



Fourth Annual Report

December 1998 - December 1999

South African Human Rights Commission 4th Annual Report

December 1998 December 1999

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Preface

The fourth annual report of the South African Human Rights Commission comes as we pass the halfway mark in the life of the first national institution for the promotion and protection of human rights in South Africa. The services of the current members of the Commission come to an end in September 2002. At midpoint, therefore, it is important for the Commission to look back in order to march forward. In many ways, we view the year 1999 as the high point in the life of the Commission. We believe that, from now onwards, the Commission can only continue to improve. This report, therefore, reflects this celebratory tone of the Commission, brimful of confidence and excitement about the work with which we have been entrusted.

And yet we believe that we have a long way to go. The task that we have been mandated by the Constitution to do is ambitious: the development of a culture of human rights. And so we can only proceed by taking small steps at a time. Confident and excited as we are, we place it on record that we have only been able to take a small step. That is cause for celebration. Besides, we have become very conscious of our historical responsibility. We know that if we fail as an institution, we shall have failed the hopes and aspirations of South Africans. We dare not be found wanting.

Once again we offer this annual report. It is a report that first and foremost goes to parliament; that discharges our constitutional duty (S 181(5)). We hope that parliament will pause to consider this report in the exercise of its oversight function over our institution. We would welcome criticism and constructive dialogue on the matters we have raised here. We have been privileged to be invited by the Portfolio Committee on Justice to public hearings to present our report. For the past two years this has been a pleasing feature of our relationship with parliament. We are very grateful to Adv. Johnny de Lange, MP, the Chairperson of the Portfolio Committee, who has been unfailing in his interest in the work of the Commission. We trust that, in keeping with the now established custom, the Portfolio Committee will afford us another opportunity to present our report to them in public hearings during Human Rights Week in March 1999. We hope to initiate a different process with the National Council of Provinces.

Above all, however, the report must be considered by government. We hope to be able to present the report to the Presidency and to engage in dialogue about the state of human rights in our country and measures necessary to advance human rights in our country. We believe that government has an interest in the work and the views of the Commission: such a matter goes to the heart of our democratic order. We hope that government at that level will be willing to engage with us.

Third, we are offering this report to the people of South Africa, the ones whose interest and well-being have been entrusted to us and which we hold dear. The report will form the basis of a public information programme we hope to launch during Human Rights Week. We welcome responses, ideas and criticism of the matters we have raised in this report. We believe that this Commission can only improve its service and perfect its approach to the extent that it listens and responds to the views of civil society.

In this report, we have refrained from making any further recommendations. We fear that, as previous recommendations have not elicited any response, we would be foolish to make further recommendations before we have examined how government and the National

Assembly handle our reports. There is hope that next year there will be greater clarity about these matters. In any event, a comprehensive report like this commends itself and is a recommendation on what we believe needs to be done to accomplish our constitutional objectives as a nation.

This report would not have been possible without the drive and professionalism of Ms Jeannette Campbell, Deputy Director: Communications at the Commission. Ms Campbell drove the process. She was admirably assisted by Ms Donna Ryan and enjoyed the co-operation of the commissioners, the CEO and heads of department. In other words this report is a joint effort. I wish to thank all colleagues for the work that has gone into this report. Outside our Commission, we continue to be indebted to the Department of Justice, which has continued to give vital support to the work of the Commission. We especially welcome the new Director-General, Mr. V S Pikoli, and we look forward to even closer relations with the department under him. The Minister of Justice and Constitutional Development, Dr P M Maduna, MP, remains a friend to all of us. We wish to thank the Speaker of the National Assembly, Dr Frene Ginwala, MP, and we hope that the processes she has put in place ensure an even better relationship between the Commission and parliament. This Commission has been sustained by the support of many friends, at home and abroad who may not be visible, but their support can be seen in our accomplishments. We salute them.

This is a public record of our “activities and the performance of our functions” (S 181(5)). Others have undertaken their own assessments of the work of the Commission. We present our work for public scrutiny. We only wish we could be assured of even better public support in the year that lies ahead.

N Barney Pitso
CHAIRPERSON

January 2000

Executive Summary

This Fourth Annual Report depicts a period of great growth in the life of the South African Human Rights Commission, with the opening of three more provincial offices during 1999. It reflects the work of the Commission from December 1998 to December 1999 – future reports will cover a calendar year.

Although the report is comprehensive, a very detailed Table of Contents has been included; specifically so that a busy reader can find the items in which he or she has a particular interest. The Introduction gives a useful overview of 1999, the SAHRC's relations with different stakeholder groups and the proposed way forward. The major projects and campaigns undertaken during the year are covered in Chapter 2, followed by "housekeeping" details, in the chapters on Finance. and Administration

Thereafter, the three main thrusts of the Commission are looked at in detailing the implementation of our Constitutional mandate to promote, protect and monitor the observance, development and attainment of human rights in our country. Obviously, there is a good deal of overlap between these three "arms"; and indeed throughout the report aspects are interwoven and cross-referenced.

The brief Chapter 8 gives an indication of the purpose and functions of the various "Section 5" committees established by the Commission. An important new chapter in this report is Chapter 9, detailing the trends and projects undertaken in the provinces, now that further offices have been set up. Finally, the SAHRC's role in South Africa and beyond is outlined.

The appendices offer factual information on all aspects of the Commission's work. They range from details of the Commissioners, their public engagements and visitors to lists of workshops and SAHRC publications, the complaints form and an acknowledgement of those whose support we have enjoyed.

We hope that this annual report will give you a better understanding of the SAHRC, its role, work, people, plans and procedures. For more information on any aspect, please contact the Commission at any of the addresses given on the back cover.

The South African Human Rights Commission

Is the national institution established to entrench constitutional democracy. It is committed to promote respect for, observance of and the protection of human rights for everyone without fear or favour.

1. Introduction

Overview of 1999

The South African Human Rights Commission has come of age. The Commission has undertaken the most comprehensive programmes and interventions to date, and yet, the Commission remained focused on its task and operated consistently according to clearly-defined priorities. The Business Plan adopted in November 1996 came into focus and was supplemented by the Action Plan adopted during our annual planning workshops. The Action Plan, in turn, became the basis for the workplans which all operatives in the Commission, commissioners and programme units, developed. The result was that the Commission came across during 1999 as more confident, more positive about its role, operations and priorities, and less defensive to criticism.

This has been made possible, it seems obvious to say, by the improvement in our budget provision. By improvement we mean a substantial improvement from the minimal budget we were obliged to operate with during our first two years in office. In reality, however, the budget had been reduced from the previous years. We resolved to make the best of what was available.

We were delighted to be able to establish a minimal number of provincial offices, in Port Elizabeth, Durban and Pietersburg. With these and our existing Cape Town office, we took a step towards realising our dream of making the Commission as accessible to as many South Africans as possible throughout the length and breadth of our land. The provincial offices have proved their worth. They have attracted human rights activity in their provinces, the extent of which could never be realised from a central office in Johannesburg. In a short time, we have seen the number of complaints handled from the provinces increase and more opportunities for human rights education have been opened up.

The Commission has attracted an amazing calibre of staff members who have been engaged, with singular devotion and expertise, in the business of making rights real for the people of our country. Staff have been recruited for the provincial offices; new researchers have joined the Commission; new legal officers and investigators are taking care of the increasing caseload; and human rights educators and administrators have all improved the quality of output by the Commission. With the growth in programmes and new staff, special attention had to be paid to personnel relations, staff development and in-house communication. Oversight and supervision of programmes, administrative and financial systems had to be improved. We have accordingly re-drafted our personnel regulations. We hope to submit these to the Office of the President in due course for proclamation. We have prepared a comprehensive staff manual which contains all the SAHRC internal procedures and systems for easy reference. Drawing from the experience of 1999, we have dedicated the year 2000 to consolidation: general improvement of our systems and outputs and perfecting our service delivery. More than ever before, we believe that we are now equipped to develop qualitatively.

New commissioners were appointed and assumed office during the course of the year. In fact, the appointment of four new commissioners meant that, for the first time since December 1995, there was a full complement of commissioners. The new intake of commissioners improved the gender balance and brought in new areas of expertise, which were otherwise

lacking in the Commission. An additional full-time member was approved, bringing the number of full-time members to eight. This means that we are better able to distribute commissioners to provinces and we can cover the responsibilities for different sectors of human rights issues. We welcome the following new commissioners:

<i>Mr. Thomas Manthata</i>	full-time	January 1999
<i>Adv. Leon Wessels</i>	full-time	January 1999
<i>Dr Zonke Majodina</i>	part-time	August 1999
Ms Charlotte McClain	full-time	August 1999

Members of the Commission have grown together over the years and the new members have fitted into a team that has become more purposeful and draws on the expertise each has to offer. We continue to seek to improve co-ordination of our activities whilst encouraging individual commissioners to develop their portfolios as national commissioners. We have also been refining the way we work, especially as regards the thorny issue of the relationship between the secretariat and the commissioners. We have dealt with the discipline of acting and speaking as individuals whilst remaining conscious of our collective responsibility. The result is that members of the commission come across as more mature in their dealings with one another, with other SAHRC staff members and with the public at large.

The Human Rights Environment

The year began with South Africa looking forward to the second democratic elections in the country on June 2. In some political quarters and the media, there were concerns about the fairness and preparedness of the electoral arrangements. Among these was the matter of the financing of political parties from state funds, the restriction of registration of voters only to those in possession of bar-coded Identity Documents and the right of prisoners to vote. These matters led to some court challenges. The Commission was also approached by one political party, which was concerned about political intimidation in the run-up to the general elections.

In meetings with the Independent Electoral Commission, it was decided that the Commission would monitor the situation and undertake human rights education seminars wherever required, especially as regards the exercise of political rights. As a Commission, we were concerned in particular about the use of the electoral process to fuel xenophobic sentiment among the electorate. We had begun the year by launching the *Roll Back Xenophobia* campaign. As part of the campaign, we invited all registered political parties, government departments, local and provincial governments and other public institutions to declare support for the Braamfontein Statement and to undertake to handle the issue of migrants and refugees in our country in a responsible manner. Overwhelmingly, we received support for the campaign but we noted that, contrary to their undertakings, one or two political parties degenerated into foreigner bashing during the campaign in order to attract votes, especially from the unemployed. In the event, both the registration of voters and the general elections went smoothly. A new government was inaugurated and parliament was opened on 25 June.

The new government assumed office and set itself the tasks, among others, of fighting crime and corruption, and of improving the delivery of services. Both platforms were widely supported. Crime continued to be a concern to the people of South Africa. Various initiatives were undertaken and increasing resources were devoted to the fight against crime. We welcomed the appointment and the high-profile activities of the National Directorate of Public Prosecutions, the establishment of specialised investigation units and the Assets Forfeiture Unit. Corruption within the public service was also tackled. The Office of the Public Protector and the Special Investigations Unit under Judge Willem Heath undertook highly publicised

activities. These measures did much to boost public confidence in the possibility of effective policing. Problems regarding the administration of justice were identified and addressed. Efforts to make the court system more effective continued, specialist courts were established and measures to tackle the incidence of violence against women and sexual abuse of children put in place.

The Commission was alarmed, however, when the new Minister for Safety and Security expressed reluctance to put into effect the new Section 49 of the Criminal Procedure Act passed by parliament. While we welcomed efforts to encourage police in their duties, to boost their morale and improve their safety and working conditions, we noted that there was a de-emphasising of human rights in policing which had been developed by the civilian Secretariat for Safety and Security with the support and encouragement of the Commission. At the same time, reports were being received of unlawful police violence, corruption, deaths in police custody and rising levels of racism within the police services. The Independent Complaints Directorate was dealing with rising levels of police misconduct. We were concerned that a message was being sent out to police structures that police could act without accountability and that our human rights system could be an impediment to effective crime prevention. In fact, South Africans have not yet undertaken a serious public debate about what it entails to deal with crime and yet honour human rights in a democracy founded on human rights and fundamental freedoms. Much of the rhetoric superficially suggests that these two commitments are mutually exclusive. We fear that a populism that dwells only on the fears of the people may lead to autocratic behaviour and in the long term undermine the very rights South Africans have struggled for.

A survey of the human rights situation such as this has, of necessity, to be brief. In the process it will be necessary to highlight only those matters that the Commission believes to be significant. Such a survey, however, would not be complete in the South Africa of our times if it neglected any mention of racism in South African society. Four years after the new constitutional dispensation, reports of rampant racism are rife. There have been reports of violence against and ill-treatment of farm workers, racial discrimination in schools and institutions of higher learning, discriminatory treatment of black people in public institutions and discrimination in housing, especially rented housing in the cities. Racial attacks by marauding gangs of white racists in the platteland towns are not unusual. In addition to this there is the tendency to tolerate and give public expression to racist language, especially in the workplace and in sport. During the course of the year, the Commission has highlighted the issue of racism. We have received less than universal and enthusiastic support for these efforts. There is a cynicism and indifference, which, we believe, bodes ill for the future and stability of our country. We believe that the litmus test for the success or otherwise of our democracy will be the extent to which our society deals effectively with racism and assures every South African equal treatment with respect and dignity.

A second matter that South Africans must address is sexism. Violence against women, rape and sexual abuse of women and children has reached crisis proportions. In addition there is continuing discrimination against women at all levels of society and the patriarchal sentiments that women have to contend with in their daily lives. There are some successes in ensuring representivity of women in all levels of public life. Issues like domestic violence and customary laws that continue to operate to the disadvantage of women are rife. Recent legislation seeks to address some of these matters but a great deal of public education is necessary to address the status of women and to reverse the trends towards violence and discrimination. The efforts of the Office on the Status of Women and the Commission on Gender Equality deserve support.

Next, we highlight the continuing challenge of poverty. Five years into the democratic dispensation, the social inequality gap continues to increase. It appears that the poor are getting poorer and the rich richer. The gap in pay levels between the highly paid and the lower levels remains high. Unemployment is not decreasing appreciably. The result is that too many people continue to live on too little. Last year the Commission, in association with SANGOCO and the CGE, undertook the Poverty Hearings. The report of the Hearings was submitted to parliament. To our knowledge the report has never been considered by parliament nor have we received any governmental response to the report. What we found was that too many people were not aware of the available social assistance programmes and the poverty alleviation resources did not reach those in greatest need. We found there was a great deal of dependence in many poor families on pensions and welfare grants. Yet public servants did not appear to be sensitive to the plight of the poor. We welcome statements by the new Ministry of Welfare encouraging better access by the needy to available resources. We believe, however, that a more viable strategy is necessary: one that promotes community development efforts, especially in rural areas, ensures job creation and makes land and resources available to the poor. Recent announcements by government ministers in some of these areas are welcome. An RDP strategy, though, needs to be more visible to and understood by the people it is intended for, co-ordinated across government at all levels and comprehensive.

Finally, government has highlighted the HIV/AIDS crisis in our country. The project *Partnership against Aids* has widespread support. There is a comprehensive public awareness programme. There is, however, dispute as to what kind of intervention is necessary, sustainable and affordable. Meanwhile efforts to find a cure for AIDS continue. It is clear, though, that at present levels the AIDS crisis will soon wipe out whole communities and families. This will have enormous implications for the economy and the welfare services. We believe that this public health matter needs to be tackled with renewed vigour and no easy solutions are in sight.

Relations with Government

It is clear that the relationship between government and an independent national institution in a democracy is both complex and dialectical. It is complex because it does not fit easily into the normal structure of democratic governance, especially in its overlapping accountabilities to parliament and to another unelected i.e. the SAHRC. It is also complex because the institution depends on government for financial support. This is an important innovation to ensure additional checks and balances in a democracy. Yet the credibility of both government and the institution depends on the extent to which government can respect the independence of the institution and the institution honour the authority of government. It is necessary that this mutuality be respected at all times. If the relationship is conducted with integrity, it gives public confidence to the democratic institutions of the country.

Our Commission has had no reason to believe that that relationship has not been honoured. We have worked with various government departments and have been available as a resource whenever required. Among these, one might mention the departments of Justice and Constitutional Development; Foreign Affairs; Labour; Safety & Security; Correctional Services; Defence; Education; and Local and Provincial Government. We have offered advice whenever requested and we have undertaken joint projects. In this regard we mention the Equality Legislation Drafting Unit with the Department of Justice; the joint project on the rights of indigenous people with Local and Provincial Government and the Human Rights in Education partnership; and the focus on child labour and the rights of farmworkers with the Department of Labour. We work closely with the Departments of Foreign Affairs and Justice in preparations for the UN Commission on Human Rights and the African Commission on Human & Peoples'

Rights. We monitor and comment on reports to the treaty bodies. We advise on and urge ratification of important human rights instruments.

We have noted, however, a lack of understanding of the role of the commission within some government circles and an inability to utilise the commission to good effect where this could be done. We have noted that government departments and ministries continue to be very slow to respond to enquiries. Reports remain unattended for long periods of time. Sometimes it takes numerous telephone calls before one gets a reply to a simple but necessary inquiry. It appears that, in the minds of some civil servants and ministers, the Commission is of no more than nuisance value. We have, therefore, had to have recourse to the powers of the Commission to issue subpoenas when no replies were received to our socio-economic rights questionnaires. Except in a few cases, responses to enquiries about complaints do not receive due attention: again we have had to resort to subpoenas.

We welcome, though, a new mood among ministers. The Ministers of Justice and Arts, Culture, Science and Technology are consulting with us about investigations they wish the Commission to undertake. The Office of the Presidency has also agreed to initiate a discussion within government on the relationship with, and the status of, independent national institutions. We believe that such a comprehensive examination of these issues will benefit our democracy.

Relationship with Parliament

A similar process is underway with regard to parliament. We have been concerned that the reports of the Commission do not receive any meaningful attention from parliament. We believe that this undermines the intentions of parliament, which decreed that the Commission should report to parliament, submit quarterly reports on serious human rights violations, and advise on legislation. In addition, the Commission has been campaigning to have its budget channelled directly through parliament.

As a Commission, we believe that our interventions in the legislative process need to be clarified. We have actively participated in the public hearings of the relevant portfolio committees. We believe that the legislature intended the Commission to intervene at other levels as well. There is, however, no provision for such intervention in the rules of parliament.

The Speaker has commissioned a study by the University of Cape Town to examine how parliament can best exercise its responsibility of oversight over independent institutions that report directly to it. The report, *On Parliamentary Oversight and Accountability* (July 1999) by Prof. Hugh Corder, has been submitted to parliament. We await the outcome.

International Relations

On the international front, the Commission continues to build relationships with similar organisations worldwide, learns from international experience and exchanges ideas with others. The participation of the South African Human Rights Commission in various international human rights meetings continues to be in demand. We do this because we believe we continue to widen our knowledge, we exchange ideas, we share our experience and we build networks with others in order to build our capacity to promote and protect human rights. In doing so we add value to the skills, expertise and resources already available. We have valued the assistance of South African foreign missions in connecting us with partners

in their countries, assisting us during our visits and inviting us to brief staff at their missions during our visits.

We have continued to prioritise our relations with national institutions in Africa. We have responsibility as the convenor and secretariat of the African Co-ordinating Committee of National Institutions. We have convened meetings of the Committee, prepared reports and represented African independent national institutions at international forums. The African Co-ordinating Committee has accepted a recommendation from the SAHRC to establish a secretariat of the African Co-ordinating Committee to be based in Johannesburg. The secretariat will assist in the establishment of new national institutions, offer an advice service, organise meetings and conferences, provide training and publish a link newsletter. We believe that, with the phenomenal growth of national institutions in Africa, it is important that these be assisted to become effective and credible institutions from the beginning. We hope that the secretariat will be established during the course of 2000.

At the same time national institutions all over Africa have sought advice about establishing national institutions and training personnel from the institutions. Among the institutions we have made contact with during the course of 1999 are the following: Kenya, Malawi, Nigeria and Rwanda. We are building even closer contact among Southern African national institutions; especially those from Malawi, Zambia and Uganda. During 2000 we are planning a meeting of the Southern African group in order to strengthen and extend national institutions within the SADC region. As part of this prioritisation of Africa, the Commission seeks affiliation to the African Commission on Human and Peoples' Rights and attends sessions of the Commission as an observer. The Commission has been invited by the North-South Centre to serve on the organising committee of the Europe-Africa Civil Society Forum associated with the Portuguese Presidency of the European Union in 2000.

Further afield, the Commission continues to play its part in the International Co-ordinating Committee (ICC) of National Institutions. As a member of the ICC, the Commission attends meetings and other regional meetings of national institutions, to which it is often invited. The 5th International Workshop of National Institutions will be held in Rabat, Morocco, in April 2000. The SAHRC has received accreditation by the Committee as an institution that complies with the Paris Principles. The SAHRC attends the annual sessions of the UN Commission on Human Rights in Geneva.

Individual commissioners and staff have continued to be called upon to offer expertise at various levels; principally to give papers and lead seminars on human rights in different part of the world. Significant among these have been Prof. Karthy Govender's visits to Fiji and Thailand; Commissioner Nkeli's to Thailand; Kollapen's to India; Dlamini and Tlakula's to Senegal and Pityana and Tlakula's to Illinois, USA. The international recognition of the South African Human Rights Commission can be gauged also from the award of a doctorate *honoris causa* in the Faculty of Law and Humanities of the University of Buenos Aires to Dr Pityana in September 1999. During the visit to Argentina and Uruguay, the Chairperson gave a number of high-profile lectures; among them to the Argentine Council for Foreign Relations. He has also been invited to serve on the International Advisory Panel for the Human Development Report 2000 published the United Nations Development Programme. In the run-up to the World Conference against Racism, Xenophobia and Related Intolerance to be held in South Africa in 2001, the Chairperson has had the privilege of being invited to serve as one of the international experts engaged in refining the themes and objectives of the conference.

The flow of international visitors to the Commission has continued. Not only do we receive a succession of interns and other students on placement who come to work in the Commission

throughout the year, we are consulted on various human rights matters by universities and other human rights agencies from all over the world. We are looking forward to receiving the retiring Chief Commissioner of the New Zealand Human Rights Commission during 2000. We are also in the process of establishing links with the University of Illinois at Urbana-Champaign's Centre for African Studies and the School of Law. The first result of the link will be the visiting tenancy at the Commission of Prof. Daria Roithmayr, a legal scholar with expertise in the fields of critical race theory and feminist legal scholarship. We hope to give our two eminent visitors maximum exposure to the work of the Commission and to benefit from their expertise as well.

