



# ANNUAL REPORT

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## SOUTH AFRICA PROGRAMME 2005

**Johannesburg June 2006,  
Kate Savage**

A handwritten signature in black ink, appearing to read 'Kate Savage'.

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## **ACRONYMS AND ABBREVIATIONS**

|                  |   |
|------------------|---|
| <b>AULAI</b>     | <b>Association of University Legal Aid Institutions</b>               |
| <b>CALS</b>      | <b>Centre for Applied Legal Studies</b>                               |
| <b>CCL</b>       | <b>Centre for Child Law</b>   |
| <b>CCLD</b>      | <b>Centre for Community Law and Development</b>                       |
| <b>CLRDC</b>     | <b>Community Law and Rural Development Centre</b>                     |
| <b>D &amp; V</b> | <b>Douglas &amp; Velcich, Chartered Accountants</b>                   |
| <b>ERP</b>       | <b>Education Rights Project at the Centre Applied Legal Studies</b>   |
| <b>ICJ-S</b>     | <b>The Swedish Section of the International Commission of Jurists</b> |
| <b>LAB</b>       | <b>Legal Aid Board</b>  |
| <b>LHR</b>       | <b>Lawyers for Human Rights</b>                                       |
| <b>LRC</b>       | <b>Legal Resources Centre</b>   |
| <b>NAJCF</b>     | <b>National Access to Justice Cluster Forum</b>                       |
| <b>NCBPA</b>     | <b>National Community Based Paralegal Association</b>                 |
| <b>NPI</b>       | <b>National Paralegal Institute</b>                                   |
| <b>PAO</b>       | <b>Paralegal Advice Office</b>  |
| <b>SAHRC</b>     | <b>South Africa Human Rights Commission</b>                           |
| <b>Sida</b>      | <b>Swedish International Development Co-operation Agency</b>          |
| <b>ULC</b>       | <b>University Law Clinic</b>  |
| <b>Umhlaba</b>   | <b>Umhlaba Development Services</b>                                   |
| <b>WLC</b>       | <b>Women's Legal Centre</b>   |
| <b>ZAR</b>       | <b>South African Rand</b>   |
| <b>UNHCR</b>     | <b>United Nations High Commission for Refugees</b>                    |
| <b>KIOS</b>      | <b>The Finnish Foundation for Human Rights</b>                        |

With respect to the economic overview, terms and concepts shall have the meaning assigned to them in the application for the years 2005-2006.

## INTRODUCTION

### AGREEMENTS

In accordance with the signed frame agreement, Sida ref: 1999-04826, the Swedish Section of the International Commission of Jurists (ICJ-S) hereby submits the South Africa Programme report for the year of 2005. The report principally focuses on the development and progress of the programme by analysing its implementation during the period subject to this report (1 January 2005- 31 December 2005).

The programme agreement for the period January 2005- December 2006 between Sida and ICJ-S was signed on March 21, 2005.<sup>1</sup>

### BACKGROUND

The ICJ-S South Africa Programme commenced activities in 1992 with support to SALDEF, an organisation active within the anti-apartheid struggle. Subsequently, the program activities have evolved and ICJ-S is today involved in a series of legal areas in South Africa.

In March 2004, a comprehensive review of the South Africa Programme was finalised by two South African consultants.<sup>2</sup> Their review was followed by a management response from Sida (May 2004). A number of recommendations were made, which have had significant impact on the latest programme developments and therefore on the continuation of the programme as a whole.

The programme period 2004 has been duly reported. Sida approved the 2004 annual report on October 10, 2005 and the 2005 half-year report on December 13, 2005.

The current agreement between Sida and the ICJ-S was signed after the approval of the new application for the programme period 2005-2006. According to the agreement, Sida will contribute a sum of no more than SEK 24 million to the South Africa Programme during the period January 2005 - December 2006. A budget of SEK 12 million has therefore been approved for the programme period that is the subject of this report (January 2005- December 2005).

Sida has resolved to discontinue the South Africa Programme after December 2006. The focus of the program has therefore gradually changed and the sustainability of the organisational activities has taken centre stage. However, Sida has tentatively agreed to a continuation of some of the programme activities during 2007 in order to offer the ICJ-S partner organisations the opportunity to implement their planned activities. The final programme report is due on 30 September 2007.<sup>3</sup>

## PROGRAMME OVERVIEW

### PROGRAMME OBJECTIVES

The South Africa programme remains a unique programme in supporting a wide range of organisations<sup>4</sup> that continue to work in important areas within the legal sector in South Africa. These organisations aim to ensure that the state complies with its obligations set out in the South African constitution and secure for indigent South Africans the requisite access to justice through provisioning of legal advice and assistance. The support comprises areas such as public interest litigation of cases with potential impact on the situation of all South Africans as well as basic services enabling greater access to legal advice and support for poor and marginalised people.

The development objectives of the South Africa Programme are:

- The enforcement and realisation of constitutional rights within South Africa and the compliance and due discharge by the South African state of its obligations under international law; and

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<sup>1</sup> Sida Contribution No: 2500027201, Sida Dnr/Reg. No U11 13.3/ICJ

<sup>2</sup> Stan Kahn and Safoora Sadek

<sup>3</sup> As agreed during a meeting in Pretoria, March 7 2006 between representatives from ICJ-S and Sida.

<sup>4</sup> AULAI, CLRDC/Umhlabi, LHR, LRC, NCBPA, NWAJC, WLC, CALS and CCL.

- Ensuring access to justice in all of South Africa through the promotion of fair trial and independent courts as a mechanism by which to resolve disputes.

## **SPECIFIC OBJECTIVES**

The specific objectives are accounted for under each thematic area.<sup>5</sup>

## **PROGRAMME ACTIVITIES**

The programme activities are conducted within five thematic areas: *Access to Justice, Children's Rights, Criminal Justice, Refugee Rights and Women's Rights*.

ICJ-S has, in most cases, signed agreements with the partner organisations for the period January 1, 2005- December 31, 2006 as well as received financial and narrative reports from the organisations at issue.<sup>6</sup> Any deviations from the programme plan will be accounted for in this report (cf. further below)<sup>7</sup>.

## **PROGRAMME STRUCTURE**

To achieve the objectives of the programme, the ICJ-S supports and cooperates with a number of NGO's and other actors within the legal sector in South Africa. The structure and focus areas of the programme have evolved through the years, in close collaboration with the South Africa partners. During 2005, ICJ-S has financially supported nine partner organisations. The Programme Manager, Kate Savage, is based in Johannesburg and is supported by a Steering Committee and a Programme Officer based in Stockholm.

# **THEMATIC AREAS AND IMPLEMENTATION**

## **ACCESS TO JUSTICE**

In order to contribute to the achievement of the overall objectives of the programme, the following specific objectives have been developed for the legal area of Access to Justice:

- To provide access to adequate and free legal advice and services to under-resourced people, particularly but not limited to, rural and remote areas, in a coordinated, accessible and effective manner;
- To ensure that the constitutional rights of indigent communities and individuals are realised, protected and enforced;
- To create community awareness in the law and human rights areas in cooperation with the partner organisations; and
- To develop co-operation and links between lawyers, legal organisations, NGOs and CBOs, in order to ensure that access to justice becomes a reality for indigent communities

The ICJ-S supports many organisations within this legal area but the largest part of the support goes to the AULAI. The remaining support from the ICJ-S regarding access to justice is divided in roughly equal shares between the LRC, the NCBPA, and the SALGA-project (run by the CLRDC and the CCLD).

