) and the South African Government reply (which has yet to be finalised).</p> <p>We have been approached by the International Commission of Jurists (ICJ) suggesting that there is scope for co-operation and their involvement as an interested third party in the ICSID arbitration. We will pursue their suggestions early in 2009.</p> <p>LRC lawyers are prepare to file the case in South Africa at a strategic time to challenge the constitutionality of this BIT (and possibly others) or actions taken by South Africa Government in terms of it. We are currently speaking to civil society organisations including SANGOCO, other lawyers and others who had litigated under ICSID rules in the past to determine a finalist of possible applicants.</p> <p>The list of potential <i>amici</i> in these matters have been expanded to include National Union of Mineworkers, COSATU, Amnesty International, Treatment Action</p>

	Campaign as well as UN High Commissioner for Human Rights, International Institute of Sustainable Development (IISD), and OXFAM (UK).
<b>Activity 3:</b> Placing information relating to BITS involving South Africa in the public domain	<b>Indicator:</b>  <b>Status to date:</b>
<b>Planned Outputs 3:</b>	<b>Realized Outputs 3:</b> A request for information under PAIA was submitted by Professor Jonathan Klaaren of the University of the Witwatersrand in view of the research that the university does. The documents seek to access include previous BIT arbitrations/settlements involving South Africa including any related trade and diplomatic exchanges. Furthermore a number of interesting judgments were circulated and are available should they be required.
<b>Activity 4:</b> Ensuring adherence to transparent procedures by government in the process of signing international agreements	<b>Indicator:</b>  <b>Status to date:</b>
<b>Planned Outputs 4:</b>	<b>Realized Outputs 4:</b>
Inputs/Resources (Activities):	Inputs/Budget

Sources: LRC and LRC Annual Reports to NCHR



## 12.8 LRC Women's Rights

### Project Performance Report

#### Part 1: Project Description and Structure

##### *a. Project title: Women's Rights and Equality Project*

##### *b. Implementing institution and brief history*

Legal Resources Centre South Africa (LRC) is the executing partner. LRC was established in 1979 as a legal service centre for people disenfranchised by the apartheid government. Since the inception of democracy, the LRC has used the new Constitution and Bill of Rights as a basis for assisting many poor people. LRC's overall strategic thrust is to be found in the interplay between case litigation and advocacy processes.

The issues of gender and equality are part of the Land and Rural Development Programme of the LRC which is one of six programmes focused on by the LRC. The other five programmes are: Children's Rights (which includes access to education in caring schools); Social Security; Housing, Urban Planning and Local Governance; Environmental Justice; and Women's Rights. Administrative justice, strengthening of civil society, gender, equality and the rule of law are issues that form part of these different programmes in different ways. These are implemented nationally from four regional offices based in Johannesburg, Cape Town, Durban and Grahamstown. All programmes deal with cross-cutting issues of sustainable safe water, HIV-Aids, regional collaboration, and defense of vulnerable groups (such as women, orphans).

##### *c. Project Budget and Financial History*

LRC Women	2005	2006	2007	2008	Estimated 2009	Total
Grant amount ZAR				500,000	500,000	1,000,000
Project expenditures NOK				467,500	495,000	962,5000

Sources: Oversikt over overføringer og forbruk m.m for 2008

##### *d. Project Objectives and Results*

###### **(i) Project objectives**

The goal of the project is to contribute to the improvement of women's capacity to access land and achieve security of tenure in rural sub-Saharan Africa. The project seeks to change the broader political and legal environment that influences the balance of power within which women negotiate and make land claims.

###### **(ii) Expected Results**

1. Strategic Plans for addressing complex conditions contributing to women's lack of access to land and land tenure in targeted communities

2. Revisions to law and legal precedent and policy conducive to rural women's access to land and land tenure security;
3. Institutional shifts in favour of rural women accessing land and achieving tenure security;
4. Rural women's organisations strengthened in South Africa and the sub-continent;

**(iii) Results Framework/matrix if any**

None

**(v) Project Outputs to date.**

Please see Table " Project Performance Framework" at the end of this report.

*e. Intended beneficiaries and geographical coverage*

Rural women in South Africa seeking to assert their land and tenure rights.

## 2: Project Performance

### *a. Quality of Project Design:*

The project is designed so that the research and consultative components serve as inputs for the development of other activities (advocacy, legal counseling and litigation, mentoring, and linking of urban and rural networking).

The project is a result of a collaborative work between LRC, the Community Agency for Social Enquiry (CASE), and rural NGOs and CBOs who work with rural women's groups. The design was the result of an in-depth consultation with client communities and organisations, namely the Rural Women's Movement and the Transkei Land Service Organisation. The project combines continued community consultations, research and legal support aimed at addressing the more severe obstacles that rural women face in accessing sustainable livelihoods in general and land and tenure rights in particular.

The project aims at promoting a shift in gender power relationships in rural areas in the long-run. Accordingly, the project is to be implemented in two phases over a seven to nine-year period. NCHR funding contributes to the first four-year phase. The LRC provides legal education and support to active women's groups with strong leaders over a four year period. It is anticipated that this will result in litigation at different levels.

Four key assumptions were made by the Project: the first three concern prevailing conditions in South Africa as follows:

- That the SA Government remains committed to maintaining *at least* existing policy and legislative bases for supporting gender equity;
- That existing constitutional values and rights continue to assist women in such struggles; and
- That experts do not conclude that there is an irreconcilable contradiction between the Constitution and customary law
- The fourth assumption is that once prevailing conditions in South Africa are researched and analysed, these will demonstrate sufficient common ground with the experiences of rural women across the sub-continent to allow for a common thrust.

The project engages in diverse approaches, which can be used to mitigate the risks outlined above. In addition, this is a long-term project, what can enable shift in activities to address possible risk factors.

- **Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).**

This is a well thought project. The sequencing of the project activities are well informed by the inputs of the communities it serves and designed with the flexibility to build subsequent phases of the project based on built capacities from previous phases. Expected results and outcomes are realistic and well aligned with objectives and planned activities.

- **Assessment of the M&E system, if any (operationality, whether baseline exists, to what extent project reporting is using the M&E system).**

LRC and its partners need to develop a matrix to monitor project's achievements. The matrix should be simple and an effective tool for monitoring achievements (links Outputs to Outcome to Impact).

- **Assessment of project planning to mainstreaming gender.**

The project focus on gender power relations targeting land property rights of rural women. A key component of the case surveys will be a baseline study on the relative gendered power relations, and changes over time relating to changes in legislation and law. This study will provide the information for a gender impact study (positives and negatives) on the project as it focus on the rights of women.

#### ***b. Project Relevance***

The project is highly relevant as it target women access to land and securing land tenure as well as overcome patriarchal interpretations of customary law. It has the potential to reach a large number of poor beneficiaries in SA and in the region. The project creates synergies between rural and urban communities and a regional network. The project has incorporated democratic principles in its planning and implementation processes by using community consultation methodology in planning and by integrating community views and needs into project design and implementation. The project itself is a contribution to consolidation of the democratic transition as it brings poor communities and disadvantaged groups to the decision making table.

- The extent to which the project is aligned with the Programme Objectives?

The project supports two Programme objective: "Contribute to the respect, protection and promotion of the Socio-Economic Right to Land" and "Contribute to greater access to Justice".

- The extent to which local context has been taken into consideration?

The project was designed based on a community consultation approach and support by previous and continued research.

#### ***c. Efficiency***

The mixed approach of research, legal counselling, litigation, advocacy and networking has the potential to increment the cost-effectiveness of project as those methods complement one another and cascade effects. Additionally, implementation is carried out by partners, together with groups of beneficiaries, which spread the cost of the project (as well as risk) and efficiency of implementations as different implementing partner bring in their expertise.

#### ***d. Effectiveness***

This is a project in its initial phase, but it is moving towards the realization of its objectives. Project has been delivering planned outputs, especially research and promoting institutional shifts in favour of rural women (customary law interpretation & litigation). The use of different methods within the project (internal diversification) and implementation by a network of partners (external diversification) has the potential to increment the effectiveness

of the project as partners act according to their area of strength and project needs. The inclusion of beneficiary groups into the project activities (e.g. as part of the research, consultative process) ensures project activities reflect beneficiary priorities. Additionally, it provides the opportunity for beneficiaries to take greater ownership of the project, what impact implementation and open opportunity for mobilization.

Results of interventions by LRC which relate to the Project:

The following are cases provided by LRC in connection with this review. LRC provided other examples of work carried out by the organization, but they have not been included in this report since they fall outside of the project being reviewed.

1. The case of *Shilubana* involved women's right to succession to chieftainship. Ms Shilubana lost her case in the two lower level courts, and her prospects in the Constitutional Court seemed vulnerable. The LRC intervened as *amicus curiae* on behalf of the Commission for Gender Equality and the National Movement of Rural Women. The Constitutional Court ruled that the Valoyi community should be able to develop its customary laws to bring them in line with the gender equality provision in the Bill of Rights. In August 2008, Ms Shilubana was inaugurated as the first female Hosi (Chief) in the Valoyi community's history. Judgments, such as the Shilubana case establish precedents that are important for other litigation concerning customary law and women's rights. Such judgments, from the highest court of the country, help develop a change in social attitudes, views and practices over time.

2. The LRC represented Mrs Gumede in this case which concerned the proprietary consequences of customary marriages concluded before the Recognition of Customary Marriages Act 120 of 1998. Under this Act, customary marriages concluded after 2000 were considered to be in community of property and those concluded before 2000 were to be dealt with in terms of customary law. The applicable customary law decreed that 'the family head is the owner of all family property in his home and family members are under the control of and owe obedience to the family head'. The Constitutional Court declared the relevant provisions of these laws unconstitutional. As a result, all customary marriages are now deemed to be in community of property, unless the parties had decided otherwise. This judgment will go a long way in protecting women's proprietary rights in divorce under customary law.

- NCHR Assessment

NCHR 2008 Annual Report not yet available.

*e. Achieved, Expected Outcomes*

The program is a year old, but successful litigation on customary law has set precedent and further clarification on the living nature of customary law. It has also inspired rural women to demand their rights to participation in decision making. Research and its dissemination will provide a basis for further action aiming at protect women rights to land and leadership.

**f. Sustainability of Results**

- **Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.**

Sustainability depends on use of research materials generated by project for further action and network maintenance and strengthening by LRC and other partners. However, the project supported the establishment of a woman (Hosi Shilubana) as a traditional leader, what has thus far been sustainable and served as a basis for action by women in other rural areas to claim their right to participate in village decision making.

- With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.

LRC is a strong and well recognized organization capable of attracting funding for this well thought project.

**g. Consequences of NCHR management at project level.**

What has been the relevance and effectiveness of NCHR as a Programme Manager/funding channel for the project (identification, project development, coordination function, monitoring of projects)? None.

**h. Compliance/Contribution to Cross-cutting themes:**

Theme	Assessment
Engagement with a range of methods	Community consultation, research, legal counselling and litigation, advocacy, mentoring, and networking.
Gender mainstreaming	The project focus on gender power relations targeting land property rights of rural women. A key component of the case surveys will be a baseline study on the relative gendered power relations, and changes over time relating to changes in legislation and law. This study will provide the information for a gender impact study (positives and negatives) on the project as it focus on the rights of women.
HIV/AIDS	Rural Women Right's Project developed out of an assessment demonstrating need to promote access to rights to rural women. One of the key consequences of HIV/AIDS for households in the rural areas is the increase in the number of households headed by single women. There need for security of tenure and the certainty of being able to assert their property rights is critical in their battle to deal with the impact of the pandemic on their families.

### **Part 3: Performance Assessment**

**Ratings:** **A:** Highly Satisfactory; **B:** Satisfactory; **C:** Not fully satisfactory; **D:** Unsatisfactory; **X:** Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	A	The project is highly relevant as it targets women's access to land and securing land tenure as well as overcome patriarchal interpretations of customary law. Potential to reach a large number of beneficiaries in SA and the region. The project creates synergies between rural & urban communities and a regional network. Planning based on needs assessment and project integrates community consultations.
Efficiency	A	The mixed approach of research, legal counselling, litigation, advocacy and networking has the potential to increase the cost-effectiveness of project as those methods complement one another and cascade effects. Additionally, implementation is carried out by partners, together with groups of beneficiaries, which spread the cost of the project (as well as risk) and efficiency of implementations as different implementing partner bring in their expertise.
Effectiveness	B	Project has been delivering planned outputs, esp. research and promoting institutional shifts in favour of rural women (customary law interpretation & litigation) and moving towards achieving its objective. Use of varied methods. Strategic alliance with CSOs working in same issues. Inclusion of beneficiary groups into the project activities ensure project activities reflect beneficiary priorities & increment ownership.
Outcome	B	The program is a year old, but successful litigation on customary law has set precedent and further clarification on the living nature of customary law. It has also inspired rural women to demand their rights to participation in decision making. Research and its dissemination will provide a basis for further action aiming at protect women rights to land and leadership.
Sustainability of outputs/outcomes	X	Sustainability depends on use of research materials generated by project for further action and network maintenance and strengthening by LRC and other partners. However, the project supported the establishment of a woman (Hosi Shilubana) as a traditional leader, what has thus far been sustainable and served as a basis for action by women in other rural areas to claim their right to participate in village decision making.
Sustainability of organization	B	LRC is a strong and well recognized organization capable of attracting funding for this well thought project.
Compliance with cross-cutting themes	A	The project addresses both dimensions.

**Table X: Project Performance Framework**

<p><b>Goal:</b> Contribute to the improvement of women’s capacity to access land and achieve security of tenure in rural sub-Saharan Africa</p> <p>LRC recognises that very similar patterns of gender discrimination and oppression are prevalent throughout the region. Accordingly, in the long term, the LRC intends to bring the benefit of its work into the region by forging partnerships with relevant organisations in other African countries who share similar objectives.</p> <p>Purpose: Gender power relations in targeted rural communities are conducive to women accessing land and securing land tenure.</p>	
<p><b>Project Objectives:</b> The project seeks to change the broader political and legal environment that influences the balance of power within which women negotiate and make land claims.</p>	<p><b>Indicators:</b></p> <p><b>Status to date:</b></p>
<p><b>Activity 1:</b></p>	<p><b>Indicator:</b> Strategic Plans for addressing complex conditions contributing to women’s lack of access to land and land tenure in targeted communities</p> <p><b>Status to date:</b></p>
<p><b>Planned Outputs 1:</b></p> <p>i. Establish collaborative partnership agreements with NGO’s and CBO’s working with rural women. Such partnerships will be based on mutually identified and agreed upon objectives.</p> <p>ii. Through researcher / practitioner collaboration, undertake initial consultation aimed at identifying complex problems linked to the lack of land access and tenure security, for example issues such as evictions, difficulties in accessing land, problems arising from inheritance and women’s status in tribal courts and decision making forums. This process will enable the identification of potential sites of</p>	<p><b>Realized Output 1:</b></p> <p>The LRC also participated in a conference on Access to Justice and Legal Aid in Africa was held in Kigali, Rwanda from 1 – 4 December 2008. This was jointly organised by the Rwandan Legal Aid Forum, the Danish Institute for Human Rights and the East African Law Society. The conference brought together national, regional and international partners. One of the resolutions of the Conference was for the organisations from the three regions (West Africa, East Africa and Southern Africa) to collaborate in relation to the challenges confronting women in the context of customary law.</p>



<p>research.</p> <p>iii. Undertake participatory analysis of emerging problems identified. The nature and extent of current problems will be interrogated as will be the effectiveness of strategies to confront them, and processes of change. This will also involve a prioritisation of the problems according to scale of occurrence and significance.</p> <p>iv. Initiate research collaboration with a view to undertaking comprehensive research activities around each chosen focus site: on the basis of the outcome of initial consultations in about ten different rural areas, four specific areas will be selected as ongoing project sites. In these areas meetings with groupings of rural women and NGO staff, researchers and lawyers will take place at regular intervals to provide support for the initiatives identified and undertaken by women community leaders. The content of the research and legal support provided will be determined by the agenda's set in the meetings, and is likely to vary from site to site. It is envisaged that both shorter and longer-term research agendas will be developed.</p> <p>v. Co-operate with external research initiatives, which may complement own research activities.</p> <p>vi. Conduct an analysis of legal aspects, including the potential for undertaking legal action in respect of different issues.</p> <p>vii. Using research documentation, conduct participatory strategic planning exercises to determine various appropriate courses of action on a local, national and regional basis.</p> <p>viii. Initiate research component to reflect on outcomes of initiatives taken by rural women and other collaborative processes.</p>	
<p><b>Activity 2: Research</b></p>	<p><b>Indicator:</b> Revisions to law and legal precedent and policy conducive to rural women's access to land and land tenure security</p>
<p><b>Planned Outputs 2:</b></p>	<p><b>Realized Outputs 2:</b></p>

<p>i. Produce participatory research studies aimed at introducing new policy recommendations based on complex realities and experiences of rural women in respect of land access and tenure security.</p> <p>ii. Situate findings in context of wider debates concerning women's rights.</p> <p>iii. Document, in particular, current practice and processes of change in relation to 'living law' interpretations of customary law.</p> <p>iv. Implement networking and advocacy campaign and policy engagements, including submissions, aimed at building awareness and winning support for new policy initiatives. For example, it may be necessary, to document the scale of a particular problem – say evictions in a specific area - in order to assist rural women in specific negotiations.</p> <p>v. Take forward constitutional challenges to inappropriate existing policy provisions</p>	<p>Documented cases: Shilubana and Gumede cases</p>
<p><b>Activity 3: Rural women accessing land and achieving tenure security</b></p>	<p><b>Indicator:</b> Institutional shifts in favour of rural women accessing land and achieving tenure security</p> <p><b>Status to date:</b></p>
<p><b>Planned Outputs 3:</b></p> <p>i. Implement community based advocacy challenges to existing institutional practices (eg. within tribal councils and traditional courts) and their compatibility with prevailing law and policy. Advocacy may involve meeting with government officials to take up specific problems and procedures.</p> <p>ii. Support advocacy initiatives with legal advice and other mechanisms.</p>	<p><b>Realized Outputs 3:</b></p> <p>Since January 2008:</p> <p>The Traditional Courts Bill was introduced to parliament in March 2008. The Bill centralises judicial authority to traditional leaders (as opposed to community councils) and effectively enabled them to unilaterally define and apply customary law within traditional council jurisdictional boundaries derived from apartheid. In May 2008 the Justice Portfolio Committee called for submissions concerning the bill and held public hearings. At the public</p>

<p>iii. Take forward litigation, including test case litigation, in opposition to existing institutional practices</p> <p>iv. Extend advocacy to national and regional arenas</p>	<p>hearings, organisations representing traditional leaders supported the bill, but LRC, COSATU, the Council of Churches, the Commission for Gender Equality and various civil society organisations as well as organisations representing rural women and various rural communities opposed it. The Bill was shelved by the Portfolio Committee pending public consultation hearings on the Bill.</p> <p>The LRC subsequently met with members of the Portfolio Committee in November and December but felt that it was important to retain a strong link to the civil society voices that had made their views known in May. The LRC also held meetings with these organizations – including the Human Rights Commission - in November and December and embarked on consultation meetings with rural women in collaboration with rural NGOs to identify communities which have problems with Traditional Courts, before the portfolio committee holds its meetings in 2009. Thus far two meetings have been held.</p> <p>The first meeting was held in Kwa-Zulu Natal on the 28 – 30 October 2008 at CEDARA agricultural college (PMB). The workshop was attended by twenty four (24) women from 12 communities. Facilitation was done by Rural Women’s Movement which also organised the women for the meeting. We attach a note (Annexure 1) from the CEDARA meeting to provide some idea of the issues raised.</p> <p>This meeting was held on the 12-14 November 2008 Nelson Mandela Museum in Qunu village near Umtata. Facilitation and organising of the workshop was also done by TRALSO, an NGO working with rural communities. In this meeting 19 women from six communities attended and reported their experiences with Traditional courts. We attach a note (Annexure 2) from the Qunu meeting to provide some idea of the issues raised.</p> <p>All the expenses for the meetings were incurred by the LRC .e.g. transport for participants, meeting material, catering etc. The local NGOs played a supporting role in facilitation and organising of the workshops.</p>
<p><b>Activity 4:</b></p>	<p><b>Indicator:</b> Rural women’s organisations strengthened in South Africa and the sub-continent</p>

	<b>Status to date:</b>
<p><b>Planned Outputs 4:</b></p> <p>i. NGO's and CBO's support the participation of rural women in the process of identifying problems and finding solutions to lack of land access and tenure security.</p> <p>ii. Implementation of evaluative processes providing an opportunity for rural women to reflect on and learn from their activities.</p> <p>iii. Hosting of sharing events enabling rural women from both different project sites and other communities to network and strengthen ties between them.</p>	<b>Realized Outputs 4:</b>
<p>Inputs/Resources (Activities):</p> <p>Implementation requires inputs for five broad categories of activity:</p> <ul style="list-style-type: none"> <li>▪ Community interface: including costs of community consultation, facilitation and networking</li> <li>▪ Research: largely skilled human resources, including a research director and research methodology advisor and costs associated with fieldwork, such as travel and accommodation;</li> <li>▪ Legal support and litigation: it is anticipated that over and above the day to day legal support provided, the project will include some large litigation test cases;</li> <li>▪ Policy findings: collation of material and publication of findings</li> <li>▪ Project co-ordination and management</li> </ul>	Inputs/Budget

**Source: LRC Annual Reports to NCHR, LRC**



## 12.9 ODAC

### Project Performance Report

#### Part 1: Project Description and Structure

*a. Project title: The Right to Know, the Right to Live – Enforcing the Right to Information for Socio-economic Justice*

*b. Implementing institution and brief history*

The Open Democracy Advice Centre (ODAC) is the implementing institution. ODAC was established in 2000, after the passing of two important laws- the promotion of Access to Information Act 2000 (PAIA) and the Protected Disclosures Act 2000 (PDA) –intended to give effect to the right to information. ODAC's mission is to attain an open democracy; realise a culture of accountability for all; and help South Africans claim their human rights. Its projects are directed towards training, advocacy and litigation. ODAC strives towards establishing itself as the 'Law Centre of Choice' for NGOs requiring advice in the realm of access to information. This project is a key part of ODAC's umbrella strategy, in which all its projects inter-relate (the legal capacity support the fieldwork, helpline and training components of ODAC's work). Right to Know, Right to Live aims at supporting poor and vulnerable communities to realise their socio-economic rights and especially the homeless, women and people living with HIV/AIDS. NCHR funds the litigation dimension of their work. The litigation undertaken by the organization in support of their mission; on behalf of those who cannot afford litigation; gives priority to cases that tend to result in access to information that will promote socio economic justice; has a broad impact on the advancement of rights.