Annual Planning Meeting

The Annual Planning Meeting of the Commission was held at Kempton Park in November 1999. The meeting affirmed that the task of the Commission during the year 2000 was consolidation. It noted that the foundations of the national institution had been set in place. Consolidation would entail clarifying the relationships with government and parliament. Both processes are already underway. The Commission has also resolved to establish a National Centre for Human Rights Education and Training. The Commission has approached some government departments with a view to partnership in establishing this resource that will ensure a wide-scale, systematic and sustained training programme for human rights at all levels of society. It is hoped that the Centre will begin operations in April 2000. The Commission has also noted that the term of office of the current members of the Commission expires in September 2002. It has thus resolved to commission an assessment of the work of this first commission in the history of South Africa and to publish documents and papers produced by members of this commission during their tenure. It is hoped that these publications will be published during 2002. The Commission is also reviewing the functioning of its plenary meetings. Proposals that fewer plenary meetings be held, and more emphasis be placed on committees are under consideration. This will ensure a more cost-effective and efficient decision-making process for the Commission.

At the programmatic level, the Commission will continue with its focus on equality, administration of justice and economic and social rights. A range of seminars and workshops on racism are being planned and work on child rights and disability continues. We believe that, through our initiatives on racism, we have achieved a level of public debate on racism that was not imaginable a few years ago. Exciting responsibilities will come with the passage of the *Promotion of Equality and the Prohibition of Unfair Discrimination Bill*, the *Open Democracy Bill* and the *Administration of Justice Bill*. We are geared to engage in public awareness, publicity and information campaigns on this legislation. We hope to be able to increase our capacity for complaints handling, investigations and conciliation and mediation, as well as for litigation, in order to advance the purposes of the new legislation.

We would also like to focus on crime; especially to determine and expose the factors that contribute to crime and what the measures are that a democratic, rights based system can consider to establish a culture of human rights and to develop a national consciousness about crime. When ministers glibly blame human rights or rush to call for amendments to the constitution, we sense a dearth of creative ideas. That is why a national debate and engagement with the issue is now called for. This is no longer the sole responsibility of government. Human Rights Week 2000 will be focused on the courts as one of the links in the chain of the administration of justice system.

Conclusion

The Commission has been greatly heartened by the number of responses to its work from many ordinary South Africans. Responses to our inquiries at the University of Pretoria and the SAPS Vryburg District are good examples. In both cases the institutions undertook to implement the recommendations and seek the assistance of the Commission in improving race relations. Our links with other institutions supporting democracy are continually being strengthened, particularly in our role as chair of the renamed Forum of Independent Statutory Bodies.

We were also pleased to note that the media profile of the Commission improved considerably from what it was during the early years of its existence. We sense a better and growing understanding of the Commission. The publication of our official newsletter *Kopanong – Where Minds Meet*, has been welcomed. This bi-monthly newsletter features views and news of the Commission, features and educational material. Its circulation is increasing.

Despite the progress that we have noted, difficulties remain. Clearly questions are being raised about the future of the plethora of independent institutions. That is a political responsibility, in which we shall not engage. Suffice it to say, though, that we believe that a national institution must not only be sufficiently funded in order to enable it to undertake its responsibilities; it must also be accorded sufficient dignity and esteem in national life so that it may exercise its authority as a valued part of our democratic system. An independent institution can only function well if it enjoys high esteem and public confidence.

2. Major Projects of 1999

During 1999, the South African Human Rights Commission decided to focus primarily on the aspect of equality; in particular discriminatory treatment related to race. Not only were complaints dealt with, but also major investigations were launched into allegations of racism in the SAPS and in the media and into the incidence of racism and racial discrimination at public secondary schools. A joint campaign was undertaken to address xenophobia in South Africa; Attention was also paid to human rights relative to the criminal justice system, HIV/AIDS and older persons.

Equality

The work of the Commission on the right to equality continues to grow in leaps and bounds. During 1999, the Commission received many complaints of unfair discrimination on various grounds. Top of the list were complaints of unfair discrimination on the grounds of race. We also received complaints of unfair discrimination on the basis of HIV/AIDS status, disability, gender, sexual orientation and ethnic origin.

Racism and racial discrimination

Due to the large number of complaints of racism and racial discrimination, the Commission took a decision to prioritise this as its primary area of focus. To that end, all the major projects of the Commission in 1999 focussed on racism and racial discrimination. These included:-

A national study of racism and racial integration in public secondary schools.

The report of the study was presented to the then Minister of Education, Prof. S Bengu at a conference in March 1999 in Johannesburg. The Commission is mobilising resources for the implementation of some of the recommendations contained in the report. More details of the study, the conference and further developments are given in Chapter 5, Promoting Human Rights. On the advocacy side, the Commission held a poster competition in the public education sector. This competition, with a theme of "Stop Racism Now", is also described more fully in Chapter 5. Some entries were used in the SAHRC 2000 calendar.

An investigation into racism at the residences of the University of Pretoria (Tukkies).

The report of the investigation was released in September 1999. The University has responded positively to the recommendations made in the report and has set itself a plan of action to implement these recommendations. The Commission will monitor the implementation of this plan.

An inquiry into racism and racial discrimination in the Vryburg District of the SAPS.

Newspaper reports of widespread racial incidents in the area sparked off this investigation in 1999. Public hearings were held to enable the concerned parties to make submissions. Among issues were the inconsistency regarding the release of white and black suspects from

custody; continued use of derogatory terms; failure to provide feedback to black complainants; and the allocation of office space. The report of the enquiry was released by the Commission on 30 November 1999. It is pleasing to note that the office of the Provincial Commissioner of the North-West Province has already begun implementing some of the recommendations made in the report, including the recent appointment of a black Station Commissioner at the Vryburg Police Station. Although the report pertains to the Vryburg Police Station, other police stations that are grappling with transformation should find it instructive.

The Inquiry into Racism in the Media

This project consists of two phases, namely an interim report comprising submissions received from the members of the public and independent research commissioned by the Commission; and public hearings, after which a final report will be released.

During the course of conducting its work, the Commission has found that racism is one of the most powerful forces undermining human rights in South Africa. The tragic impact of racism has revealed itself repeatedly in Commission investigations of, among others, schools, the criminal justice system and rural communities. Far from merely holding a mirror up to society, the media moulds ideas, fashions thinking in society and shapes public opinion. Because of this reality, and as part of its general effort to attack the scourge of racism, the Commission conducted an investigation to understand where and how racism finds its way into media products and to propose solutions for eliminating it.

Informed by an understanding of the damage racism causes in our country, and the need to balance the right to freedom of expression with other rights such as dignity and equality, the SAHRC set five goals for this inquiry:

- to generate debate and dialogue about racism among South Africans;
- to inform people about racism so they can address it;
- to teach South Africans to use race theory and analysis to deal with these issues without being defensive;
- to engage all South Africans in seeking common solutions to racism; and
- to help journalists and editors understand the impact of their work.

Freedom of expression is a fundamental right and a central tenet of democracy that the Commission defends vigorously as part of its mandate. Freedom of expression is not just freedom of the press and other media. The Constitution clearly states that freedom of expression equally protects the "freedom to receive or impart information or ideas." If the media establishment is, consciously or not, distorting or limiting the ability of all South Africans to access and influence the information that is distributed, then this establishment is violating the very right it claims to hold so dear.

Ultimately, a respect for all human rights for all is the greatest protection of freedom of expression. This investigation promises to aid media institutions by helping them understand how they can create a product that reflects society and responds to the information needs of South Africans.

The investigation formally began with a public call for submissions on 28 February 1999, which were due by 1 April 1999. The Commission appointed a full-time researcher (Ms Claudia Braude) and also established collaborative relationships with various media stakeholders to assist in the inquiry. The research methodology was developed and the SAHRC finalised a contract with the Media Monitoring Project (MMP). The second phase of the inquiry,

that is the formal monitoring of the media, began in July 1999. Early on in the study, some consideration was given to practical steps such as strengthening the professional and ethical codes of conduct regulating the media industry and to monitoring the implementation of these codes.

The commissioned research was completed and received by the SAHRC in early November 1999. The MMP report was a well-researched and succinctly presented report. Ms Braude's report was also well-researched and qualitative and included a detailed report on the textual analysis. The SAHRC produced an interim report, giving the two independent reports in their entirety, together with the background to the inquiry and the terms of reference.

This interim report was published on 22 November 1999 and given to all stakeholders. It was also made available on the SAHRC website (www.sahrc.org.za). Anyone against whom allegations of human rights violations were made was offered an opportunity to respond by the end of November. Public Hearings are planned for 1-10 March 2000 in Johannesburg. If needs be, further hearings may be held in Cape Town.

It was stressed that this was an interim report, merely the beginning of the process of investigation, and not definitive findings by the SAHRC. Obviously the topic was uncomfortably close to home for many representatives of the media, some of whom reacted to the report in an extremely antagonistic or derogatory manner. The SAHRC, however, welcomes the intense debate that has ensued as a result of the release of the interim report and looks forward to many and varied inputs at the public hearings; from persons mentioned in the investigations as well as any other interested or concerned parties. During November and early December, the issues for the public hearing were identified, and notices and subpoenas were issued during January 2000. After the hearings in March, the final report, with responses and recommendations, will be prepared, and probably finalised by the end of June 2000.

Other equality activities

Apart from the above-mentioned projects initiated by the Commission, we also received numerous complaints of racism and racial discrimination, which were investigated by the legal services department of the Commission. These complaints were against the police services, the National Defence Force, schools, the Gauteng traffic department, banks, courts, tertiary institutions and a church.

In addition, we received complaints of discrimination on the basis of HIV/AIDS status against a government department and an insurance company, and a complaint of discrimination on the basis of gender against a tribal authority. This latter complaint pertained to inheritance. Details of many of these complaints can be found in Chapter 6, Protecting Human Rights.

It is our hope that the work of the Commission on racism will contribute towards the preparation of our country's report on *the Convention on the Elimination of all Forms of Racial Discrimination* and the *Third World Conference against Racism, Xenophobia and Other Forms of Intolerance*, which will be hosted by South Africa in 2001.

Roll back Xenophobia Campaign

Since 1994 South Africa has seen rising levels of xenophobia (defined as the irrational fear and deep dislike of non-nationals). Organisations working with refugees and human rights were particularly concerned about this phenomenon and decided to take action. Two workshops were held in 1998: the first in October resulting in the Braamfontein Statement and the second in November when the "*Roll Back Xenophobia Plan of Action*" was developed. This is a joint project between the National Consortium on Refugee Affairs (NCRA), the United Nations High Commissioner for Refugees (UNHCR) and the SAHRC, and was launched in December 1998.

The preface to the Roll Back Xenophobia Plan of Action lists the focal issues for 1999 as:

- Violence against foreign hawkers;
- Violations of the rights of migrant workers;
- The plight and rights of refugees and asylum seekers;
- The conduct of police and civil servants in dealing with refugees, asylum seekers and migrants;
- Media coverage on refugees, asylum seekers and migrants; and
- The role of education in combating xenophobia.

To ensure the implementation of this National Plan of Action to combat xenophobia, in April 1999 the Commission appointed a full-time National Co-ordinator, Ms Jenny Parsley, who has been working with the Commission and other members of the National Consortium to combat the wide-spread violations of refugees' and migrants' rights. The Braamfontein Statement and Plan of Action have been widely distributed and several activities co-ordinated.

Two pamphlets, a magazine and a comic booklet were printed and distributed and a radio series broadcast on community radio stations countrywide. Various seminars on forced migration, xenophobia and refugee rights have been held at universities and exposure in a TV series is currently being investigated.

Acknowledging the influential role of the media, a seminar on "*Xenophobia and the Media*" was held for journalists. The media has constantly been drawn into the campaign to ensure that the rights of migrants and refugees remained in the public eye. The campaign, through print, television and radio, received widespread coverage. A webpage has been designed and will be able to provide ongoing updates of the campaign activities.

Africa Refugee Day on 20 June was used to provide impetus to the campaign and a wide range of activities were held in major centres. Links with supportive performers at the Grahamstown Festival were established, and the All Africa Games in mid September provided an opportunity for further awareness raising. Co-operation with various NGO's and government departments is ongoing, and a project proposal for the 1999-2000 period was launched by the NCRA in late August 1999.

A refugee photography project entitled *Soutra: Images of Refuge* was launched at MuseuMAfricA on Heritage Day (24 September). The photographs are of refugees, taken by refugees, and provide a unique insight into the lives and experiences of refugees living in Johannesburg. The exhibition was displayed at MuseuMAfricA until 14 November, after which it was moved to the Gauteng Legislature.

Linked to the photography project, the Roll Back Xenophobia Campaign hosted a slide show at the MuseuMAfricA of well known South African photographers: Peter Magubane and Peter McKenzie. Peter Magubane, through his work and experiences, took us on what was an often horrific and tragic journey through Ethiopia, Somalia and Mozambique. His work highlighted the devastating consequences that human rights violations can have on people's lives. Peter McKenzie's photographs provided an insight into the life and lingering conflicts still present in Western Sahara.

On 21 October, Africa Human Rights Day, the Campaign organised a cultural event in partnership with the SAHRC, the Departments of Justice and Constitutional Development and the Independent Electoral Commission. This dynamic and colourful day combined culture with education. 300 students from 16 high schools around Gauteng participated in 10 workshops, which were run simultaneously. The workshops used art, drama, poetry and photography as media for human rights training. The workshops were followed by a cultural event that showcased talents from across the African continent.

An innovative and exciting radio project is underway in partnership with SABC radio. The project, entitled *Voices of Refuge*, began in November. Ten refugee participants were to be trained in producing radio documentaries. Each participant was to produce a 5 minute documentary to be broadcast on 6 SABC radio channels covering 4 language stations in January 2000.

The Roll Back Xenophobia Campaign has also made contact with the Education Department to continue working with this important sector. A presentation was made at the IH Harris school in Johannesburg to further this objective. To advance the lobbying initiatives, a presentation was made at the Gauteng Legislature. The Campaign also participated in a television talk show, *Two Way*, which discussed xenophobia.

The campaign remained active until the end of 1999, participating in the celebrations for International Human Rights Day through the hosting of an exhibition at the Durban Art Gallery and a workshop/information session on xenophobia. Plans are underway for media workshops to be held early in 2000 and materials are being developed to spread the message of the campaign.

Human rights in the criminal justice system

In most constitutional democracies, the resilience and the endurance of a bill of rights is most severely tested in the context of the criminal justice system. South Africa's experience has proved no different. Crime continues to make deep and damaging inroads into attempts to forge a human rights culture. The Commission believes that in responding to the challenge of crime we must be guided by, and indeed must function within, the parameters of the Constitution. It is within those parameters that we must strike the balance between firmness and fairness, between victim and offender and ensure that the means we use to determine innocence and guilt remain reliable and credible. This has been the approach that has informed our interventions – they are neither criminal nor offender friendly but attempts at an approach loyal to the Constitution and the Bill of Rights.

Interventions

C max prisons

The Commission has continued to monitor this prison as well as the plans to develop a new facility in the Eastern Cape. We persist in our view that the conditions of detention that have been created go way beyond the legitimate demands of the criminal justice system and of the broader society.

Section 49 of the Criminal Procedure Act

The Commission has consistently raised its concerns regarding the failure of the Ministry of Safety and Security to bring into effect legislation that it piloted and caused to be passed by Parliament. We pointed out that the current section was unnecessarily wide, certainly unconstitutional and, most importantly, went against attempts to create a police force that was professional and accountable. The SAHRC's response to the tardy implementation of this Act is also discussed in Chapter 7: Monitoring Human Rights.

The rights of victims of crime

The Commission continues to work very closely with the S A Law Commission and the Department of Justice on issues of relevance to victims. Commissioner Kollapen serves on the Sentencing Committee of the Law Commission as well as its Sub- committee on victims' rights. Some of the issues currently being considered are a Sentencing Act, a Compensation Fund for Victims of Crime, A Victims' Charter and Victim Impact Statements. All these initiatives will contribute towards enhancing the effective participation of the victim in the criminal justice system. In addition, a workshop on the rights of victims was convened.

Workshop on the rights of victims

The South African Constitution gives every person the right to be free from all forms of violence. Crime is one of the most violent forms of human rights violations in any society. South Africa is no exception. Many victims of crime in South Africa condemn the criminal justice system for leaving them disempowered, without a substantial role to play in the arrest and prosecution of offenders, and without consideration for their needs, expectations and rights as victims of crime. Whatever the merits of these claims, they represent a dangerous loss of faith in the criminal justice system that needs to be addressed.

Against this backdrop, the SAHRC convened a workshop in Johannesburg on 7 May 1999 to debate the mechanisms through which victims of crime can realise their rights. The workshop featured NGOs involved in crime prevention and leaders in the police services, the judiciary and welfare departments. Participants highlighted the current and planned policies for according victims their rights and adopted a plan of action to promote and protect these rights, including the Victims' Charter being prepared by the Department of Justice.

The important outcomes of the workshop for the SAHRC were that:

It countered perceptions that the Commission was "criminal-friendly" by ensuring that victims' rights were seen as human rights; and

It gave clarity to the role the SAHRC could play in advancing victims' rights, especially in the area of promotion (education and awareness), protection (receipt and investigation of complaints) and the development of a Victims' Charter.

The rights of prisoners generally

The Commission continues to undertake regular visits to prisons, monitoring conditions of detention to ensure that prisoners are held under conditions consistent with human dignity. Notwithstanding differences of policy and sometimes vigorous public disagreement, we have established an effective and productive working relationship with the Department of Correctional Services. We look forward to continuing this relationship with the new Commissioner of Correctional Services, whom we hope will be appointed soon. The recent appointment of Commissioner Kollapen to the National Council of Correctional Services will in addition ensure the ongoing engagement of the Commission with correctional issues.

In September 1999 the SAHRC also conducted visits to police holding cells to monitor and protect the rights of detainees there. The results of these visits are described fully in Chapter 6: Protecting Human Rights.

HIV / AIDS Seminar

A seminar on HIV / AIDS was jointly hosted by the Aids Legal Network (ALN) and the SAHRC in Johannesburg on Tuesday 10 August 1999.

After the national media focus on women, rape and abuse around Women's Day on Monday 9 August, the topics discussed at the seminar were starkly relevant. Participants were drawn from UNAIDS, the Department of Health and several non-governmental organisations (NGOs) as well as the ALN and the SAHRC.

Also present were some HIV-positive people who spoke about the realities of living with HIV / AIDS. They felt that the keys to coping are firstly the acceptance of the diagnosis by the sufferer, and secondly the acceptance of the HIV-positive person by at least their family, if not the community. Other topics included the discussion of the International Guidelines set out by the United Nations and to what extent South Africa is implementing them.

One of the major goals identified by the participants was the urgent need to educate people about HIV / AIDS, so that sufferers are aware of their rights to privacy, dignity, employment and health care and can make informed decisions. Communities, faced with the correct facts, can be encouraged to change their attitude about those afflicted by HIV/AIDS. Tragic deaths have occurred when courageous individuals like Gugu Dlamini have disclosed their HIV status. Fears of losing jobs also lead to non-disclosure, resulting sometimes in further infections as well as reduced or delayed health care.

Also a priority now that the Employment Equity Act has been promulgated, (which outlaws discrimination on, amongst other grounds, HIV status), are mechanisms for putting policies into practice. Suggestions at the seminar included a national abuse or complaints channel; monitoring methods for regular assessments; greater accessibility to resources for communities; and methods of achieving redress for human rights violations.

The seminar strengthened the valuable partnerships between statutory bodies, NGOs and government departments as they work towards implementing the internationally accepted guidelines from UNAIDS.

The rights of older persons

The SAHRC Commissioner focussing on this is Commissioner Tom Manthata. During 1999, this issue was addressed thoroughly by means of workshops conducted in all provinces where the Commission is represented. Joint programmes around older persons were conducted, and a particular focus has been on equality and the implications of the new legislation. Noticeable was the clear divide between the conditions of urban and rural older persons, and between black and white persons – obvious legacies of the past.

Problematic in many provinces is the question of the payment of pension and other social grants or benefits. Provinces claim budgetary constraints and at times institute humiliating and inappropriate means tests. Older persons wait in advance for many hours at pay-points, often over night, for fear of not receiving money. Departmental staff can seem to be arrogant and uncaring in their treatment of older persons. Health services in rural areas are often inadequate, too far apart, under-resourced or in unhealthy environments.

Very few complaints are actually received by the Commission – often understandable in view of culture, age, inaccessibility to resources and so on. The resolution of one such complaint, from the Joza Old Age Home in Grahamstown, has been further hampered by lack of appropriate reaction from members of the police services.

Awareness-raising and education are two aspects that will be used by the SAHRC during 2000 in an attempt to make others aware of the rights of older persons. Phobias based on ignorance, prejudice or allegations of witchcraft can only be dealt with in the light of knowledge. To this end the Commission will continue to both advocate and protect older persons as being equally deserving of respect, equality and their other human rights.

3. Finance

This section of the report includes the following:

Balance Sheet at 31 March 1999;

Income Statement for the year ended 31 March 1999;

A breakdown of the budget of the Commission for 1999/2000; and

The report of the Auditor-General on the financial statements for the year ended 31 March 1999.

Financial year ended 31 March 1999

The balance sheet and income statement reflect the financial position and results of the Commission for the previous financial period. The accompanying, unqualified, report from the Auditor-General is evidence of the importance that the Commission places on ensuring that sound financial management practices are adhered to. The Commission is committed to continue improving and streamlining its policies and procedures to ensure that available resources are effectively utilised to fulfil its mandate.