### **The AULAI**

The AULAI has during 2005 continued its focus on the development and the establishment of the clusters. The cluster cooperation has been developed in order to create coordinated and effective legal services based on the collaboration between law clinics, LAB justice centres, lawyers in private practice and community-based paralegals. The clusters are intended to associate by way of agreements concluded between the participating parties. The agreements define the rights and obligations of the co-operating parties. The cluster associations develop business plans containing budgets and project plans for their activities in order to become self-sustainable and enable them to apply for financial support from the South African state and the LAB. Each cluster has during 2005 continued its work within its specific area of the law. The most common areas are gender, children's rights, family law and labour law. In particular, the AULAI has been instrumental in establishing three pilot clusters in Limpopo, Eastern Cape

<sup>5</sup> See each thematic area under Thematic Areas and Implementation

<sup>6</sup> With the exception of the SALGA Pilot Project (Jan 1, 2006-Dec 31, 2006) and the Wits HR-Clinic (Jan 1, 2006-Dec 31, 2006)

<sup>7</sup> See deviations on page 6 under NCBPA

and Western Cape. Using the funds allocated to the AULAI for general access to justice work, the organisation resolved to establish and support two further clusters in North West and Mpumalanga.

#### The Paralegal Sector Steering Committee

The Paralegal Sector Steering Committee has been established with the financial support equally divided between three international donors of whom the ICJ-S is one. Given the importance of ownership by the partner organisations and other stakeholders in South Africa, the input and the designing of this form of cooperation have therefore emanated from the organisations themselves. The purpose of the Committee is to bring all key players (training organisations, representative structures and providers of funds) together to discuss and advance paralegal issues, including recognition, training and sustainability.

#### Activities and Achievements in 2005

During 2005 all activities supported by the ICJ-S within the area of Access to Justice fell in the two categories of general access to justice work undertaken by partner organisations within their respective law clinics and the work undertaken in the three pilot clusters in Limpopo, Western Cape and Eastern Cape. It has become apparent that the role of the Director of the AULAI, Mr Schalk Mayer has been and is essential to the development and monitoring of the clusters. The involvement of the AULAI has *inter alia* consisted of site visits to the different ULC's with a view to helping them to better structure their activities. As a result, the ULC's as such expanded their involvement with PAO's in rendering services within clusters. The legal back-up services have been provided by PAO's across the country and the number of PAO's in the entire country has increased to approximately 140. Some of these PAO's are funded through clusters although the majority are not and therefore continue to subsist without funds as volunteer-based organisations. The greater involvement by the ULC's in the PAO's has resulted in a broader scope of services offered to the community. Moreover, the outreach programmes have led to workshops held by the ULC's in the communities in order to educate people of their rights. The number of training workshops for paralegals as well as the number of participants increased in 2005. Among the ULC's, a decreased level of questions has been noticed from the paralegals within the areas in which workshops have been held.

The Legal Aid Board (LAB) has increased its support to the justice centres, funding many of the legal professionals working within such centres. This represents a major success for the ICJ-S as well as for the legal sector in South Africa. In addition, the LAB Justice Centres has during 2005 also become involved as stakeholders in many of the clusters supported by the ICJ-S.

It seems safe to conclude that for the first time during the programme period, the clusters are finally established and functioning in an effective manner involving PAO's, ULC's, LAB Justice Centres, NGO's and Government Departments etc. Thanks to the Paralegal Sector Steering Committee, the relationship between the different key players has evolved. In view of the success of the clusters, it is likely that other foreign donors will consider to support the paralegal offices through the clusters beyond 2006. Currently applications have been made with respect to prospective donors of the AULAI.

Mr Schalk Mayer will proceed to evaluate all the clusters. This process will involve detailing the process of establishing the clusters, the manner in which support has been provided by the AULAI to the partners within clusters and the funding of clusters.<sup>8</sup>

All of the ICJ-S funds for 2005 have been spent and there were no major deviations from the approved budget.

#### Difficulties and Sustainability

As already mentioned, the advice offices face a real problem concerning future funding. This problem is not easily addressed since the past number of years has seen extensive efforts to secure government funding for paralegal advice offices. These efforts continue and the Paralegal Sector Steering Committee is involved in this regard. Whilst advice offices continue to submit funding applications to foreign donor agencies, increasingly foreign donors do not want to fund individual offices and see this as a state responsibility. It is therefore not only advice offices previously funded by ICJ-S, which face a funding crisis. Success is increasingly being achieved by the clusters in applying for funds and channelling money to advice offices in this manner. Also, the LAB is already funding legal professionals

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<sup>8</sup> In addition to this, ICJ-S has proposed to have an independent evaluation made of the pilot clusters to assess the impact and relevance of the clusters as a pilot model for the sector. The model of clusters functioning in cooperation with advice offices is rare and could be employed as a template for Access to Justice in rural areas in many countries. Frequently, advice offices are the only way to offer Access to Justice to people living in rural areas. An independent evaluation of the pilot clusters is also necessary for future lobbying activities in South Africa, which is one of the main focuses for cluster activities during 2006 and beyond.

(lawyers or candidate attorneys) and it is the expectation that through its cooperation budget, funds will be channelled from the LAB through the clusters to advice offices.

Geographical differences exist between clusters. As opposed to the advice offices around Cape Town in which work with both mobile clinics as well as pro-bono law firms is carried out, the advice offices in the Eastern Cape do not have the same strength. The distance between different bodies within the clusters in the Eastern Cape complicates the cooperation with and the monitoring of the advice offices, which could lead to less professionalism and knowledge. It is a fair assumption that the standard of the advice offices varies according to size, organisation, activities, training of paralegals, quantity and quality of client visits etc. Clearly, the advice offices need to become regulated so that the paralegals have a framework to work within and refer to.

At the end of 2005, difficulties arose within the Paralegal Sector Steering Committee when the NCBPA withdrew from the Committee on the basis that it perceived it to be aiming to usurp their functions. Once this issue was clarified, the NCBPA returned to the committee. NPI then indicated that it was in the process of seeking to become the new paralegal training organisation for all sectors of the paralegal community (not just community-based paralegals) as well as securing funding from the Safety and Security Sectoral Education and Training Authority (SASETA) to establish itself as a new organisation.

### **The NCBPA**

The NCBPA, which was established in 1996, is an umbrella organisation for advice offices all over South Africa. The Association's responsibility is to uphold and develop the advice offices in order to provide legal advice to the poor. Another important task is influencing governmental bodies to improve paralegal conditions and to develop national training schemes for paralegals.

#### Activities and Achievements in 2005

Many education and training programmes – in particular for paralegals – were carried out during 2005. The participants have requested additional workshops and have pointed out the essence of monitoring and follow-up as much as possible. The participants have reacted positively in cases where their requests and feedback have been taken into account in the planning phase of a course. Furthermore, the NCBPA continued its lobbying, advocacy and networking during the first part of 2005. It is however, difficult to report on all activities undertaken by the NCBPA during 2005 due to outstanding reports, a difficulty that will be explained next.