ODAC has its own income generation funds, but its projects receive support from the Finnish Embassy, Ford Foundation, Open Society Foundation and DANIDA. NCHR is the larger external sponsor.

*c. Project Budget and Financial History*

ODAC received ZAR 1,496,360 in 2004 to cover 2002-2006.

ODAC	2005	2006	2007	2008	2009	Total
Grant amount ZAR (1)			930,184	1,008,949	983,154	2,922,287
Project expenditures NOK	560,000	845,000	600,833	702,500	737,300	3,455,633

Sources: ODAC Funding proposal 2007 (2008- 2009); NCHR's Total budget SA Programme 2007-2009 (draft November 2008).

*d. Project Objectives and expected results*

**(i) Project objectives**

The goal of the project is to enable vulnerable communities of the poor to realise certain key socio-economic rights by use of the right to access to information as a “leverage right”.

The objectives of the project are:

1. To compel the release of records pursuant to section 32 of the constitution and PAIA to such community level requesters.
2. To thereby enhance the capacity of poor and vulnerable communities to engage with government on policy and policy implementation and the delivery of socio-economic rights, such as housing and health care.
3. To advance the jurisprudence in a progressive fashion, and to widen the interpretation of the law in favour of social transformation.
4. Develop the case for an information commissioner, to increase access to justice in relation to the enforcement of the right to access to information.
5. To protect whistleblowers who raise matters of public interest in the workplace or in communities that show maladministration, corruption or wrong-doing and which thereby threaten the well-being and socio-economic rights of poor and vulnerable people.

Subsequently ODAC, after consultation with NCHR, added the following objective:

6. To demonstrate access to information law as a tool that can be used to combat corruption

#### **(ii) Expected Results**

1. Force the release of records where reluctant information officers do not want to release records, even where they are anodyne.
2. Encourage the practice of the release of records.
3. Develop the law around what records should and should not be released.
4. Raise the issue of access to information in test cases, which achieve publicity.
5. Prove the point that access to information enforcement through the courts is time consuming and expensive, thus proving the case for the information commissioner.

#### **(iii) Results Framework/matrix if any**

The Project states the following regarding indicators:

In supporting the use of access to information law, the main indicator is the disclosure or otherwise of the records that are requested. In litigation, the indicators are the first and foremost the judgments. They reflect both the quality ie the jurisprudence, and the quantity, that is, how many records are released. Benchmarks for litigation cases would include: Consultation with client, Research, Counsel briefed for preparing papers, Papers filed, File prepared for hearing, Hearing, Judgment noted, Appeal lodged or opposed, Appeal heard.

#### **(iv) Project Outputs to date.**

Please see Table “Project Performance Framework” at the end of this document.

#### ***e. Intended beneficiaries and geographical coverage***

The principal beneficiaries are ODAC's clients and their communities, but also through the precedent-setting judgments and the break-through disclosure cases, the poor and vulnerable in general as a more open and participative culture is developed.

ODAC makes around twelve sets of major, community-based ATI requests per year. These requests benefit not just the numerous people that live in the particular community, but forge an approach to transparency and its relationship with development that benefits other communities throughout South Africa. Our helpline advises around one hundred people – potential whistleblowers and requesters – a month.



## 2: Project Performance

### *a. Quality of Project Design:*

The project is designed to provide flexibility in the use of resources to attend to demands from its target groups (ODAC's clients and their communities, but also through the precedent-setting judgments and the break-through disclosure cases, the poor and vulnerable in general). The project plans to provide three lines of services:

- I. Provide advice through the Right to Know Helpline (by our helpline advisor) to potential whistleblowers and requesters of information;
- II. Provide legal advice and support by a qualified attorney, who will support requests for information and will act as the attorney of our clients as the requests proceed;
- III. Take certain cases to court – either appealing denials of requests for information (or 'mute refusals'), or important test cases that will create the right sort of progressive jurisprudence.
- IV. The risk assumptions identified are: willingness of the community to sustain its campaign for information, highly inconsistent and unpredictable response of government and private sector entities to the requests, the inherent risks and uncertainties that attach to court litigation, and own in-house legal capacity. Comparing the risk assumptions to the project's activity areas, the risks encompass the main activities of the project. Seemingly this is a high risk project. Except for developing as many pro bono counsel relationships as possible to ameliorate limitations of own in-house legal capacity, no other mitigating action has been incorporated into project or organization's activities. It is therefore reasonable to describe the project as a piloting experience.

- **Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).**

The activities and planned results of the project are consistent with objectives and goal.

- **Assessment of the M&E system, if any (operationality, whether baseline exists, to what extent project reporting is using the M&E system).**

Project Indicators are actually "outputs" as they are not instrumental in measuring change (capacity of poor and vulnerable communities to engage with government on policy and policy implementation, advance the jurisprudence, increase in access to justice, protection of whistleblowers - advancing socio-economic rights of poor and vulnerable people) as a result of project activities.

According to ODAC, the main indicator is the disclosure or otherwise of the records that are requested, or the whistleblower keeping their job. For monitoring purposes, ODAC thus focus on process indicators rather than impact indicators. Their assumption is that organisations will be able to use the information they request, what ODAC can demonstrate in a number of cases, but ODAC focus is on the release of information as the primary indicator of success.

The concluding comments of ODAC's evaluation of the "Right to Know, Right to Live" Outreach Strategy of 2006 (Josette Cole, Evaluation on ODAC's RIGHT TO KNOW, RIGHT TO LIVE Outreach Strategy – 2001 TO 2005, Draft Report, 2006) were:

From my vantage point it looks as though ODAC stands on the brink of having to make some strategic choices on the nature and content of its core implementation strategies. The goals and vision are clear – building an open and accountable society in which the benefits of social and economic justice interventions are delivered to South African citizens. While work at a more general level remains relevant and needs to continue, it is at the social side of the open democracy debate that ODAC faces new challenges and has emerging opportunities to pioneer new work and make strategic breakthroughs – in partnership with other chosen allies and partners.

The litmus test for having arrived at a more just, open and democratic society *is not going to be measured by quantifying numbers of requests lodged using ATI legislation*. While these and other measures remain important, *the real test is going to be the extent to which South Africa has an active and empowered citizenry with capacity to access rights, act responsibly and, ensure that resources are equitably distributed to all South African citizens*. The review shows that ODAC has a clear role to play in reaching this goal. (our italics).

ODAC has in 2007 developed a Results Framework for monitoring the organization's work. Since the the components of the NCHR funded activities are an integral part of ODAC's work, they are included in this results matrix. The main instrument for monitoring the organizations' achievements at objective level is stated to be ongoing programme monitoring and evaluation. ODAC however, has been doing neither.

- **Assessment of project planning to mainstreaming gender.**

On the Fund Application proposal 2007 (2008- 2009), ODAC states: "Our analysis of our processes is that on average there is a good balance between men and women in the community processes we facilitate, and the ration of men to women callers on the helpline is slightly tipped in favour of men. We consider development issues to have a high impact of women, both as they are a vulnerable group, and because the burden of poverty falls disproportionately on them. Our staff is sensitive to the issue of gender, and we have a workplace ratio of 2 men to 6 women".

Our assessment is that ODAC is sensitive to gender issues. They, are for example, conducting more outreach work to teachers and nurses unions, which are professions dominated by women. ODAC believes this will serve to ensure that they best assist women. However, ODAC has not developed an approach to mainstream gender in project activities. Gender issues identified during implementation have not been addressed either (e.g. why are more men than women using the helpline? What can we do to reach out to women? Is the instrument, telephone helpline, or the organization's outreach approach/scope/style that is generating gender unbalance in our service?, etc).

## **b. Project Relevance**

Although NCHR fund the litigation dimension of ODAC's work, the organization planned to use litigation as an integral part of its work – advocacy, mentoring, helpline, and training. ODAC is part of a wider network through which services, mutual support and knowledge are exchanged. Their work is to enable access to justice and information to poor communities, thus extending the realization of democracy.

The above mentioned 2006 Strategic evaluation of ODAC's "Right to Know, Right to Live" project notes that "also concludes that:

In its quest to promote a culture of open democracy and accountability, ODAC has been responsive to institutional (and individual) demands for its services, as well as proactive and open to changing strategies to stimulate demand for access to information services. This has *resulted in a mixed bag of clients, not all of whom are necessarily socially and economically excluded but, all of whom have used access to information legislation in one way or another to build and achieve a more open and, accountable, democratic culture that can directly or, indirectly benefit South African citizens.* (Page 24, our italics)

One of ODAC's comparative advantages as a South African NGO is its ability to work simultaneously at local, national, regional and global levels. While a clear strength, the disadvantages are that ODAC often gets stretched to its limits, given its small staff and, that it mitigates against the organization's ability to delve deeper into issues unearthed, particularly at local community level. While it may not be an either/or choice, *ODAC is challenged to consider focusing, in order to work at more depth, when it comes to its community outreach work.* (Page 43, our italics)

In the view of this review, ODAC's project funded by NCHR does not only remain inconsistent regarding its main beneficiary group, but it is also to a certain extent focusing away from the needs expressed by its beneficiaries, and especially members of poor communities. At goal and objective levels, "poor and vulnerable communities" or "vulnerable communities of the poor" are presented as the *direct* beneficiaries, but they become *indirect* beneficiaries at project implementation level. Clarity on beneficiary group promotes focus on competing demands from project and organizational resources.

Seemingly there has been a friction between what ODAC wants to do and what ODAC's beneficiaries are asking them to do, that is, a mismatch between supply and demand for ODAC's services. This is diminishing the relevance of the organization's work.

The above mentioned 2006 Evaluation also notes that one question for the 2006 evaluation was the less than expected demand of ODAC's service by NGOs and CBOs. This demand has increased since 2006 as evidenced by the number of litigation cases taken by ODAC. Nonetheless, the question remains on the types of cases and the tangible impacts they can make to "target" beneficiaries if they are considered to be poor, vulnerable communities.

In reply to this review team's comment that ODAC has been inconsistent with regards to its main beneficiary group, ODAC has written the following:

Our beneficiary group is both communities seeking to advance their rights that we assist directly, and the group of communities broadly that seek assistance from the state in terms of social and economic rights. The support of demand for information creates a supply of information, which in turn assists other

communities. If a local government puts systems in place to respond to a request from a community we assist, those systems then are in place to enhance responsiveness to other requesters. The creation of a system of response is one of the benefits of litigating on behalf of an individual or group.

The analysis above [that ODAC project remains inconsistent regarding its main beneficiary group] focuses only on one of six objectives. Assistance to poor communities around social and economic rights is one of our key objectives, but we are overall a project which promotes the implementation of openness and transparency.

As an example, one of our whistleblowers was a doctor in the public health system raising concerns about the treatment of prisoners. He is the client, and in a sense a beneficiary. The prisoners, whose health care rights were being violated, were not beneficiaries in the sense that they were not our clients. But the point of him raising his concerns was the prisoners be treated better, not his own treatment. We would regard the prisoners as beneficiaries.

It would be simpler to say we will only take cases brought directly by poor communities, but we find that those cases do not generally serve our other objectives, in that they often settle early on. The cases are generally poor communities asking for very basic information. While they are refused it by officials, by the time we have the issue escalated to legal advisor level, the legal advice to the municipality is that they have no basis for refusal.

So we cannot use those matters to advance the jurisprudence, make the case for the information commissioner etc.

It seems that the picture provided by ODAC today regarding its community outreach is similar to that noted by the 2006 evaluation:

Even though ODAC took a decision in 2004 to include PAJA as part of its conceptual framework and includes inputs on PAJA in its workshops, in practice it has not focused on it nor, made explicit the practical and strategic links that exist between PAIA and PAJA with respect to its community outreach strategy. In many cases particular *blockages encountered at local level are often as much about the attitude or, lack of response by local government officials and councillors as they are about the lack of access to information* (Page 39, our italics).

While an organizational assessment of ODAC is beyond the scope and depth of this review, the team offers the following for ODAC's contemplation. It seems that if ODAC's main objective is to "advance the jurisprudence" than its target groups should be clearly stated as NGOs and CBOs. However, if ODAC is to remain consistent with its objective "to achieve its mission through realising the right to know so that *it makes a material, tangible difference to the lives of the poor*, and thereby contributes to social and economic justice" (our highlight) than the focus of its activities should be on the demands of poor communities and local governments, which are mostly the entry point for services demanded by main beneficiaries.

▪ **The extent to which the project is aligned with the Programme Objectives?**

The project is aligned with the NCHR strategy for South Africa in that it links access to justice with the realisation of socio-economic rights through the enforcement of the right to access to information.

▪ **The extent to which local context has been taken into consideration?**

The project was developed to support and promote demand for government accountability via the use of right to information, in view of the enactment in 2000 of two new legislations, Access to Information Act and the Protected Disclosures Act. (see also Relevance above)

*c. Efficiency*

ODAC's strategically and consistently avoids the use of litigation as a means to bring about desired outcomes and try instead to use recourse to litigation as leverage. This strategy has brought cost-effective results in various cases when ODAC assisted clients and desired release of documentation happened without litigation (e.g. Kouga Municipality, Great Taung Municipality, Department of Home Affairs and The Truth and Reconciliation Commission cases). Reaching desired results without litigation, which is a heavily resource consuming activity, generate efficiency to clients, public institutions and to the organization.

*d. Effectiveness*

ODAC has been delivering outputs (legal services) according to clients' demand. ODAC has been mostly effective in achieving two of its five stated objectives: "compel the release of records" and "increase access to justice in relation to the enforcement of the right to access to information". However, information documented in the Annual reports shows that ODAC has been litigating to various target groups outside of clients from poor communities (NGO, university student, employed worker, and private companies). Achievement of its objective to "enhance the capacity of poor and vulnerable communities to engage with government on policy and policy implementation" has been low. ODAC's stated project goal is to service "*vulnerable communities of the poor* to realise certain key socio-economic rights by use of the right to access to information as a "leverage right". Although some of the cases ODAC is litigating have implications to society as a whole (e.g. Fortuin v Department of Social Development, Brummer v Department of Social Development, and Hogan cases) project resources have been skewed towards non-vulnerable groups of the poor. It is noteworthy that ODAC has articulated through personal consultation that the organization has been servicing vulnerable groups from poor communities as part of their wider services. ODAC has also provided a written report regarding their work servicing poor communities, which can be found as Annex A at the end of this report. Furthermore, ODAC states that without the litigation project they cannot force the release of the information at local level, as they would have no credible litigation threat. The fact that ODAC does actually get the information is often as a result of the threat of litigation.

ODAC has also supported the work of other program partners (Tshwaranang and Rape Crisis Centre Cape Town) and is therefore able to generate synergies in the NCHR programme. Moreover, ODAC is coordinating with three formal networks: (i) CSNAC is a loose network of civil society organisations which work on corruption issues. They are organisations committed to an open and democratic society based on human dignity and equality and freedom, who believe that combating corruption is important to achieve democracy and social justice; (ii) the JCSMF Network Of Organisations Working On Monitoring The Roll Out of Anti-Retrovirals; (iii) FOIANET - the FOI Advocates Network was formed to meet the need to exchange information between NGOs working actively in the freedom of information area and to facilitate the development of common projects.

#### ▪ NCHR Assessment

From the 2008 NCHR Annual Report: In last year's report we referred to an evaluation of the ODAC Right to Know Right to Live programme which undertaken by Josette Cole. She stated that: "While small by NGO standards, ODAC has a perceptible ability to punch above its organizational weight, interacting with and through collaborative partnerships and tactical linkages with a range of global, national and, community-based individuals and institutions in both the public and private spheres of South African society." We expressed agreement with this statement then and our impression remain the same. ODAC's work on the right to access to information, create greater awareness of this right and the effectiveness of using the legislation pertaining to this right. The access to information act is an important instrument to hold government accountable and encourage transparency of government, and ODAC is the only organization in South Africa specializing in this and they provide important assistance for other NGO's who have become stuck in getting the information needed from government in cases they are working on. Working to achieve greater transparency in decision making processes, the project provides an important contribution in the fight against corruption.

#### *e. Achieved, Expected Outcome*

ODAC's work has made a strong contribution to increasing public awareness in terms of the right to demand and to access public information and in making public officials aware of their duty to make information available. It has also contributed to making local governments more aware of the value of dialogue with stakeholders in resolving conflict and reaching common solutions. ODAC has been dedicating more resources to service vulnerable communities, especially since 2008. The tangible impact of ODAC's work to vulnerable groups of the poor, however, remains modest.

#### *f. Sustainability of Results*

- Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.

Beneficiaries have received requested public information with ODAC's assistance. ODAC is not monitoring outcomes of its litigations. ODAC's support to anticorruption (litigations in connection with public procurement) can make contribution towards government accountability and have a positive impact of the poor.

The following comments were made by the 2006 ODAC evaluation in relation to relevance and impact of the community outreach strategy:

There is overall consensus among all individuals and organizations visited or, telephonically interviewed for this review is that information on PAIA and PAJA supplied by ODAC and its assistance on how to apply it to leverage other rights has been well received, especially by para-legals, newly emerging NGOs supporting the sector and, some longer standing TCOE structures. One of the more striking findings is that despite existing limitations many NGOs and CBOs exposed to ATI legislation and the principle of open democracy and administrative justice promoted by ODAC have begun to actively promote and apply it in their own context. (Page 32)

While generally appreciated and applied, it is largely advice offices and NGOs who are better resourced and have the time to think and act strategically that have used the opportunity offered to them by ODAC to actively and consistently use the ATI legislation to leverage other rights. Smaller and less resourced advice offices who have received the same inputs (Jansenville, Kliplaat, Humansdorp and Jeffrey’s Bay), some of who even had follow up workshops with communities, talked about the value of the inputs and, while aware of the potential of the Acts, were unable to knowledge gained to their best advantage. Reasons cited are a general lack of resources, limited contact from ODAC and, an inability to communicate with ODAC. (Page 38)

- **With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.**

According to ODAC, this project is a component of ODAC’s umbrella strategy, in which all its projects inter-relate. ODAC has a around 20% of its budget from income generation/consultancy work, including training contracts with government agencies, a modest contingency fund and a group of loyal, intelligent funders (including the Ford Foundation, Open Society Foundation, the Finnish Embassy and DANIDA).

***g. Consequences of NCHR management at project level.***

What has been the relevance and effectiveness of NCHR as a Programme Manager/funding channel for the project (identification, project development, coordination function, monitoring of projects)?

NCHR has provided predictable and flexible funding.

***h. Compliance/Contribution to Cross-cutting themes:***

<b>Theme</b>	<b>Assessment</b>
Engagement with a range of methods	The organization uses litigation as an integral part of its work – advocacy, mentoring, helpline, and training. ODAC is part of a wider network through which services, mutual support and knowledge are exchanged.
Gender mainstreaming	The organization is sensitive to gender issues but does not have a systematic approach to mainstreaming gender.
HIV/AIDS	The organization does not have a systematic approach to mainstreaming HIV/AIDS.

### **Part 3: Performance Assessment**

**Ratings:** **A:** Highly Satisfactory; **B:** Satisfactory; **C:** Not fully satisfactory; **D:** Unsatisfactory; **X:** Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	B	ODAC is part of a wider network through which services, mutual support and knowledge are exchanged. The organizations fulfil an important function in implementing the right to information. However, ODAC's project funded by NCHR does not only remain inconsistent regarding its main beneficiary group, but it is also to a certain extent focusing away from the needs expressed by its beneficiaries, and especially members of poor communities.
Efficiency	B	ODAC's strategically and consistently avoids the use of litigation as a means to bring about desired outcomes.
Effectiveness	C	ODAC has been mostly effective in achieving two of its five stated objectives: "compel the release of records" and "increase access to justice in relation to the enforcement of the right to access to information". However, information documented in the Annual reports shows that ODAC has been litigating to various target groups outside of clients from poor communities (NGO, university student, employed worker, and private companies). Achievement of its objective to "enhance the capacity of poor and vulnerable communities to engage with government on policy and policy implementation" has been modest.(1)
Outcome	C	Increasing public awareness of their right to demand and to access public information. Increasing awareness of the possible impacts of monitoring government transactions in ensuring accountability and in curtailing corruption. Incrementing awareness of local governments to the advantages of engaging in dialogue with their stakeholders.(2)
Sustainability of outputs/outcomes	C	Beneficiaries have received requested public information with ODAC's assistance. ODAC is not monitoring outcomes of its litigations. ODAC's support to anticorruption (litigations in connection with public procurement) can make contribution towards government accountability and have a positive impact of the poor.
Sustainability of organization	C	ODAC is a relatively small organization; its sustainability is still vulnerable. It generates own funds through consultancies, mostly training, but relies mainly on external financial support.
Compliance with cross-cutting themes	D	The organization, although sensitive to gender, does not have a systematic approach to mainstreaming gender and HIV/AIDS.