**SOUTH AFRICAN HUMAN RIGHTS COMMISSION
BALANCE SHEET AT 31 MARCH 1999**

	1998/99 R	1997/98 R
CAPITAL EMPLOYED		
Retained Income	2,873,890	(1,022,284)
RDP Fund – repayment	(224,372)	0
	2,649,518	(1,022,284)
 EMPLOYMENT OF CAPITAL		
	1,770,784	1,415,975
Fixed Assets		
Net Current Assets	878,734	(2,438,259)
Current Assets	1,641,575	71,778
SA Human Rights Commission Trust	1,000	0
Bank	1,617,468	70,328
Petty Cash	4,450	1,450
Accounts receivable	18,657	0
	762,841	2,510,037
Current Liabilities		
Department of Justice	724,370	400,419
Department of Public Works	0	1,387,859
Accounts payable	38,471	721,759
	2,649,518	(1,022,284)

Rev Dr N. B. Pityana
Chairperson
Officer

Ms L. Mokate
Chief Executive

Signed at Johannesburg on 30 November 1999

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

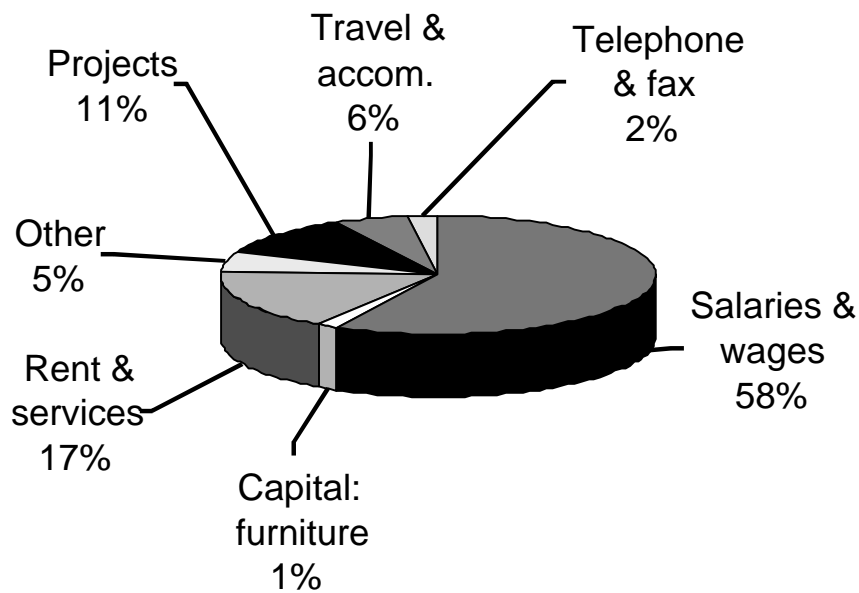
INCOME STATEMENT FOR THE YEAR ENDED 31 MARCH 1999

	1998/99 R	1997/98 R
Operating Income	<u>17,568,124</u>	<u>10,087,108</u>
Surplus/(deficit) for the year after the following items have been taken into account:	3,896,174	(2,564,052)
Interest received	343,393	95,179
Audit fees	60,819	95,303
Consulting fees	179,959	7,894
Interest paid	8,394	4,914
Depreciation	497,397	300,578
Operating lease rental	1,662,528	1,495,582
Surplus/(deficit) for the year	3,896,174	(2,564,052)
Retained income beginning of the year	(1,022,284)	1,541,768
Retained income at end of the year	<u>2,873,890</u>	<u>(1,022,284)</u>

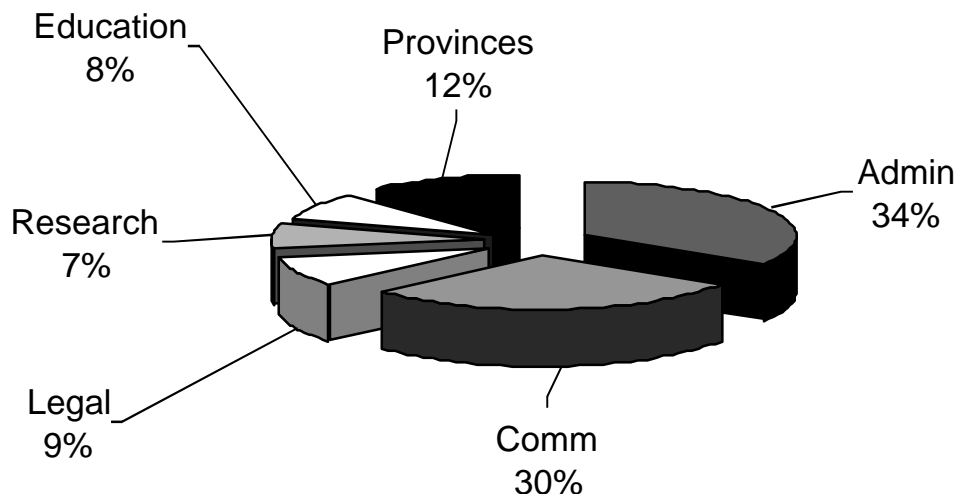
Budget 1999/2000

The budget for 1999/2000 shows the breakdown according to line items and programmes. Due to the limited funding that the Commission receives from Government, insufficient resources (approximately 11% of the total budget) are available to fund projects that will enhance the capacity of the Commission to execute its constitutional mandate. This has necessitated, as indicated in Chapter 4, Administration, the development of a fundraising strategy to generate additional resources to finance the said projects. The lack of adequate Commission funding will however remain an issue to be addressed with Government.

Budget 1999/2000: Line items



Budget 1999/2000: Programmes



**REPORT OF THE AUDITOR-GENERAL
ON THE FINANCIAL STATEMENTS
OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION
FOR THE YEAR ENDED 31 MARCH 1999**

1. AUDIT ASSIGNMENT

The financial statements as set out on pages 1 to 7¹, for the year ended 31 March 1999, have been audited in terms of section 188 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), read with sections 3 and 5 of the Auditor-General Act, 1995 (Act No. 12 of 1995) and section 16(2) of the Human Rights Commission Act, 1994 (Act No. 54 of 1994). These financial statements, the maintenance of effective control measures and compliance with relevant laws and regulations are the responsibility of the Accounting Officer. My responsibility is to express an opinion on these financial statements and compliance with relevant laws and regulations, applicable to financial matters, based on the audit.

2. REGULARITY AUDIT

2.1 Nature and scope

2.1.1 Financial audit

The audit was conducted in accordance with generally accepted government auditing standards, which incorporate generally accepted auditing standards. These standards require the audit to be planned and performed to obtain reasonable assurance that the financial statements are free of material misstatement. An audit includes:

- examining, on a test basis, evidence supporting the amounts; and disclosure in the financial statements;
- assessing the accounting principles used and significant estimates made by management; and
- evaluating the overall financial statement presentation.

I believe that the audit provides a reasonable basis for my opinion.

2.1.2 Compliance audit

Furthermore, an audit includes an examination, on a test basis, of evidence supporting compliance in all material respects with the relevant laws and regulations applicable to financial matters. I believe that the audit provides a reasonable basis for my opinion.

¹ The full SAHRC Financial Statement for the year ended 31 March 1999, as referred to in the Auditor-General's Report, consists of 7 pages. In the interests of brevity, only the first two pages, i.e. the Balance Sheet and the Income Statement, have been included in this Annual Report. The full statement is available from the Commission on request.

2.2 Audit opinion

2.2.1 Financial audit

In my opinion, the financial statements fairly present, in all material respects, the financial position of the Human Rights Commission at 31 March 1999 and the results of its operations and cash flows for the year then ended in accordance with prescribed accounting practice.

2.2.2 Compliance audit

The transactions of the Human Rights Commission that I have examined during the course of the audit were in my opinion, in all material respects, made in accordance with the relevant laws and regulations, applicable to financial matters.

3. EMPHASIS OF MATTER

Without qualifying the audit opinion expressed above, attention is drawn to the following matter:

Year 2000 compliance

Comprehensive systems testing by the Human Rights Commission of all financial and non-financial systems had been performed. Based on a review of testing process and work performed by an expert task team, indications are that reasonable steps had been taken by management to ensure Year 2000 compliance. The review of the test results should, however, not be regarded as any assurance of the Year 2000 compliance of systems in operation.

4. APPRECIATION

The assistance rendered by the Commission during the audit is sincerely appreciated.

Signed by R.K. Nayager
for **Auditor-General**
Johannesburg
7/12/99

4. Administration

1999 has been a year of tremendous growth and consolidation in the life of the Commission. For the first time since 1995 we have our full complement of Commissioners: 8 full-time and 3 part-time. We have opened an additional three provincial offices, taken on new permanent and temporary staff members, acquired new office space and developed internal information technology and other procedures to streamline the operations of the SAHRC and enable us to offer a more efficient complaints-handling and information-dissemination service to the people we serve.

Office developments

New provincial offices

The Commission has consistently maintained that it needs to be both visible and accessible to the most ordinary people at the point of need if it is to be an effective instrument for the promotion and protection of human rights. Committed to making its services directly accessible, the SAHRC opened two new provincial offices in February/March 1999, in the Northern Province and the Eastern Cape and a third office was fully established in KwaZulu-Natal by September 1999. The Commission plans to open offices in the remaining provinces, funds permitting, over the next few years.

Like the Western Cape office, established in 1997, these offices will be co-ordinated from Johannesburg with specific Commissioners assigned to oversee each province. The provincial offices include legal and education officers and support staff. They will provide members of the public in nearby areas with an easier and more familiar path through which to access the Commission's resources. The offices will also facilitate Commission educational initiatives and advocacy campaigns.

Necessitated by budgetary constraints, the lack of provincial offices has hindered the Commission's work in the past. Crucial aspects of the Commission's work, including educational campaigns, complaints receiving and community awareness initiatives, have all suffered due to the logistical problems of administering them from head office in Johannesburg.

Details of staff complements in these offices, typical problems and programmes, and the role these offices play in handling complaints of human rights violations are detailed in other chapters of this report.

Staffing

Head office

During 1999, the SAHRC head office staff complement also increased in numbers, so much so that additional premises in a nearby building in the same office park are being rented to house the Commissioners and their support staff. This freed the space needed for speciality units

working with the Commission, such as the ELDU (Equality Legislation Drafting Unit), extra researchers involved in the socio-economic rights project, and short-term project officers, (for example those assisting with the child participation programme, the child sexual abuse investigation and the Indigenous Peoples' Rights Project). Room has also been made for the establishment of the Human Rights Education and Training Centre, which we hope to make a reality in 2000 – refer to Chapter 5 for details.

Staff numbers

The total complement of SAHRC staff was 86 as at December 1999. This figure includes 66 full-time permanent staff members, 3 part-time Commissioners and 17 temporary short-term staff members. This complement is broken down as follows:

Commissioners:	
8 full-time and 3 part-time Commissioners	
12 support staff (2 interns/seconded)	23
CEO's Office:	
CEO and 1 support staff	2
Finance & Admin:	
HOD and 11 support staff (2 temporary/seconded)	12
Legal:	
HOD and 10 support staff (3 interns/temporary)	11
Research and Documentation Department:	
HOD and 9 support staff (6 short-term researchers)	10
Advocacy Unit:	
HOD and 8 support staff (1 intern/1 seconded to UN Project)	9
Provincial Offices:	
Western Cape – Co-ordinator and 4 support staff (1 intern)	5
Eastern Cape – Co-ordinator and 4 support staff	5
Northern Province – Co-ordinator and 3 support staff	4
KwaZulu-Natal – Co-ordinator and 3 support staff	4

Staff appointments

Some key appointments were made in 1999, which have furthered the development of efficient and personnel-oriented staff and operations management. Some of these, which directly affect the day to day running of the SAHRC, include a new HOD: Finance and Administration, a Personnel Officer and an IT Systems Administrator. Steps have been taken to draft a new proclamation bringing the SAHRC regulations governing the conditions of staff in line with the new labour legislation. The SAHRC Staff Procedures Manual is also being rewritten in the light of the Basic Conditions of Employment Act. A serious gap will be filled in January 2000, when a Deputy CEO is appointed. The key focus areas of this position are the

overall management of the Commission's projects, the co-ordination of the work of the provinces, and to oversee the internship programme.

Comings and goings

Comings

Sakhele Poswa	Provincial Co-ordinator Eastern Cape	February 1999
Ntshole Mabapa	Provincial Co-ordinator Northern Province	February 1999
Jeannette Campbell	Deputy Director: Communications	May 1999
Xavier MacMaster	HOD: Finance and Administration	July 1999
Mazizi Baba	Deputy CEO	from January 2000
Robyn Solomon	Deputy Director: Research	from February 2000
Victor Southwell	Parliamentary Officer	from February 2000

Goings

Nonhlanhla Nsele	HOD: Finance & Administration	January 1999
Stanley Masuku	Accountant	June 1999
Victoria Mayer	Legislation Monitor	July 1999
Sipho Molepo	Deputy Director: Research	August 1999

Staff development and training

A week-long training workshop involving various members of staff and Commissioners was held from 15th – 19th February 1999 at head office with provincial staff. This provided an opportunity for new members to familiarise themselves with the ethos, policy, structure and programmes of the Commission. Regular performance appraisals are conducted and a new performance management system, in line with the latest public service regulations, is being developed for implementation in 2000. Training for staff development and computer proficiency will be receiving particular attention during 2000. Work is also being done towards an induction manual or programme for staff.

Information Technology Advancements

This is an area that received much-needed attention during the year, and good progress was made in enhancing the IT system supporting the work of the Commission, with the financial assistance of the Open Society Foundation (OSF). The new Systems Administrator will be conducting regular visits to the provincial offices, to assess their computer needs and ensure standardisation of systems. He has already seen to Y2K compliance throughout the SAHRC IT system. Notable areas of progress are detailed below

- A Local Area Network (LAN) was installed and extended to facilitate communication, via e-mail, between individuals, offices and provinces. A WAN (Wide Area Network) will be installed in 2000 linking head office with the provincial offices.
- CHARMS (a computerised complaints handling database system), sponsored by AusAID, was installed and training was conducted. The system will be implemented at head office initially, and later extended to the provincial offices.
- A computerised payroll system was installed. This system, apart from increasing accuracy and efficiency, also produces more detailed salary advice slips, compliant with the new labour legislation.
- There was increasing application of CD-ROM based information systems, specialist software systems and the use of the Internet for easier library access and retrieval.

- Training and software were arranged to facilitate in-house updates of the SAHRC web page and dissemination of reports through this medium.

Management and quality procedures

Structures are in place to facilitate the streamlined operations of the Commission. The Secretariat is headed by the CEO, who attends the Commissioners' weekly planning meetings to ensure effective liaison. Management and quality control of programmes is achieved by means of regular management and departmental meetings, the production and ongoing review of annual workplans, bi-monthly "Plenary" sessions of all senior managers and an annual planning meeting. The SAHRC is also directly responsible to parliament.

Annual planning meeting

This annual "Bosberaad" took place from 24 to 26 November, attended by all senior staff. The SAHRC re-examined its constitutional mandate, looked at its current programmes and problems in the light of this mandate and the available budget and re-established priorities for the future. Problems discussed hinged around communication, planning and management, and some of these will be solved by our extended LAN/WAN system as well as by the appointment of the Deputy CEO. An overall Communications Strategy is to be developed, to ensure that both internal and external communications take place within the framework of clearly defined objectives and targets.

Thematic programme priorities for 2000 are mentioned in Chapter 1: Introduction, but on the administrative side, more attention will be given to the empowering of staff, particularly in the provinces, and to the development of management skills. Subject to budget constraints, a further provincial office, probably in the Free State, will be opened in 2000. A process of quality evaluation will be introduced and internal planning and co-ordination improved. The objectives are greater motivation of staff, more clearly defined programme responsibilities and enhanced channels of communication. All this will enable the SAHRC to reach more people in our country and more effectively promote, monitor and protect human rights amongst all sectors of the population.

Fundraising

The South African Human Rights Commission Trust

Funding for the operation of the SAHRC and its core activities is provided by the state. However, in order to have enough resources for additional, more innovative or special projects, (such as human rights advocacy programmes), the Commission registered a Trust. The Trust was to provide an independent funding channel for these SAHRC projects as well as a vehicle through which funders and members of the public can assist the Commission to carry out its mandate. The Trust will report to donors on the management of funds and will also ensure that the Commission remains accountable to Parliament.

The Trust was established in late 1998, with 11 trustees, and is currently chaired by Judge Kathleen Satchwell of the Johannesburg High Court. The other current Trustees are: Ismail Ayob, a practising attorney; Geoff Budlender, the outgoing Director-General of Land Affairs; Johan De Wet, editor of Beeld; Matlodi Angelina Makwetla, prominent businesswoman and educator; Prof. David McQuoid-Mason of the University of Natal; Adv. Dikgang Moseneke,

the Trust founder; and Dr Fazel Randerer, former Commissioner of the Truth and Reconciliation Commission. The Chairperson of the Commission is an *ex officio* member and the CEO serves as honorary secretary.

Donors

The process of fundraising for the Commission by the Chairperson and the CEO started in the latter half of 1999. As part of our fundraising strategy, we drew up a list of funding proposals and estimated budgets which have been circulated to some potential donors, including:

- private individuals and institutions;
- corporate sector, and
- overseas donors (international aid agencies, private institutions, big foundations etc.)

Already a few embassies, international foundations and local representatives of big local business have been approached. There is still a lot of work to be done, including compilation of a clear donor profile, the activities they are interested in funding and the funding phases or fiscal year of the donors.

We are very grateful for those donations we have already received, whether in terms of financial or other support, and people or organisations who have assisted us in this way are listed in Appendix H: Acknowledgements.

5. Promoting Human Rights

“The Human Rights Commission must . . . promote respect for human rights and a culture of human rights” – Constitution of South Africa, Section 184 (1)(a)

Awareness and information

International Human Rights Day, 1998

10 December 1998, International Human Rights Day, was special not only because it marked the 50th Anniversary of the Universal Declaration of Human Rights (UDHR). It was also the day on which South Africa’s first National Action Plan (NAP) for the Promotion and Protection of Human Rights was presented to the United Nations representative by the then Deputy President, Thabo Mbeki. All the activities on that day were aimed at celebrating the 50th Anniversary. These included a carnival in Johannesburg, in which children were able to participate; a soccer match at Orlando Stadium featuring soccer legends from South Africa and abroad; various luncheons, media conferences, a celebration at the Old Fort in Johannesburg, and the launch of the NAP in KwaZulu-Natal.

Human Rights Week 1999

Built around Human Rights Day (21 March), the week-long focus on human rights (from March 15-21 1999) is one of the ways in which the SAHRC works to fulfil its mandate to promote a culture of human rights.

“Human Rights in Education”

During Human Rights Week, the SAHRC, in liaison with the various Departments of Education, co-ordinated specific human rights activities in schools throughout the country. Circulars were sent to all schools, requesting them to conduct special human rights activities during the week. Commissioners and staff visited schools in all provinces, particularly those with a history of racism, and students at tertiary institutions were also addressed on human rights issues. Posters and other human rights materials were distributed and the annual Human Rights poster competition was launched. In addition, the SAHRC mailed around 40 000 circulars and entry forms for this competition to all other schools.

Human Rights Day (21 March)

The Commission also joined the Department of Justice in celebrating Human Rights Day. A music and arts bash, held in Johannesburg’s Newtown Cultural Precinct on Sunday 21 March, topped the list of national events, which were scheduled to focus attention on the implementation of the NAP.

Stop Racism Now – young artists rewarded

As mentioned, the Commission also used Human Rights Week to officially launch and publicise its poster competition. This annual art competition, launched by the SAHRC three years ago, has grown yearly in stature and scope. During school visits and via the media, learners in all categories, including ABET (Adult Basic Education and Training), were invited to submit entries for a poster on this year's human rights theme: "Stop Racism Now". Over 800 entries were received from all provinces by the closing date in September and judged by an independent panel of judges.

At an exciting ceremony at Mondeor High School in Johannesburg on Saturday 30 October 1999, the winners of the SAHRC Poster Competition were announced. Mondeor is itself a remarkable success story of how a school can combat racial tension in a mixed learner body and promote a healthy climate tolerant and appreciative of diversity.

Guests of honour accompanying the Commissioners included the Gauteng Premier, Mr Mbhazima Shilowa, and the Gauteng MEC for Education, Mr Ignatius Jacobs, who both delivered thought-provoking speeches. Miss South Africa 1999, Sonia Raciti, added grace and beauty to the ceremony as she handed over the prizes to the thrilled winners. The main sponsor was Standard Bank, represented at the function by Dr Paul Shongwe, who gave cheques to the winners of the six different categories as well as to the overall winner.

Varied cultural events were also featured and the morning's celebrations were rounded off with lunch provided by groups of refugees from other African countries as well as more conservative South African snacks.

Congratulations and thanks must go not only to all the learners who submitted entries, schools, the judges, VIPs, hosts, cooks and sponsors, but also to George Masanabo, Education Officer, who, supported by the Advocacy Unit of the SAHRC, undertook the major part of the organisation.

Hopefully, all those who participated in the competition or attended the ceremony now have a better understanding of human rights and how these rights can help us all to build a better South Africa together. In the words of Premier Shilowa: "We must join the growing army of the fight against racism and racial discrimination. We must join the 'Stop Racism Now' chorus so that it becomes a crescendo that will reverberate throughout the country."

African Human Rights Day

21 October is designated by the Organisation of African Unity (OAU) to mark Africa Human Rights Day: on that day in 1986, the African Charter on Human & Peoples' Rights came into force. Subsequently, the African Commission on Human & Peoples' Rights was established. South Africa ratified the African Charter in July 1996 and in April 1999 presented its first country report.

To commemorate Africa Human Rights Day, the SAHRC co-operated with the Departments of Justice and Constitutional Development, Foreign Affairs and Local Government and Provincial Affairs, the IEC, the UN/SA Human Rights Project, and the Roll Back Xenophobia Campaign. A seminar was held at Union Buildings, Pretoria, in the morning; a cultural event at Yeoville in the afternoon; and, finally, a dinner at the Presidential Guest House in Pretoria. The day was

designed to inform public opinion and policy makers about the African Charter, to evaluate our own human rights practice and to support other African states in establishing a human rights-based democratic dispensation.

The seminar's theme was "The next millennium – challenges for human rights and democracy in Africa". The seminar was so successful, despite many would-be guests attending President Nyerere's funeral, that it will become an annual event. The evening was rounded off in style with the gala dinner, attended by about 250 special guests.

Thanks are due to the joint organisers, who achieved their objective of raising awareness of Africa Human Rights Day and of the fact that South Africa does not exist in a vacuum, but is very much a part, and a focal point, of the continent.

10 December 1999

SAHRC, in partnership with International Print Portfolio, conducted a programme of events to mark International Human Rights Day. This programme, centred around an exhibition of artwork depicting the various articles of the Universal Declaration of Human Rights by artists from around the world, included:

- The production of 56 copies of the portfolio (made up of prints of all artwork submitted);
- The production of 1 500 copies of a catalogue of prints received; and
- A series of workshops and information sessions at the Durban Art Gallery in the week leading up to 10 December (and focusing on xenophobia, children's rights and general human rights issues).