#### Difficulties

In 2004, it was decided that the NCBPA's member organisational role should be strengthened and that it attempts were to be made to separate its role as a funder from the role of membership organisation. During 2005, a partial reorganisation of the organisation was implemented.

Perhaps partly due to organisational difficulties, the NCBPA failed to provide the requisite reports required during 2005 to the ICJ-S as well as to other donors. The financial manager of the NCBPA resigned in the second half of the year and the finance committee, which the ICJ-S has been instrumental in setting up in order to aid the NCBPA with its financial management, ceased to function. The absence of even a modicum of financial management resulted in salaries not being paid as from October 2005. To our knowledge, this state of affairs remains un-remedied to date. The ICJ-S has not paid all instalments to the NCBPA during 2005 but has nevertheless agreed, with another donor, to co-fund an audit for the period January 1, 2004-June 30, 2005.

### **The LRC**

The LRC is a public interest law organisation in South Africa and has a team of legal practitioners that includes lawyers, paralegals and candidate attorneys in five regional offices. The offices serve the poor and vulnerable on a daily basis and litigate cases from advice offices. The LRC also conducts impact litigation. In 2005, ICJ-S continued to support the LRC's Access to Justice Project in which the LRC supplies legal services and training to paralegals and community workers in rural advice offices. Further, ICJ-S support was provided to the LRC national Women's Rights Project (cf. page 12).

#### Activities and Achievements in 2005:

One of the objectives of the LRC's Access to Justice project is to strengthen advice offices by providing them with training and legal support. During the six-month period under review the project visited 27 centres. In the six

months covered by this report, 30 files were brought back from the advice offices for further attention by the LRC offices. These matters relate to workmen's compensation, social welfare and consumer protection complaints.

A total of 8274 clients were seen at the front desks of the five LRC offices countrywide. Of these, 3570 were referred to other agencies, and 4704 were initially dealt with by LRC staff working in the Access to Justice project of which some were taken up as cases linked to the other project areas within the LRC.

In many cases the LRC has been the only organisation able to assist the client. The ongoing development and support for advice work allow paralegals to continue their struggle to provide the basic assistance, which may make the difference between justice and the total lack thereof for many. The cluster has achieved many successes, several of which have resulted in court judgements and publications in the newspapers.

Various initiatives have been undertaken to enhance cooperation and mutual support between paralegals and advice offices operating in the public interest sphere. One such initiative, in which paralegals from the LRC's Pretoria office were directly involved, was the production and distribution of a newsletter "The Paralegal Voice". The newsletter aims to facilitate a process of more interaction by and between advice offices for the improvement of services they render to communities.

A number of workshops to define problems concerning the work of paralegals have been held and the conclusions were: 1. The paralegals do not have the resources to address cases on their own, which in turn increases the workload for the project's lawyers. 2. Poor funding has resulted in fewer site visits by paralegals. 3. The fact that most offices are located in townships impacts upon the ability of those living in a rural area to obtain access to justice.

### Difficulties

The LRC has noticed that the uphill struggle in obtaining funding for paralegals has not relented significantly due to the fact that the number of cases brought back from the advice offices have decreased during 2005 in comparison to 2004.

Many of the partner organisations have asserted that the LRC is not cooperating to the extent that they would have hoped. The Programme Manager has during 2005 therefore brought this subject up for discussion with the LRC, which has started to communicate to a larger extent with the other organisations.

### Sustainability

LRC has several donors and is also looking into new ones. The ICJ-S has during 2005 in addition been cooperating with KIOS- the Finnish NGO Foundation for Human Rights, which has decided to fund the LRC's litigation in the future. It is to be expected that the activities funded by ICJ-S will sustain beyond 2006 without the ICJ-S support. All of ICJ-S funds for 2005 have been spent and there have been no major deviations from the approved budget.

### **The CLRDC**

The ICJ-S did not receive an application from the CLRDC for 2005, which has consequently not received the allocated amount of SEK 100 000 in 2005. However, this amount should not make a substantial difference to the CLRDC's operation given their current funding from the CS Mott Foundation and the Ford Foundation. The SEK 100,000 has been re-allocated for the purposes of the CLRDC's involvement in the SALGA pilot project of which a brief presentation now follows.

### **The SALGA Pilot Project**

ICJ-S has during 2005 signed two agreements concerning the SALGA Pilot Project: one with the CLRDC in Durban and one with the Potchefstroom CCLD. The agreements concern the programme period January 1, 2006- December 31, 2006. The aim of the project is to provide rural and urban communities of the North West Province with continued access to sustainable legal advice services, human rights education and information necessary for the development and protection of their democratic rights enshrined in the Constitution. The plan is to achieve the aim through the integration of Paralegal Advice Office (PAO) services with the Local Government's Integrated Development Planning and municipal annual budgets. The project aims to get local government to support paralegal advice offices by providing premises for the offices and a small operating budget for telephone costs and electricity.

### Activities and Achievements in 2005

Even though the launch date for the project is January 1, 2006 some activity and preparation took place towards the end of 2005.

The organisations have worked on the mapping of the current situation regarding the location of paralegals in the province, their workload and activities, the infrastructure and what they have at their disposal. Put differently, they have formulated a detailed taxonomy of the current state of paralegal services in the Province.

The planning phase of the project has involved travelling to different parts of the province and establishing availability of office space as well as making an inventory of the infrastructure in Local Government buildings. The process has also involved meetings with representatives of the paralegal structures, (such as Management Committees). Moreover, the project has been discussed with Municipal Officials in different towns and cities where the visits were made. Meetings have and will be held with, among others, City Councils, advice offices, District Councils and other officials. So far the response of the project has been optimistic but realistically the establishment of the project will be time-consuming due to the diversity of the people involved.

## **REFUGEE RIGHTS AND CRIMINAL JUSTICE**

Since the projects supported by the ICJ-S within the areas of refugee rights and criminal justice are related to and run by the same organisation, they are for the purposes of this report presented together. The specific objectives for the legal area of Refugee Rights are:

- To secure that appropriate legal assistance is available to refugees;
- To make strategic interventions to protect the rights of refugees, including impact litigation to ensure respect for the constitutional rights of refugees;
- To promote the development of an appropriate asylum procedure;
- To enhance co-operation between civil society and government on refugee rights issues; and
- To improve administrative justice for refugees in South Africa

ICJ-S supports two organisations within this area, the Refugee Unit at the Wits Law Clinic that ICJ-S started to assist in the second half of 2004 and the LHR Refugee Rights Project that has been supported by ICJ-S since 2002. The Wits Law Clinic Refugee Unit was established in year 2000 as an implementing partner for the UNHCR. However, during 2005 it has not had any activities nor received any ICJ-S funds. This is due to the fact that the allocated funds for 2005 have been re-allocated to a Human Rights Clinic which aims to employ litigation to teach final year law students' legal skills and knowledge as well as serve as an integrating pre-professional experience in the field of human rights.<sup>9</sup>

The specific objectives for the legal area of Criminal Justice are:

- To take the necessary steps to ensure reform of the criminal justice system through challenging current abusive practices and ensuring that measures are put in place to provide for effective administration; and
- To ensure that governmental entities and legislative bodies are more responsive to human rights and constitutional obligations within the prison context.