(1) Comment provided by ODAC: We disagree with this assessment, and would argue that this does not take into account the group we assist, but whose cases do not reach litigation, and the impact of the litigation on systems of access, and the secondary impact of the litigation.

(2) Comment provided by ODAC: We do not regard these outcomes as unsatisfactory, but rather essential building blocks of a democratic South Africa.



**Table ODAC: Project Performance Framework**

<p><b>Goal:</b> The goal of the project is to enable vulnerable communities of the poor to realise certain key socio-economic rights by use of the right to access to information as a “leverage right”.</p>	
<p><b>Project Objectives:</b> The objectives of the project are:</p> <ol style="list-style-type: none"> <li>1. To compel the release of records pursuant to section 32 of the constitution and PAIA to such community level requesters.</li> <li>2. To thereby enhance the capacity of poor and vulnerable communities to engage with government on policy and policy implementation and the delivery of socio-economic rights, such as housing and health care.</li> <li>3. To advance the jurisprudence in a progressive fashion, and to widen the interpretation of the law in favour of social transformation.</li> <li>4. Develop the case for an information commissioner, to increase access to justice in relation to the enforcement of the right to access to information.</li> <li>5. To protect whistleblowers who raise matters of public interest in the workplace or in communities that</li> </ol>	<p><b>Indicators:</b></p> <p>Use of access to information law: Disclosure or otherwise of the records that are requested.</p> <p>Litigation: the judgments (quality ie the jurisprudence, and quantity, how many records are released).</p> <p>Benchmarks for litigation cases would include: Consultation with client, Research, Counsel briefed for preparing papers, Papers filed, File prepared for hearing, Hearing, Judgment noted, Appeal lodged or opposed, Appeal heard.</p>

<p>show maladministration, corruption or wrong-doing and which thereby threaten the well-being and socio-economic rights of poor and vulnerable people.</p> <p>6. To demonstrate access to information law as a tool that can be used to combat corruption (Comment from ODAC: This is an increasingly important area of work, which was not identified at the beginning of the project. It is something I have discussed with the project officer, Tor, but this objective was not there in the beginning.)</p>	
<p><b>Activity 1:</b> Provide advice through our Right to Know Helpline (by our helpline advisor) to potential whistleblowers and requesters of information</p>	<p><b>Indicator:</b></p> <p><b>Status to date:</b></p>
<p><b>Planned Outputs 1:</b></p>	<p><b>Realized Output 1:</b></p>
<p><b>Activity 2:</b> Provide legal advice and support by a qualified attorney, who will support requests for information and will act as the attorney of our clients as the requests proceed</p>	<p><b>Indicator:</b></p> <p><b>Status to date:</b></p>
<p><b>Planned Outputs 2:</b></p>	<p><b>Realized Outputs 2:</b></p> <p>2007:  ODAC has filed a joint request with Centre for the Study of Violence and Reconciliation for records relating to an amendment to the prosecutions policy issued by the National Director of Public Prosecutions (NDPP) in December 2005.</p>

	<p>Tshwaranang Legal Advocacy Centre has unsuccessfully tried to get access various research reports commissioned by various government departments. Usually the state will simply ignore them and the researchers who were commissioned to conduct the research are unable to provide the reports because they are bound by non-disclosure agreements. ODAC has helped Tshwaranang compile requests for these kinds of research reports to be released.</p> <p>A request was filed on behalf of Gun Free South Africa to the South African Police Service for records relation to the roll out of the Firearms Control Act.</p> <p>2008:</p> <p><b>Hogan:</b> A member of parliament approached our organisation due to some concerns regarding constituency funding. We briefed Counsel and received a legal opinion on the issue of the reporting requirements for constituency funding to Parliament. We have met with the MP regarding the opinion received and discussed it in length; she has raised some issues which needs to be addressed by Counsel for clarification. Counsel has been re-briefed and we received the opinion. We are awaiting instructions and feedback from client, who has in the interim become the new minister of health.</p> <p><b>Rape Crisis Centre Cape Town:</b> We were approached by the Director of Rape Crisis Centre with regard to possible donations being held with a private body which has not been released to the Centre. We looked into the matter and had discussions with various parties. We then gave our report to client, where we informed them of the fact that invoicing is only done once 50 sms were received for the organization as per the contract they signed with company which provided them with this service. The client instructed us to close our file.</p> <p><b>Kouga Municipality:</b> We intervened to help individuals of a small community of Weston, in the Kouga Municipality (Eastern Cape). They did not get houses after the project was completed and suspect that the list have been tampered with by the Councillor in their community. We asked for a few documents, including the list of approved people and the municipality's allocation policy. The request was never responded to. We lodged an internal appeal and got a response that there is a third party involvement. We had a problem trying to find an applicant who would be willing to proceed with the matter seeing as people withdrew in fear of losing their chance to get a house but someone finally agreed to be the applicant in the matter. Advocate Michelle Norton had been briefed. In the interim Kouga has provided us with the documents, therefore there is no need to litigate and the litigation file has been closed. Melvis Pietersen has provided the community with the documents received.</p> <p><b>Great Taung Municipality:</b> This request came after we were approached by a municipal councillor in the abovementioned municipality. She claimed that she was excluded from certain decisions on some</p>
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	<p>matters before the Council. She also did not get access to minutes after Council meetings. She wanted to see documents relating to resolutions on tenders for the fencing of the taxi rank and the branding of municipality respectively, suspecting corruption.. She wrote to them asking for the documents but was denied. She then asked us to make the request on her behalf. We have received no response and lodged an internal appeal, which we have received no response to. Since the last report we refiled an internal appeal and the 30 day period had expired. We also briefed Advocate Norton who was busy drafting papers, when the client received the documents which she herself had been denied before. The client then instructed us to close our file.</p> <p><b>Department of Home Affairs:</b> We assisted ACCESS, a coalition of organisations working to extend social security to children, to obtain the Turnaround Strategy which the Department of Home Affairs has been implementing over the last year and a half. The Turnaround Strategy should have been made public. However the Department has not yet done so. The request and internal appeal had been lodged. We had just briefed Advocate Shanaaz Seria when the Department provided us with the Turnaround Strategy. The reason they gave for not providing it to us earlier was due to the fact that the document was not called the Turnaround Strategy but the Strategic Plan.</p> <p><b>PDA-Amendments:</b> We made a request to the South African Law Reform Commission and the Department of Justice and Constitutional Development. We brought the request, in our own capacity relating to Discussion Paper 107 (Project 123)-PDA Amendments. We as well as many other organisations made submissions regarding the aforementioned discussion paper and a report has been drafted by the South African Law Reform Commission regarding the paper and submissions. It is in our organisation's interest to ascertain what the report says as it will greatly affect our work. The internal appeal was lodged and the South African Law Reform Commission as well as the Department of Justice and Constitutional Development informed us that the document requested is a Pre-decisional record and they refuse to grant us the document in terms of section 44(1)(a)(i) of the Act. However the report was released by the new minister of justice.</p> <p><b>The Truth and Reconciliation Commission:</b> We are assisting the Human Right Media with a request to the Department of Justice. This case deals with reparations and the state of affairs of the TRC. The information requested strives to know the ways the TRC is accountable to Parliament and specifically what they are doing to implement policies on community reparations. The Department of Justice sent an affidavit stating they cannot provide us access to the TRC unit report nor the TRC policy on community reparations seeing as no report was ever submitted to Parliament. They also informed us that no TRC policy on community reparations has been finalised. We have only received some of the documents requested.</p>
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<p><b>Activity 3:</b> Take certain cases to court – either appealing denials of requests for information (or ‘mute refusals’), or important test cases that will create the right sort of progressive jurisprudence</p>	<p><b>Indicator:</b> In litigation, the indicators are the first and foremost the judgments. They reflect both the quality ie the jurisprudence, and the quantity, that is, how many records are released.</p> <p><b>Status to date:</b></p>
<p><b>Planned Outputs 3:</b></p>	<p><b>Realized Outputs 3:</b></p> <p>In 2005, ODAC intervening as amicus curiae in five cases:</p> <p>(1) <i>Biowatch Trust v Registrar of Genetic Resources and Others</i> – Judgment delivered on 21 February 2005. The case was successful in getting records released but costs were awarded against ODACs client in favour of Monsanto.</p> <p>(2) ODAC attorney, Teboho Makhalemele, co-authored a paper on the case and published in <i>De Rebus</i>, entitled “<i>Costs in Public Interest Litigation – the Case of Biowatch</i>”.</p> <p>(3) <i>Hlatshwayo vs Iscor</i> – Judgment delivered 26 January 2005. Concerned a Masters student requesting information from steel company ISCOR from 1965 to 1973 to research Masters degree on labour issues. Judge ruled in favour of ODAC’s client, establishing that public bodies since privatised can still be treated as public entities.</p> <p>(4) <i>Earthlife Africa (Cape Town Branch) v Eskom Holdings</i> – Order of court of the date of return on 18 October 2005. Case concerned plans to build power reactor and information requested on plans and budget. The case was lost and is being appealed. Costs were awarded against Earthlife, an NGO. ODAC hopes that through the appeal a precedent can be set regarding the need for public accountability over public spending by way of accessing information.</p> <p>(5) <i>FXI v Johannesburg Water</i> – postponed. But ODAC has assisted case preparation by helping the court interpret provisions on PAIA and providing additional foreign jurisprudence.</p> <p><u>In 2006</u>, ODAC has received in total 2 major judgments from the higher courts in their access to information cases:</p> <p>(1) the case of <i>Earthlife Africa v Eskom Holdings</i>: , Earthlife Africa was denied leave to appeal the dismissal of application for access to the records of the board minutes of the South African electricity provider, Eskom. This was denied on the basis that the records may contain trade secrets relation to the development of the Pebble Bed Modular Reactor project. They then decided to plead for leave to appeal to the Supreme Court of Appeal against the judgment of 15 December 2005. The matter is granted leave to appeal, and will hopefully be heard in early January 2007</p>

	<p>(2) the case <i>Hlatshwayo vs Iscor</i>: After three years from working on the case <i>Hlatshwayo vs Iscor</i>, Mittal Steel lost its appeal against a Pretoria High Court ruling ordering the company to release records of its labour relation practices, including minutes of management meetings, between the period 1965 to 1973 to ODAC's client Hlatshwayo. Hlatshwayo had asked for access to all documentary sources from Iscor as a public body, in terms of the Promotion of Access to Information Act. The decision will have impact on the term "public body", determining relevant legal factors for this. Moreover, they believe that the cases will have a constructive impact on the release of information and documentation.</p> <p><u>In 2007</u>, ODAC had one case at Supreme Court of Appeal level and one case at High Court level:</p> <p>(1) ODAC represented the environmentalist NGO, Earthlife Africa in their application for access to the records of the board minutes of the South African electricity provider Eskom;</p> <p>(2) ODAC has for three years represented Mondli Hlatshwayo, a MA student at the University of the Witwatersrand who requested the company Mittal Steel company to release records of its labour relations practices.</p> <p>ODAC is preparing further applications against two municipalities' lack of responsiveness to their request for release of records. They are also collaborating with CSVR and TLAC on further requests for information.</p> <p><u>In 2008</u>:</p> <p><b>Fortuin v Department of Social Development:</b> Mr. Newton Fortuin made an application for funding for his project to the Innovation fund which in turn is funded by the Department of Science and Technology. Mr. Fortuin was refused the funding. He made a request and an internal appeal to ascertain whether there were any irregularities in the selection process of the recipients who received the funding, with no response. Mr. Fortuin was certain that his project would receive the funding. A High court application has been brought by us requesting access to the documents.</p> <p><b>Brummer v Department of Social Development:</b> A consortium of companies called IT Lynx tendered to provide the Department of Social Development with a new IT system to dispense social grants on behalf of government. The Finance Department refused the consent for the tender approval. Minister Skweyiya allegedly campaigned to give IT Lynx the tender. Minister Skweyiya's wife received money from the businessman leading the ITLynx consortium. Mr Brummer is a senior journalist with the Mail and Guardian Newspaper. Request and Internal appeal was sent for the records relating to the loan and tender and no response was received. The application for the records is in an attempt to ascertain whether there has been any bribery or corruption been taking place between Mr. Mjali and Minister Skweyiya. We made an application to court and have joined the Minister of Justice to the matter. The</p>
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	<p>constitutionality of the clause requiring application in terms of PAIA to be brought within 60 days is being challenged. The application has been lodged in terms of PAIA.</p> <p><b>Boitiko v Department of Social Development:</b> Boitiko orphanage made application to receive food parcels and have not received any assistance in this regard. However the community of Maluti have witnessed how the Department of Social Development in Maluti are not providing the food parcels to the community and these parcels are being sold or going rotten. The application is brought to ensure that the food parcels are being received by the people who need them and received so that there is no wastage of these goods. We had finalized the papers and re-lodged the request and internal appeal. We were ready to lodge the application papers however client had decided to not pursue the matter seeing as the Department of Social Development had established a satellite office in the town. The client didn't want to strain the new relationship that was being formed by litigating, thus the file has been closed.</p> <p><b>Earthlife Africa (CT) v Eskom:</b> Support to the case continued.</p> <p><b>Hugh Corder:</b> The Democratic Governance &amp; Rights Unit of the Faculty of Law, University of Cape Town represented by Hugh Corder approached us to make numerous requests on their behalf. The requests were made due to the concerns raised from the issue of Judge's such as Judge Hlophe who do remunerated work outside the judiciary. We made a request to the Judicial Services Commission requesting various documents relating to the complaints against Judge Hlophe and the enquiry held in terms of the complaints lodged. We have received some of the requested documents, and they have been referred to the Dean of the Law School in Cape Town for further analysis. We have received the documents therefore the file has been closed.</p> <p><b>Welz:</b> Adam Welz is a journalist largely involved in Environmental issues. There are numerous matters which we are assisting him with and all the matters relate to environmental concerns. The only matter which is ready for litigation is the one against the Department of Minerals and Energy. We made a request and appeal to the department requesting information pertaining to Interdepartmental Task Team on Biofuels, who wrote a report on the feasibility in establishing a Biofuel Industry in South Africa. Mr Welz believes the report was prepared by industry representatives who have an interest in biofuels being promoted. Adam Welz was out of the country and has returned to South Africa after many months away. He has instructed us to hold the other files in abeyance seeing as he is extremely busy and the matters are not burning issues right now. We have also had a consultation with Counsel and client in the Adam Welz and Department of Minerals and Energy case. The papers have been drafted, issued from the High Court and is being served by the sheriff.</p> <p><b>AME Church:</b> The members belonging to AME Church donate monies to the church to be used for that</p>
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	<p>purpose. However there are concerns that the donations are not being used for the Church at all but for private gain. The members have requested the Church to provide them with a budget but have not received a detailed one, which would explain how the monies are actually used. The members have asked the Church for a more detailed budget and have not received anything. Thus the members have approached us to assist them to make a request to the Church to provide them with a detailed budget in terms of PAIA, however due to it being a private institution it has to be phrased correctly thus the need for an opinion by Counsel. Advocate Fitz-Patrick was briefed and had provided us with an opinion. We lodged the request and internal appeal with no response. We are unable to draft papers and proceed with the matter seeing as we are unable to get hold of the client. We will have to re-lodge papers once we have instructions from client because we are well out of time.</p> <p><b>SAMWU v Department of Health:</b> The union approached us due to certain sections of the National Health Act not having commenced years since the Act was passed. We sent a request and received an unsatisfactory response, which led to an internal appeal being lodged. We did not receive a response to the appeal, thus the need for a high court application. The application is being brought in an attempt to force the Department of Health to make the necessary promulgations which would give the sections effective commencement dates. We have issued the founding papers in the High Court and it has to be served by the Sheriff of the Court.</p> <p><b>Carrie Davies v Shoprite:</b> This matter deals with the issue of Shoprite in Mozambique selling goods which are damaged and not bothering to maintain a standard of hygiene in their store. Carrie Davies from Mozambique had made request for information relating to Shoprite's standards of hygiene and customer service to Shoprite in South Africa, which is the head office of all Shoprite's. They refused to provide her with the records and thus the matter is at the stage for litigation. She approached us to help her obtain these records. Whilst trying to assist her we realised that due to her not being a South African citizen the court would ask her for security, thus we needed to find a South African applicant with ties to Mozambique and which would be able to prove a link with the issue at hand. We have approached the National Consumer Forum to be the applicant in the matter; this organisation has ties to Pro-Consumers who is based in Mozambique to get around the issue of security, which the applicant is unable to provide. The National Consumer Forum has been briefed relating to the matter and seemed eager to assist, however they have changed their view and are considering whether they will be part of the matter or not. We have decided to advise client that we close the matter because it doesn't seem that we can find a South African Applicant who is willing to assist.</p> <p><b>Theron v Department of Health and Department of Social Services :</b>This matter relates to a doctor at Pollsmoor Mr. Theron who blew the whistle on the conditions in Pollsmoor. Mr. Theron was</p>
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	<p>suspended from his work due to his whistle-blowing. We assisted him in his re-instatement, however he kept on being suspended and the Departments' did not want him returning to Pollsmoor, so various high court applications were brought to assist him in his re-instatement. Eventually the matter was settled and Mr. Theron agreed to work at another hospital. In terms of the settlement agreement the some of our legal costs would be paid by the state attorney. We had a cost consultant draft the bills of costs for the three cases. Those bills were then taxed. After the taxation it became apparent that the incorrect amounts in two of the bills were taxed and only the one bill of costs was in fact valid. The cost consultant was re-instructed to finalize the bill still to be taxed. The incorrect taxing orders have to thus be set aside. Counsel has finalized the setting aside papers and the matter will be heard early of next year. The other side has consented to the order and thereafter the correct bill of costs will be taxed.</p>
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Sources: ODAC, ODAC Annual Reports to NCHR

## **Annex A: Examples Provided by ODAC on their work with about their work in 2008 at community level.**

### **Nobuhle Housing Association, Philippi (Western Cape)**

A meeting was requested by a group of the project's committee members in Philippi. The purpose was to brief Odac of developments around the project and to request Odac to help get information from the Provincial Department of Housing & Local Government regarding the status of the project.

The project started in 2002, under a list drawn up of landless people (beneficiaries). The City of Cape Town recognised it. In 2005 people applied for 86 units.

The Committee had some interaction with officials from the Prov. Dept of Housing & Loc. Govt. The 86 units were never built. Another official produced another list with 30 people, who are not part of the original 86. Some of the 86 people were part of Qingqa and Masimanyane Associations. A list of 22 people was produced which is part of the 30.

The community heard that the project is under Thubelisha but they were not told so directly. They also didn't know what the procedure for acquiring title deeds was. A meeting was requested by Odac to allow Prov. Housing officials to explain and give information relating to the status of the Nobuhle project in Philippi.

There were 85 applications but only 22 were approved and handed over to Thubelisha Homes. Nobuhle still need to submit more applications. The money to built the approved units was available and the Department would enter into a contract with a particular committee.

A meeting was held between Thubelisha Housing Agency and Nobuhle Association regarding the progress or developments around the project. Among other things, they were informed that the project will resume in 2008. They were also informed that the old/previous Committee members will not be allowed to be signatories to the project.

They were also informed that it was handed over to Thubelisha by the Provincial Housing Department. Thubelisha told them that they would be informed in a public meeting about when the project would resume. Minutes of this meeting were made available.

A meeting was scheduled at the Try Again Creche (Philippi) by Thubelisha. The purpose of the meeting was to establish and form one committee of the Nobuhle Housing Association in light of the visible divisions amongst the members of the project. One group was said to be led by Rasimeni (the initiators of the project) and the other being led by Qantolo (so called pure PHP members).

Upon scrutiny of what seemed to be a problem a common ground was established where both groupings would come together through an election whilst retaining the initial 5 committee members whom have been the signatories in the original documents with PGWC. This led to a committee of 11 members being the additional members

where the signatories would be chosen from to enter into agreement with Provincial Housing Department when the project has been approved. Provincial government will now enter into agreement with new committee members and not the initial members as they are seen to be part of the problem in the project. A key outcome of the meeting was the aspect of communication, which seemed a problem before.

It was resolved that only elected members would communicate with Odac and /or the Department, Thubelisha, and the City and that it would only be with specific officials of those institutions.

A meeting was scheduled by Thubelisha for the election of signatories and the signing of the agreement between the Nobuhle Association and the Provincial Housing Department. This was done in the presence of the beneficiaries as well. Minutes of this meeting are also available.

A group of Nobuhle members led by Mr. Rasmeni, marched to the offices of Thubelisha in town alleging that the process of the election of signatories and the whole consultation with them was flawed. They also demanded that the process be restarted and that Mr. X. Tshaka (Thubelisha) not be facilitator. Thubelisha kept Odac updated about all developments in the area/project, including this one. Thubelisha divulged that it would appear that signatories of the previous Committee, led by Mr. Rasmeni would want to stay on the project not really to share experience and help beneficiaries but because there is some financial incentive for the role committee members play in the construction of houses.

The Provincial Housing Department scheduled a meeting addressed by Mr. John Thabatha to clarify the process and resolutions of previous meetings as well as the way forward. Sadly, this meeting was not attended by Mr. Rasmeni and members who marched. Mr. Rasmeni and other members of Nobuhle already qualified and got houses during the initial phase of the project. This makes other members feel that the process is being stalled now and that if it cannot be resolved, government could take it away from them to other areas.

During subsequent interaction with the Chairperson, Odac established that remaining members are of the opinion that the process should go forward as resolved and that Thubelisha and the Housing department must facilitate the process as planned.

This matter has been closed on our part. The newly elected committee reported that they will work with the Provincial Housing department to ensure that the approved list of beneficiaries' houses get built and that the rest go through the process of application and submission of documents.