The week's activities, launched by His Holiness, the Dalai Lama, were very successful, generating much publicity and drawing residents, holiday makers and tourists to the varied events, all enhancing the awareness of human rights, in the international as well as national context.

Media Activity

The SAHRC is well aware of the powerful role played by the media and its conscious or unconscious influence on public opinion (hence the inquiry into the prevalence of racism in the media – detailed in Chapter 2). Regular contact has been maintained with all forms of media, either distributing relevant media releases on topical issues or to SAHRC activities; or holding media conferences.

Commissioners often deal with inquiries on controversial human rights issues that are featured in the media. Throughout the year, live radio and TV interviews were set up where possible so the Commissioners and senior SAHRC staff could address current trends or inform the public of Commission standpoints. This media exposure increased awareness of and encouraged debate on human rights.

Analysis of print media coverage

In November 1999 the SAHRC asked the independent Media Monitoring Project (MMP) to analyse the print media coverage of the Commission. The study found that 249 articles on the SAHRC appeared in various newspapers from 1 January to 15 November 1999. The weeklies that exhibited most frequent coverage were The Sunday Independent, Rapport, City Press and Sunday World. Dailies focussing more often on the SAHRC were The Star, Die Beeld, Die Burger and The Citizen. (Not surprisingly, Gauteng and the Western Cape, where the SAHRC offices are well-established, are more representative than other regions.)

Coverage fluctuated over time, with the highest coverage occurring during March 1999, coinciding with Human Rights Day, the publication of the 3rd SAHRC Annual Report and several high-level conferences. Topics that were most often covered were, in order, racism in schools, racism in the media, general human rights violations, racism generally, the Open Democracy Bill, rights of criminals and xenophobia. Typically, so-called "bad news" subjects featured prominently, but there was also increased interest from the media in the work and role of the Commission. The Commission was gratified to see that areas in which there had been concerted campaigns had in fact received wide publicity.

As far as the nature of coverage goes, MMP found that 36% of coverage was positive, 51% neutral and 13% negative – an improvement in image over previous years. Interestingly, three topics made up 62% of the negative reports: racism in the media, racism in schools and farm abuse. MMP commented that negative coverage was mainly due to the conservative nature of the particular newspaper, often Afrikaans, or due to media perceptions. Weeklies tend to offer more in-depth coverage, while dailies usually focus on events or dramatic situations, with less analysis, and can therefore be more neutral. Further, if the coverage did not include the perspective of the Commission, it was more likely to be negative. MMP thus recommended that the SAHRC attempt to effectively communicate its perspective at every opportunity, or demand the right to reply to a negative or misleading article.

MMP also interviewed individual journalists, whose perceptions were generally positive. However, they felt that the SAHRC did not get enough coverage of the projects they undertake, in spite of the good work being done. Journalists commented on the improved accessibility of the Commission - this could be due to more offices having been opened, and also to more regular and structured media contact. They suggested that Commissioners could be even more accessible and that media briefings and the supply of information could be more regular and more clearly put.

The analysis is both encouraging and inspiring, and, as the SAHRC drafts and implements a clearly-defined communications strategy for 2000 we shall take note of the findings of the MMP study and of the suggestions made by journalists. (The full MMP media analysis is available from the Commission on request.)

In addition, regular use was made of the media on an ongoing basis to educate and inform the public about their human rights. Some of these specific campaigns are detailed below:

Radio

The SAHRC developed a series of five educational advertisements for radio on the following themes:

- Sexual orientation;
- Age;

- Race;
- Disability; and
- Xenophobia

These ads, produced by Vuleka Productions and funded by USAID, will be broadcast from mid February 2000 and will be supported by a series of magazine programmes developed for community radio stations.

Television

The SAHRC once more lent its support to the Khululeka series, editing scripts for Khululeka II, which dealt with voter education and awareness and which was broadcast during the early part of 1999. This extremely popular show is going into its third series and the SAHRC has again been appointed as advisors to the show.

The SAHRC also provided assistance for a television series by the Centre for the Study of Violence and Reconciliation. This series on racism in schools, called East Side, was broadcast in the latter half of 1999.

Newspaper adverts

The Sowetan newspaper continues to carry adverts for the SAHRC at no cost (when space allows). These have included ads on children's rights and on the SAHRC poster competition.

Website

The SAHRC's website is another vehicle whereby people can either find out more about human rights and the SAHRC or they can file a complaint on-line. Funding is being sought to update the website on a regular basis, but in the meantime major reports, (such as the "Report on Racism in Schools" or the "Report on the Media Inquiry"), are placed on the website. This facilitates quick, easy and cheap access by and distribution to individuals, schools and other bodies world-wide as well as within South Africa.

Publications

There is ongoing design and production of printed material such as: annual reports, pamphlets, booklets, comics, a publications catalogue, the SAHRC complaint form, calendars, posters and workshop manuals. A full list of these publications and the languages in which they are available is given in Appendix E. Overall they contribute to the:

- Awareness of human rights;
- Knowledge of when and how to access the SAHRC to lodge a complaint; and
- Materials and resources to assist other bodies in conducting their own human rights training or activities.

Newsletters

In early 1999 the SAHRC initiated an external newsletter, *Kopanong* ("The meeting of minds"). Five editions of this newsletter were produced during the year and 5000 copies of each edition sent to members of the government, diplomats, the media, NGOs and other interested parties. The primary aims of this publication are to raise awareness of human rights and the role and activities of the SAHRC, and to stimulate public debate on human rights issues.

An internal newsletter was also introduced to facilitate and improve communication and knowledge of activities within the SAHRC. This is particularly important now that three extra

offices have opened and the number of full- and part-time staff and the scope of the Commission's activities are growing.

Anti-discrimination manual

The SAHRC is in the process of developing a workshop manual specifically focusing on anti-discrimination. This will be made up of:

- a) General workshop on discrimination;
- b) Specific workshops on:
Race and racism;
Race and racism in schools;
HIV/AIDS;
Disability; and
Age.

Funding proposals to cover the costs of this have been produced.

Education and training

The South African Human Rights Commission continues to make education in human rights a priority, both in the formal education sector and informally in urban and rural communities. Much use has been made of the "training of trainers" tactic, to make optimal use of limited resources and also to bring the knowledge of human rights and access to relief to as many people in South Africa as possible.

Formal education

Policy Developments

The SAHRC continues to monitor educational policy developments and their implications from a human rights perspective. We have established a working relationship with the National Department of Education with regard to educational policy and have participated in conferences and workshops.

Curriculum Development

The following assistance has been provided towards developing human rights education within Curriculum 2005:

- The SAHRC has assisted various provincial education departments in curriculum matters, especially through the Forum for Democracy and Human Rights Education. Through this Forum, the Commission continues to lobby the National and Provincial Education Departments to ensure the implementation of human rights education through Curriculum 2005.
- The SAHRC Advocacy Unit has drafted and distributed a guideline on "Ideas for Teachers" to incorporate Human Rights Education in existing subject areas.
- The Commission has reviewed a number of initiatives aimed at developing human rights learning programmes and materials and acts as a reference on human rights pertaining to Early Childhood Development, Adult Basic Education and Training and Learners with Special Educational Needs.

National Qualifications Framework (NQF) (Grades 10 – 12 and higher education)

The NQF is a framework containing eight “levels” with three “bands”. The South African Qualifications Authority (SAQA) oversees its development and implementation. The 3 bands are:

- General Education and Training (grades 1-9 and level 1 on the NQF)
- Further Education and Training (grades 10-12 and levels 2-4 on the NQF)
- Higher Education and Training (levels 5-8 on the NQF)

The SAHRC, in an effort to employ the NQF to promote human rights, has representatives on five National Standards Bodies (NSB) that are tasked with recommending the registration of unit standards and qualifications on the NQF to SAQA.

General

The SAHRC’s Advocacy Unit continues its involvement with the South African Democratic Teachers Union (SADTU), the Teacher Trust and the Department of Constitutional Development to develop a resource pack on “Democratising Schools” that will contribute to teacher development. This pack has now been completed.

SAHRC addresses racism in public schools

Inundated with complaints of racism in schools and spurred by the sensational flare-ups of school racism in towns like Vryburg in the North West Province, the Commission initiated an investigation to provide a holistic, integrated approach to combating school racism.

The study on the levels of racial integration in public high schools was begun in June 1998. Data was collected by means of questionnaires sent to 10 randomly selected schools in each province, for both learners and school management. The data was then collected and outside researchers commissioned to analyse the data and translate it into a comprehensive report.

The report on “*Racism, ‘Racial Integration’ and Desegregation in South African Public Secondary Schools*” was finalised at the end of February 1999. The report details the myriad ways in which racism continues to plague schools. Almost two-thirds of the students interviewed for the investigation acknowledged that racial incidents had occurred at their schools. The SAHRC decided to host a conference on *Racial Integration in Schools* as a platform for discussing the findings and recommendations of the study. This conference was held in Randburg from 4-6 March 1999, attended by 186 educators, government officials and other concerned stakeholders. The report, and the great interest shown by educators in the conference, highlights the pervasiveness of the problem.

The conference was very successful, helping to chart a course for eradicating the destructive force of racial intolerance and discrimination in South Africa’s public high schools. The Minister of Education opened the conference, with the keynote address delivered by Franklin Sonn. Some positive recommendations emerging from the conference in the Plan of Action were:

- To promote programmes for developing a culture of human rights in schools, to encourage tolerance, dialogue and debate;
- To support all efforts to ensure the freedom of religion, belief and opinion in schools and to apply an effective and realistic language policy;

- To ensure that existing laws, regulations and policies are respected;
- To empower educators, learners, school governing bodies and administrators by organising training and information workshops; and
- To widely disseminate the report.

School leaders and government officials exhibit a disturbing tendency to dismiss racial incidents as merely squabbles between children. Such denial of the fundamental problem will prevent its solution. Against this general tendency to ignore the problem, the Commission hopes that the report and conference will add momentum to various efforts to combat racism in the schooling sector. Since the conference, the SAHRC has been co-ordinating the activities in the Plan of Action through its ongoing role of monitoring, training, raising awareness and providing information about racism in society. A joint report was prepared, combining the earlier report on the research and the conference report and this is available on the SAHRC website (www.sahrc.org.za)

Various other initiatives are being planned by the Commission to address racism in schools. One promising avenue is the planned joint venture with the CARAS (Centre for Anti-Racism and Anti-Sexism) Trust. This programme will involve a pilot project: workshops in various provinces drawing together educators, learners and school governing body members from schools with a different racial and gender mix. The participants will devise models to bring about change in the management and practice of the schools. The findings of these pilot workshops will be discussed with the Department of Education so that they can be adopted and applied throughout South Africa.

Non-formal education

Workshops

Now that three extra provincial offices have been opened, (in Port Elizabeth, Pietersburg and Durban), it has been easier for the Commission to reach previously isolated communities. Considering that 2 offices opened in March and the Durban office only really got going in September, a remarkable number of workshops, training courses and non-formal education campaigns have been provided – refer to Appendix B for a detailed list of workshops held in each province, as well to the chapter on the provinces (Chapter 9) for more information.

Media training

During 1999, the SAHRC assisted the Institute for the Advancement of Journalism (IAJ) by providing training to journalists during four courses run by IAJ during the year. The Commission also worked with the IAJ in the production of a “Human Rights Handbook” which should be available early in 2000. This is a valuable resource, mainly for journalists in Southern Africa, but also helpful for other human rights organisations or individuals.

Staff seminars

Staff seminars were presented on the role and functions of the SAHRC and on sexual harassment (assisted by the Commission for Gender Equality). Further seminars are planned on, amongst others, sexual orientation and the role and functions of the Public Protector. These seminars help to broaden the knowledge base of SAHRC staff and to better equip them to pass on this information to the communities or the complainants with whom they work.

Support to Government Departments

South African Police Services (SAPS)

The HOD of the Advocacy Unit assisted in the production of a comic book produced by the SAPS on "Human Rights and Policing".

The HOD also assisted in the editing and compilation of the SAPS human rights training manual.

United Nations / South African Government Human Rights Institutions Strengthening Project

The SAHRC has also worked together with this UN/SA Government project to provide training to key government departments. To this end, the HOD: Advocacy Unit and the Senior Education and Training Officer assisted with the training of trainers from Correctional Services during May 1999 and have assisted in the development of a training programme and materials for staff of the Judicial Inspectorate (to be conducted during February 2000). (See also Chapter 6.)

Human Rights Education and Training Centre

Without increased education and the raising of awareness of human rights, violations of these rights will continue to occur at an unacceptably high rate. To counter this tendency, the Commission plans to establish a Human Rights Education and Training Centre, based at the Commission's Johannesburg head office. In charge of the Centre will be a specially designated Director. The Centre arises from a felt need and numerous requests for the Commission to train people in human rights and to provide courses and seminars to advance human rights theory and practice. Courses will be designed on specific themes like racism, disability, gender equality, culture and the constitution, economic and social rights and human rights in schools. The Director will be assisted by commissioners and other staff. Where necessary, facilitators from outside the Commission will be hired. The Centre will have a conference room to seat about 30 people and two breakaway rooms of about 15 people each. There will also be exhibition space. Courses will take place over two or three days. Target groups will be educators and education officials, civil servants, police, immigration officers, local authority personnel, students and learners.

Background

The South African Human Rights Commission has expressed commitment to promote the practical observance of the International Decade for Human Rights Education (1995-2004). Towards that end, the Commission has promoted human rights education in partnership with the UN/SA Govt Project based at the Commission, has sought to establish a data-base of all providers of human rights education in South Africa and has been co-ordinating human rights education programmes in the country. At the formal level, the Commission has been in partnership with the Department of Education in developing human rights curricula and programmes for schools, and has assisted government departments in developing human rights education training manuals and in the training of trainers. Finally, the Commission has the task of encouraging government efforts to identify specialised ways of commemorating the Decade as proposed by the Office of the UN High Commissioner for Human Rights.

The SAHRC serves as the secretariat and convenor of the Co-ordinating Committee of African National Institutions for the Promotion and Protection of Human Rights. In this role, the

Commission has the task of encouraging and equipping national institutions in Africa to be effective in protecting human rights, to acquire skills for human rights advocacy, to share resources and to establish models for good and effective delivery of national human rights programmes. National institutions in Africa have grown from about 6 in 1996 to some 38, announced at the First OAU Ministerial Summit on Human Rights in Africa, April 1999. Many of these institutions need support and almost all have indicated that they would be looking to our Commission to give assistance.

The Durban Declaration adopted by the 2nd Conference of African National Institutions, July 1998, urged national institutions “to render the necessary support and advice to those states in the process of establishing national institutions.” In addition, the Declaration places emphasis on human rights education and awareness raising as an important aspect of human rights promotion and in the development of a culture of human rights. The Grand Bay (Mauritius) Declaration and Plan of Action, 1999, calls upon African States to redouble their efforts in promoting human rights education at all levels. (This Grand Bay Declaration is given in Chapter 10.)

Finally, the Commission has responsibility, according to the Constitution, to “promote respect for human rights and a culture of human rights.” This, it is required to do by developing and conducting information programmes to foster public awareness and by carrying out education programmes. The Commission has embarked on programmes to advance the achievement of equality, especially in the areas of racial discrimination and the rights of people with disabilities. As a result, we have been receiving requests to run training workshops on all aspects of human rights.

In addition, South Africa has been experiencing frightening levels of crime and disputes in other areas of national life. It is recognisable that the country is in desperate need of avenues and outlets for the promotion of dialogue about human rights, a debate on human rights and intensive programmes of learning about human rights. For that reason it is felt to be imperative that a major initiative on human rights education should be provided. There is no national institution dedicated to consistent, systematic and focused human rights education in South Africa. There are centres and institutes based at universities, providing seminars, courses and conferences on human rights but no dedicated programme of human rights education such as the one we envisage.

Methodology

The Centre will develop a programme of courses and seminars, dialogues and meetings on various human rights themes. The courses will be directed at specific needs such as youth, NGOs, students, teachers, police and correctional services personnel. Courses will be organised by request or open courses that anyone can attend. A brochure with a course programme will be prepared for distribution and marketing. The Centre will also provide meeting facilities for other groups. The Centre will prepare training materials, manuals, aids and provide an advice/counselling/support service for human rights service providers. The Centre may organise training courses in the provinces with the support of local personnel.

Three staff members will initially be employed: a Director, a Programme Officer and an Administrative Secretary. Although the Centre will be semi-autonomous, the HOD of the Advocacy Unit will supervise the Centre in its initial stages, and the Advocacy Unit will support it.

Funding & Sponsorship

The Centre will seek strong government backing and support. For example, the Centre will seek sponsorship from the Departments of Education and Constitutional Development. These departments have line functions for education and the development and application of our Constitution respectively. Both will be requested to provide a grant, however small, or to pay for some of the staff. These departments, together with the Commission, can be sponsors and founders of the Centre. Besides bilateral donors and the government, the Commission will seek co-sponsorship for the Centre from the Office of the United Nations High Commissioner for Human Rights, UNESCO and the Commonwealth Secretariat. With these inter-governmental institutions, we envisage a relationship whereby we could exchange staff and other resources.

Substantial funding will be sought from donors both national and international. We believe that we could tap into private sector donations for the activities of the Centre. Funding will be raised through the SAHRC Trust, a duly registered independent trust fund, which raises funds to support Commission work. A scholarship scheme will be organised to support those institutions that cannot meet the basic fees. Among these will be participants from African national institutions who may be attracted to our courses.

Accreditation

The Centre will seek accreditation for its courses through the S.A. Qualifications Authority. Certificates and diplomas will be awarded which could be credited towards other formal qualifications.

National and International Co-operation

National

Flowing from a decision of the Forum of Independent Statutory Bodies, an Advocacy Sub-Committee (chaired by the HOD of the SAHRC Advocacy Unit) has been created to:

- Attempt to reduce duplication of advocacy initiatives;
- Provide greater clarity and understanding of the roles of the various organisations and institutions to the public;
- Provide the public with information on how to contact the various organisations; and
- Co-ordinate various advocacy campaigns in the country.

This committee has met frequently and is in the process of producing a booklet and poster on the roles, functions and contact details of all such organisations.

International meetings, seminars and conferences attended

The HOD of the Advocacy Unit presented a paper on South Africa's compliance with the United Nations Decade for Human Rights at the *Ius Primi Viri* Conference in Rome in June 1999.

He also attended an UNESCO meeting of National Human Rights Institutions in Paris during September 1999.

6. Protecting human rights

*“The Human Rights Commission must . . . promote the protection, development and attainment of human rights”
- Constitution of South Africa, Section 184 (1) (b)*

Taking steps to secure appropriate redress where human rights have been violated is one of the powers vested in the Commission in terms of Section 184(2) (b) of the Constitution. Using that power, supplemented by the provisions of the Human Rights Commission Act, No 54 of 1994, the Commission’s Legal Services personnel process complaints from the public. In accordance with its procedures, the SAHRC has investigated, negotiated, mediated, held public hearings, and in some cases has litigated complaints. In so doing the Commission gives effect to its mandate as quoted above.

Leading the legal team in the Johannesburg office is the Head of Department. Facilitating the handling of complaints are two Legal Officers, while two Legal Investigators ensure that details are properly and adequately investigated in preparation for findings to be made or hearings to be held. A Complaint’s Registrar attends to the registrations of complaints, and the indexing and monitoring of complaints files. Two secretaries keep the correspondence flowing. The task of reading some new complaints, attending to follow-up work and providing general assistance is left to two student interns. Similarly, in the provincial offices, legal officers or investigators, assisted in some instances by interns, handle all local complaints.

Major inquiries

Investigation into sexual abuse of children

At the 30th Plenary Session in August, the SAHRC, concerned about the plight of the nation’s children, in the light of the spate of stories published, resolved to initiate an investigation into child sexual abuse. The objectives of the inquiry were:

- To determine why national guidelines on sexual offences against women and children are not implemented;
- To develop a child rights advocacy programme that will raise public awareness about the rights of the child; and
- To make recommendations.

Terms of Reference, rules of procedure and invitations for submissions were published in the Government Gazette, and the research phase began. However, the original timeframes were inadequate for such a sensitive and serious investigation – often permission must be obtained from the parents, care-givers and also the children, so new Terms of Reference were published and the deadline for submissions extended until the end of November 1999. Public Hearings are planned to take place early in 2000 in three provinces: Gauteng, the Western Cape and KwaZulu-Natal.

Policing and Prison Matters

Deaths & Violence in Police Custody

The SAHRC was concerned about the numbers of reported incidents of death or violence occurring in police custody. One suggested method of investigation was for Commissioners to make unscheduled visits to key police stations nation-wide, particularly those cited in Independent Complaints Directorate (ICD) reports, as the ICD investigates all deaths in custody. The Commission however, has a duty to promote and monitor human rights as well as to protect them. Thus it could act proactively to raise awareness of the rights of those in police custody instead of waiting for complaints to be lodged.

Visits to Police Holding Facilities

One of the primary goals of this investigation was to determine the extent to which the human rights of detainees have been violated. In mid-September teams of Commissioners and staff visited police stations around the country: Johannesburg, Pretoria and East Rand in Gauteng; Gugulethu and Milnerton Police Stations in the Western Cape; and CR Swart Prison in KwaZulu-Natal. The Commission wishes to place on record its appreciation of the co-operation received from the police officers in charge at the time of the unannounced visits. It was resolved that the programme should continue with sporadic visits by Commissioners and staff.

Various matters of concern were noted:

- i) There were many instances where inmates were frightened and intimidated. Inmates were often unaware of complaints procedures or were afraid to report abuses because they feared repercussions.
- ii) We noted a number of instances of visible physical injury to inmates; upon inquiry it transpired that these were the results of assaults by police officers.
- iii) Processes for informing detainees about their rights were not satisfactory.
- iv) Typically, detainees were denied the right to communicate with their families or attorneys or such communication was rendered difficult.
- v) The provision of health care was unsatisfactory. The cells were dirty, unhealthy, unhygienic, overcrowded and poorly lit; there was insufficient bedding, poor or inadequate food; unsatisfactory ablution facilities lacking privacy and limited recreational facilities.
- vi) Separation of women from men and children from adult offenders is sometimes not happening; largely because of inadequate accommodation.

The Commission will be compiling a full report, including several recommendations, on the visits and will be communicating these to the National Commissioner of the SAPS, the Ministry of Safety and Security and the ICD.