ICJ-S supports the LHR within the area of Criminal Justice.

### **The LHR**

During 2005, the LHR continued its work with the Refugee Rights Project and the Penal Reform Project. Overall, the LHR has probably been more active in the Refugee Rights area which main objective is to monitor the treatment of detained immigrants, provide legal assistance to persons who are unlawfully arrested or detained and threatened with deportations and to advocate for the development of human rights-based immigration policies and practices. The Penal Reform Project is focussing on assisting prisoners with complaints relating to prison conditions and treatment by department officials. Some cases relating to prisoners are also taken to court by the LHR.

#### Activities and Achievements in 2005

During 2005, the Refugee Rights Project provided assistance to 688 immigrant detainees, who were detained at Lindela, the Johannesburg Airport, police stations and prisons around the country. In addition, the project also

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<sup>9</sup> The contract is signed for the period: January 1, 2006- December 31, 2006 and the human rights project will therefore not be further commented upon in this report.

provided legal assistance to a total of 405 refugees and migrant clients, including persons seeking advice and legal assistance in the context of the refugee status determination procedures and other immigration procedures. Moreover, the LHR provided human rights and refugee protection training to 90 police officers. Such training also included segments on child protection, xenophobia, rape, sexual harassment and domestic violence.

With regard to the Penal Reform Project, the LHR carried out 248 consultations with prisoners and in addition 524 prisoners were assisted via correspondence. The consultations mainly concerned parole requests, appeals, medical complaints, access to information and litigation requests. The LHR also arranged workshops during 2005 and the two most comprehensive workshops dealt with new parole legislation and the ARV (anti-retroviral drugs) treatment for prisoners. The Director of LHR Rudolph Jansen has made strides as the national LHR director to streamline the functioning of the organisation and narrow the focus of litigation being undertaken by the LHR national office in Pretoria. This has resulted in the closure of a number of regional offices.

The LHR Detention Monitoring program has seen a flurry of activity in 2005. The year marked some progress with respect to conditions of detention at Lindela as well as at the Johannesburg International Airport. Various international bodies have investigated the detention of foreigners in the country. The program's capacity to provide professional legal services to indigent detainees has improved markedly, especially its ability to litigate in the public interest.

The project has received positive feedback on its training programme to increase government officials' ability to provide assistance and protection to foreigners. The rights of foreigners have received increased public attention resulting in the government being forced to address these issues. The reports of the UN Working Group on Arbitrary Detention and the Ministerial Commission of Enquiry were instrumental in highlighting the plight of foreigners in detention. Although the LHR remains very critical of government policies and practices that are in conflict with international and domestic law, it is gradually enjoying more space to interact with the government in a non-contentious manner.

The programme has followed the gains made in 2004 regarding the protection of foreign unaccompanied minors. The LHR will need to continue monitoring this process closely, though, to ensure a level of adherence with the procedures set out in the Centre for Child Law vs. Minister of Home Affairs case.<sup>10</sup>

All of ICJ-S funds for 2005 have been spent and there were no major deviations from the approved budget.

### Difficulties

As a matter of policy, the LHR was disappointed with the fact that the specific references to foreign unaccompanied children were removed from the final draft of the Children's Bill. However, the LHR will monitor the implementation of the new Bill to ensure that, despite its current wording, it does not exclude foreign children.

### Sustainability

It seems clear that in terms of the sustainability of the ICJ-S funded program activities, the Refugee Rights activities will have requisite funds to carry on. Problems remain, though, with respect to the Penal Reform Project, which the LHR only will be able to sustain with funding from other donors. The organisation has therefore already initiated an application process in this respect. The LHR has during 2005 received some funds from the Strategic Litigation Fund (LAB) on a case-by-case basis.

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<sup>10</sup> The Congo case: International Child Abduction

This case concerns a family of three girls who were orphaned when their parents were killed in a car accident in 2003. The parents, both professionals, had emigrated to South Africa from the DRC, but all three girls are South African citizens, the younger two having been born in South Africa. Upon their parents' death the children lived in the family home being looked after by an Aunt who, as an asylum seeker herself, was unable to foster or adopt them. Their legal status remained unclear, and in December 2004 the two younger girls were abducted by their uncle and taken to the DRC. The older sister (17yrs at the time), assisted by a family friend, opened a charge of kidnapping with local police, but the charges were subsequently withdrawn. (Due to inquiries made by the Centre to the Office of the Director of Public Prosecutions, it looks likely that the charges will be reinstated). The Hague Convention on International Child Abduction is binding on South Africa, but unfortunately the DRC has not ratified the convention, and it is thus not possible to follow the channels set out in the Convention. The Centre brought an application on 31 August 2005 to have a curator *ad litem* be appointed for all three girls, and to have the eldest girl placed under the interim guardianship of a family friend. The order was granted. A meeting has subsequently been held with the the National Prosecuting Authority, Interpol and the Family Advocate to work for the safe return of the children. The Centre has written to the Director General of Foreign Affairs, asking for diplomatic assistance

## **WOMEN'S RIGHTS**

In order to contribute to the achievement of the overall objectives of the Programme, the following specific objectives have been developed for the legal area of Women's Rights:

- To advance women's rights and equality in South Africa within the focus areas of employment, inheritance rights, customary law, violence against women, access to resources, health care, and maintenance;
- To engage in impact litigation which establishes precedents, thereby changing the attitudes of the courts to women's rights issues, ensuring that the constitutional rights of women are realised, protected and enforced; and
- To increase access for women to effective legal representation.

In this legal area the ICJ-S has continued supporting the WLC, which has cooperated with the ICJ-S since 1998 and the LRC Women's Rights Project, which started its cooperation with the ICJ-S in 2002.

### **The WLC**

The main objective for the WLC is to assist women in need by realising access to justice. The integrality of the work of the WLC focuses on gender. The Centre receives a large number of queries by telephone and in-person visits from women seeking advice for themselves and for other women. The centre assists in these matters by referring the applicants to the appropriate agencies for further assistance and by providing relevant and useful information. When the query has a public interest component, the Centre will consider pursuing it.

### Activities and Achievements

The total number of queries for 2005 was 1528 of which 28 were selected for litigation. The queries mostly concerned family law, the Violence against Women Project (VAWP) and relational and domestic violence. During 2005 the WLC has been involved in litigating 17 pilot cases in which it represented the parties and 7 cases in which it acted as amicus curiae. The WLC obtained significant favourable judgements from the Constitutional Court in 3 cases, which advanced South African women's human rights in tangible respects. Additionally, the WLC contributed to developing new policies in respect of sexual harassment and sexual abuse in schools. The WLC's aforementioned judgements were disseminated through training manuals and booklets on not only sexual harassment but also on inheritance rights. The media coverage of the WLC has been extensive and its cases and issues were acknowledged in 64 articles in written media, 36 radio programmes and 16 television appearances, which has resulted in an increased number of queries to the WLC and a generally more lively debate on women issues.

The cases that have had the most impact concern the following problem areas: remedies to victims of domestic violence, sexual harassment and the responsibility of the police concerning sexual violence.

The WLC has recruited extensively during 2005. All of the ICJ-S funds for 2005 have been spent and there were no major deviations from the approved budget.

