



2 November 2007

**SUMMARY AND ANALYSIS OF THE ANNUAL REPORT OF  
THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION (SAHRC) 2006/07**

**1. INTRODUCTION**

The purpose of this paper is to assist the Portfolio Committee on Justice and Constitutional Development in exercising its oversight responsibilities by providing a summary and analysis of the Annual Report of the South African Human Rights Commission (SAHRC) 2006/2007.

**1.1 LEGISLATIVE MANDATE**

The South African Human Rights Commission is a Chapter 9 state institution supporting constitutional democracy and was established in terms of Chapter 9 of the Constitution, Act 108 of 1996.

**The Constitution of the Republic of South Africa, Act 108 of 1996**

Section 181 establishes the SAHRC together with other Chapter 9 institutions and sets out the governing principles of these institutions, namely that they are independent, subject only to the Constitution and law and must be impartial and perform functions without fear, favour or prejudice.

Section 184(1) sets out the functions of the SAHRC, including promoting respect for human rights and a culture of human rights; to promoting the protection, development and attainment of human rights; and monitoring and assessing the observance of human rights in the Republic.

In terms of Section 184(2), the SAHRC is granted powers, as regulated by national legislation, to investigate and to report on the observance of human rights; to take steps to secure appropriate redress where human rights have been violated; to carry out research; and to educate.

In terms of Section 184(3), each year the relevant organs of State must provide the Commission with information on the measures that they have taken towards the realisation of the rights in the Bill of Rights concerning housing, health care, food, water, social security, education and the environment.

**South African Human Rights Commission Act 54 of 1994**

This Act elaborates on the powers, functions and the administration of the SAHRC. It was enacted under the Interim Constitution, Act 200 of 1993.

**Promotion of Access to Information Act 2 of 2000**

This Act gives effect to Section 32 of the Constitution and requires the SAHRC to promote, monitor and assist people in accessing information from third parties.



## **Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000**

In terms of this Act the function of the SAHRC is to promote the achievement of equality. The Act also empowers the SAHRC to institute proceedings in equality courts.

### **1.2 VISION, MISSION AND VALUES OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

#### **Vision**

The SAHRC, as a constitutional body that supports democracy, seeks to be an effective organisation for the promotion and protection of human rights; to be the focal point for human rights practice in South Africa; and to be accessible to everyone.

#### **Mission**

The SAHRC is the national institution established to support constitutional democracy through the promotion and protection of human rights by:

- Raising awareness of human rights issues;
- Monitoring and assessing the observance of human rights;
- Providing education and training on human rights;
- Addressing human rights violations and seeking effective redress.

## **2. TECHNICAL ASPECTS**

The Annual Report of the SAHRC 2006/07 was tabled before the National Assembly on 27 September 2007, in adherence to Section 65 of the PFMA which requires that reports be tabled by 30 September of each year.

The Report seeks to provide a comprehensive account of SAHRC activities and performance during the reporting period. It represents information using graphs and tables as well as using the narrative form to describe outputs and achievements. Overall the Report is clear and systematically set out, reporting on every programme in detail. This enables one to obtain a good indication of performance.

The following comments must, however, be noted:

- In instances where the target is a percentage, details of the total that it is measured against are not provided. For example, under Legal Services<sup>1</sup> the target of 90% complaints not be subjected to litigation or public hearing is reported as partially achieved. The extent of the achievement can not be calculated as no details of the total are provided.
- Apart for Legal Services little detail is provided on the performance of individual provinces.
- The targets of a some programmes differs from the Strategic Plan:

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<sup>1</sup> South African Human Rights Commission: Annual Report – 2006/07, Pg 42



- The outputs and targets for Special Programmes are expanded on in the Annual Report. This needs to be incorporated into the Strategic Plan.
- The outputs and targets for Human Resources<sup>2</sup> vary from the Strategic Plan.
- There are some discrepancies in reported statistics.
  - On page 8 of the Report, it is stated that the number of complaints handled has decreased from 11 710 in 2005/06 to 11 508 in 2006/07. However, on pages 44 and 46, the number of complaints handled is reported as 11 867.
  - On page 8 it is reported that complaints dealing with accused and detained persons increased from 583 in 2005/06 to 817 in 2006/07. However the graph on page 45 indicates that these complaints number 885.
  - On page 43 the graph indicating the number of complaints handled per province does not reflect the actual total but rounded-off totals. It is unclear why this was done.
  - The table on page 46 sets out matters handled in 2006/07. Due to the layout, the table is confusing. It is not clear which columns have been added together to give totals. There are also no subtotals for the number of written complaints. Complaints that are carried over are not explained.
  - There are also errors in a few columns and rows:
    - The number of rejected complaints in the Eastern Cape is erroneously reflected as 65 but should be 564.
    - The number of Investigations in the Western Cape is incorrectly calculated as 500 but should add up to 400 (This error affects the grand total for the number of complaints handled).
    - The total number of investigations is incorrectly calculated as 4 429. The sum of the reflected figures is 4 249. If the correct total for investigations in the Western Cape is added the total is 4 149. The grand total of complaints handled should therefore be 11 767 instead of 11 867.