Independent Prison Visitors

Another planned programme of action will help to monitor the situation in prisons, protecting the rights of both prisoners and warders. The joint United Nations / South African Human Rights Strengthening Project has been asked to help in the training of about 22 Independent Prison Visitors. These visitors will form part of the Judicial Inspectorate, headed by Justice Trengrove, established by the Correctional Services Act of 1998. They will be appointed from communities to regularly visit a specific prison, submit reports and attend to prisoners' complaints. (See also Chapter 5)

Police Training Workshop

The Commission held a workshop in Thaba Nchu (Free State) at the request of the Black Officers' Forum, to discuss human rights and policing in South Africa. Items debated included how to help community members report human rights violations and the Amendment of Section 49 of the Criminal Procedure Act. Officers felt that this amendment, dealing with the use of force on arrest, would impair their ability to defend themselves. Further discussion was held on the aim of the amendment, which is to protect citizens from the excessive use of force, and not to endanger police officers. It was felt that much material available deals with the right of citizens and not with the problems facing the police. Officers will arrange training at their respective police stations and the Commission will provide suitable publications and training materials.

Complaints handling

Complaints database

Thanks to AusAid, a complaints handling database is now in place that, when fully operational, will enable the Department to maintain more efficient statistics and to call up complaints according to rights in the Bill of Rights, other categories, areas, etc.

During the year under review, the Johannesburg office received complaints from different sections of society, including schools, prisons, the workplace and farms. As will be seen from the illustrations, equality complaints were in the majority. As in previous years, complaints from schools are still unacceptably high. The following table gives statistics of complaints handled by head office in Johannesburg. Statistics from the provincial offices are provided in Chapter 9. The resumé of cases, however, gives a representative sample of cases handled by all the offices.

Gauteng Complaints Statistics (Jan-Dec 1999)

Complaints received:	1322
Complaints rejected:	160
Complaints referred:	489
Complaints finalised:	63
Complaints in progress:	610

Resumé of some cases handled nationally

Racial discrimination in tertiary learning institutions

Following reported attacks by security guards on black students at Johannesburg's Rand Afrikaans University (RAU), the Commission gathered statements from relevant students and university personnel, with co-operation from the University Rector. After extensive negotiation and mediation, the Rector laid the basis for a settlement when he agreed to compensate the students and to provide human rights training for security officials if evidence of human rights violations was conclusive.

Freedom and security of the person

Initiation practices

The parents of a student at Elsenberg Agricultural College complained that their son was the victim of cruel and inhuman physical initiation practices at the school. The school claimed that they formally disapproved of and were not party to any initiation practices, which might occur within the student body without the permission of the school. But, according to the head of the student body, members of the school management were party to these practices. The SAHRC investigated and drafted a report holding the College accountable. As a direct result of the SAHRC report, the Western Cape Department of Agriculture had its own investigation, which confirmed the findings of the Commission. The College subsequently agreed to implement the SAHRC recommendations and developed a new orientation programme for 2000 that seeks to uphold the Bill of Rights.

Medical Rights

Right of access to health care services, including AZT

The Commission received a complaint from Dr Costa Gazi alleging that the Ministry of Health refused to sanction the use of the medication known as "AZT", "Nevirapine" or other anti-viral treatment, in government hospitals in cases involving pregnant woman who are HIV positive. The Commission considered the matter and decided that there was a *prima facie violation* of the right of access to reproductive health care in terms of Section 27(1) and 27(2) of the Constitution. These allegations were put to the Ministry of Health, who responded with details of tests and further research commissioned. The SAHRC will assess whether these steps are an adequate realisation of the right.

Certification under the Mental Health Act

The complainant, a nursing sister, had been detained and treated at Sterkfontein Hospital for about two weeks on the basis of urgent representation by her colleagues. The Commission arranged for an examination by an independent medical specialist who pronounced the patient as being "perfectly sound". Acting on representations made by the SAHRC, the nursing sister was released from the hospital, reinstated to nursing duties, and allowed to write a scheduled nursing examination (which she passed!) A *subpoena* hearing was held by the Commission to test the administrative procedures followed. The Legal Department is still to make a finding in this case, but a circular has been dispatched to all relevant institutions, pointing out the need to comply with lawful procedures.

Access to court

Repeated attempts by a victim to ascertain why his assailant was not being charged were met with the answer that the Director of Public Prosecutions “declined to prosecute”. A SAHRC investigation resulted in the docket being reopened and the suspect has now been charged.

The right to appeal

S v Twala

The Commission was directed by the Constitutional Court to make submissions to the court in the case of *State vs Twala*. The Court had to decide whether certain sections of the Criminal Procedure Act, (which allows a person who has been convicted and sentenced to appeal against that decision only if permission has been given by the trial court), is consistent with the Constitution. The Commission was represented by in-house counsel, Commissioner Leon Wessels. The Constitutional Court concluded that there is no material difference between a convicted person’s right to appeal to or review by a Higher Court contained in the Interim Constitution and in the final Constitution. It also stated that the final Constitution requires that provision be made for a reassessment of the issues by a higher court than that in which the accused was convicted, and that any law concerned with the right to appeal must be fair.

Intervention in schools

Vryburg High School

Following a long history of racial tension at Vryburg High School, and the formation of a special Premier’s Transformation Task Team in the North West Province, the SAHRC visited the school again in February 1999. Senior officials told the Commission that many steps had been taken to transform schools in the province.

The SAHRC found that although there had been some progress at Vryburg High, there were still many concerns. Neither the principal nor the chairperson of the governing body welcomed the Commission’s proposal for anti-racism or anti-bias training programmes. Racist incidents still occurring at the school were being dismissed by management as “normal” misbehaviour. The school management was unaware of any departmental human-rights based training programmes. The Commission felt that the department had not paid enough attention to the serious and explosive racial tension at Vryburg - any small incident between learners sparked off a major physical confrontation.

There was also no commitment to the previous suggestion by the SAHRC and the Task Team that a black deputy principal be considered. An urgent meeting was thus arranged between the Commission, the MEC for Education, the Deputy Director General and other senior officials. A stabbing incident had taken place at the school, followed by a disciplinary hearing chaired by a magistrate who is a member of the school governing body, jeopardising the procedural fairness of the hearing. Because of the lack of due process, a reconvened disciplinary hearing was ordered, to look into all the issues surrounding the incident.

The Department subsequently seconded a black deputy principal to the school in August 1999, in spite of some reluctance from the governing body. The Commission would maintain a watching brief at the school and monitor progress.

Non payment of subsidies to farm schools

Due to fears that subsidy cuts would force certain schools in the Eastern Cape to close, thus violating the rights of children and also adults to basic education, the Commission requested the MEC Education and the Eastern Cape Premier to comment. The Education Director replied that transport subsidies were not available, while complaints continued to be received about the inability of schools and hostels to open without subsidies. Because the subsidies were still outstanding, notwithstanding numerous letters and a visit to the MEC for Education, the SAHRC issued a subpoena against the MEC. The subpoena hearing was scheduled to take place on 4 February 2000.

Farm school – right to education

Learners were not allowed to attend school on a farm. An inspection revealed that classes were being conducted under a tree and that there was toxic powder on the ground. After numerous meetings with the Education Department, the farmer and the parents, the farmer allowed temporary use of the building. By arrangement with the Education Department and the private sector, the construction of a new school nearby was fast tracked.

Rural education

The SAHRC received a complaint from a school in Bray, a small town in the North West Province. The school is inadequately staffed, hostel room doors do not lock and there is inadequate supervision of the children at night. The school buildings need repair and there is no clear responsibility for the provision of water. The Commission facilitated communication between the school and the education department, which has advertised further posts at the school. The SAHRC will monitor the situation and is looking at the whole issue of the delivery of basic education. This is a fundamental human right but the quality of that education and the responsibility to provide adequate and safe facilities need to be clarified.

International School – right to dignity, just administrative action

A high school student committed suicide, apparently because of repetitive questioning by the school authorities regarding alleged misconduct. The Commission investigated the complaint from the father and found that the nature of the questioning constituted a violation of the right to dignity and that the procedures adopted constituted procedurally unfair administrative action. The school co-operated with the Commission to resolve the matter, undertaking to redraft its code of conduct and to follow proper procedures in future cases.

Unfair administrative procedures

Upon a learner's claim that he had been dismissed from school without a fair hearing, the Commission wrote to the principal, and later to the school's attorney and the education department, demanding the learner's reinstatement. This request was denied, the school insisting that there had been no violation of rights. Subsequently the key education staff were subpoenaed and a hearing held. The matter was amicably resolved, the learner re-instated, the school apologised and the Commission visited the school to arrange for the provision of human rights education and materials.

Many complaints are received by the SAHRC that learners have been expelled without the necessary procedures for fair hearings or expulsion having been followed. In all those instances, letters have been written to the relevant school principals, drawing their attention to

the provisions of the Schools Act and the Constitution, resulting in many such expulsions being reversed or proper procedures followed.

Schoolgirl pregnancy – right to education, equality

A high school had a policy stipulating that any pregnant learner would be suspended from school and only readmitted one year after the birth of her child. This policy was struck down after negotiations between the Commission and the Gauteng Department of Education. The MEC of Education, after seeking the advice of the Commission, ordered the immediate reinstatement of the learner as her rights to equality and to basic education were being violated. This directive was met with some resistance from the school. Members of the Commission visited the school, explained the impact of the school's policy on the fundamental right to education, constituting discrimination based on pregnancy. The SAHRC offered to assist the principal and the governing body to bring their policy in line with human rights. The school changed its policy and reinstated the learner.

Masedi School

The SAHRC received a complaint about the Masedi School, in the Northern Province, which had closed down. The school was found to be in a dangerously dilapidated condition and there were only two removable toilets for the entire school; as a result the learners and teachers had to use the toilets at a bottle store nearby. The Department placed temporary tents at the school so learning could continue and has since built a further 12 classrooms. Additional ablution facilities were to be completed in January 2000 - the SAHRC will be visiting the school again to check the progress made.

Child Rights – privacy, dignity

A well-known talk show exposed child prostitution and child abuse, but may have violated the children's rights to privacy and dignity. Through correspondence with the talk show hostess and the production company, the SAHRC was able to show how the children's basic human rights may have been affected. The hostess expressed regret for any possible violations and has undertaken to be more "rights-sensitive" in future. She will conduct interviews more sensitively, in private, with consideration for potential psychological damage, and will ensure accurate translation and complete anonymity.

Racism in the public services

The Tempe Tragedy

Numerous complaints of human rights violations from officers in the SANDF were handled individually by the SAHRC. However, with Lt Madubela gunning down seven of his colleagues, and realising the existence of deep-seated and systemic problems in the force, the Commission urged the Minister of Defence to establish a judicial inquiry to get to the bottom of the problems in the SANDF. Subsequently, the Public Protector and the Commission received a detailed briefing from General Sphiwe Nyanda. We have offered our support in the planned inquiry. We have also offered support in human rights training of the officer corps of the SANDF.

There was also a meeting with the Minister of Defence, at which we discussed specific and general complaints. The Minister undertook to personally supervise the responses to the

numerous complaints on hand. The HOD Legal also participated in a workshop for senior officials organised by the SANDF on 8 November 1999, where receptive force members were pleased with the "education".

Just administrative action

Portfolio committee testimony – just administrative action/freedom of expression

The complainant, who appeared as a witness before a Portfolio Committee, alleged that he was accused by the Committee Chairman of using 'un-parliamentary' language. Although the complainant offered to withdraw his comments, he was not allowed to continue and was asked to leave. He also alleged that printed copies of his testimony were confiscated.

The SAHRC found that the actions of the Portfolio Committee were lawful. It recommended, however, in a report to the Speaker of Parliament, that the standing rules of Parliament regulating public participation be amended so as to extend the principles of natural justice to members of the participating public.

Informal traders

Informal traders alleged that the City of Cape Town was prohibiting them from trading, because of problems with trading licences. The SAHRC asked the City to respond to the allegations and to provide their policy regarding trading permits. The responses confirmed many of the initial findings of the SAHRC. The Commission therefore drafted a report with recommendations on the criteria for the granting and renewal of licenses, which is being implemented as an interim measure. As a result of the SAHRC intervention, the City is also developing a clear policy, incorporating the proposed guidelines, to ensure the administration of justice for informal traders.

General action regarding informal traders

We have also received reports of action against informal traders in Johannesburg. We believe that at a time of high unemployment, the local authorities should promote entrepreneurship. Yet trading activity has to be regulated to promote health and safety and to protect the interests of legitimate licencees. With these principles in mind, we propose to seek audience with the City Manager of Greater Johannesburg, Ketso Gordhan. We hope that, by our intervention, we can avoid conflict and clarify the rights implicated in this matter.

Freedom of Movement

Lindela

The release in March 1999 of the report on the Lindela detention facility marked another step in the Commission's long-standing effort to protect the rights of people in the migration system. This joint project between the SAHRC, the University of the Witwatersrand and Lawyers for Human Rights was based on extensive interviews with detainees at Lindela, the largest detention centre used by the Department of Home Affairs. The report revealed corruption and the arbitrary nature of arrests of suspected illegal immigrants, and provided recommendations for alleviating the problem. The Commission is now conducting human rights training courses for officers of the Department of Home Affairs – the first course took place in Cape Town in August 1999.

Detention for longer than 30 days

In October 1999, the Commission, assisted by the Centre for Applied Legal Studies, applied to court for the release of thirty-five persons, all of whom had been held at Lindela for longer than thirty days without a judge's certificate being issued. The application was granted and the prisoners were released. The significance of this court action was that the SAHRC, concerned that its recommendations were not being adhered to, approached the courts successfully to obtain redress.

Equality

Racial discrimination

Estate agents

A black person complained that a franchised estate agent told her that certain flats were reserved for whites. The franchisor's response to the SAHRC was that the company has no express policy for letting but that it abides by the Constitution. It undertook not to accept mandates that offend the Bill of Rights, and to inform the franchisees accordingly.

The Commission also met with and made a formal submission to the Real Estate Agency Board, which undertook to ensure that a Code of Conduct for Estate Agents incorporates sanctions for discriminatory practices by either agencies or their franchisees.

Mossgas

The Mossgas Black Empowerment Forum lodged complaints on behalf of 6 individuals, alleging discrimination, on the grounds of race, in the company's practices, including recruitment, training and promotions.

The Commission has been corresponding with Mossgas regarding the allegations, and has also met with the complainants and management on more than one occasion in an attempt to address the problems. The SAHRC is currently negotiating a settlement, failing which the matter will lead to a public enquiry.

Disability

Autistic children

A parent alleged that the treatment methods applied by a school for autistic children were harsh and involved physical restraint. The Western Cape Education Department (WCED) contended that the therapy does not violate the rights of the learners. The SAHRC intervened, investigating the human rights implications.

The SAHRC's initial findings were utilised by the WCED in the development of a policy for autistic schools in the province. This final policy document was workshopped with the SAHRC, the complainants and the governing bodies of the two schools for autistic children in the Western Cape. It was then finalised in accordance with the input from all parties.

Disabled student

A slightly disabled student, who applied to do a course in radiography at an institution of higher learning in Port Elizabeth, was made to parade in front of an interview panel. After the parade, the interview was terminated and the complainant advised to consider another course. After negotiations between the SAHRC Provincial office and the Vice-Rector (Academic) of the

institution concerned, there was an agreement that the affected learner would be considered for her preferred course when the institution reopened in January 2000.

HIV status / AIDS

A young woman of 21, living with AIDS, was being verbally and physically abused by her neighbours. She had laid a charge of assault but for months nothing had been done. Tragically, the young woman died from her injuries while the docket was still going through the court process.

The Commission held high-level talks with police and justice personnel about the steps that can be taken in future to handle serious cases of human rights violations, and to promote knowledge of, and respect for, human rights. Taking immediate practical measures to raise awareness, the SAHRC organised a workshop on HIV / AIDS in the same Batho region, attended by local NGOs and senior government officials. A similar workshop had been conducted in Kroonstad in April, and by these and other methods the Commission will continue to make people aware of the rights of those living with HIV / AIDS, and the ways in which all concerned bodies can work together to prevent such tragic events from occurring.

Freedom of Expression

“ Hate Speech ”

The Commission received a complaint from General Constand Viljoen, regarding a statement made by Dumisani Makhaya that the killing of dogs belonging to an African community, by white farmers, would lead to farmworkers killing white farmers. General Viljoen alleged that this statement constituted hate speech and that it was accordingly a violation of Section 16 of the Bill of Rights. The Commission, after an analysis of the statement, determined that the statement was not hate speech and that it was constitutionally acceptable.

Crawford College – education, dignity, freedom of expression

A Muslim student at a predominantly white college placed an article on the noticeboard of the school at the instance of a teacher. In the article, she expressed an opinion on the Palestinian issue, differing from another article on the same noticeboard. In consequence she was suspended from the school. As part of its investigations, the Commission met with the school authorities and thereafter came to certain findings. The school has applied to court to set aside the finding and the matter is pending.

Access to information

Department of Labour dispute

The complainant, an employee of the Department of Labour, alleges that he is being denied access to certain reports forming the basis of charges brought against him by the Department, and which he requires in order to defend himself in current disciplinary proceedings. Because this complaint is the subject of litigation, the Commission did not make a finding.

However, the SAHRC found that the suspension order preventing him from speaking to the media was a violation of his right to freedom of expression. The findings and

recommendations were forwarded to the Department of Labour, which has agreed to implement all recommendations.

Prison cases

Indignity for disabled prisoner

A prisoner who is physically disabled complained of abuse in that he was being moved from section to section in the prison with no consideration for his disability. The case was settled to the satisfaction of all concerned when the authorities agreed to the prisoner's request to be held in a single cell.

Prisoner transferred for easier visitation

The Commission successful petitioned for the transfer of a prisoner to a prison closer to the area of his next to kin.

Access to medical treatment

A prisoner held at Johannesburg Prison complained of not receiving any medical treatment for his severe illness. Through the intervention of the SAHRC, he was granted medical treatment, diagnosed as suffering from prostate cancer and operated on. But later, back in prison, he complained once more of receiving inadequate medical treatment. Through our intervention, the complainant is currently undergoing treatment in hospital.

Nylstroom Prison

The office received a number of complaints from inmates of the Nylstroom. An investigation was done on 26 and 27 May and finalised in June. Some of the recommendations made as a result were:

- There needs to be better co-operation between the Department of Justice, SAPS and the Department of Correctional Services (DCS).
- The DCS should find alternative ways of disciplining prisoners where they verbally or physically assault prison officials.
- The DCS should make provision for emergency medical care of prisoners.
- The DCS should set up counselling services for the officials as they work under stressful conditions.

Marital status / freedom of religion

Polmed dependents

Two long-standing complaints regarding dependents excluded from the SAPS Polmed medical aid scheme have recently been resolved satisfactorily with the assistance of the SAHRC. One member wanted to put his dependent son on the scheme, but this was not allowed because he was neither married to, nor living with, the child's mother. The other complainant's wife was excluded from the scheme because they had been married according to Muslim rites, which were not recognised by Polmed. After lengthy negotiations, when the new Medical Services Act came into force, the SAHRC put Polmed on terms, informing them that we would obstruct their registration if they failed to comply with the Act or with our request. Polmed has now adopted a new definition of dependent, enabling all those who were previously excluded, such as the child and wife of our respective complainants, to be included as beneficiaries from January 2000.

Sexual orientation

Blood transfusion

The complainant attempted to donate blood, but because he affirmed on the prescribed questionnaire that he had had sex with a male (even once), notwithstanding his HIV-status, he was informed that his blood was not wanted. The complainant feels that the Western Cape Blood Transfusion Service unfairly discriminated against him on the basis of sexual orientation and that his right to human dignity has been impaired. The response from the Transfusion Services to the SAHRC was that the matter would be discussed at a national meeting in October, following which the SAHRC would receive a response. The SAHRC has in the meanwhile researched and produced a legal opinion on the constitutionality of such exclusion. The investigation is ongoing.

Ethnic origin

Discrimination against refugees

The SAHRC received a complaint from the Cape Town Refugee Forum alleging that tertiary institutions in the Western Cape do not distinguish between foreigners and refugees and that, as a result, like foreigners, refugees often have to pay as much as two and half times more than SA citizens in fees. The Forum felt that the status of most refugees is often that of economic hardship and that they should not have to pay the fees that other foreigners pay.

The SAHRC confirmed with the Cape Technikon and the University of the Western Cape (UWC) that their policies were as the Refugee Forum had alleged, and then successfully negotiated with both institutions for the review of their policies with regard to refugee fees. As a direct result of the intervention of the SAHRC, both the UWC and the Cape Technikon agreed to charge all refugees and asylum seekers the same fees as those paid by SA citizens.

Discrimination against foreigner

A complaint received by the Durban office of the SAHRC concerned a lecturer who was barred from being employed in a permanent capacity because she is not yet a SA citizen although she is a permanent resident, and is married to a South African. This hinges on the current Public Services Act, which allows only South African citizens to be employed. The Commission met with the parties concerned and recommended the appointment of the lecturer, pending a full investigation into the constitutionality of such limiting legislation. The lecturer has now in fact received a permanent appointment, which could have far-reaching consequences for many SA residents and employees.

Environment

The right to a clean environment

The Table View Residents' Association alleged that Caltex emits 28 to 38 tons of sulphur dioxide daily into the atmosphere. In 1994 Caltex agreed to reduce their emission by 80%, but have not yet done so. Nitrogen Products' emission includes nitrogen oxides, particulates of ammonium nitrate and carbon dioxide. Ammonium nitrate fertiliser component is also discharged into the sea. In response to the Commission, both companies contended that they are operating in strict compliance with the terms of their certificates and the applicable

legislation. Nitrogen Products furthermore stated that scientific evidence indicates that their emissions are insignificant. The SAHRC has referred the matter to an environmental expert for advice.

Environmental hazards

A lengthy debate has been conducted about the hazardous toxic waste site at Aloes near Port Elizabeth. The community living around the site complained of dangerous levels of pollution, causing sickness and even death. After much correspondence between the SAHRC, the Departments of Water Affairs, Tourism and Environmental Affairs and WasteTech during 1998 the incineration was suspended.

The SAHRC, with community representatives, made a submission to the Provincial Housing Board to urgently look at relocating the community. Although the relocation had already been approved by the board, the Commission was informed that funds would only be available early in 2000 for creating the basic infrastructure at the new Well's Estate site.