### Difficulties

The WLC experienced many delays in obtaining judgements and legislation on several issues such as the recognition of Muslim marriages, domestic partners and adult commercial sex work. Furthermore, significant bills that have been introduced in Parliament linger without any progress being made.

The WLC has identified a continuing need to address the conservatism of some of the judges in respect of women's issues. To this end, the WLC has aims to assist judges when possible with training and also liaise with them on an informal basis in respect of women's issues.

The WLC takes the view that with respect to legislative acts, which are not in Parliament, litigation may be an appropriate means to seek to impose a time frame for law reforms.

Michelle O'Sullivan was on sabbatical leave as the director of the WLC during half of 2005 but returned in January 2006. During her absence, though, the work of the WLC continued as usual.

### Sustainability

The WLC has several donors but it is constantly looking into new ways of obtaining additional funds. The WLC is already financially supported by the LAB's litigation fund. This is not a first priority for the WLC, however, due to the fact that the LAB distributes funds retrospectively on a case-by-case basis and with no funding going towards the organisation's programme costs. Future funding from Sida has also been discussed and Sida and the WLC have agreed on an application from the WLC for 2007 on the areas of domestic violence and HIV/Aids.

### **The LRC- Women's Rights Project**

The organisation itself having already been presented in this report under the thematic area of Access to Justice, the following will be limited to a description of the Women's Rights Project run by the LRC.

#### Activities and Achievements

During the relevant period the Women's Rights project partnered with Global Rights to plan and facilitate a strategic planning workshop held over 4 days in Johannesburg. Field officers from India, Burundi, Liberia and Mongolia attended the workshop.

During 2005 the LRC's litigation work continued. Through its litigation activities, the LRC has defined many issues that still constitute major problems for women and the conditions under which they lead their life. The LRC has obtained significant judgement in several cases, which have subsequently been communicated to the public in many ways. During 2005, the project's areas of focus remained and the following thematic areas were addressed: customary law, violence against women, treatment of rape victims, custody, discrimination, maintenance, property rights, support for women's organisations

The following two cases are examples of the many litigated cases during 2005. These two fall under the thematic area customary law:

#### *Funani*

The case challenged the customary law principles of intestate succession. The positive outcome of the Bhe and Shibi<sup>11</sup> matters enabled this matter to be resolved by the Magistrates Court. The estate was divided equally amongst both children with the minor son's share being deposited in the Guardian's fund. The LRC's client has received her share of the estate and the LRC has closed the file.

#### *Leah Molapo*

The client entered into customary law marriage with the deceased in 1976. Four children were the product of the marriage. Some years later the deceased entered into a civil marriage. The executor failed to acknowledge the LRC's client as a "spouse" in terms of the Intestate Succession Act. The LRC managed to settle the matter and all parties signed a redistribution agreement. There has been some delay in the executor's finalizing the distribution of the estate's assets and the LRC is now waiting on the Master in Mafeking to notify the outcome. After finalisation the file will be closed.

#### Difficulties

Although South Africa has come a long way in achieving gender equality, a lot of work remains especially in regards to the actual implementation and policing of legislative acts. A concept of formal equality, where people are treated as equal, cannot be considered without attention being paid to their actual circumstances and courts need to pay attention to social and economic realities. This is especially the case in the context of women.

Hence, there are still numerous issues that need to be tackled. Hindu and Muslim marriages which are not accompanied by a civil ceremony are therefore still not recognized under South African law despite the recommendations made by the South African Law Reform Commission. The non-recognition of these marriages and co-habitation relationships has adverse consequences for women. Statutes, common or customary law that reinforce gender stereotypes should also be changed. The law on sexual offences has been awaiting the finalisation of the Sexual Offences Bill. The proposed changes are to be welcomed but its implementation will need to be continuously

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<sup>11</sup> The *Bhe v Magistrate Kayelitsha; Shibi v Sithole; SA Human Rights Commission v President of the Republic of South Africa* 2005 (1) BCLR 1 (CC) case concerned the constitutionality of section 23 of the Black Administration Act 38 of 1927 in terms of which interstate estates of African persons were required to pass on according to customary law, based on the principle of male primogeniture. The effect was to exclude African women from inheriting property. The constitutional court held that the act constitutes unfair race discrimination and further that the principle of primogeniture violates the right to gender equality. The principle of primogeniture was also held to violate women's right to dignity because it is premised on the assumption that women are incompetent to exercise the rights and responsibilities of property ownership.

monitored. The majority of sexual offences are committed against women and girls and the spread of HIV impacts primarily on women. Additionally, girls are often removed from school to care for sick relatives.

The experience of women in the labour market is riddled with problems caused by limiting assumptions about pregnancy and childcare and sexual harassment is still prevalent in the workplace. With regard to affirmative action, black people and women are designated groups in terms of the legislation but in implementing affirmative action employers often employ black men and white women to comply with statutory requirements. This leaves out the most disadvantaged group, namely black women who ultimately need to be included as a separate designated group in order to achieve the goals that affirmative action seeks to achieve.

## **CHILDREN'S RIGHTS**

In order to contribute to the achievement of the overall objectives of the Programme, the following specific objectives have been developed for the legal area of Children's Rights:

- To build experience and knowledge in litigating children's rights;
- To engage in impact litigation which establishes precedents, thereby changing the attitudes of the courts to children's rights issues, ensuring that the constitutional rights of children are realised, protected and enforced;
- To achieve amendments to legislation which has a positive impact on the lives of children and their families; and
- To develop co-operation and links between lawyers, legal organisations, NGOs and governmental institutions, in order to ensure that children are protected and their rights enforced in the most effective manner possible.

Within the area of children's rights, the ICJ-S supports the Centre for Child Law (CCL), the CALS and the Children's Litigation Fund.

### **The CCL**

The main objective of the Centre for Child Law Children's Litigation Project is to conduct impact litigation with regard to children's rights.

#### Activities and Achievements

The CCL's litigation project has been supported by the ICJ-S since January 1, 2004 and has had significant impact during its short life. During 2005 the CCL achieved many successes through litigation, mostly in matters concerning the criminal justice system, international law matters, children who are the subject of custody, family law and socio-economic rights. Results have included four High Court judgements and numerous favourable orders. During 2005, the project has taken up nine new cases that will lead to litigation and has dealt with several other cases through letters of demand or through discussions. The WLC has also referred several cases to relevant authorities that have provided assistance.

The project has been successful in working in areas beyond the geographical area in which its office is situated. Thus, whilst the majority of the cases in respect of which it has received applications have been raised in the Pretoria High Court and Witwatersrand Local Division, some matters concerned children in Kwa-Zulu Natal, Mpumalanga, the North West Province and the Northern Cape.

The CCL has continued to network with a number of organisations doing work similar to that of the LHR, the LRC, the CALS and the WLC. The project also maintains close working relationships with a number of children's rights organisations. As a general matter, the project has continued to liaise with various members of the legal profession. Thus the capacity of the project is enhanced by its drawing on the resources of a broader group of colleagues with whom the CCL confers on a daily basis, including members of the Bar to whom it has referred work on a pro bono basis.

#### Difficulties

The CCL experienced many delays in obtaining judgements and legislation on certain issues. At times the organisations also had difficulties with getting appointments with high-ranking officials.