### 3. TARGETS AS PER ESTIMATES OF NATIONAL EXPENDITURE<sup>3</sup>

Table 1: ENE Medium Term Output Targets for 2006/07

Sub programme	Output	Measure/Indicator	Target
South African Human Rights Commission	Publication Distribution	Percentage increase in distribution of publications	Increase by at least 10% per year especially in rural communities
	Investigation of complaints	Percentage increase in number of complaints resolved	50% increase in cases resolved per year

The SAHRC falls under Programme 5: Auxiliary and Associated Service of the Department of Justice and Constitutional Development. The specific target set by the Department as indicated above is to increase the number of publications distributed by the SAHRC by 10% per year and to increase the number of resolved matters by 50% a year.

<sup>2</sup> Annual Report, pg 28

<sup>3</sup> Estimates of National Expenditure. Vote 23.



- The number of complaints resolved in the reporting period was 438<sup>4</sup>. However, the number of resolved complaints in 2005/06 was 732. This is a significant decline of 40% compared to the previous year. This target has therefore not been met.
- Although the Report details education and training programmes undertaken, there is no data provided as to the number of publications distributed in either 2005/06 or 2006/07. However, it is reported that 339 850 copies of publications on different topics were printed.<sup>5</sup> Performance in terms of this target can therefore not be measured.

#### Questions

- ~ Why has there been a decrease in the number of resolved complaints in comparison to 2005/06?
- ~ How many publications were distributed in 2006/07 compared to 2005/06? What percentage of these were distributed in rural areas?
- ~ What measures will be taken to ensure that both of these governmental targets are reached by the next reporting period?

## 4. OVERVIEW OF PERFORMANCE: ACHIEVEMENTS AND CHALLENGES

### 4.1. Selected Achievements

The following key achievements are noted:

- The SAHRC has developed an e-Learning programme that provides access to human rights education on the Internet and other multi-media tools. Courses dealing with the Promotion of Access to Information Act (PAIA); Promotion of Equality and Prevention of Unfair Discrimination Act (PEPDUA) and the Promotion of Administrative Justice Act have been developed. An Induction Portal on Basic Human Rights Education was also developed and is available to SAHRC staff and stakeholders.
- The SAHRC substituted the Charms electronic complaints management system with FlowCentric to improve the efficiency in dealing with complaints from the public.
- 18 complaints have been litigated and reported on.
- A public hearing on school-based violence was conducted. A hearing on initiation schools with the Commission for the Promotion and Protection of the Rights of Cultural, Religious, Linguistic Communities Commission and the National House of Traditional Leaders was also conducted.
- The SAHRC hosted the Information Officers Forum to contribute in the implementation of PAIA.
- A Golden Key Award ceremony to acknowledge successes in the implementation of PAIA.

#### Questions

- ~ How will the implementation of the FlowCentric system increase efficiency?
- ~ Has or will the system be rolled out at a provincial level?

### 4.2. Challenges

<sup>4</sup> Annual Report. Pg 46

<sup>5</sup> Annual Report. Pg 23.





The SAHRC faces a number of challenges. These include:

- SAHRC cites external developments as having impacted on the demand for its services and its ability to deliver these services. These external developments include the areas of poverty, unemployment and the undermining of human dignity; the impact of HIV and AIDS; and the undermining of the human rights culture by crime and violence, especially violence against women and children.
- Due to the size of the country, the SAHRC is unable to promote a culture of human rights in all parts of the country in a sustained manner. The SAHRC is exploring other methodological approaches to incorporate in its human rights promotional work.
- The SAHRC has to deal with a vast number of complaints.
- The Human Rights Commission Act was enacted in terms of the Interim Constitution and is outdated. The regulations in terms of this Act are also outdated. Draft regulations were submitted to the Minister of Justice and Constitutional Development but have not yet been promulgated<sup>6</sup>.