## **2. G-WEST, WALMER (Eastern Cape)**

ODAC took up the queries of this community in Walmer. Through the process of inquiring about their specific plight, the Campaigns Officer, asked the submitted a request to the Nelson Mandela Bay Municipality. The request related to progress of a survey which was undertaken few year ago of the area, proof of ownership of certain

land around Walmer and the city's housing allocation policy. The first two were responded to but the third one, which is the most important one for the people of the area, is not available. The City confirmed it has no housing allocation policy at all. It is still a mystery how the City has been allocating housing over the past years without any criteria/system of allocation.

The Campaigns Officer recently visited the area to give feedback to the residents. They were happy with the confirmation of the land ownership response and the survey but very astonished about the absence of the housing allocation policy. They undertook to try other means of establishing the truth about such policy and would let Odac know.

### **3. ENXIWENI, TEMBISA (Gauteng)**

Odac got involved with this community through a Sowetan article regarding housing problems. Here residents allege that they qualified for houses but never received them. They suspect that the councilor and area committees have changed people on lists. A particular case is one of an old lady who is in possession of a title deed, receiving municipal accounts for the occupation of the house but she does not stay there. The house is occupied by someone else. Odac has submitted a request with Ekurhuleni Metro for the housing list of this area, the allocation policy, the IDP with housing projects and other documents residents want to find out about their situation. The Metro has acknowledged receipt of the request and is processing it already.

The municipality provided some of the information requested by Odac. An interesting aspect to note is that of the items requested from the Metro was a copy of the municipal account sent to the old lady. This is after Odac has been shown how much money they bill her for the house she doesn't even occupy. Even so, at her age and status as pensioner, she qualifies for the Metro's indigent policy. Two years back she owed the Metro a few thousands of rands in arrears. By February 2008, she owed them a few hundreds. However, when they sent Odac documents, a copy of her account indicated a zero balance.

After further interaction with the Provincial Housing department, the Campaigns Officer suggested that a meeting be organized later in the year for all relevant stakeholders (government and civil society) in the area. In the meantime, Odac was informed by the committee in Enxiweni that the municipality began a process of building a house for the old lady. At this point, the top structure of the house is complete and they are just finishing with internal touch-ups. The committee noted that the quality and standard of the house is better than the others in the area. It is hoped that she will be given occupancy of her house by the end of October 2008.

What is also of interest to us is the behaviour of the municipal and provincial housing officials. After Odac submitted the request, the Metro's housing officials visited the committee members regarding the request and enquired why they approached Odac on the matter.

#### **4. ABAZIMELI PARK, PARYS (N. Free State)**

Odac got involved with this community through its interaction with an NGO visited by our Fieldworker earlier this year. Here, members of Abazimeli (standing on your own), a group of residents of Ward 11, Sisulu Section, Abazimeli Park, are unhappy about the manner in which the Ngwathe Municipality, under which they fall, treats them. They stay on a surveyed but not serviced piece of land equal to 79 erven.

Council gives conflicting reasons why no houses are built in the area. One of the reasons put forward by Council is that the area is not habitable by humans due to its proximity to a quarry. Yet, less than 100m from the quarry, the previous houses were built. On top of it, there are reports by consulting engineers which contradicts Council's reason why the area cannot be serviced. They now want to move people to other areas claiming that there are too many people present in the area than the number of sites available.

The community has tried different avenues to get their plight attended to, including the NCOP. Odac received documents from the NCOP, apparently received from the municipality through their investigation. We have not been able to get the information requested and the matter has been handed over to litigation.

#### **5. ANTI-EVICTION CAMPAIGN (Western Cape)**

Campaigns Officer had a meeting with the Chairperson (WC) and members of structures of the Anti-Eviction Campaign (AEC). The meeting was initiated by Odac with the intention to establish whether we could work with them around the list issue and in particular the displaced people in the Delft area (Symphony Road). A request is sent off to the City of Cape Town for documents relating to the list of beneficiaries of a specific project or area (Delft), budgets of what the city committed for the area, services planned as well as role of contractors in the area.

Documents have been provided by the municipality. The organization which asked for the documents have not taken the matter up further yet.

#### **6. KOUGA MUNICIPALITY (Eastern Cape)**

Odac submitted a request in February 2008 as part of a follow up on issues requested from the municipality last year. Documents requested included their housing allocations policy, lists of approved beneficiaries for 40 houses built two years ago, status of the project, etc. The request was never responded to then. The only response we got was their letter in which they claimed third notification, which they didn't follow in terms of the Act. After seeking legal advice, we resubmitted the same request in June 2008. They didn't respond and we appealed in July 2008. They responded in September by granting partial access to requested documents. After interaction with the municipality, the outstanding documents were also provided. These must now be taken to the community.

It is worth mentioning at this stage that all documents received from the municipality contain information that should have been given or shared with the community. The housing policy, the agreement between the province and the developer, the list of

approved beneficiaries, is all information people know about but does never get shared with them.

Of interest to note in this matter is the effect the response and behaviour of officials and councilors have on community members who need information regarding these projects. In this case, when we approach one of the ladies we request the information for, she withdrew, indicating that her pursuance of the matter might actually lead to her losing a chance of getting a house. This sort of behaviour creates a sense in communities that people are being done a favour by the municipality, instead of them seeing it as a way of exercising or protecting their socio-economic rights, and that councilors and officials are obliged to do their work as guided by government policies.

## **8. MATZIKAMA & WEST COAST DISTRICT MUNICIPALITIES**

Friday, 12 September 2008, Campaigns Officer, in partnership with Fair Share, conducted a workshop for organizations in Bitterfontein (WC). Subsequent to this workshop, requests were sent to Matzikama and West Coast District Municipalities. The requests include issues of housing, land availability and ownership thereof and municipal budgets.

### **Observations**

- In all the above cases, there is a poor relationship between the residents and the Councils. On one hand, Councils do not comply with provisions of laws governing municipalities. Particular emphasis is the way in which officials and councilors manage the relationship in their roles. Whilst on the other, communities lack the knowledge of or how to enforce their rights to Councils.
- Most of the victims of the violation of rights, neglect or ignorance by both councilor and officials, are women, children and other vulnerable groups in those communities
- Progress on campaigning work on housing issues is delayed by slow or non-responsiveness of municipalities. E.g Meeting with Ethekwini Metro was requested in May 2007 and the first meeting only came about in November.

Records from Kouga were initially asked in June but nothing came from it last year. The request was resubmitted this year and only concluded last month.

### **PARTNERSHIPS**

- Odac has forged a partnership with Fair Share (UWC), who does local government budget training with NGO's/CBO's around the country. Campaigns Officer has done training on PAIA to NGO's/CBO's in KwaZulu-Natal, Western Cape (West Coast), and Limpopo.
- We also had a partnership with South African History Archives (SAHA) to conduct workshops with paralegal networks in Johannesburg

### **Corruption related issues.**

- Non-housing related interventions: Campaigns Officer was approached by Development Forum of Victoria West, Northern Cape (Ubuntu Municipality) and a group in Taung, North West (Greater Taung Municipality) – both needed assistance to acquire records relating to tendering processes

**Ubuntu municipality** disclosed information partially. After discussion with the Municipal Manager, they undertook to provide the rest of the information. This was done but documents were sent to us in Afrikaans, when we requested for them to be sent in English. In the spirit of responsiveness on the part of the municipality I agreed that they send it to us in Afrikaans. He did not do as promised and the litigation department wrote a letter to the Municipal Manager to this effect – failing which legal action would be taken against them.

**Greater Taung Municipality, NW:** The case is concluded as the client got full disclosure of the information. This she got after we lodged a notice of internal appeal against the municipality.

**Inseta:** Our, client, Noseweek, asked us to help them get a few documents from the Insurance Education & Training Authority (Inseta) which related to among others, minutes of Council meetings, records of funding income, record of bursaries awarded and records of tenders awarded.

Inseta made a partial disclosure on most of the items requested, except for those records which related to awarding of tenders. They claimed third party involvement but failed to comply with provisions of the Act relating to third parties. They also didn't comply to time periods provided for by the Act. In our opinion, the reason for non-disclosure of the records is because some of the disclosed records indicate the involvement of the director's son in companies which won tenders from Inseta.

**Breede River Winelands Municipality, Ashton (WC):** Odac is in process of instituting legal against the municipality for failing to disclose record of minutes of meetings, and records relating to advertisement and process of appointment of a Community Development Worker in Robertson for McGregor.

We noted with concern and interest that this municipality did disclose other requested information earlier but not this request. They acknowledged and responded to the previous request within the 30 day time period provided for by the Act, but with this one they neither acknowledged nor responded to it.

## 12.10 PLAAS

### Project Performance Report

#### Part 1: Project Description and Structure

*a. Project title:* Land Rights and Agrarian Change in South Africa

*b. Implementing institution and brief history*

The Institute for Poverty, Land and Agrarian Studies (PLAAS), initiated in 1995, engages in research, training, policy development and advocacy in relation to land and agrarian reform, rural governance and natural resource management. The organization is committed to social change that empowers the poor, builds democracy and enhances sustainable livelihoods. Gender equity is integral to these goals. It strives to play a critical yet constructive role in processes of social, economic and political transformation. Recurring themes within their research have been issues of poverty, livelihoods, power and property rights, and the challenge of structural socio-economic change. PLAAS and Noragric have co-operated for the past seven years in collaborative programmes of research, exchange and institutional support.

Established in 1986 as a centre at the Agricultural University of Norway (NLH), Noragric became the Department of International Environment and Development Studies at the renamed Norwegian University of Life Sciences - UMB on 1 February 2005. Noragric's activities include research, education and assignments, focusing particularly, but not exclusively, on developing countries and countries with economies in transition. With more than 40 years collaboration between UMB and academic and professional institutions in Africa, Asia and South East Europe, Noragric has established a broad network of worldwide contacts. Noragric work in the areas of agricultural development, livelihood security and natural resource management.

*c. Project Budget and Financial History*

PLAAS	2005	2006	2007	2008	Estimated 2009	Total
Grant amount ZAR		1,294,877	1,700,958	1,662,163	1,821,343	6,479,341
Project expenditures NOK	47,500	1,112,877	1,031,163	1,206,158	1,304,000	4,711,698
NORAGRIC	2005	2006	2007	2008	Estimated 2009	Total
Grant amount NOK		500,000	599,148	612,143	620,392	2,331,683
Project expenditures NOK	1,500,000	455,541	600,000	612,000	620,000	3,787,541

*Sources:* PLAAS Application 2007-2009 and NCHR's Total Budget Submitted from SA Programme 2007-2009 (draft November 2008)



**d. Project Objectives and Results**

**(i) Project objectives**

- (a) to enhance understanding of the problems facing rights-based approaches to land and agrarian reform in South Africa through undertaking high quality, applied research and publishing the research findings in accessible formats.
- (b) to positively influence the policy and implementation of land and agrarian reform in South Africa through disseminating relevant research findings to government decision makers, civil society groupings and scholars and engaging these audiences in debate on the policy and implementation implications of the findings.
- (c) to strengthen the capacity of applied social scientists working on land and agrarian reform in South Africa by supporting South African PhD students undertaking thesis research on programme-relevant topics
- (d) to contribute to capacity building for effective land and agrarian reform in Southern Africa by provide material support to the only post-graduate training programme in land and agrarian studies in the region.
- (e) to strengthen the institutional capacity of PLAAS and secure its role as the leading research centre in the region focused on land rights and agrarian reform by providing targeted institutional support
- (f) to engage in regional dialogue with scholars and practitioners from other Southern African countries working on issues of land rights and agrarian change.
- (g) to enhance awareness and understanding within Norway and South Africa of the progress of land reform and of the challenges to realising socio-economic rights to land embodied in the South African Constitution

**(ii) Expected results**

- (a) Research: 3x PLAAS Research Reports; 6 x Policy Briefs; 9 academic journal articles or book chapters; PLAAS will publish two Status Reports on Land and Agrarian Reform in SA (2007 and 2009);
- (b) Policy engagement: Three research workshops (one per annum) will be organised to communicate research findings to stakeholders and users, including individuals and communities that are research subjects.
- (c) Researcher training: Two PLAAS researchers will complete PhDs in 2007 (Tapela and Hall); one new PhD student will be recruited and make substantial progress on PhD by end 2009
- (d) Capacity building: PLAAS and Noragric researchers will deliver occasional lectures to post-graduate students in each other's teaching programmes; the salary of the PLAAS post-graduate administrator will be supported and a high quality staff member will be retained; useful and relevant materials for the PLAAS resource Centre will be purchased
- (e) Institutional support: Two suitably qualified candidates will be appointed to the key posts of PLAAS Deputy Director and Senior Researcher – Agricultural Economics
- (f) Regional dialogue on land rights and agrarian change: two regional workshops for 20-25 participants will be organised

- (g) Awareness raising: A minimum of one media article on land rights and agrarian change in SA will be published per annum in both Norway and South Africa; annual public seminars on land rights and agrarian change in South Africa will be held in Norway and researchers from both PLAAS and Noragric will make presentations.

**(iii) Results Framework/matrix if any**

A comprehensive results framework has been developed.

**(v) Project Outputs to date.**

Please see Table "Project Performance Framework" at the end of this document.

**e. Envisaged beneficiaries and geographical coverage**

Research and policy engagement: users and stakeholders in the land reform sector in South Africa (government, civil society), academics and research subjects (individuals and communities) will benefit from the insights produced by three in-depth research studies and from the debates over the policy implications of research findings that the project will seek to promote. Research subjects will be invited to local workshops that will provide for translation of presentations into local languages. Research subjects will be involved in implementation of research through co-operating in data collection, and standard ethical requirements of academic research will be rigorously observed.

Researcher training: three South African PhD students will benefit from opportunities to complete their degrees, and one will have all her/his research costs covered by the project. These students will be centrally involved in research and writing up of their theses.

Capacity building: practitioners from the land reform and rural development sectors in Southern Africa who participate in the PLAAS post-graduate training programme will benefit from lectures by expert researchers, effective administration of the programme and from access to recently published, high-quality materials in the PLAAS Resource Centre.

Institutional support: PLAAS as the leading institution involved in research and training on land and agrarian reform in the region will benefit from the appointment of two appropriately qualified senior staff members to positions with strategically important responsibilities. Once appointed both staff members will be centrally involved in managing and implementing the project.

Regional dialogue: scholars and practitioners from different Southern African who participate in regional workshops on land rights and agrarian change will benefit from exchange of experiences and views. Some participants will be regional partners of PLAAS and will be centrally involved in organizing and hosting such workshops.

Awareness raising: readers of media articles and participants in annual seminars in Norway will benefit from the increased insight they receive into the complex and challenging nature of land reform and agrarian change. They will not be centrally involved in implementation of the project.

## 2: Project Performance

### *a. Quality of Project Design:*

- **Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).**

The project is well-designed. The links between Outputs, Outcome and Objectives are logical and clear. Risks and assumptions are realistic, but could have been more comprehensive.

- **Assessment of the M&E system, if any (operationality, whether baseline exists, to what extent project reporting is using the M&E system).**

A Monitoring and Evaluation Matrix for the project has been constructed and will be used by both the senior staff who are allocated project management responsibilities and by the Directors of PLAAS and Noragric to assess progress in the project. Indicators will be assessed at annual project workshops, and remedial action will be taken when required. Project reporting is using this system effectively.

- **Assessment of project planning to support “Consolidation of the democratic transition”.**

Land Rights and Agrarian Change in South Africa is of crucial importance and poses considerable challenges. This project planning supports “Consolidation of the democratic transition”

- **Assessment of project planning to mainstreaming gender.**

The gendered dimension of land rights is a key policy issue, given the apartheid legacy of extreme discrimination against women in secure access to and rights over land, as well as in relation to linked questions of productive and reproductive labour, decision-making, and unequal power dynamics in communities, projects, and intra-household relations. In the project a key question to be addressed within the research studies but also in other activities (including institutional support, researcher training, capacity building, etc) will be: to what degree and in what ways are gendered and unequal divisions of labour and access to assets being either reproduced and entrenched, or being transformed in more equitable ways? Answering this question will involve exploring both proximate reasons and underlying dynamics and processes, including how the state and its agents engage with rural populations. A common point of reference will be the implications of current trends in land rights for the realization of socio-economic rights of women, as envisaged in CEDAW. In the study on farm dwellers an attempt will be made to recruit a female PhD student, and to agree on a thesis topic that focuses on the situation of female farm dwellers.

### *b. Project Relevance*

- **The extent to which the project is aligned with the Programme Objectives?**

The proposal relates directly to the NCHR objective of 'contributing to the respect, protection and promotion of the socio-economic right to land'.

It does so in a variety of ways: (a) supporting research studies that will increase knowledge and understanding of how to secure land rights in South Africa, in a context where processes of agrarian change make this a particularly complex and challenging task. One study focuses on farm dwellers, a highly vulnerable group which has benefited least from land reform policies to date despite the promulgation of new legislation designed to secure their tenure security and promote independent land rights and more secure livelihoods. Another study focuses on formalization of rights in complex arenas - land restitution on high value agricultural land, and in urban settlements in communal areas. Research will contribute directly to policy engagement and advocacy, which links strongly to NCHR objectives of 'contributing to public information and public dialogue' and 'contributing to change in policy and implementation'.

The NCHR strategy emphasizes the need to integrate civil and political rights and socio-economic rights, given their 'mutual inter-dependence'. Rights of access to justice and to participation are particularly relevant in the land reform sector, in relation to both farm dwellers facing eviction from land and to restitution claimants involved in complex 'strategic partnerships' with private sector entities. Research will focus explicitly on these dimensions of attempts by rural people to realise the socio-economic rights to land promised in the Constitution. It is possible that rights of access to information may become relevant in the restitution arena.

▪ **The extent to which local context has been taken into consideration?**

The local context has been taken into consideration to a satisfactory extent.

*c. Efficiency*

PLAAS appears to run efficiently. In particular, its collaborative approach and strategic partnerships appear to be effective. PLAAS and Noragric work closely with Nkuzi Development Association, a land sector NGO, in current research on formalization of land rights in Limpopo Province, and the project will support an extension of that project.

PLAAS cooperates with the Department of Land Affairs (DLA) at both national and provincial levels, and has contacts with provincial departments of agriculture in the Western Cape and Limpopo

*d. Effectiveness*

The application received by PLAAS late 2006 is a significant improvement from the one from 2005, which in part acted as a catalyst for an external review of the PLAAS-NORAGRIC partnership. They have clear objectives and are very well presented. The land issue remains critically important to South Africa's future, both for symbolic and material reasons. PLAAS are extremely well positioned to intervene on land rights issues and have excellent networks. And this particular application reflects high quality and states very clear objectives and attempts which have been made to map out monitoring and evaluation, which helps to a)unpack the research projects - and these are much clearer and very well focused, and highly topical), and b) the institutional capacity building.

It is apparent in the application that a diverse range of methods will be used, centred upon research and dissemination to stakeholders. This is a very attractive mix- given the multi-faceted problems surrounding land issues. A final consideration is PLAAS' apparently excellent connections with government, especially Department of Land Affairs, although this is often a fine line between influence and maintaining independence. Furthermore an external evaluation was done of PLAAS and NORAGRIC, and the application has in many ways responded to this.

Finally there has been developed a good relationship also between NCHR, Noragric and PLAAS. This is also important for the South Africa Programmes objective: "Increased competence on HR in South Africa within Norway". The institutions cooperated on a seminar in August 2006, which was very successful with many participants within research community in and around Oslo, NGO's, Norad/UD and the South African Embassy.

#### ▪ **NCHR Assessment**

From 2008 NCHR Annual Report: PLAAS is one of the key academic institutions in South Africa on issues of land redistribution and rural poverty. The impact of this project is focussed on raising awareness among members of the public, among policy makers and practitioners of key issues and problems in relation to land rights. Their broad networks in addition to their connections with the Department of Land Affairs places them in a good position to intervene and make an influence in their field. In the course of the last year, the project succeeded in bringing these issues solidly into the public realm, as is evidenced from their own publications visibility in South African media. The applied research and advocacy carried out by PLAAS on the key problems facing land reform can contribute to higher levels of understanding of the complex character of land and agrarian reform and of possible solutions to these complex issues. The research cooperation between PLAAS and Noragric remains an important component of the project, strengthening both institutions academically and providing added human resources which places the project in a stronger position in realizing its ambitions.

#### *e. Achieved, Expected Outcomes*

PLAAS appears to be on track in achieving expected outcomes.

#### *f. Sustainability of Results*

- **Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.**

Beneficiaries are likely to refer to PLAAS research and publications.

- **With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.**

The proposed activities nest within a larger suite of PLAAS and Noragric programmes and projects that receive support from a number of sources.

PLAAS PhD students are partially funded from other sources

The research activities of the two senior PLAAS staff to be appointed would have to be funded separately from this project, but this is not anticipated to be problematic.

Support for future collaborative research and linked policy engagement activities by PLAAS and Noragric on land rights and agrarian change will be sought from a range of donors and partners, on a similar basis to past and current projects. The track record of both institutions indicates that prospects for such support are good. PLAAS will continue its search for additional endowment grant funds, to add to the R3.1 million secured from Ford Foundation in 2004, and income from these investments will help to secure core administrative functions. Efforts will continue to secure UWC support for the salary of the post-graduate administrator, which has not been forthcoming to date, as well as for senior research posts.

*g. Consequences of NCHR management at project level.*

Good co-operation between NCHR and PLAAS. Informal and creative discussions between NCHR's representative and PLAAS were productive. The reduction of reporting requirements to one report a year is welcome.