Regarding this particular complaint, the Commission is in consultation with tertiary institutions in the Eastern Cape to conduct contextual studies exploring waste disposal practices in South Africa from the perspective of human rights and environmental justices.

Mafefe

Mafefe is a community about 125 kilometres outside of Pietersburg falling under Kgosi Thobejane. The community is plagued by asbestosis caused by asbestos mining in the area. Although the mines were closed twenty years ago, people are still suffering from the effects thereof.

Affected areas are:

- The rivers – Mafefe has two rivers, the source of both being the mine;
- A portion of the road to Mafefe is layered in asbestos; and
- Public buildings are built with asbestos.

The community has tried to address the problem, but it has been compounded in that many children have now become orphans and most adults have been laid off work due to illness.

The Commission is currently engaged in discussions with the Department of Minerals and Energy regarding ways of addressing the problem and has contacted the Compensation Commissioner to find out their criteria for compensation for those people who contracted illness through exposure to asbestos as workers.

Freedom of trade / occupation

College educators displaced

A complaint in Port Elizabeth concerned educators from a College of Education, who were displaced by the Provincial Department of Education. The educators challenged the Department in court, after its appointment of an allegedly non-deserving and relatively inexperienced candidate as principal, overlooking another reportedly experienced and well qualified candidate. After this court challenge and violent incidents at the college, the complainants were forced to stay at home, albeit on full pay, for a year.

When no responses were received from the provincial Government, the SAHRC issued a Notice of Subpoena. The provincial government then undertook to reinstate the educators and

to resolve the problems. Because of this undertaking, the subpoena hearing was suspended and the SAHRC will keep track of events to ensure relief is obtained.

Work permit problems

The complainant is a Kenyan citizen employed by the University of Venda on a three-year contract. She alleged that she was unaware that she had to renew her work permit annually until she applied for a visa to attend a conference overseas. She was threatened with deportation as she was now considered an illegal alien. She was granted a further 2 months stay in the country, with the proviso that she must not leave the country; if she does, she will not be allowed to return to South Africa. After the SAHRC's direct intervention to the Minister of Home Affairs, the matter was favourably resolved - the complainant can now continue working without fear of deportation.

Rural communities

Farmworkers in Tshipise district

The Commission's report on its investigations of the Messina/Tshipise area in the Northern Province was released in Messina in February 1999. It reveals widespread distrust and cynicism about the criminal justice system, which farmworkers perceive as racist and arbitrary. The report also finds two farmers and a private security operator responsible for violating various rights of farmworkers. While the Commission's investigation did not find compelling evidence to accept six separate charges against the SAPS, the report urges the different branches of the criminal justice system to address the distrust of the local residents.

Farmworkers' burial and other rights

A case still under consideration is the burial of a long-serving farm worker on the farm where he worked and lived. Other cases being monitored include attacks on individuals in rural communities, which seem to constitute "hate-crimes". The Commission will consider possible methods to deal with such cases, including a campaign, in 2000.

Traditional law vs the Constitution

Unfair traditions overruled

In terms of the Bafokeng custom and tradition, the Bafokeng Tribal Court rejected a claim by a woman to her deceased parents' property, on the grounds that the estate should go to a male relative, her nephew. She registered a complaint with the Commission, who discovered that she had never married, and had looked after the family home for many years. The SAHRC met with the Royal Bafokeng Administration, who referred the matter to a special appeal body. This body overturned the decision of the Tribal Court. It decided that the complainant was entitled to inherit her parents' estate as the only surviving descendant, and that she could also evict the nephew who had moved into her parents' house without her consent. The Commission commends the Bafokeng Royal Administration, in particular Muhumagadi Semane Molotlegi, for this decision, which proves that custom and culture can co-exist with the Bill of Rights.

Socio-economic rights

Basic education and health care

The local Civic Association of Noenieput, a small rural village in the Northern Cape, complained to the Commission's Western Cape office about the poor delivery of basic services. There is one inadequate junior school, and health needs are met only once in three months by a mobile clinic. Upon investigation, and realising that many basic socio-economic rights may have been violated, the SAHRC made a personal representation to the MEC in Kimberley. The Commission will continue to monitor the situation, offering assistance, if appropriate, to realise the basic human rights to education and to socio-economic services such as medical care and water.

Unfortunately Noenieput is only one of many similar remote villages in our country. One of the primary functions of our new provincial offices will be to increase the level of awareness in rural communities that they *do* have fundamental human rights, and to work with the communities, and with the service providers, to gradually increase the enjoyment of these rights by more and more people throughout our country.

Internship programme

Overseas interns

The Commission attracts a number of student interns from the USA, Europe and Australia who wish to come to the Commission to gain experience and practical training. These come at no direct cost to the Commission except that administrative back-up must be provided and supervision undertaken to satisfy the needs of the sending institution. We have encouraged this because it allows the exchange of ideas from different situations. Commission staff members also get to work with others from other settings.

In addition to student interns, the Commission receives requests from overseas practitioners seeking attachment to the Commission for periods of time. We view this as a valuable environment for the exchange of ideas and experiences. In this way the Commission has been able to assist other national institutions that wish to gain experience in the operations of a national institution.

Local interns

The Commission is mindful of its responsibility to train human rights advocates and practitioners in all fields. For that reason, the Commission employs students or those who have recently qualified and are still looking for permanent employment. These students undertake valuable tasks in the Commission; and, according to their course of study, gain experience of engaging in practical ways with their subjects. The Commission seeks to extend this programme by recruiting local interns from universities to be deployed in all the provincial offices and at head office. They will also be drawn from a variety of fields: law, education and social sciences, and will be deployed in the provincial offices according to the capacity of each office.

Short-term internships have not proved efficient so for local interns a minimum period of six months is proposed. Because interns from other countries are not familiar with the local legal framework and are usually not available for long periods of time, they are usually engaged for purposes of short-term research on specific subjects.

Legal interns

The SAHRC Legal Services Department has a policy of engaging the services of interns through a formalised programme, for both local and foreign interns. The interns typically should have suitable academic qualifications, including preferably some basic studies in human rights and / or constitutional law, fluency in another language as well as English and have an interest in human rights issues.

The interns help the Commission to fulfil its constitutional mandate to promote, protect and monitor human rights in South Africa. Their primary tasks are to:

- Handle telephonic complaints;
- Assess complaints;
- Assist with the registration of complaints;
- Conduct interviews with complainants;
- Assist in the compilation of complaints;
- Assist with the investigation of complaints;
- Pay visits to schools, farms, prisons etc as necessary for investigation;
- Conduct research on appropriate aspects of human rights;
- Assist with statistics for reports; and
- Assist at hearings or litigation.

Obviously the expertise of the interns assists the Commission in its work, but at the same time the interns benefit from exposure to human rights issues and by working with legal experts in this field. They are also included in litigation training programmes and receive a salary on a par with candidate attorneys. Negotiations are still underway between the Commission and the Law Society for the accreditation of student interns as candidate attorneys.

7. Monitoring and Assessing Human Rights

*“The Human Rights Commission must . . . Monitor and assess the observance of human rights in the Republic” –
Constitution of South Africa, Section 184 (1) (c)*

This aspect of the Commission’s mandate is carried out by the Research and Documentation Department. Apart from the ongoing development of the Library and Documentation Centre, and any research needs of the Commission itself, a notable achievement during 1999 was the production of the First Socio-Economic Report, a comprehensive study in six volumes. The related acquisition and processing of data kept staff, including specialist contract researchers, very busy, and preparations for the next report are well underway. In addition, two major conferences were held, on Food Security and on Macro-Economic Policies. A specific study was made of the rights of Indigenous Peoples and a thorough analysis of the Recommendations in the Report by the Truth and Reconciliation Commission was done.

Socio-economic rights

*“Each year, the Human Rights Commission must require relevant organs of state to provide the Commission with information on the measures they have taken towards the realisation of the rights in the Bill of Rights concerning housing, health care, food, water, sanitation, social security, education, land and the environment.”
- Constitution, Section 184 (3)*

The reporting process began when the SAHRC sent a series of protocols (questionnaires) to local, provincial and national government departments involved in delivering social services like houses, water and pensions. After developing questionnaires in early 1998, and submitting them to the relevant organs of state, the data received was analysed. The Commission was assisted in both these activities by various other research bodies and individuals. Unfortunately, many organs of state either gave unsatisfactory or irrelevant answers to the questions.

The Commission released its First Annual Socio-Economic Rights Report in March 1999. The six-volume report provides a critical assessment of government departments’ understanding of their obligations to uphold these rights and an overview of the steps they have already taken. The first volume of the report comprises an analysis of the responses to the questionnaires and a discussion of international and national human rights standards. The other five volumes include the complete set of responses received, a report by the Community Agency for Social Enquiry and the South African NGO Coalition’s report on poverty. Copies of this report are available on request.

The Commission employed two researchers to assist in collecting data for the second report and to refine the protocols for the second phase of monitoring. The protocols were further refined by an expert on statistics and social issues from Canada, who spent 3 weeks at the Commission in mid 1999. In an attempt to remove any ambiguity and to enable respondents

to furnish more accurate and detailed information, the protocols were distributed to relevant NGOs for comments and suggestions.

The Commission acquired the services of two more researchers seconded to the Commission's Research Department by the Human Rights Institute of South Africa (HURISA), thanks to the government of Finland who generously supported the idea of research on social-economic rights.

Protocols for the second phase of the analysis and reporting were sent to the relevant government departments (provincial and national). As some government departments could not meet their deadlines with regard to the return of the protocols, the Commission had to send a number of reminders. Still, some departments did not comply. The Commission had no alternative but to issue subpoenas to 38 government departments for them to account to the Commission as to why they could not meet their Constitutional requirement, despite having been sent reminders. Most of these government departments then sent responses within the 14 days before the hearings; hence most of the subpoenas issued against them were withdrawn. The subpoena hearings were held on 9 and 10 December 1999 at the Commission's offices. Only two departments appeared before the Commission: the Eastern Cape Department of Health and the Department of Education in the Northern Province. These departments were given until 23 December to comply with their mandate or face criminal prosecution in terms of section 18 (i) of the Human Rights Commission Act 54 of 1994. The Departments of Land and Agriculture and Education (Eastern Cape) were given until 17 December 1999 to hand in their report or appear before the SAHRC.

The researchers are presently analysing the protocols received from various Government Departments, in preparation for the second socio-economic report, which should be ready by the first quarter of 2000.

Major conferences in 1999

Food Security and Nutrition Conference

The Commission convened an " *International Consultative Conference on Food Security and Nutrition as Human Rights*" in Randburg from 25-27 March 1999. Dr N Barney Pityana, Chairperson of the SAHRC, officially opened the conference, attended by 110 representatives from government, NGOs and research institutions. Notable speakers from Brazil, India and South Africa, many of them from various United Nations agencies, gave the participants valuable input.

The conference discussed the concept of food security as a human right; policy development and implementation; the impact of macro-economic policies; and the role of various government and civic bodies in monitoring the realisation of rights like the right to food. The conference also included the launch of the Commission's First Annual Report on Socio-Economic Rights, with a keynote address by Judge Dennis Davis.

A case study on food security and nutrition in South Africa was drafted, and a conference document was developed to provide guidelines. The conference report was printed in January 2000 and the conclusion of this conference follows.

Food Security Conference Conclusion:

THE CONFERENCE accordingly

7. Calls for a national resolve to place all resources at the disposal of a campaign to eliminate food insecurity and lack of adequate nutrition; To set in place measures to monitor and assess the implementation of such campaigns; To devise programmes to raise awareness and to train the public and public servants about the problems pertaining to food security and nutrition; To devise strategies to address these issues effectively and efficiently, and in a collaborative effort between government, statutory bodies like the South African Human Rights Commission, civil society and the international community as represented by various UN agencies.

AND

8. Calls upon government departments to comply timeously with the South African Human Rights Commission's duty to fulfil its constitutional obligation to monitor social and economic rights in terms of Section 184(2) of the Constitution.

AND FURTHER

9. Calls upon the South African Human Rights Commission to co-ordinate the activities set out in this statement by providing information, monitoring, training, awareness raising and to secure appropriate redress where the right to food security and nutrition have been violated.

GAUTENG, 25 -27 MARCH, 1999

Macro-Economic Policies and Children's Rights Conference

The SAHRC joined with other stakeholders to organise a conference in Midrand from 2-5 May 1999. The theme of the conference was "*The Impact of Macro-Economics on Children's Rights*". Participants benefited from the input of experts in this field, and a conference report with recommendations for action to protect the interests of children was compiled.

The desired outcomes of this seminar were:

- To enable participants to acquire tools for discussing issues with communities so solutions can be applied appropriately to each situation;
- Obtaining information;
- Deciding on the best methods of assessing how children's rights are impacted;
- Mobilising additional capacity;
- Formulating an action plan; and
- Generating resources for people to subsequently run their own individual programmes.

The joint organisers were: the SAHRC, UNICEF, Radda Barnen, NCRC, ICDA, DICAG, SCF-UK, and the Deputy President's office. Speakers included the SAHRC and other experts.

Research Project on the Rights of Indigenous Peoples

The SAHRC was commissioned by the Department of Provincial and Local Government to conduct a research study in order to inform government's process in addressing the rights of indigenous groups in South Africa, particularly those of the Khoi and San peoples, whose rights, for various historical reasons, are not adequately provided for in relation to other indigenous communities in South Africa. The findings of this research were presented to the African Commission on Human and Peoples' Rights by the Chairperson of the SAHRC as a contribution and report of South Africa on the issue of indigenous people in this country.

The purpose of the research was to examine whether the rights of these indigenous communities were adequately catered for in our present constitutional dispensation and to spell out the issues and policy options that are available to government in order to adequately meet the needs and aspirations of these people. Three internal and one external workshop were held in this regard, and the Commission finalised the research report, scheduled to be submitted to Government on 22 December 1999. Future plans may include further workshops.

Comment on TRC Report Recommendations

The Truth and Reconciliation Commission was set up by Parliament in 1996, pursuant to the Promotion of National Unity and Reconciliation Act of 1995, to investigate and report on human rights violations committed within the mandate period. The Truth Commission was charged with, *inter alia*, compiling a report providing as comprehensive an account as possible of its activities and findings; making recommendations on reparations for the victims of human rights violations, and to suggest measures to prevent future violations of human rights.

The Truth Commission executed its mandate when it submitted its final report to the President of the Republic in October 1998. The report has a chapter on recommendations², divided into various sections on which the Commission made efforts to make findings. By virtue of its constitutional mandate³, the South African Human Rights Commission has the duty to make an in-depth analysis of the recommendations put forward by the Truth Commission.

In performing this mandate, the SAHRC studied the TRC report, concentrating more on the recommendations so as to establish their feasibility and, more importantly, their impact on the promotion, respect for and protection of human rights. The main objective of the Commission was to examine the most effective ways in which those recommendations of the TRC that relate directly to the Commission can best be implemented. There are other recommendations in the report which, though not specifically directed at the SAHRC, are nonetheless within the Commission's mandate.

After analysing the TRC recommendations, the Commission came up with its own recommendations, which were presented to a workshop organised by the Commission in

² Chapter 8 of Volume 5 of the Truth and Reconciliation Commission Report.

³ See section 184 of SA Constitution Act, 1996.

August 1999. The workshop made some resolutions on how the government should go about implementing the SAHRC's recommendations.

Human Rights Library and Documentation Centre

The library was established in 1996 as part of the Research and Documentation Department. The main purpose of the library is to satisfy the information needs of the Commission as it performs its constitutional functions. It is a ready reference library, it receives and catalogues important materials on human rights and it facilitates research by staff and members of the Commission. It ensures that the publications, speeches and reports of the Commission are informed and that they reflect the latest thinking on human rights. Besides serving the internal needs of the Commission, the library is a resource for public use. It is a tool for the human rights education and training workshops and seminars the Commission conducts. It serves as a reference facility for participants in human rights courses. The Commission intends making the library accessible to students and researchers, thereby extending the development of human rights. The library was officially opened and dedicated as the Gumede-Pitje Human Rights Library and Documentation Centre on 22 March 1999. (See feature on page 60.)

Acquisitions

The library continuously strives to collect international and local material on human rights and related issues. The library has approximately 2 500 volumes. We collect journals, books, documents and reports that focus on human rights (especially after 1996), government gazettes, law reports, statutes, conference papers, newspapers, papers and policy papers written by Commissioners and staff and annual reports from government departments and human rights institutions, particularly human rights commissions. The library also receives donations from commissioners and staff who attend conferences and workshops, and from NGO's, human rights institutions and government organisations.

Computerisation/Technology

The library has statutes, law reports and government gazettes on CD-ROM, published by Butterworths and Juta. For the 1998/99 financial year, the Open Society Foundation sponsored the purchase of these media.

Resources

For the financial year 1998/99, the library was allocated R250 000 for the purchase of library material. This amount enabled the library to renew its journal and CD subscriptions for the year 1999/2000. One librarian, assisted by a volunteer, manages the library.

Usage

The library is open to the public, though its materials are not circulating to these users. The main users of the library during 1999 were the Commission staff and associated personnel. Internet access has made wider usage possible. New judgements from the Constitutional Court, the Land Claims Court and discussion papers from the South African Law Commission

are accessible immediately because of the subscription to the Wits Law School's Notification Service. Contents pages of journals are circulated to staff and copies of relevant newspaper articles are filed. The usage of library facilities is increasing greatly, with 870 titles being borrowed from January to December 1999.

Dedication of the Library and Documentation Centre

The Gumede-Pitje Human Rights Library and Documentation Centre was officially opened at the Commission's Parktown office on the 22nd March 1999. The SAHRC held an impressive function to dedicate the Centre in honour of two late prominent human rights lawyers, Archibald Gumede and Godfrey Pitje.

Members of the Gumede and Pitje families joined Constitutional Court Justice Yvonne Mokgoro, Judge Kathleen Satchwell (Chair of the SAHRC Trust) and Ms Bridgette Mabandla, Deputy Minister of Arts, Culture, Science and Technology, in praising the two human rights activists. Over 180 people attended the successful function: SAHRC Commissioners and staff, members of government and the judiciary, legal organisations, publishers, diplomats and donors.

Justice Yvonne Mokgoro and members of the Gumede and Pitje families made speeches. The Deputy Minister unveiled the plaque, designed in-house by SAHRC staff. Several Commission publications were distributed and a video made of the proceedings. Interesting historical documents from the Gumede and Pitje families, including banning orders and Dr Pitje's personal library, were donated to the library.

Prominent lawyer and leader in Natal for four decades, Archibald Jacob Mtuzela Gumede was born in Pietermaritzburg in 1914. A delegate to the People's Congress that drafted the Freedom Charter in 1955, he served as a co-president of the United Democratic Front and participated in the first meeting of the ANC and the apartheid government in 1990.

Educator, attorney and activist, Dr Godfrey Mokgonane Pitje was born at Pokwane, near Nebo, in 1917. A former national president of the African National Congress Youth League, Dr Pitje resigned from teaching to protest the passage of Bantu Education. He then earned a law degree and became a founding member of the Black Lawyers Association.

The SAHRC thanks the families and associated donors for their support of the Library and Documentation Centre. We are certain that this Centre will become an increasingly important resource for all researchers of human rights.

Legislation monitoring

South Africa's Constitution is one of the most progressive and democratic in the world, but initially some of the rights have been primarily "paper" rights. Three pieces of legislation, (*the Open Democracy Bill, the Administrative Justice Bill and the Promotion of Equality and Prohibition of Unfair Discrimination Bill*), have to be passed before February 2000 in order to give effect to these rights. The Commission welcomed the beginning of the parliamentary process that will pass these three vital pieces of legislation to complete our body of

constitutional legislation. This is an exciting time for democracy in South Africa, as many of the rights set out in the Bill of Rights are now being given substance and power, which will assist in the process of transformation.

The Promotion of Equality and Prohibition of Unfair Discrimination Bill

“No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3).

National legislation must be enacted to prevent or prohibit unfair discrimination.”
Constitution of South Africa, Section 9 (4)

The then Minister of Justice, Dr A M Omar, MP, invited the SAHRC to co-operate with the Ministry to prepare for the submission of draft legislation to give effect to Section 9(4) read with Schedule 6 (23) of the Constitution, 1996. The task of the Commission was to undertake research; social and legal and comparative studies on equality; undertake public consultations on understanding and expectations on the right to equality; test public opinion on appropriate legislation; and popularise the nature, meaning and content of the right to equality. A joint project was established and the Equality Legislation Drafting Unit⁴ was based at the Commission. Prof. (now Judge) Johann van der Westhuizen was appointed Co-ordinator of the Unit. Two researchers, Adv. Sicelo Mtetwa and Dr Lindelwa Ntutela, assisted him. An extended Reference group meeting was held on 11-13 June 1999 and a final consultative conference on July 9-11, 1999. A Framework Document was then handed to the minister on 15 June 1999.

The Commission continued to be involved in a consultative capacity with the progress of the drafting of the legislation. The *Promotion of Equality and Prohibition of Unfair Discrimination Bill, 1999* was tabled in parliament by the Minister of Justice and Constitutional Development. The Chairperson of the Commission made a presentation to the ad hoc committee on the draft legislation and we have continued to popularise the objectives of the bill. The Commission is looking forward to the passage of the Bill during the first session of parliament in 2000.

The Commission will acquire extensive responsibilities as a result of the proposed legislation. It will monitor the progress of the bill and has resolved to publish, as soon as possible, an information booklet on the rationale, motivations, social context and structure of the equality bill. We believe that a proper understanding of current international law and practice should address some of the alarmist rhetoric we have been subjected to of late. We hope that this will contribute to an informed public debate about how best we can restructure our society and establish traditions of equality, human dignity and mutual respect.

⁴ This legislative project was funded by USAID, and was in operation from April 1998 until August 1999. A report on the activities of the unit is available.

The Open Democracy and Administrative Justice Bills

1. *Everyone has the right of access to-*
 - (a) *any information held by the state; and*
 - (b) *any information that is held by another person and that is required for the exercise or protection of any rights.*
2. *National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.*

The Constitution, Section (32)

1. *Everyone has the right to just administrative action that is lawful, reasonable and procedurally fair.*
2. *Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.*
3. *National legislation must be enacted to give effect to these rights ...”.*

The Constitution, Section (33)

The Open Democracy Bill went before Parliament in late 1999. The Constitution requires this bill to be passed before February 2000, in order to give effect to the right of access to information contained in section 32 of the Bill of Rights. The bill requires government departments to indicate what information they have available and how people can obtain it. A chapter in the bill allows the government to refuse to provide certain information, regarding the protection of privacy, law enforcement and international relations, amongst others.