The CCL has funds from 2005, which were not spent. Such funds will be carried over and utilised during 2006 for cases taken on during 2005, which remain to be finished.

#### Sustainability

The CCL has during 2005 initiated a fund-raising campaign with respect to its future activities. Discussions have been held with *inter alia* Save the Children (Sweden), which previously has shown interest in funding the CCL, as well as other institutions. Initial responses appear favourable. The CCL's location within the University of Pretoria will also ensure that its operating costs are limited and current discussions are under way with the University to fund the positions of additional professional staff within the CCL. The CCL's involvement in the Children's Litigation Fund (discussed below) has contributed to its establishing a role as a key organisation within the child rights sector, coordinating work and aiding other organisations where appropriate through intervening in cases as *amicus curiae*.

#### **The CALS**

The work of the Education Law Project (ELP) is to provide legal services to poor learners and their parents in order to ensure access to schooling. The ELP has adopted a wide interpretation of the meaning of legal services and the education related matters in 2005 generally included the following: assisting parents and learners where there has been a denial of access to a school because of inability to pay school fees; ensuring that learners' rights are upheld where schools withhold reports, transfer cards or other services provided by the school, because of the non-payment of school fees; assisting parents in the processing of exemptions where these have been denied to poor parents.

#### Activities and Achievements in 2005

The CALS has been active in the informal settlement of Thembelihle, outside Johannesburg and assisted in 2005 more than 50 learners to gain access to different schools. Furthermore, the ELP has assisted in numerous other cases. The ELP has run many workshops that have received good feedback with the Thembelihle Crisis Committee educating parents and learners of their rights. The ELP has published a respected and widely used booklet "*School Fees: Your Rights?*". The booklets are disseminated in response to a strong demand for a simple, effective guide to parents' rights to exemption from school fees. The booklet is currently available in English and IsiZulu. Concerning advocacy, the ELP's work for 2005 involved responses on many issues to the Department of Education and the participation in the South African Human Rights Commission basic education hearings.

#### Difficulties:

During 2005, the CALS has been involved in one rescission application where judgement adverse to the parents was rendered with respect to school fees in arrear (despite their being eligible for exemptions from the payment of school fees). A rescission was granted in this case. However, the quantum involved has meant that the case was heard in the Magistrate Court, which makes the establishing of precedent difficult. The CALS has nevertheless assisted the individual applicant in having the judgement overturned. The wider attention this case received has also alerted other parents to their entitlement to an exemption.

#### Sustainability

The CALS will be able to sustain the Children's Rights to Education project without the funding from the ICJ-S. All of ICJ-S funds for 2005 have been spent and there were no major deviations from the approved budget.

#### **The Children's Litigation Fund**

On 26 May 2005, the ICJ-S, D&V and the CCL entered into a tripartite agreement. The purpose of the agreement is to provide financial support during 2005 and 2006 for the Children's Litigation Fund, directed specifically towards children's socio-economic rights. The funds were made available and work commenced as late as in June 2005. Any non-profit organisation, private attorney or communities undertaking litigation on children's socio-economic rights issues may submit an application for support.

#### Activities and Achievements

Only two applications for funding have been received during the programme report period and both were approved based on certain criteria. The titles of the proposals are:

1. Denial of Access to Social Assistance and Support to Child-headed Households; and

## 2. To Assist the Welfare Forum to Analyse the Cuts in the Gauteng Budget for Social Services.

The two applications received, both dealt with important socio-economic rights. The research done at the request of the Welfare Forum is of immense value and aims to ensure a reversal of the decision to cut the relevant funding grants. Although no litigation has ensued as yet, the research is available and it is likely that the government could seek to cut funding again during 2006.

### Difficulties

The number of applications received is low, which is disappointing. It is recommended that additional information of the availability of funds is to be distributed among those who may have an interest in socio-economic rights cases relating to children. This should occur without delay, as the one-year remaining is a short time in litigation terms. As has been noted, it takes some time to identify a suitable case. Once the case is identified and the initial work done, it is not advisable to move directly into litigation without seeking other means of redress. For these reasons, it is a matter of some urgency that suitable cases should be identified and the necessary pre-litigation processes should be undertaken as soon as possible. The Children's Litigation Fund is one of the projects that is likely to continue its activities beyond 2006 with funds received from the ICJ-S. In December a meeting regarding education cases, which need to be litigated, took place. The outcome was that the cases brought up should be helped by pooling resources among different organisations to make the process more efficient.

## CONCLUSIONS

### RESULTS

#### Access to Justice

In relation to the programme development objectives, the Programme has to a certain extent been able to achieve the objectives. The Programme has assisted a large number of people in providing free legal services or advice. It has also supported many people in the enforcement of their constitutional rights and it has strived to ensure that the South African state complies with its obligations under international law. However, the Programme's aim is not only to assist as many people as possible but also to ensure the sustainability of a judicial system worthy of a free and democratic society. The long-term impact of the programme, then, is central. In this respect, the establishment of clusters, and the increased support from the LAB for the costs of the legal professionals working within such clusters, has been an important result in the 2005. The effectiveness of the clusters in the work they are undertaking is increasingly apparent. This is partly due to the tightly framed operation, which has been developed by the AULAI which allows other donors to fund the structures.

#### Litigation

During 2005, various, judgements, opinions and orders (from *inter alia* the Constitutional Court) have advanced the rights of people in tangible respects. The media coverage of many of the litigated cases by a number of of the organisations has increased the impact of the judgements in many aspects and contributed to a more vivid public debate on crucial issues. The fact that the judgements have been made known through booklets, publications and training manuals, has increased the population's general knowledge of the scope and content of their rights. Last, (but not least), the judgements have also contributed to the development of case law and have established precedents. In this sense, litigation also contributes to the changing of attitudes towards human rights in the judiciary and provides a more favourable setting for future litigation and policy-making in this area.

#### Relationships

A major success for the programme during 2005 has been achieved through the development of relationships and more structured and positive communication between the key players in the human rights area. Structured cooperation has led to an increased efficiency when it comes to working methods i.e. the organisations, paralegals and other players refer more cases among themselves, the organisations and the different cluster entities have exchanged experience in legal areas in which they are specialized and many important issues have been raised and discussed. Increased collaboration can also have a pronounced positive effect in terms of influence. Lobbying activities and other advocacy efforts undertaken in groups are often a more effective means to influencing policy-making than isolated solo efforts. Other forms of co-operation have included the common use of training manuals, leaflets and booklets in realising programme activities (thus making operations more cost-efficient). The increase in the interaction with the government in a non-contentious manner is also noticeable. Needless to say, this is a positive

development since well-working relationship with the government is of the essence (especially in the struggle to receive state funds for paralegals).

### **Cluster- Cooperation**

The necessity of the ICJ-S' continuing its cluster activities during 2005 and 2006 has been apparent. (the activities as well as the recognition of the clusters having increased significantly lately). It should also be noted that the Paralegal Sector Steering Committee has played a significant role in the development of the links between the key players within the legal areas in South Africa. The work undertaken by the committee has been useful in bridging the divides between paralegals, the paralegal organisations, advice offices and donors. The aim is to build a common understanding and approach to lobbying the government and addressing questions of recognition and sustainability. The expectation for 2006 is to see continued development of this structure.