*h. Compliance/Contribution to Cross-cutting themes:*

Theme	Analysis
Engagement with a range of methods	Research, policy engagement, researcher training, capacity building, institutional support, regional dialogue, awareness raising
Gender mainstreaming	<p>Some of the research (PLAAS as well as NORAGRIC) has focused on women. In a detailed study of land restitution in the Levubu area, NORAGRIC has been examining what happens when land and commercial farms are restored to Claimant Communities. They have attempted to include women and gender issues in all aspects of this study. They have interviewed women members of the Communal Property Associations (CPA) (50% of the interviewees), women members of the CPA committees, the two women who are on the Board of Directors of the new Joint Venture companies, women farm workers who are also claimants to explore how they felt about working on their 'own' farms, farm managers on their thoughts and experiences with female and male farm workers.</p> <p>Gender was one of the key issues discussed on the ESTA Workshop co-organised by PLAAS, NCHR, Noragric and the Legal Aid Clinic, 27 and 28 October 2008 in Stellenbosch.</p>
HIV/AIDS	<p>The NORAGRIC project component 'Farm workers and farm dwellers in South Africa: Tenure security, livelihoods and social justice' investigates the impact of HIV/AIDS on livelihoods vulnerability and on tenure security.</p> <p>The project has taken a quite broad approach exactly to be able to explore a number of issues. This includes</p>

	<p>health issues, and they have particularly discussed the access to health services on the relatively isolated farms and perceptions of HIV/AIDS with some groups of workers/dwellers, as well as owners/managers.</p>
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### **Part 3: Performance Assessment**

**Ratings:** **A:** Highly Satisfactory; **B:** Satisfactory; **C:** Not fully satisfactory; **D:** Unsatisfactory;  
**X:** Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	B	The project relates directly to the NCHR objective of 'contributing to the respect, protection and promotion of the socio-economic right to land'
Efficiency	B	PLAAS has run efficiently
Effectiveness	A	In general, PLAAS has delivered on planned outputs
Outcome	B	PLAAS has raised awareness among members of the public, among policy makers and practitioners of key issues and problems in relation to land rights
Sustainability of outputs/outcomes	B	The proposed activities rest within a larger suite of PLAAS and Noragric programmes and projects that receive support from a number of sources. PLAAS PhD students are partially funded from other sources. The research activities of the two senior PLAAS staff to be appointed would have to be funded separately from this project, but this is not anticipated to be problematic.
Sustainability of organization	B	Well-established, enjoys a good reputation.
Compliance with cross-cutting themes	B	Well-balanced range of methods. Some evidence of gender mainstreaming HIV/AIDS not included as a cross-cutting issue.



**Table PLAAS-NORAGRIC: Project Performance Framework**

Objective	Activities	Outputs and verifiable indicators of success	Means of verification (1)	Assumptions
Research: to enhance understanding of the problems facing rights-based approaches to land and agrarian reform in South Africa	<p>Three field research projects (on farm dwellers, formalisation and agrarian change)</p> <p>Publication and dissemination of research findings in appropriate formats</p> <p>Publication of a bi-annual Status Report on land and agrarian reform in SA</p>	<p>3 x final research reports that contain rigorous research findings and appropriate policy recommendations</p> <p>3 x PLAAS Research Reports and 3 x 2 (=6) Policy Briefs plus 3 x 3 (=9) academic journal articles or book chapters</p> <p>Two Status Reports published by PLAAS in 2007 and 2009 that are perceived to be useful and informative by actors in the sector</p>	<p>Annual project workshops</p> <p>PLAAS publications catalogue</p> <p>PLAAS and Noragric Annual Reports</p> <p>PLAAS Publications User Survey in 2008</p>	<p>Researchers at PLAAS and Noragric, including PhD or Masters students, have the requisite skills and expertise</p> <p>Field access can be secured</p> <p>Government officials are willing to consider research findings that are critical of government policy and practice</p>
Policy engagement: to positively influence the policy and implementation of land and agrarian reform in South Africa	<p>Annual research workshops for research subjects, government officials and civil society groups and scholars</p> <p>Dissemination of research reports, policy briefs and media articles to appropriate audiences</p>	<p>Relevant and useful workshops attended by appropriate participants</p> <p>3 x PLAAS Research Reports and 6 x Policy Briefs are distributed to relevant audiences and are rated highly by readers</p>	<p>Workshop reports and participant evaluations</p> <p>PLAAS publications distribution list</p> <p>PLAAS Publications User Survey in 2008</p>	<p>Government staff are willing to attend research findings workshops and consider research findings that are critical of government policy and practice</p>

<p>Researcher training: to strengthen the capacity of applied social scientists working on land and agrarian reform</p>	<p>Two PLAAS researchers (Tapela and Hall) complete their PhDs in year 1</p> <p>One new PhD student will be recruited in early 2007 to undertake research on the impacts of land reform on farm dweller rights and livelihoods over the full three years of the project</p>	<p>Tapela and Hall's PhD theses submitted for examination by end 2007</p> <p>New PhD student is recruited by mid-2007, is registered by end-2007, and has made good progress in thesis by end 2009</p>	<p>PLAAS Annual Report, 2007</p> <p>PLAAS Annual Reports for 2007, 2008, 2009; supervisor's reports</p>	<p>Staff undertaking PhDs are ready to submit theses for examination by end of 2007</p> <p>A PhD candidate can be recruited that has the requisite academic skills and commitment</p>
<p>Capacity building: to contribute to capacity building for effective land and agrarian reform in Southern Africa</p>	<p>Researchers deliver lectures in PLAAS and Noragric post-graduate teaching programmes</p> <p>Support for salary of PLAAS post-grad programme administrator</p> <p>Support for purchase of materials for PLAAS Resource centre</p>	<p>Lectures that students consider to be useful and relevant</p> <p>PLAAS retains a high calibre administrator for its post-grad teaching programme</p> <p>Useful and relevant materials are purchased for Resource Centre</p>	<p>Course evaluations</p> <p>PLAAS and Noragric Annual reports</p> <p>PLAAS researchers and students rate highly the purchased materials</p>	<p>Timing of exchange visits coincides with teaching blocks</p> <p>UWC is not able to fund the salary of the post-grad programme administrator</p> <p>PLAAS Resource Centre staff order appropriate materials</p>
<p>Institutional support: to strengthen the institutional capacity of PLAAS and secure its role as a leading centre</p>	<p>Recruitment of a PLAAS Deputy Director and a Senior Researcher in Agricultural Economics</p>	<p>Appointment of two suitably qualified candidates</p>	<p>Annual performance appraisals of incumbents by PLAAS Director</p>	<p>Candidates of the requisite skills, expertise and commitment are able to be recruited</p>
<p>Regional dialogue: to engage in regional</p>	<p>2 x regional workshops for 20-25 participants</p>	<p>Workshop report that provides evidence of productive</p>	<p>PLAAS Annual Reports</p>	<p>Sufficient interest in regional dialogue on land</p>

dialogue with scholars and practitioners on issues of land rights and agrarian change		dialogue on commonalities and differences within the region  Workshop papers published in the form of edited volumes (with separate funding)	PLAAS Publications User Survey in 2008	rights and agrarian change exists within the Southern African region
Awareness raising: to enhance awareness and understanding of SA land reform within Norway and South Africa	Media articles on land rights and agrarian change in SA will be published in both Norway and South Africa  Public seminars in Norway	Researchers publish at least three accessible and persuasive media articles between 2007 and 2009  At least one seminar per annum takes place in Norway that is rated as useful and informative by those attending	PLAAS and Noragric Annual reports  Participant evaluations	Sufficient public interest exists in Norway for media articles to be deemed worthy of publication and seminars to be worth attending

Source: PLAAS-NORAGRIC (This is their Monitoring and Evaluation Matrix)

- (1) It is hoped that a project evaluation will be undertaken in year 3, with additional funds. Terms of reference for this evaluation will include assessing the relevance and usefulness of all project outputs to beneficiaries and users. This evaluation will thus constitute an additional 'means of verification' of project outputs and indicators of success.

## 12.11 RAPCAN

### Project Performance Report

#### Part 1: Project Description and Structure

*a. Project title:* Child Witness Project

*b. Implementing institution and brief history*

Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN) is the implementing partner. RAPCAN is a registered section 21 Company, non-profit organisation and Public Benefit Organisation based in Cape Town. Its work is focused on the promotion of children's rights, specifically child victimisation and offending, and the organization operates locally, at provincial and national levels in South Africa, as well as in the region and internationally. RAPCAN was established by the University of Cape Town's Department of Paediatrics and Child Health in 1989.

*c. Project Budget and Financial History*

RAPCAN	2005	2006	2007	2008	Estimated 2009	Total
Grant amount ZAR		1,700,000	1,400,000	1,500,000	1,500,000	6,100,000
Project expenditures NOK	500,000	1,904,000	1,056,120	981,330	949,000	5,390,450

*Sources:* RAPCAN Application for 2007-2009 and NCHR's Total Budget Submitted from SA Programme 2007-2009 (draft November 2008)

*d. Project Objectives and Results*

#### **(i) Project objectives**

The objectives of RAPCAN's Child Witness Project are:

- The reduction of secondary trauma experienced by child victims of sexual violence in the criminal justice system, through the provision of effective preparation services to child witnesses, their caregivers and other witnesses; and
- The improvement of conviction rates in relation to sexual offences against children.

RAPCAN's advocacy activities are undertaken with regard to influencing policy, legislation and practice in relation to child victims in the criminal justice system. Specific activities relate to:

- Research and advocacy in relation to the provision of specialised police investigation services in relation to crimes against children;
- Advocacy relating to a national strategy for the provision of child witness preparation services;

- The Criminal Law Amendment (Sexual Offences) Act; and the Child Justice Bill.

The 2007 application lists the following objectives:

***Objectives for 2007:***

- Provide child witness support services to all children and family members (estimated at 6000 people) involved in court proceedings in 6 Sexual Offences Courts in the Western Cape.
- Field-test the Child Witness Support Toolkit in partnership with other organizations to assess its effectiveness as a tool for the replication of the Child Witness Support service in other sites in South Africa.
- Commission an independent evaluation of the effectiveness of the Child Witness Project in the 6 Sexual Offences Courts.
- Create awareness amongst policy-makers and the general public as to the need for such services.

***Objectives for 2008:***

- Provide child witness support services to all children and family members (estimated at 6000 people) involved in court proceedings in 6 Sexual Offences Courts in the Western Cape.
- Roll-out of finalised Child Witness Support Toolkit to additional organizations that wish to establish the service.
- Provide ongoing training and technical support to other organizations that are establishing this service.
- Continuous monitoring and evaluation of services implemented by other organizations with a view to ensuring that services are being delivered in terms of established minimum standards.
- Create awareness amongst policy-makers and the general public as to the need for such services.

***Objectives for 2009:***

- Provide child witness support services to all children and family members (estimated at 6000 people) involved in court proceedings in 6 Sexual Offences Courts in the Western Cape.
- Rollout finalised Child Witness Support Toolkit to additional organizations that wish to establish the service.
- Provide ongoing training and technical support to other organizations that are establishing this service.
- Continuous monitoring and evaluation of services implemented by other organizations with a view to ensuring that services are being delivered in terms of established minimum standards.
- Create awareness amongst policy-makers and the general public as to the need for such services.

## **(ii) Expected Results**

- To provide child witness support services to all children and family members Sexual Offences Courts in the Western Cape.
- Field-test and implement the Child Witness Support Toolkit in partnership with other organizations to assess its effectiveness as a tool for the replication of the Child Witness Support service in other sites in South Africa.
- Commission an independent evaluation of the effectiveness of the Child Witness Project in the 6 Sexual Offences Courts.
- Create awareness amongst policy-makers and the general public as to the need for such services.

## **(iii) Results Framework/matrix if any**

The 2007 application form provides the following indicators :

### *Quantitative Indicators*

- Numbers of children and parents that are provided with services
- The number of sites where services are provided
- The number of organisations that have been trained to provide the service
- The number of practitioners that have been trained to provide the service

### *Qualitative Indicators*

- The extent to which children and parents feel supported through the process, and feel satisfied with the service
- The levels of satisfaction with services indicated by other Court officials, especially prosecutors in the Sexual Offences Courts provided
- The extent to which new organisations are able to run the service, at requirement minimum standards, without support
- The extent to which trained practitioners feel capable of providing the required services

## **(v) Project Outputs to date.**

Please see Table "Project Performance Framework" at the end of this document.

### *e. Intended beneficiaries and geographical coverage.*

- Children that have been sexually abused
- Families of children
- Agencies within the criminal justice system (the National Prosecuting Authority, the Department of Social Development, the Department of Justice and Constitutional Development)
- Non-profit organizations that seek to establish child witness support services
- The staff of non-profit organisations that wish to establish child witness support services

## **2: Project Performance**

### ***a. Quality of Project Design:***

- **Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).**

The goal of the RAPCAN Child Witness Project is to reduce secondary trauma and increase access to justice for victimized children who are witnesses in Sexual Offences Court proceedings. Objectives and indicators appear to support this goal and the proposed outputs are likely to result in the desired outcome. The envisaged impact of the project is realistic.

The 2007 proposal does not make reference to risks and assumptions.

- **Assessment of the M&E system, if any (operationality, whether baseline exists, to what extent project reporting is using the M&E system).**

As mentioned above, the 2007 application provides a number of quantitative and qualitative indicators. Objectives have also been set for each year. Unfortunately, reporting does not always refer to these indicators and objectives.

RAPCAN makes provision for internal review:

- In terms general organizational practice, the work of this project is reviewed on a monthly basis in the staff meeting, a manager's meeting and in a Performance Management meeting between the Executive Director and the manager of the programme.
- Statistics relating to services delivered, problems and achievements are produced and reported from each court on a monthly basis.
- Project Oversight Committees at each court review progress and also record problems on a monthly basis

This data is utilized for purposes of problem-solving, additional programme planning and advocacy planning.

- **Assessment of project planning to support "Consolidation of the democratic transition".**

Seeking to reduce secondary trauma and increase access to justice for victimised children who are witnesses in Sexual Offences Court proceedings is an important step towards the "consolidation of the democratic transition".

- **Assessment of project planning to mainstreaming gender.**

RAPCAN has integrated a 'gender' perspective into all aspects of its work. This means that the differential experiences of women and men, boys and girls are considered in relation to each aspect of their work. All training programmes have been developed from this perspective, and there are some programmes that are directed specifically at addressing gender issues such as sexual harassment, the role of boys in families, etc.

### ***b. Project Relevance***

- **The extent to which the project is aligned with the Programme Objectives?**

Two sets of related activities are funded by the NCHR . These are:

- The continuation of funding for the Child Witness Project Support ; and
- Support for RAPCAN's advocacy work relating to the treatment of child victims in the criminal justice system.

The objectives of RAPCAN's Child Witness Project are:

- The reduction of secondary trauma experienced by child victims in the criminal justice system, through the provision of effective preparation services to child witnesses, their caregivers and other witnesses; and
- The improvement of conviction rates in relation to sexual offences against children.

RAPCAN's advocacy activities are undertaken with regard to:

- The provision of specialised policing services in relation to crimes against children;
- Child witness preparation services;
- The Criminal Law Amendment (Sexual Offences) Act; and the Child Justice Bill.

RAPCAN's work relates directly to Objective 6 of the NCHR's Strategy given its focus on contributing to greater access to justice for child victims in South Africa. The Child Witness Project demonstrates a clear mechanism through which access to justice for children in courts may be increased and enhanced.

The continued documentation of this work, and the continued lobbying and advocacy efforts through various ways (e.g. articles, workshops and presentations) will increase knowledge about the need for such services, and reflect the impact of providing such services.

### *c. Efficiency*

RAPCAN has run efficiently. It has, for instance, mobilised and operationalised non-financial resources such as the part-time lay court support personnel.

Furthermore, the MOU with the Department of Justice and Constitutional Development recognises RAPCAN as the primary service-provider of child witness preparation services in the courts covered, through a memorandum of understanding that has been signed between the two agencies. RAPCAN is the only child protection organisation with such an agreement with the DOJCD. This entitles RAPCAN to a range of benefits relating to office space in courts, working relationships with Justice personnel. Working relationships with the DOJCD are managed through Project Oversight Committees at each of the court sites.

### *d. Effectiveness*

RAPCAN has delivered on outcomes and activities.

- During the period under review, it continued to provide child witness preparation services to children appearing in sexual offences proceedings in 6 courts in the Western Cape.
- RAPCAN successfully engaged in advocacy relating to Child Victims of Sexual Offences in the Criminal Justice System.



- RAPCAN conducted a research project which assessed the levels of access and quality of detective services provided to children through the FCS service.
- RAPCAN played a leading role in the co-ordination of civil society organisations.
- In particular, RAPCAN's advocacy and expert input had a significant impact on the passing of the Criminal Law Amendment (Sexual Offences) Act and the provisions contained in the Child Justice Bill.

▪ *NCHR Assessment (latest)*

RAPCAN delivers direct services to children and families of high quality through its court-based witness preparation services as well as through prevention services in schools and communities. They have established themselves as a leading organisation in the children's rights sector in South Africa and are able to network well with both other NGOs and the National Prosecution Authority. RAPCAN's capacity to undertake advocacy work was boosted this year by the employment of a research and advocacy officer, to augment the capacity of RAPCAN's Advocacy Manager. This part of the work will probably have to be strengthened further in the future as it is likely that direct services will become a smaller part of the organization's work than it has been in the past. (NCHR Annual Report 2007)

*e. Achieved, Expected Outcomes*

RAPCAN is one of only three organisations in the Western Cape to have a formal Memorandum of Understanding (MOU) with the Department of Justice and Constitutional Development with regard to the delivery of court-based services in the province. This MOU recognises RAPCAN as the primary service-provider of child witness preparation services in the courts covered.

RAPCAN conducted a research project which assessed the levels of access and quality of detective services provided to children through the FCS service. SAPS endorsed RAPCAN's research project on detective services provided to children through the FCS service and made no changes to this research report. The report will be launched in March 2009.

As a member of the Driver Group of the Child Justice Alliance, RAPCAN worked with partners to research, facilitate and implement a Parliamentary advocacy strategy relation to the Child Justice Bill. This initiative yielded positive results relating specifically to the rights and protection of children accused of committing serious, violent and sexual offences. RAPCAN was the only organisation to argue before Parliament with regard to the need to allow diversion programmes for children accused of committing sexual or other violent offences. These proposals were accepted by the Parliamentary Portfolio Committee on Justice and Constitutional Development. RAPCAN will continue to work within the Child Justice Alliance to monitor the implementation of the Bill .

*f. Sustainability of Results*

- **Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.**

There is a strong likelihood that beneficiaries are making use of the Outputs produced by the project. RAPCAN's participatory approach encouraged beneficiaries to take ownership of the Outputs produced by the project.

- **With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.**

The Child Witness Project already receives around half of its funding from the Western Cape Provincial Department of Social Development. RAPCAN is of the view that this project may receive funding from both the Department of Social Development and the Department of Justice and Constitutional Development in the future.

*g. Consequences of NCHR management at project level.*

None in particular.

*h. Compliance/Contribution to Cross-cutting themes:*

Theme	Analysis
Engagement with a range of methods	Direct Services to Children and Families Training Technical Assistance Monitoring Evaluation
Gender mainstreaming	RAPCAN has integrated a 'gender' perspective into all aspects of its work. This means that the differential experiences of women and men, boys and girls are considered in relation to each aspect of their work. All training programmes have been developed from this perspective, and there are some programmes that are directed specifically at addressing gender issues such as sexual harassment, the role of boys in families, etc.
HIV/AIDS	HIV/Aids is integrated into all the programmes of the RAPCAN. Specifically in relation to the Child Witness Support Project, HIV/Aids related activities involve ensuring that all children have access to Post Exposure Prophylaxis (PEP), which is meant to be provided by the provincial Department of Health. RAPCAN staff also provide information to parents and caregivers of children to ensure that they understand this treatment and may also act appropriately in the future.