Should an information officer refuse to give out the requested information, the bill explains how people can appeal internally and to the High Court. This aspect of the bill has been widely criticised, as the High Court is slow, expensive and inaccessible for most people. The bill also says that private bodies, like hospitals and banks, must allow people to see and correct information about themselves. The finalisation of the bill will bring a real and tangible aspect of human rights within reach of all South Africans.

Open and Accountable Democracy Conference

The SAHRC held a consultative conference in Cape Town on ‘*Open and Accountable Democracy*’ from July 15-17 1999. The conference aimed to solicit responses from government and civil society on two new draft pieces of legislation: the *Open Democracy Bill* and the *Administrative Justice Bill*. These bills will implement Sections 32 and 33 of the Constitution, dealing with the right of access to state information, and the right to just administrative action.

The conference was well-attended and successful, with many knowledgeable speakers and worthwhile breakaway discussion groups. The Commission presented conference findings to the portfolio committee, and the recommendations of the workshop (which are not necessarily those of the SAHRC) were made available to the participants. The full workshop report is now also available to anyone on request.

The SAHRC will be tasked with many new functions in terms of this legislation, including the task of educating state bodies and the public about the new bills, and the responsibility of monitoring and reporting on their application. In order to equip the Commission for its role under the proposed legislation, the former Legislation Monitor of the Commission, Ms Victoria Mayer, joined a parliamentary group on a study tour of Australia in November 1998. We have

made submissions to the Department of State Expenditure on the financial implications of these new responsibilities on our budget.

Ongoing monitoring of other legislation

During 1999, the SAHRC continued to track the development of policy in government departments, and the passage of legislation through Parliament. If there was concern about inadequate protection of human rights, submissions were prepared by the Commission and delivered to the relevant parliamentary committees. The Commission also worked with other groups to monitor and track issues raised by legislation and facilitated debate on contentious areas. Some of the more important activities of the SAHRC during 1999 regarding new or amended legislation are detailed in the following paragraphs. The Commission is concerned that it has not been able to fully exert its influence in the parliamentary process and inform the human rights content of proposed legislation. It has therefore made proposals on this matter which will be discussed with the parliamentary authorities.

Implementation of Criminal Procedure Amendment Act 122 of 1998

This Act contains the amendment to Section 49 of the Criminal Procedure Act - the section dealing with justifiable homicide on arrest. The police indicated that they needed more time to conduct training before Section 49 is implemented but, meanwhile, the Independent Complaints Directorate noted an alarmingly high number of homicides upon arrest. The Commission was alarmed to read that the new Minister of Safety & Security declined to implement Section 49 and would seek to amend it. The reason advanced is that the legislation ties the hands of the police in the apprehending of criminal suspects. We hope to make representations to the Minister on this matter. (Refer also to Chapter 2.)

Department of Finance: 1999/2000 Budget

The Commission was requested by the Portfolio Committee of Finance to make submissions on the effect of the budget on safety and security. In a thorough document, the Commission analysed the budgets proposed for the various departments of Safety and Security, Justice, Correctional Services and the Integrated Justice System. Broadly, the Commission found that urgent attention should be given to the implementation of policy (which has cost implications), a programme of victim empowerment should be developed and a system of victim compensation considered. Further, conditions of prison facilities must ensure that basic rights are secured, alternative diversion facilities should be implemented and more effective and appropriate use should be made of the new community corrections option. The budget implications of an integrated approach to crime prevention must be studied, and urgent training for transformation should be introduced as well as practical resources and appropriate legislation for women and children.

Child Justice System Proposal and Draft Bill

The proposed system attempts to ensure that children accused of less serious offences can be diverted away from the criminal justice system into an approved programme focussing on restorative justice, reconciliation and restitution. Some specialisation in child justice practice will be entailed, and probation officers and magistrates will play a greater role, while all levels of civil society will be engaged. The Commission welcomed the prospective decrease in the number of child detainees and was to draft a response to the South African Law Commission.

National Coalition for Gay and Lesbian Equality and 13 others v Home Affairs

The judgement by Dennis Davis, J in the Cape High Court found that the Aliens Control Act unfairly discriminates against gay and lesbian couples as they are unfairly barred from the benefits of the immigration law applying to married couples. The judgement, another step in the elimination of discrimination, was later confirmed by the Constitutional Court. The Commission will track and monitor developments in this matter as well as the amendments of the Marriage Act and the Aliens Control Act, which would then need to be passed.

Employment Equity

Having supported the passage of the Employment Equity Act, 1998, the Commission was represented at the launch of the Commission on Employment Equity chaired by Prof. Mapule Ramashala at Gallagher Estate on 9 August 1999. That day also marked the coming into operation of the Act. The Commission has also been involved in discussions dealing with the development of Good Practice for Disability Equity at the Employment Equity Stakeholder Briefing in May. This Act will be promulgated in 4 phases:

1. The establishment of the Commission for Employment Equity (14 May 1999).
2. Prohibition of unfair discrimination (9 August 1999).
3. 3rd phase on affirmative action and employment equity plans (1 December 1999).
4. Links to government tenders and procurement contracts (September 2000 and April 2001).

Submissions to Parliament

The SAHRC also made a number of submissions to various parliamentary portfolio committees on draft or proposed legislation during 1999. A list of the submissions follows.

National Legislation (Parliamentary Committees)

<u>Name of Bill</u>	<u>Committee</u>
Statistics Bill (1-99)	Justice and Constitutional Development Portfolio Committee
Prevention of Organised Crime Amendment Bill (2-99)	Justice and Constitutional Development Portfolio Committee
Mutual Banks Amendment Bill (3-99)	Justice and Constitutional Development Portfolio Committee
Preliminary Hearings on the Open Democracy Bill	Justice and Constitutional Development Portfolio Committee
Equality Legislation Bill	Justice and Constitutional Development Portfolio Committee
Administrative Justice Bill	Justice Portfolio Committee

National Policy (written submissions to South African Law Commission) at the request of the relevant various portfolio Committees

Draft Policy on Aircraft Noise and Emissions	Transport Portfolio Committee/ (SALC)
Animal Identification	Agriculture and Land Affairs Portfolio Committee/(SALC)
Increase in monthly Pensions (GG19667)	Labour Portfolio Committee/(SALC)
Pricing Strategy for raw water use and Norms and standards for tariffs	Water Affairs Portfolio Committee/ (SALC)
Tobacco Products Amendment Bill (117-99)	Health Portfolio Committee (SALC)
Report on the time limits for the institution of actions against the State	Justice & Constitutional Development Portfolio Committee/(SALC)
Prevention and Treatment of Drug Dependency Amendment Bill	Welfare Portfolio Committee/ (SALC)
Maintenance Act	Justice and Constitutional Development Portfolio Committee / (SALC)
Notifiability	Health Portfolio Committee/ (SALC)
Policy on HIV/Aids in Public Schools	Department of Education/ (SALC)
Older Persons Bill	Welfare Portfolio Committee/ (SALC)
Tobacco Products Amendment Bill (117-99)	Health Portfolio Committee/ (SALC)
Child Justice System Proposals & Draft	Justice & Constitutional Development Portfolio Committee/(SALC)
1999/2000 Budget	Finance Portfolio Committee/ (SALC)
Statistics Bill	Finance Portfolio Committee/ (SALC)

Administrative Law

Justice & Constitutional
Development Portfolio
Committee/(SALC)

Juvenile Justice Discussion Paper

Justice & Constitutional
Development Portfolio
Committee/(SALC)

Provincial Level

Housing Development Act (North West)

Housing Act (Mpumalanga)

Proposed Housing Bill (Eastern Cape)

8. Section 5 Committees

*“The Commission may establish one or more committees consisting of one or more members of the Commission designated by the Commission and one or more other persons, if any
A committee shall, subject to the directions of the Commission, exercise such powers and perform such duties and functions of the Commission as the Commission may confer or assign to it. “
Human Rights Commission Act, 1994, Section 5.*

In accordance with the above legislation, the SAHRC has established several “Section 5” Committees. Many of these are standing committees, but they may not all continue to be relevant and their terms of reference and functions are revised as necessary. Thus committees can be dissolved or restructured if the original need for them has been met, and new committees can be formed to advise on topical issues.

Currently there are 5 committees comprising Commissioners, staff and outside experts. The aim of the committees is to advise the Commission on policy and also to help implement the programmes of the SAHRC.

The current committees and their convenors are:

Government and Parliamentary Liaison
Chairperson N Barney Pitso

Child Rights
Deputy Chairperson Shirley Mabusela and Commissioner Charlotte McClain

Disability
Commissioner Jerry Nkeli

Policy and International Co-ordination
Commissioner Leon Wessels

NGOs/CBOs
Commissioner Tom Manthata

In line with the Commission’s emphasis during 1999 on the rights of the child and those living with disabilities, these committees in particular have been very active. Some details of their activities are given in the pages that follow.

Child Rights Committee

Study Tour

To achieve its primary objective of creating a strong, local, focal point for child rights based in the SAHRC, the Child Rights Committee undertook a study tour to various developing countries. This tour was funded by Radda Barnen and UNICEF, and the objective was to assess and learn from international applications of child rights. The first leg of the tour was a visit to Senegal in May, and the second part comprised trips to Latin America in June/July. Finally, at the end of July, India was visited.

In Senegal, contact was made with organisations that work with child rights issues. Projects involving child labour were studied, as were the procedures for juveniles in the justice system. A local issue which affects children in Senegal is the prevalence of polygamous marriages. An interesting innovation in this country is the existence of the National Children's Parliament. The tour group was able to obtain the statute establishing this parliament to study it for relevance for child participation issues.

In South America, the team visited Mexico, Brazil and Costa Rico. Interestingly, in Mexico neither HIV/AIDS nor drug trafficking and abuse are regarded as relevant to children, unlike in South Africa. Brazil offered some lessons in monitoring the rights of the child at a local level. This approach could provide a practical way in which the monitoring of child rights at a local level in South Africa can be achieved. Collaboration with the NPASC (National Plan of Action for Children in South Africa) in this regard will be of importance. Also in Brazil, a serious problem appears to be the deaths of young people at the hands of the police, which cases are understandably difficult to solve. Brazil has a Parliamentary Committee dealing with child rights issues. It will be important for the South African Parliamentary Committee on Children, Youth and Disability to link up with them to share experiences. Costa Rico has mechanisms dealing with child rights very similar to those adopted in South Africa.

Of particular interest and concern in India was the question of feticide (abortion of a foetus). Boy children are preferred and, due to advanced technology enabling the sex of a foetus to be determined during pregnancy, women are often choosing to abort if the foetus is female. Already there are many more boy children than girls. A similar pattern exists in China and it raises concern as to the way in which control of population growth could seriously interfere with nature's way of ensuring a healthy gender balance. India also has programmes aimed at dealing with the problem of child labour. Government and NGOs work together to ensure that children are released from servitude and receive education.

All in all, the study tour was most valuable and after this tour, as the next step in identifying both the needs of children and possible solutions, the Child Rights Committee initiated a child participation programme.

Child Participation Programme

This programme, launched to set up focal groups for children's rights, aims firstly to educate children about human rights and the role of the SAHRC and secondly to determine their current knowledge, situations, needs and views. The SAHRC also aims, through this programme, to find the most meaningful and appropriate way in which children can

participate in some of the Commission's activities. With the support of UNICEF and Radda Barnen, a programme officer was appointed to spearhead this project. Consultations with NGOs and CBOs took place during October in all provinces. Thereafter, planning was done for child participation workshops, throughout the country, to be held from January to March 2000. The co-operation of NGOs and CBOs, through participation in the process and identification of critical child rights issues in the provinces, bringing on board key role-players and pointing out problem areas or institutions, will ensure sustainability of the programmes. The provincial meetings were supported by NCRC (National Children's Rights Committee). Three workshops will be held in every province from the end of January, each with 30 children aged 9 – 13 from different backgrounds. Focus groups will also be used to reach children who are ill, disabled or in detention, and those with other special needs.

Other activities

- The committee also spearheaded the participation of the SAHRC in the Children's Festival held at Zoo Lake in Johannesburg on Saturday 6 November 1999. A float was built, stalls with promotional material set up and a very worthwhile day was enjoyed.
- Follow-up work was done on South Africa's commitment to the United Nations Convention on the Rights of the Child Optional Protocol on Child Soldiers. After discussions with the Department of Foreign Affairs and the South African National Defence Force (SANDF), it was agreed to raise the age of recruits to the army to 18. This now complies with the Optional Protocol and therefore there are no longer barriers to South Africa acceding to the Protocol.
- The Convenor of the Committee also participates in other national children's processes to ensure that there is meaningful co-operation and collaboration with child rights issues. Some of the processes are the NPASC and the "Children and the media" programmes.

Disability Committee

Throughout 1999, Commissioner Jerry Nkeli, as convenor of this Committee, actively participated in, gave presentations to or hosted workshops on different aspects affecting people with disabilities. Several of these workshops centred around the employment equity aspects and also addressed issues involving sign language. Some of the major activities are described in the following paragraphs.

Employment Equity and Disability

At various workshops on the application of the Employment Equity Act for people with disabilities during the year, Commissioner Nkeli gathered useful information from people with disabilities themselves as well as NGOs and legal experts etc. These conferences and workshops attempted to examine the implications, context and nature of the Employment Equity Act as far as disability is concerned. Although the legislation is commendable, the practical implications are daunting, ranging as they do from the definition of disability through recruitment policy to essential job functions. Employers need to re-examine their policies and procedures in the light of the new legislation to ensure compliance and also to conduct workshops to raise awareness and enhance knowledge of the latest developments in this field.

African Seminar on Disability

From 28-30 January 1999, Commissioner Nkeli, Chairperson Pityana, and members of the Disability Committee attended the *African Seminar on Development Co-operation, Disability and Human Rights* in Cape Town. The seminar was organised by Disabled People South Africa (DPSA) and the Swedish Organisation of Disabled Persons International Aid Association (SHIA). Commissioner Nkeli made a presentation as a panellist on "Introducing Human Rights for Disabled People Living In Africa". Dr Barney Pityana addressed the seminar on the role of the African Commission on Peoples' and Human Rights. The seminar has drawn up "The Cape Town Declaration" calling on the African Commission on Human and People's Rights to begin a process towards the development of an African Protocol on the rights of people with disabilities as an attachment to the African Charter on Human and Peoples Rights.

Summit on HIV / AIDS

On 10th August 1999, Commissioner Jerry Nkeli co-ordinated a one-day summit on HIV/AIDS co-hosted by SAHRC and Human Rights with Aids Legal Network. Participants of the summit were NGO's, Government departments & people living with HIV. The positive outcomes of this summit were that the Commission strengthened its partnership with HIV/AIDS NGO's; thereby committing itself to the eradication of discrimination against people living with HIV/AIDS. The Commission also established links with the UN Agency specifically dealing with HIV/AIDS, UNAIDS. More details of this summit are given in Chapter 2: Major Projects of 1999.

Disability Equality Workshop

The SAHRC Policy Paper on Disability states: "the Commission should set up an appropriate mechanism and process to consult with organisations of disabled people and appropriate structures to facilitate their participation in all processes of decision-making that will affect them in any way."

To fulfil this function, the SAHRC convened a workshop on the Promotion of Equality and Prevention of Unfair Discrimination Bill, particularly for disabled persons, at Johannesburg International Airport on 4th September 1999. The objectives of this workshop were to consult with disabled peoples' organisations and Members of Parliament with disabilities, to familiarise them with the new bill, to identify fundamental and critical issues that have an impact on people with disabilities, and to facilitate the process of making inputs into the bill. Financial backing was received from the office of the Status of Disabled Persons in the President's Office.

This conference was very successful. It resulted in a short, simple version of the Bill being made available to Disabled Peoples' Organisations (DPOs), further briefing for MPs and stimulation of debates in the DPO sector about the Equality Bill.

International Day of the Disabled – 3 December 1999

The SAHRC marked this special day by conducting an accessibility survey of buildings in and around Johannesburg and Pretoria. Commissioners and staff members conducted inspections in loco, checking the buildings from the outside, entering through the main entrance, checking for signage and examining the lift and ablution facilities. In Johannesburg, the following places were surveyed: the Public Library, the Department of Home Affairs Offices and the First

National Bank - Harrison Street Branch. In Pretoria, the Commission inspected offices of the Department of Labour, the Department of Home Affairs and the Regional Magistrates Court.

On 5th December 1998, Commissioner Nkeli addressed Disabled People's Organisations in Vosloorus at a function to celebrate the International Day of Disabled Persons. His presentation focussed on negative stereotyping and attitudes and the resultant marginalisation and discrimination against disabled people. He also attended the celebrations of the International Day of the Disabled Persons in response to an invitation from the Office of the Status of Disabled Persons in the Office of the President.

Government and Parliamentary Liaison Committee

At a meeting in early 1999, this committee discussed and adopted the following Terms of Reference:

The Standing Committee will advise the SAHRC in the following areas:

1. The identification of national and provincial draft legislation that violates national or international human rights standards, and the review and assessment of such legislation.
2. The identification of areas where positive legislative action is required to give effect to human rights.
3. The review of reports which are tabled with the SAHRC, or by the SAHRC, with regard to the non-implementation of legislation relating to human rights.
4. The identification of the most effective and appropriate manner for the SAHRC to engage with Parliament, and the realisation of this engagement, and generally to monitor the structure and functioning of Parliament.
5. The identification of the most effective and appropriate manner for the SAHRC to engage with government with respect to the generation of legislation and policy, and with respect to the ongoing monitoring of the implementation by government of the National Action Plan.

The Committee prepared an issue paper on the Parliamentary handling of SAHRC reports. The paper was adopted by the Commission and referred to the Office of the Speaker. A substantial number of studies and submissions were undertaken with respect to draft or proposed legislation, as well as the delayed implementation of new legislation. Details of these submissions are given in Chapter 7: Monitoring Human Rights.

NGOs / CBOs Committee

One of the aspects tackled by this committee during 1999 was the subject of "The Criminal Justice System and Constitutionalism." Recommendations made by the committee after thorough discussion were:

- The SAHRC would encourage civil society leadership to focus on human rights awareness;
- The Commission would support appropriate campaigns by other organisations;
- The SAHRC would empower communities by assisting in the development and training of police services at community level, particularly Community Police Forums;
- The Commission would strongly advocate legislation on the rights of victims of crime; and

- The SAHRC should urge restorative justice, rather than punitive justice, to contribute towards the rehabilitation of criminals as opposed to the violation of their basic human rights.

Policy and International Co-ordination Committee

Liaison with Foreign Affairs

The SAHRC was invited by the Social Affairs Chief Directorate in the Department of Foreign Affairs responsible for human rights matters to develop a working relationship between the two institutions and to start a preparatory process for the 56th session of The Commission on Human Rights, 20 March to 28 April 2000, in Geneva.

A number of resolutions were forwarded to us for comment and advice. The topics raised are diverse and complex:

- Fundamental Standards of Humanity;
- Impunity;
- Right to Freedom of opinion and expression;
- Promotion of the Right to Democracy;
- The concept and practice of affirmative action;
- The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms;
- Implementation of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief;
- Enhancement of international co-operation in the field of human rights;
- Regional arrangements for the promotion and protection of human rights; and
- Defamation of religions.

Comments on these issues were given to the Directorate during October and November 1999. The Policy and International Co-ordination Committee will follow the international discussions on these topics and advise the SAHRC accordingly.

International treaty reports

South Africa has ratified a number of international treaties. When a country ratifies a treaty, there is a duty to implement the provisions of the instrument and to report to the relevant governing body on a regular basis. Reports are due this year on the following instruments: International Covenant of Civil and Political Rights (ICCPR); International Covenant for the Elimination of all forms of Racial Discrimination (ICERD); Convention against Torture (CAT); and the Convention on the Rights of Child (CRC).

Members of the Commission, together with officials from different government departments, attended a four-day training course on UN Treaty Report Writing in Pretoria 20- 23 September 1999. In the forthcoming year, the committee will more clearly define its role in assisting with or commenting on these reports.

Rights of indigenous peoples

The committee was involved in two workshops to discuss the rights of indigenous people, in pursuit of developing a policy position. The SAHRC Research Department, financially supported by the Department of Provincial Affairs, guided a research team. A policy position was drafted and discussed at external workshops during October and November 1999. The document was then finalised and handed to the Department of Provincial Affairs. A fuller report of this project is given in the chapter on Monitoring Human Rights (Chapter 7).

9. Provinces

“ the Human Rights Commission shall, inter alia, be competent and obliged to promote the observance, of, respect for and the protection of fundamental rights; to develop an awareness of fundamental rights among all people of the Republic... ”

Human Rights Commission Act, No 54 of 1994

As mentioned in an earlier chapter, the SAHRC opened three provincial offices during 1999 to supplement the existing provincial office in Cape Town. Each of these four existing offices carries out, in the local sphere, the Constitutional mandate to raise awareness of human rights and to monitor and protect human rights. The following pages give an indication of SAHRC activities in the various provinces, as well as general trends. In the provinces where the Commission has as yet no permanent office, the Commissioners responsible for each province visit regularly and keep in touch with current issues. Some complaint statistics are given here but typical complaints are detailed in Chapter 6 on Protecting Human Rights. Likewise, a full list of workshops and training courses conducted nation-wide is given in Appendix B.

Western Cape

Office composition

The Cape Town office is the longest-standing provincial office of the SAHRC, having been open since 1997. It has been particularly active in the fields of legislation monitoring, complaints handling and education. The current staff members are Faranaaz Veriava (Legal & Education Officer), Lindelwa Mngciza (Education Officer), Penelope Brady-Carelse (Administrator) and Claudine Lackey (Housekeeper/Administrative Assistant). The Legislation Monitor, Ms Victoria Mayer, resigned in July 1999. Her presence in contributing to all aspects of the office work is missed, and the SAHRC is in the process of employing a replacement.

Five interns have assisted the office, with periods of internship ranging from 3 months (one intern from Sweden and one from the USA) to 12 months (three South Africans).

Two Commissioners, both based in Johannesburg, are responsible for the Western Cape Province. Commissioner Majodina was appointed to the Commission from August 1999, and she will be focussing on both the promotional and monitoring mandates of the Commission in the Western Cape. Commissioner Wessels has been working closely with the staff of the Commission for a year now, and has been invaluable in the investigation and resolution of complaints.