### **Knowledge and Skills**

Many workshops have been organised and a number of the partner organisations have in many ways noticed an increased level of knowledge and community awareness. The conclusion is drawn due to good feedback from the workshops, fewer questions from paralegals and many requests of an increased number of training possibilities from the participants. The cluster cooperation has also led to an expansion of the legal areas by inviting different entities to participate in clusters. Capacity building and training for paralegals and communities, bringing various stake holders and their inputs together, provides for broader and deeper learning processes. Success with respect to judgements and intervention has also been achieved due to *inter alia* the capacity building for government officials.

### **Capacity**

The capacity of the partner organisations to perform their activities in an effective manner has been greatly enhanced with the accumulation of experience. Achievements have also been made as regard the spreading of the operations geographically beyond the "normal" area. Consequently the measures made available to the population living in rural areas have increased notably. Workshops have partly aimed at identifying areas where the lack of knowledge among paralegals is the most pronounced. This has led to improvements in the results of the workshops and an improved capacity among paralegals to carry out their work.

## **OVERALL DIFFICULTIES AND SUSTAINABILITY**

### **Delays and Inefficiency**

Generally, it is not un-common that the organisations experience delays in obtaining judgements and/or legislation on various issues. Significant bills that have been introduced in Parliament linger there without any progress towards decisions being made. Some of the organisations have proposed litigation as a means of imposing time frames for legislative reforms. As noted, another difficulty for the organisations have been access (face-time) to high-ranked officials within the government.

### **Institutional Prejudices**

The need for courts to pay attention to social and economic realities has been noted. Now the concept of formal equality will only get you so far if it is not being policed in terms of actual effects in society. Women in particular are still being denied their rights due to prejudices prevalent in society and the issue of women rights has arrived at a critical juncture. Because of the lack of education and resources, a majority of women have not been able to benefit from new legislation granting them equal status. Obviously, gender equality is central to the continued development of democracy in South Africa, and many women have yet to feel its practical effects.

### **Applications and Reports**

Although the co-operation between organisations has increased, the Children's Litigations Fund has experienced difficulties in receiving applications to the Fund, despite a subsisting need for the funding of litigation. Clearly, there is a need to double efforts in terms of co-operation level. Another concern is the inability of the NCBPA to run its activities resulting in a lack of reports and funding. The ICJ-S will continue to address this problem during 2006.

### **Sustainability**

As a general matter, it seems fair to conclude that the ICJ-S funded programme activities in South Africa will continue beyond 2006 without funding from the ICJ-S. However, funding difficulties exist with respect to the advice

offices and it is not likely that all of them will receive the appropriate funds for 2007. This does not necessarily imply that they will not continue their work since their work is to a great extent undertaken on a voluntary basis. The number of files brought back from the advice offices to some of our partner offices has in some parts of the country decreased as a result of the dire financial situation of many of the advice offices. Nevertheless, the programme is still working hard to secure resources for funding and especially to get the LAB to participate in financing the clusters. As mentioned, the advice offices clearly need to become regulated. Furthermore, the Penal Reform Project that is being run by the LHR has unfortunately not yet secured future funding but is continuing with a view to finding new donors.

## **FUTURE PLANS 2006**

### **Continuing Lobbying Activities**

As noted above, co-operation between key players has improved in general. However, the programme will continue its focus on lobbying, especially as regards funding of paralegals. Continued work with the advice offices and lobbying activities during 2006 is crucial for the implementation, regulation and funding of the advice offices.

### **Financial Situation**

Even though some of the organisations will have to continue its activities during 2007, the aim of the programme should be to carry out all planned activities. The ICJ-S should continue to assist the organisations in finding new donors and conducting applications.

### **Evaluations of the Programme**

Due to the fact that 2006 is the final year for the South Africa programme, a considerable amount of time and effort will be spent on evaluations. A discussion should be initiated as to whether or not an evaluation of the whole programme including history, activities, strengths and weaknesses should be carried out. Such an evaluation is not only necessary from the overall perspective of the programme but could also prove to be of value for ICJ-S and its future programme applications. ICJ-S has also planned for an independent evaluation of the three pilots during 2006.

### **Problem Solving**

The difficult situation regarding the NCBPA's closure of the office is a challenge that has to be met in an appropriate fashion. The first priority here is to carry out an audit.

The application process to the Children's Litigation Fund has not functioned in an expedient manner, despite information of the funds existence and extensive contacts with interested parties. The project will have to initiate a more active promoting for cases.

## **THE ICJ-S CO-OPERATION**

### **SWEDISH INPUT**

Following the 2004 review carried out by Sida, all lawyers visits from Sweden to South Africa were discontinued except in cases where the partner organisations requests a lawyer who has particular expertise which would be of value to the programme.

#### **The Legal Aid Conference**

In April 2005, Bo Kvillner (judge and a member of the ICJ-S Board) participated in the Legal Aid Conference in Port Elizabeth, South Africa. The conference was very constructive and focused on rendering effective the promise of justice towards integrated legal aid services in developing countries. Around 60 participants took part in the conference. Among those present were representatives from South Africa, India, Ghana, Kenya, England, Scotland, Canada, USA and the Netherlands whom all reported on the workings of the legal aid system in their respective countries. Victor Ramaema of Sida also attended the conference.

#### **The Steering Committee**

The Steering Committee, consisting of Swedish ICJ-S members, the Programme Manager and one Programme Officer in the ICJ-S secretariat, held one meeting during 2005. The meeting took place in Sweden in June 2005 during the visit of the Programme Manager, Kate Savage. Her visit in June involved not only meetings with the Steering Committee but also meetings with other ICJ-S members. In addition to the visit of Ms. Savage, a number of telephone conferences have been taken place between the Steering Committee and the Programme Manager. However, during the second half of 2005 one can distinguish a notable decrease in the activities of the Steering Committee. Additionally, the Program Manager and representatives from Sida have held numerous meetings during 2005.

Due to the ICJ-S problems with funds during 2005, there was no Program Officer responsible for the South Africa program in the Stockholm office during several months. In October 2005, a new Program Officer was however recruited. A considerable amount of time has therefore been spent on understanding the program, organizing documentation and updating new staff about the program.