### **Part 3: Performance Assessment**

**Ratings:** **A:** Highly Satisfactory; **B:** Satisfactory; **C:** Not fully satisfactory; **D:** Unsatisfactory; **X:** Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	A	RAPCAN's work relates directly to Objective 6 of the NCHR's Strategy given its focus on contributing to greater access to justice for child victims in South Africa. The Child Witness Project demonstrates a clear mechanism through which access to justice for children in courts may be increased and enhanced. The continued documentation of this work, and the continued lobbying and advocacy efforts through various ways (e.g. articles, workshops and presentations) will increase knowledge about the need for such services, and reflect the impact of providing such services
Efficiency	B	RAPCAN has run efficiently. It has, for instance, mobilised and operationalised non-financial resources such as the part-time lay court support personnel.
Effectiveness	B	RAPCAN has delivered on outcomes and activities. During the period under review, it continued to provide child witness preparation services to children appearing in sexual offences proceedings in 6 courts in the Western Cape. RAPCAN successfully engaged in advocacy relating to Child Victims of Sexual Offences in the Criminal Justice System.
Outcome	A	This MOU recognises RAPCAN as the primary service-provider of child witness preparation services in the courts covered. SAPS endorsed RAPCAN's research project on detective services provided to children through the FCS service and made no changes to this research report
Sustainability of outputs/outcomes	B	The Child Witness Project already receives around half of its funding from the Western Cape Provincial Department of Social Development. RAPCAN is of the view that this project may receive funding from both the Department of Social Development and the Department of Justice and Constitutional Development in the future.
Sustainability of organization	B	RAPCAN is well-established (1989) and enjoys a good reputation. It is likely to receive funding in order to continue its activities.
Compliance with cross-cutting themes	A	RAPCAN uses a good mix of methods. There is evidence of gender as well as HIV/AIDS forming cross-cutting themes in the work of RAPCAN

**Table RAPCAN: Project Performance Framework**

<p><b>Goal:</b> The RAPCAN Child Witness Project seeks to reduce secondary trauma and increase access to justice for victimized children who are witnesses in Sexual Offences Court proceedings.</p>	
<p><b>Project Objectives:</b></p> <p><i>Objectives for 2007:</i></p> <ul style="list-style-type: none"> <li>- Provide child witness support services to all children and family members (estimated at 6000 people) involved in court proceedings in 6 Sexual Offences Courts in the Western Cape.</li> <li>- Field-test the Child Witness Support Toolkit in partnership with other organizations to assess its effectiveness as a tool for the replication of the Child Witness Support service in other sites in South Africa.</li> <li>- Commission an independent evaluation of the effectiveness of the Child Witness Project in the 6 Sexual Offences Courts.</li> <li>- Create awareness amongst policy-makers and the general public as to the need for such services.</li> </ul> <p><i>Objectives for 2008:</i></p> <ul style="list-style-type: none"> <li>- Provide child witness support services to all children and family members (estimated at 6000 people) involved in court proceedings in 6 Sexual Offences Courts in the Western Cape.</li> <li>- Roll-out of finalised Child Witness Support Toolkit to additional organizations that wish to establish the service.</li> <li>- Provide ongoing training and technical support to other organizations that are establishing this service.</li> <li>- Continuous monitoring and evaluation of services implemented by other organizations with a view to ensuring that services are being delivered in terms of established minimum standards.</li> </ul>	<p><b>Indicators:</b></p> <p><i>Quantitative Indicators</i></p> <ul style="list-style-type: none"> <li>- Numbers of children and parents that are provided with services</li> <li>- The number of sites where services are provided</li> <li>- The number of organisations that have been trained to provide the service</li> <li>- The number of practitioners that have been trained to provide the service</li> </ul> <p><i>Qualitative Indicators</i></p> <ul style="list-style-type: none"> <li>- The extent to which children and parents feel supported through the process, and feel satisfied with the service</li> <li>- The levels of satisfaction with services indicated by other Court officials, especially prosecutors in the Sexual Offences Courts</li> <li>- The extent to which new organisations are able to run the service, at requirement minimum standards, without support</li> <li>- The extent to which trained practitioners feel capable of providing the required services</li> </ul> <p><i>Status in 2007:</i></p> <ul style="list-style-type: none"> <li>• 2922 Children and 3133 Parents were served by RAPCAN from January to October 2007.</li> <li>• Advocacy work regarding the Criminal Law Amendment (Sexual Offences) Bill continued</li> <li>• RAPCAN engaged in advocacy relating to the National Prosecuting Authority with regard to witness support.</li> </ul>

<ul style="list-style-type: none"> <li>- Create awareness amongst policy-makers and the general public as to the need for such services.</li> </ul> <p><i>Objectives for 2009:</i></p> <ul style="list-style-type: none"> <li>- Provide child witness support services to all children and family members (estimated at 6000 people) involved in court proceedings in 6 Sexual Offences Courts in the Western Cape.</li> <li>- Rollout finalised Child Witness Support Toolkit to additional organizations that wish to establish the service.</li> <li>- Provide ongoing training and technical support to other organizations that are establishing this service.</li> <li>- Continuous monitoring and evaluation of services implemented by other organizations with a view to ensuring that services are being delivered in terms of established minimum standards.</li> <li>- Create awareness amongst policy-makers and the general public as to the need for such services.</li> </ul>	<ul style="list-style-type: none"> <li>• RAPCAN conducted research regarding the FCS Unit.</li> <li>• RAPCAN staff attended two international conferences with the intention of strengthening their work relating to child victims in the criminal justice system.</li> <li>• RAPCAN worked with the Legal Resources Centre (LRC) to intervene as an amicus curiae (friend of the court) in a matter being heard in the Transvaal division relating to the treatment of child witnesses in court.</li> </ul> <p><i>Status in 2008 :</i></p> <ul style="list-style-type: none"> <li>• RAPCAN continued to provide services to children and families (no statistics provided, but currently being collated.)</li> <li>• RAPCAN continued to provide child witness preparation services to children appearing in sexual offences proceedings in 6 courts in the Western Cape.</li> <li>• Advocacy relating to Child Victims of Sexual Offences in the Criminal Justice System continued. RAPCAN's research findings were promoted with specific personnel in the South African Police Service.</li> <li>• RAPCAN co-ordinated a series of meetings with civil society organisations who have an interest in child witness preparation.</li> <li>• RAPCAN attended a series of formal and informal meetings with the NPA.</li> <li>• RAPCAN made submissions with regard to the Criminal Law Amendment (Sexual Offences) Act and the Child Justice Bill.</li> </ul>
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Source: RAPCAN Annual reports to NCHR

## 12.12 Rape Crisis

### Project Performance Report

#### Part 1: Project Description and Structure

***j. Project title: Access to Justice For Female and Teenage Survivors of Sexual Violence***

***k. Implementing institution and brief history***

Based in Observatory, Manenberg and Khayelitsha, Rape Crisis Cape Town Trust (RCCTT) is a registered non-profit organisation that has been dealing with the issue of violence against women, with a special emphasis on rape since 1976. The organisation has adopted a multifaceted approach through both supportive and preventative services. The lobbying and advocacy program work actively to make changes in policy and legislation around sexual violence issues at national, provincial and community levels. The main aim of creating this awareness is to improve and entrench a respect for women and girls as individuals, and by so doing, create a safer environment for them in which to live. The supportive team offers practical and emotional support to rape survivors and their families and friends through a range of projects such as individual counselling, support groups or long term counselling. The training and public awareness program has an important and active role in creating awareness around rape and gender based violence.

***l. Project Budget and Financial History***

	2005	2006	2007	2008	Estimated 2009	Total
Grant amount ZAR	204,132.36			410,232		
Project expenditures NOK	213,000		129,752	170,220	219,000	731,972

*Sources:* Rape Crisis Application 2007-2008 and NCHR's Total Budget Submitted from SA Programme 2007-2009 (draft November 2008)

***m. Project Objectives and Results***

**(i) Project objectives**

Analysis and comparative analysis of female and teenage survivors access and journey through the justice system. Facilitate stronger and sustained national, provincial and local government action to turn commitments into action. Facilitate the capacity, sustainability and accountability of state officials who work with survivors and the need to be aware of the experiences of female and male survivors of sexual violence. Provide support and pre-trial consultation to survivors of sexual violence and partners, family and friends.

**(ii) Expected Results**

- a. Comparative research analysis of five court cases and 15 RCCTT case records in linking access to justice for women and teenagers from socio-economically vulnerable communities.
- b. Provision of justice services is monitored and state officials are reported and held accountable for poor performance.
- c. Creation and implementation of best practice models at community and provincial levels that can be replicated in other communities and provinces.
- d. State officials are sensitized to the needs of survivors and secondary victimisation is reduced and conviction rates improved.
- e. Survivors of sexual violence are supported through the justice system and will lead to a reduction of withdrawals and increase in conviction rates.

### (iii) Results Framework/matrix if any

Rape Crisis has developed its own monitoring and evaluation frameworks.

The 2006 Application states with regard to the **monitoring framework**: RCCTT shall be responsible for the tracking of priority information to ensure project achieved its intended outcomes and will include the following:

- Detailed electronic and print record keeping
- All research, meetings held, strategic plans, training sessions, press statements and press coverage, communication between role-role-players, detail of cases discussed and addressed, discussions, participant commitment signatures and record of best practice models
- Record of distribution of information: information pamphlets, posters and presentations
- Reporting Systems

Monthly reports from all role-players involved in the Provincial Anti-Rape Strategy and Simelela Partnership Network on project progress.

Monthly monitoring of RCCTT statistics and database case studies

Detailed project report to OSF every 6 months

- Client and Community Feedback: Client evaluations of services received through forms and/or counsellors

The following is stated with regard to an **evaluation framework**:

The following tools will be used to evaluate the outcomes of the project:

- Anti-Rape Strategy Forum and the Simelela Partnership Network will conduct an annual internal evaluation of projects implemented and services provided
- Assessment and evaluation of monthly reports from the Anti-Rape Strategy Forum
- Assessment and analysis of the cases that moved through the police and court system
- Assessment of the training provided in terms of analysing attendance lists and evaluations
- Assessment of the quantity and quality of information distributed in the form of pamphlets and posters
- Assessment of the quantity and quality of joint implementation of campaigns and projects

- Assessment of state department budget allocations to strategic plans
- Assessment of project media visibility
- Detailed annual reports to NCHR from RCCTT

The following tools will be used to evaluate the impact of the programme:

- Detailed analysis of survivor and community feedback through written evaluations and/or interviews
- Detailed analysis of the success and sustainability of national, provincial and local partnerships (information available from internal partnership annual evaluations)
- Detailed analysis of gaps identified and cases discussed and identified
- Detailed analysis of statistics in terms of: increase in reports of rape, perpetrators arrested, survivors completing treatments, referral for counselling and conviction rates. (Information is recorded by relevant state departments).
- A detailed workplan has been developed and it appears as if the Rape Crisis is achieving the desired outcomes

#### *n. Intended beneficiaries and intended coverage*

RCCTT has adopted an integrated community development approach and the identified needs have been identified by the survivors, members from the community and various members involved in the justice system.

The following individuals and groups will participate and benefit from the project:

#### **Directly**

- Female, male and teenage survivors of sexual violence
- Partners, family and friends of survivors
- Khayelitsha as a pilot community
- Community volunteers working at victim support centres
- Community Police Forums
- Community Street Committees
- Community Neighbourhood Watches
- Civil society organisations working with survivors to access justice and addressing socio-economic needs
- State officials working with survivors of sexual violence
- State officials working at strategic levels- from all provincial and local government departments

#### **Indirectly**

- Communities in the Western Cape
- Communities in South Africa as the various best practice models are replicated such as the Provincial Anti-Rape Strategy and the Simelela Partnership Network.
- Civil society organisations and state departments working together to improve access to justice



## **2: Project Performance**

### ***a. Quality of Project Design:***

The project design is rounded, interrelating comparative research court cases with monitoring justice services provision and state officials performance. This to form a basis for the creation and implementation of best practice models. Supporting services are provided to survivors of sexual violence through the justice system, aiming at reduction of withdrawals and increase in conviction rates. Information dissemination of the research and monitoring activity is foreseen to the appropriate justice system and to a network of organizations that can follow up with advocacy activities.

- **Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).**

The expected results of the project are consistent with planned activities and objectives.

- **Assessment of the M&E system, if any (operationality, whether baseline exists, to what extent project reporting is using the M&E system).**

Rape Crisis is in the process of developing its own M& E system. The Rape Crisis 2008 Annual Report contains evidence of the M & E system being used.

### ***b. Project Relevance***

The project is aligned to the objective: Contribute to Greater Access to Justice.

### ***c. Efficiency***

Rape Crisis has been very efficient, despite the scarcity of resources. It utilises a volunteer system for court supporters and have also received support "in kind". So, for instance, Rape Crisis has received a year's worth of pro bono work by a well known communications company HWB Communications. Furthermore, Rape Crisis believes in the value of working in networks and partnerships it achieve maximum results. Rape Crisis is involved in a number of partnerships to ensure effective change is achieved

### ***d. Effectiveness***

Rape Crisis has been delivering on outputs. Rape Crises provides support and advice at the Khayelitsha and Cape Town Courts to survivors, partners, family and friends. In 2007 the court supporters provided advice and support to 260 persons.

Rape Crisis has networked and established partnerships with state and civil society partnerships to advocate for better services for rape survivors:

- Anti-Rape Strategy Forum – Provincial and inter-departmental representatives from government, police and civil society. First such forum in South Africa.
- Project Oversight Committees for Cape Town, Parow and Khayelitsha – Civil society, community and justice stakeholders met monthly to discuss specific cases, challenges faced and the needs of rape survivors.
- Trauma Rooms Focus Group – Partnership responsible for the coordination and support and training services for volunteers at police station trauma rooms and Social Crime Prevention Officers.

- Simela Partnership Network – Partnership between police, prosecutor’s office, medical staff, social services and Rape Crises that is key in ensuring that client cases in Khayelitsha reach the courts and that clients who don’t want to report to the police can also access medical and social services.
- Rape Crisis was asked to provide the onsite crisis counselling service at the Thuthuzela Rape Care Centre.

▪ **NCHR Assessment**

NCHR Annual Report 2008: Rape Crisis is providing high quality support to survivors of sexual violence, their families, partners and friends. The cooperation with the Gender, Health & Justice Unit at the University of Cape Town provides a necessary academic strengthening of the research capacity, as this is one skills area Rape Crisis admits is in need of being strengthened within the organization. Rape Crisis has established a good track record on engaging with police, courts and government institutions to better services for rape survivors. A partnership with a clothing store chain provides new opportunities both in terms of disseminating information and fundraising. The organization remains financially vulnerable however, and sustainability and skills development must have a high priority in the time ahead.

*e. Achieved, Expected Outcomes*

A study and analysis of rape survivors access to and journey through the justice system was begun in 2007 in cooperation with the Gender, Health & Justice Unit at the University of Cape Town. A detailed research implementation plan has been made and they have started collecting data about cases moving through three courts in the Cape Town area.

Rape Crises provides support and advice at the Khayelitsha and Cape Town Courts to survivors, partners, family and friends. In 2007 the court supporters provided advice and support to 260 persons.

Rape Crisis has networked and established partnerships with state and civil society partnerships to advocate for better services for rape survivors:

- Anti-Rape Strategy Forum – Provincial and inter-departmental representatives from government, police and civil society. First such forum in South Africa.
- Project Oversight Committees for Cape Town, Parow and Khayelitsha – Civil society, community and justice stakeholders met monthly to discuss specific cases, challenges faced and the needs of rape survivors.
- Trauma Rooms Focus Group – Partnership responsible for the coordination and support and training services for volunteers at police station trauma rooms and Social Crime Prevention Officers.
- Simela Partnership Network – Partnership between police, prosecutor’s office, medical staff, social services and Rape Crises that is key in ensuring that client cases in Khayelitsha reach the courts and that clients who don’t want to report to the police can also access medical and social services.
- Rape Crisis was asked to provide the onsite crisis counselling service at the Thuthuzela Rape Care Centre.

**f. Sustainability of Results**

- Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.

Because of the participative and community-oriented approach followed by the organisation, some beneficiaries are likely to make use of Outputs produced by the project and to feel ownership.

- With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.

During 2008 Rape Crisis went through its worst financial crisis in 15 years. Due to an auditing error, they had an incorrect idea of what they had in their reserve fund. When no less than four funders paid them late in the middle of the year, they used up the remaining reserves and ended up with severe cash flow problems. Fortunately the Provincial Department of Social Development stepped in to assist Rape Crisis until March 2009. In February 2009, the Western Cape Provincial Government provided Rape Crisis with a grant of ZAR 1,6 million. This is a very positive sign.

In mitigation, organisation has developed a diverse fundraising strategy that incorporates a combination of fundraising and income generating strategies. The organisation has also developed a formal marketing strategy that will influence the fundraising and income potential. Well known communications company HWB Communications donated a year's worth of work to Rape Crisis. They are also planning to develop a social enterprise arm of Rape Crisis that will fund our development work once it is up and running. However Rape Crisis needs to fundraise for operational costs for our development work before they can begin.

**g. Consequences of NCHR management at project level.**

No particular consequence. Possibilities yet to be explored.

**h. Compliance/Contribution to Cross-cutting themes:**

Theme	
Engagement with a range of methods	Research, analysis, capacity building and training, advocacy, provide support and pre-trial consultation to survivors of sexual violence and partners, family and friends.
Gender mainstreaming	Although the project focuses on Female and Teenage sexual violence survivors, Rape Crisis has adopted an integrated community development approach and the identified needs pertains to survivors, members of the community and various members involved in the justice system.
HIV/AIDS	HIV continues to be integrated into the services that we provide and our prevention projects do include awareness on HIV. It is a little more complex for our counseling team as it does become stressful to support survivors how have experienced rape and then discovered that they were HIV positive. The emphasis here would be on crisis intervention counseling and referral to HIV organisations who are better equipped to provide HIV counseling and support.

	Part of the lobbying activities is to ensure that all survivors receive AZT or PEP and that medical officials clearly explain how the medicine is to be taken and what the possible side effects are.
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### **Part 3: Performance Assessment**

**Ratings:** **A:** Highly Satisfactory; **B:** Satisfactory; **C:** Not fully satisfactory; **D:** Unsatisfactory; **X:** Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	A	Given the high incidence of rape in South Africa, ensuring access to justice for female and teenage sexual violence survivors is of great importance. It is a good fit with the NCHR strategy of "increased access to justice"
Efficiency	B	Rape Crisis has been very efficient, despite the scarcity of resources. It utilises a volunteer system for court supporters and have also received support "in kind". It also enters into strategic partnerships to increase efficiency.
Effectiveness	B	Rape Crisis has been delivering on outputs.
Outcomes	X	The study and analysis of rape survivors access to and journey through the justice system is on the way and research updates in feed to a network of organisations. It is too early to assess the outcome of Rape Crisis project, but its links and partnerships with advocacy organisations and good standing with the courts in Cape Town increment the possibility of the adoption of a improved model by courts to address sexual violence and survivors of sexual violence.
Sustainability of outputs/outcomes	B	Because of the participative and community-oriented approach followed by Rapcan, some beneficiaries are likely to make use of Outputs produced by the project and to feel ownership.
Sustainability of organization	B	During 2008 Rape Crisis went through its worst financial crisis in 15 years. Fortunately the Provincial Department of Social Development stepped in to assist Rape Crisis until March 2009. In February 2009, the Western Cape Provincial Government provided Rape Crisis with a grant of ZAR 1.6 million.
Compliance with cross-cutting themes	B	Although the project focuses on Female and Teenage sexual violence survivors, Rape Crisis has adopted an integrated community development approach and the identified needs pertains to survivors, members of the community and various members involved in the justice system. HIV continues to be integrated into the services that we provide and our prevention projects do include awareness on HIV. Rape Crisis also employs an interesting mix of methods in this project.

**Table Project Name: Project Performance Framework**

<p>Goal: Ensuring access to justice for female and teenage sexual violence survivors.</p>	
<p><b>Project Objectives:</b>          The broad objectives of the project includes:          Comparative analysis of female and teenage survivors' access and journey through the justice system.          Facilitating stronger and sustained national and local government action to turn commitments into action.          Facilitating the capacity, sustainability and accountability of state officials who work with the survivors and the need to be aware of the experiences of female and teenage survivors of rape.          Providing support and pre-trial consultation to survivors of sexual violence and partners, family and friends.</p>	<p><b>Indicators:</b>          The 2008 Annual Report lists the following indicators to measure success of activities:          The following indicators were used for measuring the success of our activities:</p> <ul style="list-style-type: none"> <li>• RCCTT internal statistics for counselling, court support, pre-trial consultation and training.</li> <li>• Individual case reports</li> <li>• Monthly coordination reports</li> <li>• Monthly project meetings minutes</li> <li>• Volunteer feedback</li> <li>• Comparative analysis of data collected for cape Town and Khayelitsha Courts</li> <li>• Client evaluation forms</li> <li>• Client needs surveys</li> <li>• Complaints received</li> <li>• Minutes of external meetings</li> <li>• Media exposure</li> </ul> <p><b>Status in 2007:</b>          A study and analysis of rape survivors access to and journey through the justice system was begun in 2007 in cooperation with the Gender, Health &amp; Justice Unit at the University of Cape Town. A detailed research implementation plan has been made and they have started collecting data about cases moving through</p>

	<p>three courts in the Cape Town area.</p> <p>Rape Crises provides support and advice at the Khayelitsha and Cape Town Courts to survivors, partners, family and friends. In 2007 the court supporters provided advice and support to 260 persons.</p> <p>Rape Crisis has networked and established partnerships with state and civil society partnerships to advocate for better services for rape survivors:</p> <ul style="list-style-type: none"><li>• Anti-Rape Strategy Forum – Provincial and inter-departmental representatives from government, police and civil society. First such forum in South Africa.</li><li>• Project Oversight Committees for Cape Town, Parow and Khayelitsha – Civil society, community and justice stakeholders met monthly to discuss specific cases, challenges faced and the needs of rape survivors.</li><li>• Trauma Rooms Focus Group – Partnership responsible for the coordination and support and training services for volunteers at police station trauma rooms and Social Crime Prevention Officers.</li><li>• Simela Partnership Network – Partnership between police, prosecutor’s office, medical staff, social services and Rape Crises that is key in ensuring that client cases in Khayelitsha reach the courts and that clients who don’t want to report to the police can also access medical and social services.</li><li>• Rape Crisis was asked to provide the on site crisis counselling service at the Thuthuzela Rape Care Centre.</li></ul> <p>Status in 2008:</p> <p>As indicated in its 2008 Annual Report pp 3-12, Rape Crisis has made considerable progress with regard to all of its objectives.</p>
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Source: Rape Crisis Annual Reports to NCHR

## 12.13 TLAC

### Project Performance Report

#### Part 1: Project Description and Structure

##### *a. Project title: New Directions in Domestic Violence*

##### *b. Implementing institution and brief history*

Tshwaranang Legal Advocacy Centre (TLAC) was established in 1997 with the aim of addressing the ways in which the legal system victimized survivors of gender based violence. It later shifted its focus to include the maintenance system. TLAC has adopted various strategies during the period of its existence, including education and training, advocacy and lobbying. It also intends to include the provision of legal services

##### *c. Project Budget and Financial History*

TLAC	2005	2006	2007	2008	Estimated 2009	Total
Grant amount ZAR		1,600,000	6,300,000 Spread over 3 years, 2007-2009			7,900,000
Project expenditures NOK	1,215,000	1,406,500	1,490,263	1,248,492	1,241,000	6,601,255

Sources: TLAC Application 2007-2009 and NCHR's Total Budget Submitted from SA Programme 2007-2009 (draft November 2008)

##### *d. Project Objectives and Results*

###### **(i) Project objectives**

The overall aim of this project is to develop and implement in the short-term a model of understanding and addressing domestic violence that addresses women's context, specifically their socio-economic rights, legal, counselling and support needs. This aim will be achieved through a combination of research, training, advocacy and the provision of direct legal services to women.