#### Questions

- ~ Explain how some of the external factors impacted on service delivery and what measures have been taken to mitigate the impact of these issues?
- ~ What new approaches to promoting human rights are being considered? When and how will they be implemented?
- ~ What efforts have been made to partner with other Chapter 9 institutions to prevent duplication of services and create a co-ordinated effort in promoting human rights?
- ~ What programmes are in place to ensure that the services of the SAHRC reach rural areas on an ongoing basis?

## 5. STRATEGIC PRIORITIES

The SAHRC lists seven Objectives in its Strategic Business Plan 2006/07 – 2008/09 and repeats these as Key Measurable Objectives in its Annual Report 2006/07. These include:

- To promote human rights and contribute to developing a sustainable culture of human rights through education and training, community outreach and public awareness campaigns;
- To monitor human rights by providing comprehensive research and documentation mechanisms designed to advance and assess human rights, especially social and economic rights;
- To protect human rights by investigating individual and systemic complaints of human rights violations and provide appropriate redress;
- To entrench the Commission as the major resource and primary focal point for human rights promotion, protection and monitoring in the country;
- To be accessible and work in a collaborative manner with organs of State, Civil Society and other Chapter 9 organisations;

<sup>6</sup> Reasons for this are provided on pg 20 of this paper.



- To advance the public and parliamentary accountability of the Commission's work and maximise the utilisation of public resources through sound strategic management and efficient financial and administrative systems and procedures; and
- To publicise and convey the role and work of the Commission to the general public via an integrated internal and external communications strategy.

## 6. PERFORMANCE IN TERMS OF TARGETS

Service delivery is divided into five delivery programmes some with sub-programmes, divided as follows:

Table 2: Programmes and Sub-programmes as per Annual Report 2006/07

PROGRAMME 1:	PROGRAMME 2:	PROGRAMME 3:	PROGRAMME 4:	PROGRAMME 5:
COMMISSIONERS	CHIEF EXECUTIVE OFFICER'S OFFICE	CORPORATE SERVICES	OPERATIONS	SPECIAL AND DONOR-FUNDED PROJECTS
	1. Strategic Management	1. Administration and IT	1. Education and Training	1. SAP/COMOUT/FHR/MOTT
	2. Financial Management and Systems	2. Human Resource Management	2. Legal Services	2. Information Management Systems
	3. Parliamentary Liaison and Legislation Monitoring		3. Research and Documentation	
	4. Special Programmes			
	5. Media and Communications			

This section seeks to highlight areas in which targets have been achieved and areas in which there is a need for improvement.

### 6.1. PROGRAMME 1: COMMISSIONERS

Some of the outputs in the Annual Report 2006/07 vary slightly or have been extended when compared to the Annual Report 2005/06. The following are noted about this programme:

- The Commissioners Programme has succeeded in meeting 6 out of 7 targets. One area of poor performance is noted in 'Human Rights Policy Development'. This target was partly achieved in 2005/06 due to "inadequate capacity in Commissions' department"<sup>7</sup> and was not achieved in 2006/07.

<sup>7</sup> South African Human Rights Commission: Annual Report – 2005/06. pg 12



- Good corporate governance is now listed as an output in this programme.
- 'Community interventions, monitoring of service' delivery have increased from once every two months in 2005/06 to fortnightly in 2006/07. This target was achieved.
- This programme was allocated a substantial budget of R4 505 000 during the reporting period, but only is reported on in 2 pages. More accounting of the individual work of Commissioners is required to gauge the success of this programme.
- Although Appeals are an output, there is no specific reporting on it.

#### Questions

- ~ Why was the target for human rights policy development not met and how does the SAHRC intend addressing this?
- ~ With the resignation of one Commissioner, what interim measures were put in place to ensure that the performance in this programme is not affected?
- ~ How many appeals were heard in the reporting period? How long did it take to finalise these matters? What were the outcomes of the appeals?

## 6.2. PROGRAMME 2: CHIEF EXECUTIVE OFFICER

### 6.2.1. Strategic Management

All outputs were achieved in this programme in line with the strategic business plan. A notable achievement is the ongoing review of the Strategic Plan with Monthly and Quarterly reports drafted.

### 6.2.2. Financial Management

The SAHRC achieved all its outputs in this programme during the reporting period, in line with its strategic business plan. Of note is the timely submission of monthly reports to National Treasury by the 15<sup>th</sup> of each month and the submission of Financial Statements to the Auditor General and National Treasury before 31 May 2007.

### 6.2.3. Parliamentary Liaison and Legislation Monitoring

This sub-programme is aimed at advancing human rights compliance within policy and legislative process through advocacy, research and legislation monitoring.