## FINANCIAL REPORT

All disbursements for the year of 2005 have been in accordance with the co-operation agreements with the respective partner organisations with the exception of the NCBPA to which ICJ-S has not disbursed the second instalment for 2005. The D&V maintains an account to the credit of which a total sum of ZAR 950,000 is standing. This sum represents unutilised funds from the years 2002/2003. It is the ICJ-S' intention to apply these funds towards the SALGA pilot project. The unutilised funds that should have been used by CLRDC have also been allocated to this project (please see footnote 11). Further, ICJ-S intends to cover the costs of the contribution to the steering committee process (US\$20 000), which aims to bring about unity within the paralegal sector with money from the D&V account. The allocated fund for Wits has been reallocated into a Human Rights Clinic starting in 2006. (please see footnote 13).

| Legal Area                 | Organisation                  | Budget                           | Outcome              | Outcome          | Balance               |
|----------------------------|-------------------------------|----------------------------------|----------------------|------------------|-----------------------|
|                            |                               | 2 005<br><i>incl extra funds</i> | 2005-06-30           | 2005-12-31       | 2005-12-31            |
| <b>1 Access to Justice</b> | <b>Cluster</b>                | 2 400 000                        | 1 200 000            | 1 200 000        | 0                     |
|                            | AULAI                         | 1 450 000                        | 725 000              | 725 000          | 0                     |
|                            | CLRDC/Umhlaba                 | 100 000                          | 0                    | 0                | 100 000 <sup>12</sup> |
|                            | LHR                           | 800 000                          | 400 000              | 400 000          | 0                     |
|                            | LRC                           | 800 000                          | 400 000              | 400 000          | 0                     |
|                            | NCBPA                         | 500 000                          | 250 000              |                  | 250 000 <sup>13</sup> |
|                            | <b>Sub-total</b>              | <b>6 050 000</b>                 | <b>2 975 000</b>     | <b>2 725 000</b> | <b>350 000</b>        |
| <b>2 Women's Rights</b>    | LRC                           | 700 000                          | 350 000              | 350 000          | 0                     |
|                            | WLC                           | 800 000                          | 400 000              | 400 000          | 0                     |
|                            | <b>Sub-total</b>              | <b>1 500 000</b>                 | <b>750 000</b>       | <b>750 000</b>   | <b>0</b>              |
| <b>3 Children's Rights</b> | CALS                          | 200 000                          | 100 000              | 100 000          | 0                     |
|                            | Centre for Child Law          | 700 000                          | 350 000              | 350 000          | 0                     |
|                            | Children Litigation Fund      | 450 000                          | 450 000              |                  | 0                     |
|                            | <b>Sub-total</b>              | <b>1 350 000</b>                 | <b>900 000</b>       | <b>450 000</b>   | <b>0</b>              |
| <b>4 Refugee Rights</b>    | LHR                           | 600 000                          | 300 000              | 300 000          | 0                     |
|                            | Wits                          | 90 000                           | 0                    | 0                | 90 000 <sup>14</sup>  |
|                            | <b>Sub-total</b>              | <b>690 000</b>                   | <b>300 000</b>       | <b>300 000</b>   | <b>90 000</b>         |
| <b>5 Criminal Justice</b>  | LHR                           | 250 000                          | 125 000              | 125 000          | 0                     |
|                            | Wits                          | 250 000                          | 0                    | 0                | 250 000 <sup>15</sup> |
|                            | <b>Sub-total</b>              | <b>500 000</b>                   | <b>125 000</b>       | <b>125 000</b>   | <b>250 000</b>        |
| <b>6 Capacity building</b> | Evaluation (partner org)      | 300 000                          | 0                    |                  | 300 000               |
|                            | Follow-up                     | 100 000                          | 0                    |                  | 100 000               |
|                            | Thematic meetings, consortium | 140 000                          | 30 179 <sup>16</sup> |                  | 109 821               |

<sup>12</sup> The funds has been reallocated into the SALGA pilot project (for more details see page 8 under SALGA)

<sup>13</sup> ICJ-S has not transferred the second instalment to the NCBPA for 2005 due to outstanding reports.

<sup>14</sup> The Wits and the ICJ-S have signed an agreement of a Human Rights Clinic for the period January 1, 2006- December 31, 2006. See under Refugee Rights and Criminal Justice on page 8.

The 2005 allocated money for Wits 2005 have therefore been re-allocated to 2006.

<sup>15</sup> See footnote 14.

<sup>16</sup> Costs relate to the Legal Aid Conference and the visit of Bo Kvillner and consists of travel SEK 11925, Hotel and food SEK 2220, Other costs SEK 1738, Consulting fee SEK 10 000, Allowance for expenses SEK 1051, Social security expenses SEK 3246.

|                                    |                                       |              |                       |                       |                  |                               |
|------------------------------------|---------------------------------------|--------------|-----------------------|-----------------------|------------------|-------------------------------|
|                                    |                                       | Sub-total    | 540 000               | 30 179                | 0                | 509 821                       |
| <b>7 Programme Costs</b>           | Programme Manager                     |              | 150 000 <sup>17</sup> | 133 046 <sup>18</sup> |                  | 16 954                        |
|                                    | Adm, fin&legal follow-up ICJ-S        |              | 40 000 <sup>19</sup>  | 0                     |                  | 40 000                        |
|                                    | Sub-total                             |              | 190 000               | 133 046               | 0                | 56 954                        |
| <b>8 9% adm surcharge</b>          |                                       | Sub-total    | 495 000 <sup>20</sup> | 495 000               |                  | 0                             |
| <b>9 Extra funds Sida</b>          | 2004 Extra Sida funds Children's Fund |              | 435 000 <sup>21</sup> | 435 000               |                  | 0                             |
|                                    | 2004 NWAJC                            |              | 341 860 <sup>22</sup> | 341 860               |                  | 0                             |
|                                    | 2004 Legal Aid Conference             |              | 140 000 <sup>23</sup> | 140 000               |                  | 0                             |
|                                    | Sub-total                             |              | 916 860               | 916 860               |                  | 0                             |
| <b>Total incl extra Sida funds</b> |                                       | <b>TOTAL</b> | <b>12 231 860</b>     | <b>6 625 084</b>      | <b>4 350 000</b> | <b>1 256 775<sup>24</sup></b> |

<sup>17</sup> When Sida transferred the South Africa program funds for the second half of 2005, this budget post was reduced from SEK 300 000 to SEK 150 000 due to the new frame agreement between Sida and ICJ-S in which ICJ-S administration and not the South Africa program should cover the costs concerning the Programme Manager from July 1, 2005.

<sup>18</sup> Travel SEK 8783, Hotel and food SEK 6117, Other costs 3773,5, Consulting Fee SEK 1131, Allowance for expenses SEK 1200

<sup>19</sup> When Sida transferred the South Africa program funds for the second half of 2005, this budget post was reduced from SEK 80 000 to SEK 40 000 due to the new frame agreement between Sida and ICJ-S in which ICJ-S administration not the South Africa program should cover the costs concerning the ICJ-S follow-up from July 1, 2005.

<sup>20</sup> When Sida transferred the South Africa program funds for the second half of 2005, this budget post was reduced from SEK 990 000 to SEK 495 000 due to the new frame agreement between Sida and ICJ-S in which ICJ-S administration not the South Africa program should cover the costs concerning the ICJ-S follow-up from July 1, 2005.

<sup>21</sup> Extra allocation from Sida of SEK 435 000, approved by Sida on November 4, that have been used to the setting up of the Children's Litigation Fund.

<sup>22</sup> Extra allocation from Sida ref nr SA SYA 111/04/1, funds for use in 2005. SEK 341 860 have been disbursed and reported on according to a separate agreement for the Cluster with AULAI Trust.

<sup>23</sup> Extra allocation from Sida ref nr SA SYA 111/04/1, funds for use in 2005. SEK 140 000 have been disbursed and used for the International Legal Aid Conference in April 2005.

<sup>24</sup> The total amount of unspent funds December 31, 2005 is SEK 1 256 775 of which a total of SEK 816 775 is unspent funds (566 775 see the financial table above under legal area 6 and 7 and money for NCBPA under legal area 1). The remaining part of the funds SEK 440 000 has been reallocated to be used 2006.