Objectives:

- To increase organizations' understanding of the relationship between housing, development, livelihood strategies and domestic violence;
- To build organizations' capacity to respond to these relationships;
- To investigate and identify the service needs of battered women, including their legal needs;



- To understand the process of entering, remaining in and leaving abusive relationships;
- To develop a culturally-responsive, process-orientated counselling and support model for abused women;
- To contribute to the development of policy which increases abused women's access to housing and livelihood opportunities;
- To increase members of women's personal networks' ability to respond supportively to women's experiences of abuse.
- Identify ongoing training needs for CBOs and NGOs that already provide services to women on domestic violence and maintenance;
- Undertake and facilitate on-going training for these organizations to increase their capacity to address legal problems and problems related to the implementation of the Domestic Violence and Maintenance Acts;
- Provide technical and legal assistance to these organizations in advising clients on their rights and in lodging complaints concerning misconduct on the part of court and police officials;
- Raise awareness of legal issues and access to justice amongst women and civil society;
- Provide legal services in the areas of domestic violence and maintenance to poor women;
- Provide a regular forum that will identify systemic problems with the implementation of the two Acts and develop advocacy strategies to address these;
- Provide a regular forum for organizations to meet and share experiences and network;
- Facilitate fora between members of the network and official role players.

### **(ii) Expected Results**

The overall aim of this project is to develop and implement in the short-term a model of understanding and addressing domestic violence that addresses women's context, specifically their socio-economic rights, legal, counselling and support needs. This aim will be achieved through a combination of research, training, advocacy and the provision of direct legal services to women.

### **(iii) Results Framework/matrix if any**

Key ways of monitoring the project impact will include:

- Assessing changes in the short-term to organisations' practices in delivering services to abused women and their families – at least three organizations will demonstrate changes to the content and nature of their services over a three month period. Examples of such changes include (but are not limited to) referrals to and assistance with obtaining public housing, and new links made with micro-finance

or skills development schemes (this will be evaluated primarily through the case studies);

- The number of requests received for the various reports and publications emanating from this project;
- Responses by parliamentarians and policy-makers to the project and its recommendations – noted via the Parliamentary Monitoring Group’s minutes of these various committee meetings;
- Changes to housing, social development, labour and trade and industry policy and practice that incorporates and acknowledges battered women’s needs – assessed through tracking such policies over a year as well as through meeting, correspondence and interactions with these various departments during the same time period;
- The extent to which the project activities enters the mainstream debates around domestic violence – assessed through the amount and range of media coverage evoked, as well as counting how many organizations now include access to economic and tangible resources within their advocacy and training strategies;
- The legal services component will be assessed according to the indicators that were developed for the initial phase of the project.

*e. Intended beneficiaries and geographical coverage*

The project is primarily intended to benefit abused women. It will however also assist male family members and friends who often find themselves at a loss to know how to respond when a woman close to them is being abused. Their typical wish, in our experience, is to assault the abusive partner in retaliation – a response that the woman does not generally desire and which may serve to escalate the violence.

The project will also develop TLAC’s research, training and advocacy skills. More broadly it will strengthen not only TLAC but also the work of organizations providing counselling and shelter to women in abusive relationships in different ways, including their ability to provide basic legal counselling to their clients. It should also build government policy makers’ knowledge of the needs of abused women and assist them to respond more effectively.

Other direct beneficiaries of the project are those women, family members and friends who read and use copies of the handbook.

**2: Project Performance**

*a. Quality of Project Design:*

- **Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).**

Although the work of TLAC has significant impact, the links between Outputs, Outcomes, and Impacts are not particularly clear. Risks and assumptions are realistic.

- **Assessment of the M&E system, if any (operationality, whether baseline exists, to what extent project reporting is using the M&E system).**

As mentioned above, the 2007 TLAC proposal suggests key ways of monitoring the project impact. However, there is little evidence of a well-developed M&E system.

- **Assessment of project planning to support “Consolidation of the democratic transition”.**

Considering the high levels of domestic violence in South Africa and the innovative ways this project seeks to engage with this issue, the project planning supports “Consolidation of the democratic transition”.

- **Assessment of project planning to mainstreaming gender.**

The project proposal states that this project is primarily intended to benefit abused women, but may also assist male family member and friends in their response to the abuse of a woman who is close to them. However, there appears to be little evidence of gender-mainstreaming

#### *b. Project Relevance*

- **The extent to which the project is aligned with the Programme Objectives?**

The overall aim of this project is to develop and implement in the short-term a model of understanding and addressing domestic violence that addresses women’s context, specifically their socio-economic rights, legal, counselling and support needs. This aim will be achieved through a combination of research, training, advocacy and the provision of direct legal services to women.

This project contributes to the realization of objectives 3 and 6 of the Strategy for the South African Programme 2007 - 2009

- **The extent to which local context has been taken into consideration?**

The project is well-rooted in the local context.

#### *c. Efficiency*

TLAC has largely worked within its budget except for the following variances:

TLAC overspent on the production of the report of the rape attrition study and did not spend money on publishing policy briefs in line with the NCHR plan for 2008. Moreover, TLAC did not spend the money in the line item for transcriptions since this was agreed to be used for the Mpumalanga rape attrition study but permission was not obtained until late in the year for this study.

TLAC did not spend all its money for litigation since some of its cases settled. On the positive side, it also managed to save some money where counsel were prepared to work pro amico. Working in strategic partnerships has increased TLAC’s efficiency. So,

for instance, through the Paralegal Forum and interactions with the CBOs and NGOs that attend it, TLAC is able to identify ongoing training needs. Based on the needs identified, TLAC has arranged for information sessions as part of the Paralegal Forum meetings to address some of the organisations' information needs. TLAC often presents on certain legal aspects relating to domestic violence and maintenance at various fora.

*d. Effectiveness*

TLAC has to some extent delivered on its outputs:

It has delivered legal services, participated in policy development, and conducted research and advocacy to address gender-based violence. Since 2007 TLAC has made a consistent effort to ensure that its response to gender-based violence is more holistic and recognises that women's needs are complex and multi-layered.

TLAC continued to provide assistance to women on maintenance cases and to advise them on social grants and accessing to government resources.

From June 2008 TLAC received a high number of cases related to housing showing an urgent need to intervene.

TLAC has deviated from its original plan in the following instances:

A key part of the work in 2008 was to build networks with organisations in health related matters as they intersect with gender-based violence – health services for rape survivors, screening for domestic violence in the health sector and HIV/AIDS. TLAC has accordingly met its objective to develop linkages with organisations on socio-economic rights as this relates to health. TLAC has not managed build these linkages as they relate to housing as initially envisaged since the policy process within the Department of Housing was stalled.

TLAC initially envisaged starting a Mpumalanga rape attrition study in 2008. This process was delayed as a result of a delay in getting approval from the various government departments. It was only after the launch of the Gauteng rape attrition study and presentations on the study to all the key departments that they realised its value and agreed to a similar study in Mpumalanga. TLAC would like to work on this study in 2009. The Gauteng rape attrition study however resulted in a lot of policy work being done in 2008 by TLAC which was not envisaged.

TLAC has conducted research on models of service delivery and women's use of services in only one of the targeted sites – Mpumalanga. TLAC is in the midst of conducting this research in their Gauteng site and aims to finalise this in 2009.

During 2008 the Unit has pursued various cases for the purpose of litigation. These cases however were settled and did not proceed to litigation. TLAC will focus on developing its litigation capacity better in 2009.

On a positive note, TLAC has managed to do meaningful policy and advocacy work related to the Sexual Offences Act in 2008 which were not initially envisaged and TLAC spent a lot of time building networks relating to this aspect of their work

- *NCHR Assessment*

From 2008 NCHR Annual Report: The rape attrition study released by TLAC provided an important impetus for civil society and government to concretely think about the problems within the criminal justice system that is the cause for the low conviction rate in sexual offence cases. It is a clear indication of research having policy impact as subsequent to the release of the report the Department of Justice requested TLAC to assist in the development of the National Policy Framework as well the development of a rape protocol in terms of the *Criminal Justice Review Process*. The fact that TLAC was approached for advice by the Department of Justice is an indication of the value being placed on its work, and that TLAC manages to both be critical of the government's response to the high level of sexual violence against women in South Africa and constructively engage and being seen as an constructive partner by the government.

*e. Achieved, Expected Outcomes*

TLAC has made significant contributions to the analysis and debates around the drafting and amendment of key pieces of legislation pertaining to gender-based violence (e.g. the Sexual Offences Act).

TLAC compiled a report on sentencing. This report was used as a basis for arguments in a case (*S v Vilakazi*) challenging the legislation on minimum sentencing for rape. TLAC also participated in a public television debate on minimum sentencing.

As a result of this study, the Deputy Minister of Justice requested TLAC to draft a Rape Protocol based on the findings of the study. The Department of Justice requested TLAC to draft aspects of the National Policy Framework of the Sexual Offences Act. The Gauteng Provincial Government requested TLAC to assist in the development of its Rape Strategy.

The Department of Justice has also requested TLAC to conduct research in order to evaluate the implementation of the Domestic Violence Act in the Eastern Cape, Northern Cape and North West Province.

On the litigation front, TLAC was admitted as amicus in the matter of *Vilakazi v S* (SCA, CCT 051/2007) which dealt with the constitutionality of minimum sentences in certain types of rape cases.

Lisa Vetten of TLAC was called as an expert witness to provide evidence on conduct of abused women in a care that involved the abduction and rape by an ex partner.

With regard to the provision of legal aid, TLAC convenes the Sexual Offences Working Group. This group made submissions to the Department of Justice on the draft Regulations to the Criminal Law (Sexual Offences) Amendment Act 32 of 2007. Some of these submissions were incorporated into the published version of the Regulations.

TLAC has recently established a case management system to ensure that it is able to monitor both progress of its cases and the impact that the outcomes have.

*f. Sustainability of Results*

- **Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.**

In its application, TLAC asserts that the benefits of certain projects will be sustained or broadened through the distribution of the resource materials compiled and the research reports and articles that are written. Training will also contribute to building organisations' knowledge and skills around domestic violence. Training materials developed by TLAC may also be used by other organisations for their own training efforts. Furthermore, the intern programme may ensure that the legal training is sustainable.

- **With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.**

In its 2008 Report, TLAC indicates that it would have to seek alternative financial support when the NCHR funding comes to an end. It is not clear whether steps have already been taken in this regard.

*g. Consequences of NCHR management at project level.*

NCHR provides good general support.

*h. Compliance/Contribution to Cross-cutting themes:*

<b>Theme</b>	<b>Analysis</b>
Engagement with a range of methods	Research, advocacy, provision of legal services, litigation, training and capacity-building
Gender mainstreaming	The project proposal states that this project is primarily intended to benefit abused women, but may also assist male family member and friends in their response to the abuse of a woman who is close to them.
HIV/AIDS	HIV forms an important aspect of all of TLAC's work: All capacity building workshops include an aspect on HIV, TLAC wrote various articles to raise critical debate on policy development relating to HIV and gender-based violence, TLAC was often requested to present on gender-based violence and HIV at various fora, TLAC's policy work on a health sector response to domestic violence and rape addresses its linkages to HIV, TLAC's own clients have HIV and TLAC responds accordingly to their needs, TLAC has participated in the South African National AIDS Council through its work in the Legal and Human Rights Sector Working Group.

### Part 3: Performance Assessment

Ratings: A: Highly Satisfactory; B: Satisfactory; C: Not fully satisfactory; D: Unsatisfactory; X: Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	A	This project contributes to the realization of objectives 3 and 6 of the Strategy for the South African Programme 2007 - 2009
Efficiency	C	TLAC has largely worked under-budget. Working in strategic partnerships has increased TLAC's efficiency
Effectiveness	C	TLAC has to some extent delivered on its outputs: It has delivered legal services, participated in policy development, and conducted research and advocacy to address gender-based violence. TLAC continued to provide assistance to women on maintenance cases and to advise them on social grants and accessing to government resources.
Outcome	A	<p>TLAC has made significant contributions to the analysis and debates around the drafting and amendment of key pieces of legislation pertaining to gender-based violence.</p> <p>As a result of its study on sentencing, As a result of this study, the Deputy Minister of Justice requested TLAC to draft a Rape Protocol based on the findings of the study. The Department of Justice requested TLAC to draft aspects of the National Policy Framework of the Sexual Offences Act.</p> <p>On the litigation front, TLAC was admitted as amicus in the matter of Vilakazi v S (SCA, CCT 051/2007) which dealt with the constitutionality of minimum sentences in certain types of rape cases.</p> <p>With regard to the provision of legal aid, TLAC convenes the Sexual Offences Working Group</p>
Sustainability of outputs/outcomes	B	The benefits of certain projects will be sustained or broadened by, for instance, the distribution of the resource materials compiled and the research reports and articles that are written. Training will also contribute to building organisations' knowledge and skills around domestic violence. Furthermore, the intern programme may ensure that the legal training is sustainable.
Sustainability of organization	B	TLAC is well-established and enjoys a good reputation.
Compliance with cross-cutting themes	B	Engagement with range of methods is well-balanced. Women-focused, but little evidence of gender mainstreaming as such. Adequate incorporation of HIV and AIDS as a cross-cutting issue.

## 12.14 WLC

### Project Performance Report

#### Part 1: Project Description and Structure

##### *a. Project title: Women's Legal Centre (WLC)*

##### *b. Implementing institution and brief history*

The Women's Legal Centre is the implementing partner. The WLC was founded in 1998 and has an established track record in the areas of litigation and advocacy to advance the rights of women. As a non-profit centre, it is the only one of its kind in Southern Africa with this exclusive focus.

The Centre seeks to achieve equality for women, particularly Black women, through litigation. Where the Centre has made gains, it publicises those through advocacy and training. The Centre sees itself as playing an important role in ensuring that the constitutional rights of women as enshrined in the Constitution are protected and delivered upon by the State. In line with this role the Centre uses impact based litigation and related law reform initiatives to ensure that the State delivers not only on equality for women but on services insofar as the socio-economic rights of women are concerned.

##### *c. Project Budget and Financial History*

WLC	2005	2006	2007	2008	Estimated 2009	Total
Grant amount ZAR				300,000	300,000	600,000
Project expenditures NOK				202,620	219,000	421,620

Sources: WLC Application 2008-2009 and NCHR's Total Budget Submitted from SA Programme 2007-2009 (draft November 2008)

##### *d. Project Objectives and Results*

###### **(i) Project objectives**

The Centre has a vision of women in South Africa, free from violence, empowered to ensure their own reproductive and health rights, free to own their own share of property, having a safe place to stay and empowered to work in a safe and equal environment.

The Centre seeks to achieve equality for women, particularly Black women, through litigation. Where we have made gains, we will publicise those through advocacy and training. The Centre has identified 5 strategic areas in which to litigate and conduct law reform for the period 2007 to 2009. These areas are:



**Being well:** We will continue to defend legal challenges to the right to makes choices around reproductive health, and to litigate to ensure that women have access to reproductive health care. We will take cases related to women's access to health care and women and HIV/AIDS.

**Being free of violence:** We will take up cases that improve the access of women and girl children to State protection from gender based violence, and prevent them from being jailed when they act against abusive partners in self-defence.

**Fair access to resources:** We will take up cases that ensure that on dissolution of partnerships, whether by death or separation, women receive a fair share of the assets of the partnership. This involves ensuring that all partnerships are legally recognised, irrespective of religion.

**Having a safe place to stay:** We will take up cases that extend tenure to women in their own right, and to prevent loss of tenure on dissolution of relationships.

**Being able to work:** We will take up cases that extend employment protections to vulnerable groups, develop the law on sexual harassment in relation to farm and domestic workers, and protect women from defamation claims where they report workplace discrimination.

The Centre also offers **free legal advice** to women. Women will be assisted or referred to the relevant body, NGO or court for assistance. The bulk of the queries we receive involve the dissolution of partnerships, gender based violence and maintenance. Our **advocacy** work focuses on providing support to other organisations and groups of organisations advocating for the advancement of rights of women in the Centre's focus areas, such as the Reproductive Rights Alliance and the Sexual Offences working group. We provide **training** in order to ensure the communication and implementation of gains won in court, and as a costs recovery activity. The advocacy and training work is done on a regional basis.

Finally, in order to work towards the **transformation** of the profession and broader society we provide information and training and do capacity building on a regional level. We also train candidate attorneys to ensure transformation of the profession, and seek to make submissions on the gender record of acting judges before they are appointed.

The strategic areas provide a framework for the work of the Centre, and allow it to pursue its activities in an organised and constructive way. However, while the foci have been chosen carefully to reflect the needs of the gender reform field, the Centre retains the flexibility to depart from this framework in order to respond to crisis or emergency, or to incorporate new areas that may emerge during the funding period

## **(ii) Expected Results**

Planned project activities: Litigation, advocacy, training, free legal advice, and capacity building.

- Women's circumstances are improved in the focus areas by legislation being overturned, new jurisprudence being created, existing jurisprudence being extended, the court ordering the enactment of legislation, the empowerment of individual women, other organisations in the sector (nationally and regionally) by training and information sharing, and law and policy reform.
- Provide support to other organisations and groups of organisations advocating for the advancement of rights of women in the Centre's focus areas where appropriate,

in the form of: legal opinions, submissions to parliament and draft policies codes of good practice and regulations.

- Positive litigation outcomes are communicated to communities via media, written and oral publication and community workshops.

WLC has provided, in tabular form (found at the end of this document), the summary of expected results and activities that will produce these results.

**(iii) Results Framework/matrix if any:**

WLC has provided, in tabular form (also found at the end of this report), the following qualitative and quantitative indicators for measurement.

**(v) Project Outputs to date.**

Please see Table “Project Performance Framework” at the end of this document.

***e. Intended beneficiaries and geographical coverage***

The project beneficiaries are women, particularly Black women who are socio- economically disadvantaged.

## **2: Project Performance**

### ***a. Quality of Project Design:***

In general, the WLC Project design is clear, innovative, comprehensive and somewhat ambitious.

- **Assessment of quality and logical consistency of objectives hierarchy/results framework (links Outputs to Outcome to Impact/Programme Objectives; risks and assumptions).**

The stated objective of WLC is to seek to achieve equality for women, particularly Black women, through litigation. Activities are well developed to achieve this aim. The outputs are ambitious, but WLC has managed to deliver in this regard. The risk assumptions are adequate.

- **Assessment of the M&E system, if any (operationality, whether baseline exists, to what extent project reporting is using the M&E system).**

WLC has clear objectives, an appropriate range of activities and detailed indicators. In addition, it operates according to a detailed workplan. However, in reporting, results achieved are not always clearly matched to the relevant indicators.

- **Assessment of project planning to support “Consolidation of the democratic transition”.**

Seeking to achieve equality for women through litigation is a step towards consolidating democracy in South Africa. In particular, the focus on Black women is appropriate as this group has been historically disadvantaged.

- **Assessment of project planning to mainstreaming gender.**

Women form the focus, and are the intended beneficiaries, of most WLC activities.. The approach taken by the WLC is to seek the advancement of women’s human rights. WLC argues that women are not equal in society. The need to focus specifically on women’s equality for the transformation of society generally is essential at this stage of our young democracy. WLC argues that the very principle of seeking to ensure that the jurisprudence of the constitutional court on the equality clause includes cases dealing with women’s right to equality is about mainstreaming women’s rights.

### ***b. Project Relevance***

The WLC seeks to achieve equality for women, particularly Black women who are socio-economically disadvantaged. It seeks to meet this objective through litigation, providing free legal advice, advocacy, training and working towards the transformation of the legal profession and broader society.

The Centre’s work contributes to the advancement of women’s constitutional rights to equality, dignity, and freedom from violence, access to land, housing, fair labour practices and health. The focus areas for 2007 to 2009 are specifically geared to address the dilemma

women face in South Africa today, that of the feminization of poverty, high levels of violence and poor service delivery.

- The extent to which the project is aligned with the Programme Objectives?

The WLC and NCHR both seek to address the gender imbalances in society, and increase the focus on socio-economic rights and access to justice. The socio-economic rights targeted for 2007 –2009 are: access to land and housing (which incorporates access to water and services), and access to health (focusing on the intersection of all the other areas with HIV Aids and on the right reproductive health) and fair labour practices. These areas are in line with the 2007 strategy of NCHR.

The project fits in well with the 2007 strategy to :“contribute to greater access to justice”

- **The extent to which local context has been taken into consideration?**

The WLC project is well- developed to fill the gap in achieving equality for women, particularly Black women, through litigation.

### *c. Efficiency*

WLC runs efficiently. In particular, its collaborative approach appears to bear results.

With regard to litigation, the WLC has negotiated reduced fees with certain Advocates. It also seeks cost orders in litigation.

The WLC works closely with organisations in the gender sector, offering legal advice, assisting with submissions to Parliament and representing clients referred by these organisations. It has formed partnerships with the Aids Law Project, REACH, Simelela, SWEAT and POWA.

WLC maintains a professional relationship with the Department of Justice and provides training for officials.

WLC strategies and efforts to retain competent staff are laudable.

### *d. Effectiveness*

As a non-profit centre, it is the only one of its kind in Southern Africa with the exclusive focus on women.

The WLC has been delivering on outputs.

With regard to litigation, it has obtained a number of successful judgements in the following areas: gender-based violence, labour law and access to resources arising out of relationships (marriage and inheritance). These judgements have the potential to improve the social and economic conditions of many women.

The WLC conducted a wide range of advocacy work such as making submissions to Parliament in relation to law reform in their focus areas, participating in networks and providing legal opinions. WLC also conducted training aimed at empowering the community, State officials, members of the judiciary and profession.

The WLC continued to provide free legal advice to its target group (approximately 1514 women in 2008)

Evidence of synergy between the different areas of activity appears to be lacking, at least in reporting.