- This Unit has actively engaged with both Parliament and civil society. It achieved 7 out of 8 targets including:
  - 75 Parliamentary committee meetings were attended against a target of 20 meetings.
  - 54 civil society functions were attended against a target of 30.
  - 15 submissions on proposed legislation were made against a target of 8.

In these areas the SAHRC has not only met its target but exceeded them.

#### Questions

- ~ What obstacles does the SAHRC face in liaising with Parliament?



~ What can the Portfolio Committee do to improve interaction between itself and the SAHRC?

#### **6.2.4. Special Programmes**

- This programme seeks to co-ordinate and strengthen the SAHRC's work in the identified areas and in the vulnerable sectors of HIV/AIDS, Non-nationals, Older Persons, Disability and Children's Rights. The Business Strategic Plan lists an 80-100% completion of project objectives as a target for HIV/AIDS, non-nationals, children's rights and disability.
- Targets under this programme were largely achieved.
- All the Research outputs were only partially achieved.

#### **Questions**

- ~ What are some of the obstacles to service delivery to these vulnerable groups?
- ~ Why were none of the research outputs met?

#### **6.2.5. Media and Communication**

The function of this programme is to plan, develop and implement the SAHRC's internal and external communications strategy. All targets in this sub-programme have been achieved with 155 Media interviews and 29 media statements given.

### **6.3. PROGRAMME 3: CORPORATE SERVICES**

#### **6.3.1. Administration and IT**

This programme deals with the implementation of the Supply Chain Management policy, maintenance, and all administrative processes. The Information Technology unit is responsible for developing and maintaining Information Technology and Information Management Systems activities.

- The SAHRC achieved all its outputs in this programme during the reporting period, in line with its strategic business plan.
- The attempt to reduce insurance premiums in terms of regulations was not approved by the National Treasury.

#### **6.3.2. Human Resources Management**

- The Strategic Plan lists 'Capacity Building and Development' as an output with a target of 50% staff trained as the target for the reporting period. Under Human Resources Management it is reported that a three-year Personal Development Plan was developed to identify the needs of each employee. A training directory was created.

### **6.4. PROGRAMME 4: OPERATIONS**

#### **6.4.1. Education and Training**





The SAHRC has performed well above its targets in most of the sub-programmes in Education and Training.

- In terms of 'Omnibus / Awareness / Advocacy / Rural outreach' 108 interventions were targeted and 198 were achieved.
- For 'Popular publications, Events, Campaigns, Human Rights Week' the target was 2 popular publications and 1 event/campaign. The SAHRC achieved far in excess of this. However it is unclear whether the target is applicable per province or relates to the SAHRC's performance as a whole.
- Under 'Civil Society networks and collaborative interventions', the target as per the Strategic Plan is monthly interventions (i.e. 12 interventions) but the number achieved was 227. This indicates that the SAHRC achieved well in this area. Again clarity is needed as to whether it applies to provinces as well.<sup>8</sup>
- The target for 'Comprehensive and Integrated Management and Quality Assurance system' was not met with only the first draft of the Norms and Standards Handbook completed.
- The target for 'Education and Training: Seminars and Roundtable Discussions' were set at 3 with an aim to reach 80% of the target and satisfy 70% of the evaluation criteria. The actual performance was 18 seminars/roundtable discussion/conferences.
- The target for 'Training Sessions and Workshops' was set at 3 per month (i.e. 36 per year) with an aim to reach 80% of the target and satisfy 70% of the evaluation criteria. The number of training sessions and workshops achieved were 281. Clarity regarding the target is again required.
- In terms of 'In House Capacity Building and Quality Assurance' the delivery indicator was the number of meetings/ assessments sessions/ mentoring initiatives/ counselling/ capacity building initiatives. The target for this sub-programme was as per the staff development plan. 46 staff meetings/strategic planning meetings and 13 capacity building workshops were held and 12 performance discussions and appraisals were conducted.
- Further as the Norms and Standards Handbook is still being developed, it is unclear as to how quality is presently assessed.
- The SAHRC has developed e-Learning programmes and training packages in PAIA, PAJA and Basic Human Rights. The project was piloted and will be launched in the second half of 2007.

#### Questions

- ~ What quality control measures are in place for this sub-programme?
- ~ What are the specific targets for each province and have they been met?
- ~ What is the SAHRC doing to ensure that Education and Training is targeted at rural areas?
- ~ How does the SAHRC envision using the e-Learning tools to assist in fulfilling its mandate?
- ~ Has the e-learning project been launched?
- ~ How will these resources be made available to the wider public?

#### 6.4.2. Legal Services

<sup>8</sup> This is done under Community Radio Station Interventions/Other media where it is specifically stated that the target applies nationally and provincially.