Furthermore, a holistic approach to litigation, including strategic follow-up on implementation of judgements, may be more effective.

▪ **NCHR Assessment**

From the 2008 Annual NCHR Report: The Women's Legal Centre fills an important niche in South African's human rights field in being a non-profit law centre which solely chooses cases with the aim to advance women's rights. The litigation and advocacy aspect of their work seem to be very well integrated. The cases taken on by the Women's Legal Centre often receive substantial media coverage, given an added value of awareness raising and public advocacy in addition to the judicial outcome in each case. The Women's Legal Centre is strategic in its choice of cases and seems to be positioning itself well in fulfilling an important role in using legal strategies to improve the rights of women in South Africa.

*e. Achieved, Expected Outcomes*

WLC appears on track in achieving expected outcomes.

*Litigation:* Although the WLC obtained a number of successful judgements during 2008, the nature of the litigation cycle is such that cases may come to fruition only after a number of years.

*Advocacy and training:* The WLC was invited to participate in a number of workshops; conferences and training initiatives in South Africa and the Region.

*Free legal advice:* The profiles of these women and the nature of these cases are reflected in database form, which contains details of the query advice given and follow up assistance or referral where appropriate. Below is a summary:

<b>Categories</b>	
Child sexual abuse	8
Criminal	19
Customary law	43
Damages	28
Divorce	378
Domestic partnership	71
Domestic violence	116
Estates and wills	60
Evictions	42
Family	135
General	87
Health (incl reproductive rights)	1
Housing	43
HIV	6
Labour	81
Maintenance act	278
Muslim personal law	59
Rape	26
Sexual harassment	24

Unfair discrimination	9
<b>Total</b>	<b>1514</b>

*f. Sustainability of Results*

- **Likelihood of beneficiaries making use of the Outputs produced by the project, and ownership.**

With regard to the training and provision of legal advice, it is likely that beneficiaries will make use of the outputs produced. However, the nature of the litigation cycle is such that cases may come to fruition only after a number of years.

- **With NCHR Programme exit, have projects prepared to ensure continued activity/involvement and avoid disruptions.**

While the Centre has funders that have funded it for years, such as the Ford Foundation, HIVOS and Open Society Foundation, the Centre plans to diversify its funding base and is seeking partners in this regard. In addition to this the Centre is putting in place cost recovery strategies such as billing for training and presentations, and recovering costs in litigation.

*g. Consequences of NCHR management at project level.*

Regular visits and communications assisted the WLC in what was a new partnership at the beginning of 2008. NCHR provided links with organisations that have been beneficial to the work of the Centre.

*h. Compliance/Contribution to Cross-cutting themes:*

Theme	Analysis
Engagement with a range of methods	Litigation, free legal advice, advocacy, training, transformation
Gender mainstreaming	Black women, who are socio-economically disadvantaged, form the focus of the WLC's work. A focus on women's human rights, rather than an inclusive and systematic gender mainstreaming approach.
HIV/AIDS	The WLC has made some effort to incorporate issues related to HIV and AIDS in its work. The WLC is currently sourcing cases related to hate crimes against women who are HIV positive and HIV positive women who have been forced to consent to sterilization due to their positive status. Furthermore, the WLC has made submissions on the regulations relating to the provision of post-exposure prophylaxis to victims of sexual offences and many of the proposed changes were made to the standard forms. As a result, women will now be able to make a more informed decision in relation to HIV infection as a result of rape

### **Part 3: Performance Assessment**

**Ratings:** **A:** Highly Satisfactory; **B:** Satisfactory; **C:** Not fully satisfactory; **D:** Unsatisfactory; **X:** Insufficient information to rate.

Dimension	Rating	Comments, justification
Relevance	A	The WLC seeks to achieve equality for women, particularly Black women who are socio-economically disadvantaged, through litigation, providing free legal advice, advocacy, training and working towards the transformation of the legal profession and broader society. It's work contributes to the advancement of women's constitutional rights to equality, dignity, and freedom from violence, access to land, housing, fair labour practices and health.  Good fit with NCHR strategy of providing greater access to justice.
Efficiency	B	The WLC has run efficiently. Its collaborative efforts have yielded results.
Effectiveness	B	In general, the WLC has delivered on planned outputs.
Outcome	B	The WLC obtained a number of successful judgments. It is increasingly recognised for its work, as is evidenced by invitations to conduct training and attend workshops.
Sustainability of outputs/outcomes	B	The benefits of legal advice and training provided may be sustainable. With regard to successful judgments obtained, sustainability may be jeopardized in the absence of a holistic follow-up and monitoring strategy.
Sustainability of organization	B	The WLC is well-established and enjoys a good reputation. It has funders that have funded it for years, such as the Ford Foundation, HIVOS and Open Society Foundation.  There is a high possibility that the WLC will continue with its activities. The NCHR funding does not represent a significant percentage of the WLC's funding. In addition to its regular funding, the Centre is diversifying its funding base and is seeking partners in this regard. Furthermore, the Centre has put in place cost recovery strategies such as billing for training and presentations, and recovering costs in litigation
Compliance with cross-cutting themes	B	WLC has adopted a focus on women's human rights. Some attempts are being made to include HIV/AIDS as a cross-cutting theme.

**Table Project Name: Project Performance Framework**

<p><b>Goal:</b> The Centre seeks to achieve equality for women, particularly Black women, through litigation, providing free legal advice, advocacy, training and working towards the transformation of the legal profession and broader society</p>	
<p>Project Objectives: <b>Litigation in key focus areas:</b></p> <ul style="list-style-type: none"> <li>• Gender based violence</li> <li>• Access to resources in partnerships</li> <li>• Access to land / housing</li> <li>• Access to health care</li> <li>• Employment rights of women.</li> </ul> <p>Three cases in each focus area which will result in:</p> <ul style="list-style-type: none"> <li>• Legislation being overturned or,</li> <li>• New jurisprudence created or,</li> <li>• Existing jurisprudence is extended or,</li> <li>• The court orders the enactment of legislation or,</li> <li>• The case does not proceed to court but has a positive impact advancing women's rights.</li> </ul>	<p><b>Indicators:</b></p> <p>Process:</p> <ul style="list-style-type: none"> <li>• Appropriate client and set of facts identified</li> <li>• Opinion on merits and impact</li> <li>• Pleadings are drafted,</li> <li>• Conduct trial/argument</li> <li>• Monthly litigation meetings</li> </ul> <p>Output</p> <ul style="list-style-type: none"> <li>• Court papers</li> <li>• Quarterly worker reports</li> <li>• Annual report</li> </ul> <p>Outcome</p> <ul style="list-style-type: none"> <li>• Case is finalised in a manner, which strengthens women's rights in particular focus area.</li> </ul> <p>Impact Women's rights in focus areas are advanced</p> <p><b>Status in 2008 :</b> Litigation achievements:</p> <ul style="list-style-type: none"> <li>• Gumede case: Provisions of the Recognition of Customary Marriages Act declared unconstitutional on the basis of</li> </ul>



	<p>discrimination on the grounds of gender</p> <ul style="list-style-type: none"> <li>• Phaswane case: High Court declared provisions of the Criminal Procedure Act unconstitutional (secondary traumatising of women and girls who testify in sexual offences matters)</li> <li>• Gabie Hassam case: Cape High Court extended the right to intestate succession to women in polygynous Muslim marriages.</li> <li>• Govender case: The Durban High Court extended the right to intestate succession to women in Hindu marriages.</li> <li>• Radebe case: The CCM A held that the actions of the Metro Police Department in victimising a women who had reported sexual harassment (rape) amounted to a constructive dismissal.</li> <li>• Kylie Case: The Labour Court extended the definition of employee to sex workers.</li> </ul>
<p><b>Free legal advice</b>                  Women are empowered through free legal advice to women on all issues:</p> <ul style="list-style-type: none"> <li>• Duty queries: calls and walk ins</li> <li>• Advice to NGO's, State, regional organisations and students.</li> </ul>	<p><b>Indicators:</b></p> <p>Process</p> <ul style="list-style-type: none"> <li>• Queries received</li> <li>• Advice and opinions given, appropriate referrals made</li> <li>• Monthly reports to litigation meetings</li> </ul> <p>Output</p> <ul style="list-style-type: none"> <li>• Database of number and nature of queries, opinions and advice given.</li> <li>• Record of number of queries, opinions and advice given, papers and presentations delivered, and referrals made</li> </ul> <p>Outcome</p> <ul style="list-style-type: none"> <li>• Appropriate cases for litigation are identified</li> <li>• Women who have contact with the centre are empowered</li> </ul> <p><b>Status in 2008:</b>                  The WLC provided free legal advice to approximately 1514 women.</p>

<p><b>Advocacy</b> Provide support to other organisations and groups of organisations advocating for the advancement of rights of women in the Centre's focus areas, where appropriate, in the form of:</p> <ul style="list-style-type: none"> <li>• Legal opinions,</li> <li>• submissions to parliament, draft policies codes of good practice and regulations.</li> </ul>	<p><b>Indicators:</b> Process:</p> <ul style="list-style-type: none"> <li>• Invitations / queries received</li> <li>• Minutes of meetings,</li> <li>• Workers reports</li> </ul> <p>Output</p> <ul style="list-style-type: none"> <li>• Submissions/ presentations/ legal opinions</li> <li>• Draft regulations, codes of good practice</li> <li>• Media statements</li> </ul> <p>Outcome</p> <ul style="list-style-type: none"> <li>• Gender and other organisations assisted by Centre are supported in bringing about law reform</li> </ul> <p>Impact:</p> <ul style="list-style-type: none"> <li>• The advancement of equality for women</li> </ul> <p><b>Status in 2008:</b> WLC advocated for law reforms in all focus areas. Various legal opinions were provided to partners in the sector. WLC hosted a group of Ghanaian visitors WLC hosted a study tour of Zimbabwean Women Lawyers The WLC, on invitation, spoke on a range of topics at a number of other events.</p>
<p><b>Training:</b> Pro-active :</p> <ul style="list-style-type: none"> <li>• Positive litigation outcomes are communicated to communities via media, written and oral publication and community workshops, such as: Annual recognition of customary marriages workshop</li> <li>• Rights of the girl child project</li> </ul>	<p><b>Indicators:</b> Process:</p> <ul style="list-style-type: none"> <li>• Identify appropriate groups for training</li> <li>• Prepare presentation or training materials</li> </ul> <p>Output</p> <ul style="list-style-type: none"> <li>• Pamphlets, written publications and/or training manuals,</li> <li>• Attendance registers,</li> <li>• Reports from partners,</li> </ul>

<p>On request: As a cost recovery activity, the Centre will provide training at its discretion and within its focus areas on request.</p>	<ul style="list-style-type: none"> <li>• Evaluation forms from participants.</li> </ul> <p>Outcome:</p> <ul style="list-style-type: none"> <li>• Advances made are communicated to the women affected by them</li> </ul> <p>Impact:</p> <ul style="list-style-type: none"> <li>• Women are empowered to exercise their rights</li> </ul> <p><b>Status in 2008:</b> Hosted an community workshop on women’s rights in different relationships. Hosted the annual workshop on the Recognition of Customary Marriages Act. Provided training to magistrates and judges in Swaziland on the intersection between HIV, property rights and gender based violence.</p>
<p><b>Work towards transformation of the legal profession and broader society</b></p> <ul style="list-style-type: none"> <li>• Women will be empowered on a regional level by capacity building in the form of sharing of information and training</li> <li>• Transformation of the legal profession nationally</li> </ul> <p>Ensure gender record of potential judges placed before the judicial services commission</p>	<p><b>Indicators:</b></p> <p>Process</p> <ul style="list-style-type: none"> <li>• Receive invitations</li> <li>• Draft submissions or legal opinions, give advice</li> </ul> <p>Output</p> <ul style="list-style-type: none"> <li>• Presentations</li> <li>• Legal opinions</li> <li>• Papers</li> <li>• Submissions</li> </ul> <p>Outcome</p> <ul style="list-style-type: none"> <li>• Women are empowered on a regional level with information sharing and training</li> </ul> <p>Impact</p> <ul style="list-style-type: none"> <li>• Build capacity of regional organisations that seek to advance women’s rights</li> </ul>

	<p>Process</p> <ul style="list-style-type: none"> <li>• Invitations to train</li> <li>• Prepare presentation</li> </ul> <p>Output:</p> <ul style="list-style-type: none"> <li>• Presentation, evaluation forms of participants</li> </ul> <p>Outcome</p> <ul style="list-style-type: none"> <li>• Young lawyers are aware of gender law and issues</li> </ul> <p>Impact:</p> <ul style="list-style-type: none"> <li>• Women’s quality of service from private practitioners is improved</li> </ul> <p><b>Status in 2008:</b>                  Provided training to magistrates and judges in Swaziland on the intersection between HIV, property rights and gender based violence.                  WLC hosted a group of Ghanaian visitors                  WLC hosted a study tour of Zimbabwean Women Lawyers                  WLC assisted the Partnership for Justice from Lagos, Nigeria</p>
<ul style="list-style-type: none"> <li>• Participate in national and regional women lawyer associations and share information and provide legal advice.                         <ul style="list-style-type: none"> <li>• Training for candidate attorneys and lawyers on gender</li> </ul> </li> </ul> <p>Monitoring judgments of acting judges</p>	<p><b>Status in 2008:</b>                  WLC hosted a group of Ghanaian visitors                  WLC hosted a study tour of Zimbabwean Women Lawyers                  WLC assisted the Partnership for Justice from Lagos, Nigeria                  Presented paper at the International Conference on Customary Law in Botswana in relation to customary law and women’s rights.</p>

**WLC summary of expected results and activities that will produce these results:**

<b>Activity</b>	<b>Result</b>
<p><b>LITIGATION</b>                      Focus areas:                      Gender based violence                      Access to resources in partnerships                      Access to land / housing                      Access to health care                      Employment rights of women.</p>	<p>Three cases in each focus area which will result in:                      Legislation being overturned or,                      New jurisprudence created or,                      Existing jurisprudence is extended or,                      The court orders the enactment of legislation or,                      The case does not proceed to court but has a positive impact advancing women's rights.</p>
<p><b>FREE LEGAL ADVICE</b></p>	<p>Women are empowered through free legal advice to women on all issues:                      Duty queries: calls and walk ins (100 per month)                      Advice to NGO's, State, regional organisations and students (10 per month)</p>
<p><b>ADVOCACY</b></p>	<p>Provide support to other organisations and groups of organisations advocating for the advancement of rights of women in the Centre's focus areas where appropriate, in the form of:                      Legal opinions,                      submissions to parliament,                      draft policies codes of good practice and regulations.</p>

<p><b>TRAINING</b></p>	<p>Pro-active :                  Positive litigation outcomes are communicated to communities via media, written and oral publication and community workshops, such as:                  Annual recognition of customary marriages workshop                  Rights of the girl child project</p> <p>On request:                  As a cost recovery activity, the Centre will provide training at its discretion and within its focus areas on request.</p>
<p><b>TRANSFORMATION</b>                  Participate in national and regional women lawyer associations and share information and provide legal advice.                  Training for candidate attorneys and lawyers on gender                  Monitoring judgments of acting judges</p>	<p>Women will be empowered on a regional level by capacity building in the form of sharing of information and training                  Transformation of the legal profession nationally                  Ensure gender record of potential judges placed before the judicial services commission</p>

**WLC qualitative and quantitative indicators for measurement:**

<i>Activity</i>	<b>Indicators of success</b>
<p><b>LITIGATION</b></p> <p>Focus areas:</p> <ul style="list-style-type: none"> <li>• Gender based violence</li> <li>• Access to resources in partnerships</li> <li>• Access to land / housing</li> <li>• Access to health care</li> <li>• Employment rights of women.</li> </ul>	<p>Process:</p> <ul style="list-style-type: none"> <li>• Appropriate client and set of facts identified</li> <li>• Opinion on merits and impact</li> <li>• Pleadings are drafted,</li> <li>• Conduct trial/argument</li> <li>• Monthly litigation meetings</li> </ul> <p>Output</p> <ul style="list-style-type: none"> <li>• Court papers</li> <li>• Quarterly worker reports</li> <li>• Annual report</li> </ul> <p>Outcome</p> <ul style="list-style-type: none"> <li>• Case is finalised in a manner, which strengthens women's rights in particular focus area.</li> </ul> <p>Impact</p> <ul style="list-style-type: none"> <li>• Women's rights in focus areas are advanced</li> </ul>
<p><b>FREE LEGAL ADVICE</b></p>	<p>Process</p> <ul style="list-style-type: none"> <li>• Queries received</li> <li>• Advice and opinions given, appropriate referrals made</li> <li>• Monthly reports to litigation meetings</li> </ul> <p>Output</p> <ul style="list-style-type: none"> <li>• Database of number and nature of queries, opinions and advice given.</li> <li>• Record of number of queries, opinions and advice given, papers and presentations delivered, and referrals made</li> </ul> <p>Outcome</p> <ul style="list-style-type: none"> <li>• Appropriate cases for litigation are identified</li> <li>• Women who have contact with the centre are empowered</li> </ul> <p>Impact</p>

	<ul style="list-style-type: none"> <li>• Women advised by the Centre exercise their rights</li> </ul>
<i>ADVOCACY</i>	<p>Process:          Invitations / queries received          Minutes of meetings,          Workers reports          Output          Submissions/ presentations/ legal opinions          Draft regulations, codes of good practice          Media statements          Outcome          Gender and other organisations assisted by Centre are supported in bringing about law reform          Impact:          The advancement of equality for women</p>
<b>TRAINING</b>	<p>Process:</p> <ul style="list-style-type: none"> <li>• Identify appropriate groups for training</li> <li>• Prepare presentation or training materials</li> </ul> <p>Output</p> <ul style="list-style-type: none"> <li>• Pamphlets, written publications and/or training manuals,</li> <li>• Attendance registers,</li> <li>• Reports from partners,</li> <li>• Evaluation forms from participants.</li> </ul> <p>Outcome:</p> <ul style="list-style-type: none"> <li>• Advances made are communicated to the women affected by them</li> </ul> <p>Impact:</p> <ul style="list-style-type: none"> <li>• Women are empowered to exercise their rights</li> </ul>



<p><b>TRANSFORMATION</b></p> <ul style="list-style-type: none"> <li>• Participate in national and regional women lawyer associations and share information and provide legal advice.</li>   <li>• Training for candidate attorneys and lawyers on gender</li>   <li>• Monitoring judgments of acting judges</li> </ul>	<p>Process</p> <ul style="list-style-type: none"> <li>• Receive invitations</li> <li>• Draft submissions or legal opinions, give advice</li> </ul> <p>Output</p> <ul style="list-style-type: none"> <li>• Presentations</li> <li>• Legal opinions</li> <li>• Papers</li> <li>• Submissions</li> </ul> <p>Outcome</p> <ul style="list-style-type: none"> <li>• Women are empowered on a regional level with information sharing and training</li> </ul> <p>Impact</p> <ul style="list-style-type: none"> <li>• Build capacity of regional organisations that seek to advance women's rights</li> </ul> <p>Process</p> <ul style="list-style-type: none"> <li>• Invitations to train</li> <li>• Prepare presentation</li> </ul> <p>Output:</p> <ul style="list-style-type: none"> <li>• Presentation, evaluation forms of participants</li> </ul> <p>Outcome</p> <ul style="list-style-type: none"> <li>• Young lawyers are aware of gender law and issues</li> </ul> <p>Impact:</p> <ul style="list-style-type: none"> <li>• Women's quality of service from private practitioners is improved</li> </ul> <p>Process</p> <ul style="list-style-type: none"> <li>• Ascertain names of acting judges</li> <li>• Compile a dossier of their judgements relating to gender issues</li> </ul> <p>Output</p>
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	<ul style="list-style-type: none"><li>• Submissions</li></ul> <p>Outcome</p> <ul style="list-style-type: none"><li>• Influence process not to appoint judges that are gender insensitive</li></ul> <p>Impact</p> <ul style="list-style-type: none"><li>• Improve the quality of judgements on human rights and gender issues</li></ul>
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## 12.15 Performance Ratings of Projects Reviewed in the Programme

The performance assessment of projects under the Programme portfolio were based on criteria set by partner organizations in that performance was assessed against projects' stated objectives and expected results. The performance ratings of the projects are presented below, but the team wishes to highlight that Ratings should not be the fundamental means of looking at the projects under the South African Programme. Performance ratings remain subjective and does not inform about the factors contributing and inhibiting project performance. The usefulness of Rating Scheme is that it provides a foundation for dialogue among the members of the review team regarding how they arrived at their conclusions and ratings. Through this internal discussion the consultants become more consistent in how they rate project performance, and thus clearer on the foundations for the ratings. Additionally, communication to the external stakeholders: Programme management, partner organizations and others involved in the various projects can see what the ratings are, what the foundations, and can thus engage in a dialogue on the realism and empirical foundations for the ratings. This is thus a useful basis for feed-back to the consultants regarding possible missed information or disagreements on interpretation or weighting of factors.

**Ratings: A: Highly Satisfactory; B: Satisfactory; C: Not fully satisfactory; D: Unsatisfactory; X: Insufficient information to rate.**

Dimension	CALS	CHR	CLC	Coma CARE	CSA	LRC Graniti	LRC Women' Rights	ODAC	PLAAS - NORA GRIC	RAPCAN
Relevance	B	B	B	A	A	B	A	B	B	A
Efficiency	B	B	B	A	A	B	A	B	B	B
Effectiveness	A	C	B	B	B	B	B	C	A	B
Outcomes	B	B	B	A	B	X	B	C	B	A
Sustainability of outputs/outcomes	C	C	B	B	A	X	X	C	B	B
Sustainability of organization	B	B	C	C	C	B	B	C	B	B
Compliance with cross-cutting themes	B	C	B	B	B	C	A	D	B	A