Office Culture

The Western Cape office is a small office of staff and interns, who therefore work together on many projects.

To ensure that it fulfils the mandate of the promotion & protection of human rights in the Western Cape, the office does the following:

- Management of a complaints data-base;

- Investigation and resolution of cases;
- Researching the constitutional and human rights questions arising in various complaints;
- Maintaining a public profile for the SAHRC in the Western Cape. This includes the provision and distribution of information and often entails speaking on various platforms or hosting exhibitions at conferences etc;
- Providing workshops & training on human rights; and
- The day-to-day administrative functioning of the provincial office.

For the first time in its history, the office has employed an education officer, who has contributed greatly to the public awareness mandate of the SAHRC, through the office focus on training in human rights in the Western Cape communities. The close proximity of another national institution, the Commission on Gender Equality (CGE), with which the SAHRC shares office space and resources, has also enabled the pooling of skills on projects and joint initiatives, such as the hosting of community workshops.

Complaints

The Western Cape office receives an average of 70 complaints a month. Most of these complaints do not fall within the jurisdiction of the Commission, and are therefore referred to the most appropriate organisation, such as the CCMA, Legal Aid Board, ICD etc. Where the complaint is relevant, the legal department will investigate and attempt to resolve the complaint. Refer to Chapter 6 for more detailed cases.

Complaints statistics

The 1999 figures for the Cape Town office are as follows:

Complaints received:	469*
Complaints rejected:	75
Complaints referred:	310
Complaints finalised:	93
Complaints still in progress:	20

*A further 29 were carried over from 1998

Education

The SAHRC has been given the mandate to promote respect for human rights and a culture of human rights. The Western Cape office has done ongoing education work with regard to this responsibility guided by some specific focus areas or priorities for this financial year. A full list of workshops is given in Appendix B.

Public awareness

Public education is essential to the work of the SAHRC as it enhances the monitoring role, since there is lack of information, knowledge and understanding of human rights and the role of the Commission in general. The information and experience that is gathered through public education workshops assists in ensuring that provincial projects or programmes are relevant to the needs and concerns of people in the province.

Human Rights Week: March 1999

Commissioner Wessels and the Cape Town staff visited 5 schools, addressing both educators and learners on human rights. A human rights display was also set up in Parliament during this week.

The SAHRC ran a public awareness workshop in partnership with the Gender Commission and UMAC (U Managing Conflict). The workshop targeted the Cape Metropole and participants were from Khayelitsha, Gugulethu, Manenberg, Heideveld, Nyanga, Ocean View, Phillipi, Athlone and Langa. The focus of the workshop was mainly on how these three institutions can contribute to the process of transformation that the country is currently undergoing.

The rural areas are also targeted for public education focusing mainly on farm workers. In late 1999 two workshops were run in collaboration with the Centre for Rural Legal Studies (CRLS). The benefit of this partnership is based on the fact that the CRLS focuses mainly on Labour Rights while the SAHRC covers the Bill of Rights.

Equality

Children - June was Child Protection Month in the Western Cape Province; some awareness raising on children's rights was done with children.

People with disabilities were also targeted in Kraaifontein.

The Aged – A workshop for the aged was conducted in collaboration with Focus on Elder Abuse and Robin Trust. The focus was on the Draft Equality Bill regarding its benefits for the aged.

Xenophobia

A group of Immigration Officers from the Department of Home Affairs was trained in human rights, following the development of a training manual. This was a pilot project – more training will be conducted country-wide during 2000.

Training

Training of trainers was done in Khayelitsha and Langa - in turn participants are expected to educate other people in their communities.

Workshop on language as a barrier to access to health care

The Western Cape office of the SAHRC received a complaint from doctors who alleged that language barriers between health care providers and patients have impeded the provision of adequate health care. The inability to communicate with patients allegedly often resulted in an inability to make proper diagnosis of patients, explain treatment of patients, or provide proper counselling (especially when dealing with HIV patients). It was further alleged that the inability to communicate amounted to a violation of human rights, since, in terms of S 27 of the Bill of Rights, "Everyone has the right to have access to health care services;" and, in terms of S 9, no person may be discriminated against on the basis of colour, creed or language.

The SAHRC, in terms of its mandate to protect human rights, decided therefore to host a workshop with the following objectives:

- To explore whether language barriers impede the provision of adequate health care and hence amount to a violation of human rights;

- To explore government policy or other initiatives for addressing language barriers in our health system;
- Explore other initiatives being undertaken within civil society to address such barriers; and
- Find a way forward for addressing the complaint.

Twenty-three participants gathered in Cape Town on 28 January 1999. Key speakers included representatives from the Community Law Centre, medical institutions, language institutions and the Department of Health. NGOs and other interested organisations were also well represented. A successful day resulted in the conclusion that the ability to effectively communicate is in fact essential to the realisation of the right to adequate health care. In order to reach a solution to the problem, it was decided that:

- A workshop report would be produced and distributed;
- An audit of all available resources and gaps would be conducted; and
- The SAHRC and the CGE would jointly co-ordinate the project and involve other parties.

Eastern Cape

Office structure

The Eastern Cape office, in Port Elizabeth, was opened in March 1999 and is headed by Provincial Co-ordinator Sakhele Poswa. Thembile Ngqabayi is the Education Officer; Baba Magaga the Admin Assistant and Nomawethu Mhlope is the Housekeeper. An intern is assisting with the processing of complaints, about five being received daily.

Commissioner Tom Manthata is responsible for this region, and is addressing in particular the rights of the aged, as well as the problems facing education. These two rights seem to be vulnerable in this province.

Education and public awareness

Human Rights Week – March 1999

Together with the Provincial Commissioner, the PE office staff visited about eight schools throughout the province to address learners and their educators about general human rights issues, and specifically about the Commission, its work and the Bill of Rights. Their observation in those addresses was that learners know very little about human rights. A reason for this is the fact that, as it is a relatively new concept, there is very little or no formal human rights education taking place in schools.

The emphasis in all those public addresses was that human rights go with responsibilities and, in order to ensure that other citizens equally enjoy rights as guaranteed in the Constitution, people must appreciate the fact that these rights have limitations. In other words, the exercise of rights is limited by the rights of other citizens.

Attention was also drawn to the remedies available to people whose rights have been violated. This is where the role of the SAHRC was explained as one organisation citizens can approach when their rights have been violated. The police and other "Chapter 9" institutions were mentioned as alternative institutions that can be approached.

After the address the SAHRC entertained questions from learners, most of which were interesting and apparently from experiences the youngsters have in their communities. These are some of them –

- Can one be discriminated against on the basis of being HIV positive?
- What should one do when his/her daughter is raped?
- Should a sentence imposed correspond with the crime/human right violated? etc.

The impressions from the week were that teachers, especially in disadvantaged schools, are more concerned about alternative punitive mechanisms, as corporal punishment has been abolished. Others felt that the introduction of human rights in schools would have a negative effect as learners will take it as licence for disobedience. The campaign was a success as some principals, who were initially reluctant to allow the SAHRC to address their schools, later confessed to having narrowly reduced human rights to politics. As a consequence, the office was invited by some of the principals to conduct human rights education at their schools.

Educator training workshop: King Williams Town

In King Williams Town, a Human Rights Education training workshop was conducted for educators, each educator there representing a school from the six regions in the Eastern Cape. This workshop was conducted at the request of the Department of Education's Special Needs Sub-Directorate. The idea behind training a teacher from each school in every region was that those teachers would in turn go back and conduct similar training for their colleagues. This approach makes sure that all the teachers in the Eastern Cape have been trained in Democracy and Human Rights Education.

Workshop on HIV/AIDS: Graaf Reinet, Patensie and Grahamstown prisons

At the request of prison managements in Graaf Reinet, Patensie and Grahamstown prisons, workshops on the SAHRC and Equality and HIV / AIDS were run for about eight hundred inmates in the respective prisons.

Prisoners complained that they are denied food if they report human rights violations. Those who need medication, like Tuberculosis cases, do not get the necessary care and medicines despite their pleas for help.

Workshop on the rights of people living with disabilities: Umtata

At the request of Sibabalwe Project for Disabled People in Umtata, a workshop on the rights of people living with disabilities was convened and facilitated by the provincial office of the Commission. Among the topics covered were the Constitution and the Bill of Rights, disability prevalence and the White Paper on the integrated national disability strategy. The role of the Commission in instances where the rights of people living with disabilities have been infringed was explained and discussed at length. In that workshop the issue of escort allowance featured prominently, as participants who have lost their sight contended that, over and above their normal financial expenditure, they have to pay extra for their escorts with no corresponding allowance from the State.

Socio-economic rights monitoring

Besides the ongoing monitoring of socio-economic rights during 1999, another activity that the office planned was to run workshops on the National Action Plan (NAP). Unfortunately, this did not materialise as the National Consultative Forum to be convened by the Deputy Minister of Justice, which is charged with the implementation and monitoring of the NAP, is yet to be formed. It is hoped to run these workshops in 2000.

Eastern Cape Success Story

At Gelvandale Primary School in the Eastern Cape, educators and learners found a very practical and inspiring way of demonstrating integration. Each child was asked to bring a contribution towards a pot of food, then a cooking hole was dug for each classroom. All were involved in the preparation of food and the cooking took place in a festive atmosphere. During the resulting enjoyable meal the learners discovered that each person's unique contribution could integrate, unite and enrich the school and the community. This school also has an Angolan national teacher, and the interaction of cultures and languages helps to address xenophobia in a natural and effective manner.

Complaints

Critical issues in this province seem to be the provision of adequate education, especially in rural areas, and problems relating to payment of social benefits such as pensions or disability grants.

Complaints statistics

For April to December 1999, figures for the Eastern Cape are:

Complaints received:	423
Complaints rejected:	51
Complaints referred:	81
Complaints finalised:	102
Complaints still in progress:	189

KwaZulu-Natal

Office details

The KwaZulu-Natal provincial office of the SAHRC was finally opened with a full staff complement in September 1999, although it has been attending to complaints for most of the year. The office is centrally situated in Durban in the Commercial City building, in Commercial Road, which is easily accessible by means of public transport, and has parking facilities. The office comprises a Legal and Education Officer/Provincial Co-ordinator, Karen Stone; an Education Officer, Nelisiwe Thejane; an Administrator, Mduduzi Sibisi; and a Housekeeper, Lindiwe Dlamini. The office has provision for two interns, one of whom will be appointed soon. A student from the University of Michigan has also served a three-month internship period at the office from September to December 1999. The supervision of the Province is shared by two part-time Commissioners, Prof. Karthy Govender and Prof. Charles Dlamini.

Major impacts

Discrimination in schools

Within the short space of time that the office has been open, staff members have managed to impact on the Province in many positive ways. The main area in which the presence of the Commission has been effectively realised is within the field of education. A positive working relationship has been initiated between the Commission and the Department of Education and Culture at provincial level. In the Pietermaritzburg region, the Commission has led the process of realising recommendations from the Report on Racism in Education, through assisting in the formation and empowerment of an Anti-Discrimination Task Team in the region. This process will hopefully be replicated in other regions within the Province. School interventions on human rights have occurred at different schools within the province where discrimination on racial, religious or procedural grounds has been identified. In most instances the resolution to the problem was easy, and the issues were resolved to the satisfaction of all concerned. At Drakensberg Secondary School, where racial clashes between black and Indian learners occurred, after certain interventions from Commissioners and staff at the school, a mock hearing was held, which allowed learners to work collaboratively around a human rights project, and allowed for a greater degree of understanding to be developed.

Just administrative action

The Department of Agriculture and Environmental Affairs willingly worked with the SAHRC in the resolution of a dispute regarding just administrative action in relation to a student who was expelled from one of the Agricultural Colleges in the province. The student has been reinstated for the 2000 academic year. The College is currently rewriting its Disciplinary Procedures in conjunction with the SAHRC, and has agreed to form a positive working relationship, whereby the Commission can embark on human rights training programmes for staff and students at the College. This may lead to anti-discrimination training in a broader sense at the College, depending on the needs identified.

Corporal punishment

The SAHRC has identified corporal punishment as an issue within the Education sector that needs to be urgently addressed. A training programme is being designed in conjunction with

certain individuals within the Department of Education and Culture, to highlight alternative methods of discipline, in order to offer educators knowledge of the human rights oriented approaches to discipline.

The aged

The provincial office held a workshop for people working with the aged. This grew out of an initial meeting with organisations working within this field, where a need for human rights training was identified as a priority. Another workshop organised within the province focussing on the aged included a workshop for home-based care-givers.

Complaints

Complaints statistics

During 1999 the complaints figures for KwaZulu-Natal are:

Complaints received:	234
Complaints rejected:	37
Complaints referred:	68
Complaints finalised:	33
Complaints still in progress:	96

Typical complaints

The provincial office is currently examining, researching and investigating issues relating to allegations concerning:

- The discriminatory nature of public holidays, which are perceived as favouring Christian Holy Days;
- The conflict between cultural practices and human rights in relation to the resurgence of Virginity Testing within the province;
- The realisation of the right of access to education;
- The adequacy of the provision of education and services for children with special needs;
- Systemic abuses which affect child victims of sexual abuse;
- The impact of HIV/AIDS on children affected/infected by it;
- Racism within schools;
- Discrimination on the basis of religion;
- The right of access to housing; and many others.

The office already had 222 cases registered by early December 1999.

Relationships and way forward

The provincial office has engaged in proactive networking strategies with organisations and fora already established within the province. The office enjoys a good relationship with many NGO/CBOs within the province.

It is hoped that this Durban office of the SAHRC will be able to effectively implement the mandate of the SAHRC in a far more effective fashion during the course of 2000, and it looks forward to meeting this challenge.

Northern Province

Office setup & priorities

The establishment of an office in Pietersburg that would serve the needs of the Northern Province as well as Mpumalanga to a lesser extent brought with it challenges of significant proportion. The office was established in Pietersburg in February 1999 and it currently has four staff members: Ntshole Mabapa (Legal and Education Officer), Lawrence Mafichi (Admin. Officer), Flora Shotolo (Housekeeper) and David Mulaudzi (Education Officer). The Commissioner overseeing the work of the Province is Jody Kollapen.

A limited staff complement meant that over and above the protection and education functions that were being fulfilled, we needed to strategically identify and prioritise the issues we would engage with. In this context we sought to focus on the rights of the elderly, farmworkers and rural communities, schools and the education system generally. At the same time we sought to forge working relationships and understandings with organisations of civil society, other Chapter 9 and statutory structures, the academic and business community and of course the government of the province.

We think we have made significant progress in securing the effective presence of the Commission in the province and in popularising its mandate and activities. A brief selection of some of the important initiatives undertaken during the year is illustrative in this regard.

Important initiatives

Pact with the Palaborwa Mining Company

Following a visit and a presentation to the largest company in the Province we have secured an arrangement in terms of which the company actively supports the work of the Commission, through the "Palabora Foundation", by making office and other facilities available for educational workshops, the receipt of complaints etc. We are truly excited by this development, as it is an indication of how the Commission can successfully work with "big business" in order to advance its mandate.

University of Venda

Following the participation of the Commission in a highly successful conference on Xenophobia at the University we were requested to assist the University in setting up a Centre for Human Rights. We have agreed to support this initiative – it provides the basis for mutual benefit in undertaking human rights activities including research, investigations, the employment of student interns and the exchange of materials and expertise. The Commission and the Centre are investigating the possibility of having an internship programme and placements system to be supervised by the SAHRC and credited towards the degree.

Government and parliament

We have regular meetings with members of government on issues of concern or of mutual interest. We are pleased by the support and respect shown for the work of the Commission. A comprehensive briefing by the Commission to the Legislature at Lebowakgomo was well received and we trust has contributed to a better understanding by members of the Legislature of our role as a Commission and their role in advancing the Constitution and the Bill of Rights.

Public awareness and education

Although the office was without an education officer for half the year, some sterling work has nonetheless been done in this field.

Human Rights Week 1999

Human Rights Week was launched in Pietersburg at Taxila High School on 15 March 1999. The launch was attended by the Premier of the Northern Province - Ngoako Ramatlhodi, SAHRC Chairperson - Barney Pitso, Father Smangaliso Mkatshwa – current Deputy Minister of Education, Dr Manto Tshabalala - then Deputy Minister of Education, members of the Legislature, learners, educators and parents.

Workshops

As a result of investigations done at the Nylstroom Prison, separate workshops were conducted at the prison for both prisoners and prison warders. The slogan used for the workshops was “ my right to throw my fist ends at your nose”.

This slogan was chosen particularly to promote the message that, as much as one has a right to enjoy the rights in the Bill of Rights, the rights of others should not be violated in the process.

Presentations

Presentations were made on the following topics to various groups and communities:

- The SAHRC and its functions;
- Discipline and human rights;
- Rights of domestic workers;
- Rights of the elderly;
- Human rights challenges facing church women in the new millennium; and
- Human Rights and HIV.

Monitoring human rights

Some issues of concern raised by principals and teachers in this province are:

- Training of school governing bodies;
- Crime and violence in schools and communities;
- Departmental failure to supply books and other resources;
- Ignorance and misinterpretation of human rights by learners, teachers, management and governing bodies;
- Albinos not well received;
- Poverty of families affecting smooth running of schools;
- Illiteracy of parents affecting operating of school governing bodies;
- Culture of learning and teaching very poor;
- Lack of discipline and commitment in both learners and educators; and
- Shortage of facilities and educational equipment led to poor results.

Protection of Human Rights - complaints

Since its opening, the Pietersburg office has received numerous complaints, some of which were referred to more relevant bodies, but a total of 55 have been thoroughly investigated. The majority of cases are complaints from prisoners, and others often involve social security, citizenship or labour problems. Some of the notable complaints are described in detail in Chapter 6.

Complaints statistics

The Northern Province figures for 1999 (March to November) are as follows:

Complaints received:	125
Complaints rejected:	9
Complaints referred:	31
Complaints finalised:	42
Complaints still in progress:	43

North West Province

Challenges

The North West Province, like other provinces in our country, faces enormous human rights challenges. Key amongst these challenges are poverty and inequality; human rights violations against farm workers; racism and racial discriminations in both the public and private sectors and gender equality, particularly within the African traditional setting.

Successes

The absence of a SAHRC office in the province makes it difficult for the Commission to be as visible and accessible to the people of the North West as it would have wanted to be. Consequently, the work of the Commission in the province has been largely reactive rather than proactive. Despite this shortcoming, the Commission has managed to address human rights violations in some remote parts of the province such as Pomfret, Stilfontein, Bray Mononono etc. In addition to this, some of the high profile cases that the Commission has dealt with emanated from the North West Province. For example, the Commission litigated and settled out of court the case of Tumane v Bakgatla ba Kgafela, which involved the right to practice one's culture versus freedom of religion. We also conducted public hearings on racism and racial discrimination in the Vryburg district of the SAPS. In this regard, the Commission wishes to thank and commend the SAPS (North West) for the positive and swift manner in which it has responded to the recommendations we made in the report of the enquiry. (Refer to Chapters 6 and 2 respectively for details of these two cases.)

Promotional activities

The Commission has not done too well as far as promoting human rights in the province is concerned. Very few human rights education workshops were conducted. Limited human rights awareness programmes were however conducted. These included visits to schools during the Human Rights Week from 15-21 March 1999. In addition to this, eight schools in the province were included in the study into racism and racial integration in public schools – a detailed report on this study is given in Chapter 5. Overall, the Commission within its limited resources endeavours to make the Commission more visible in the province.

Socio-economic rights

In August 1999, the Commission held separate briefing meetings with members of the legislature and heads of various departments on the work of the SAHRC in the province. The meeting with the latter was necessitated by failure by the North West Province, in 1998, to furnish the Commission with information on the measures taken towards realisation of social and economic rights as required by Section 184 (3) of the Constitution.

Unfortunately, despite a firm undertaking made at that meeting to furnish the Commission with the required information for 1999, the North West Province was one of the provinces that only complied with our request after we had threatened to issue subpoenas. We hope that in future this will not be necessary, particularly because only through the delivery of social and economic rights can we make a real difference to the lives of ordinary people in this country.

Northern Cape

This area is supported by the Cape Town Office and the Commissioners who oversee the Western Cape. Problems in this region tend to revolve around the issues of child labour, asbestos-related illness and education. Some initiatives are detailed here; others can be noted in Chapter 6: Protecting Human Rights, particularly with respect to education in remote rural areas.

Child Labour

The Commission has been aware of the prevalence of child labour in various regions of South Africa, particularly on farms in the Northern Cape. Discussions have been held between the Commission, the Agricultural Union and the Chairperson of the Portfolio Committees of Finance, Agriculture and Land Affairs. The Agricultural Union conducts regular workshops for farmers on appropriate labour legislation. They fully accept that child labour is illegal and unacceptable and will assist in the prosecution of any persons guilty of such activities. The Portfolio Committee of Agriculture and Land Affairs has also conducted public hearings on minimum wages and conditions of service of the agricultural and domestic sector in various Northern Cape areas. Concern was expressed about the treatment of such workers and the Commission is in particular anxious that human rights, especially the rights of child labourers to education, are being violated. The Department of Education will work together with the Agricultural Committee to raise awareness of the child labour problem and to form a task group. The SAHRC will arrange a series of human rights workshops in the deep Northern Cape in 2000 and will also engage the Centre for Rural Legal Studies in further discussion and action.

Northern Cape Innovation

The Commission has noted a successful innovation in the Northern Cape. The Premier has formed a crime prevention committee, comprising representatives of government departments such as Justice, Police Services, Defence, Correctional Services and Welfare. The Committee is registered as a Section 21 company (i.e. not for gain) and engages in a number of activities – workshops, raising funds, human rights awareness campaigns and encouraging civil society to assist the police in crime prevention. The SAHRC admires the holistic approach used here and will be glad to assist any other such community initiative, particularly by supporting human rights training or awareness campaigns.

Free State

Areas of Human Rights Concerns

Monitoring Socio-Economic Rights

The Premier, Ms Winkie Direko, was briefed on the work of the Commission and she is supportive. She also has an understanding of the duty of the Province to co-operate with the Commission and to provide information on measures taken towards the realisation of socio-economic rights. The same unfortunately cannot be said of the legislature, as the SAHRC has been unable as yet to brief the current legislative members.

Farmworkers

The Commission continues to receive complaints from farm workers of human rights abuse by farmers. These complaints are in respect of bad working conditions, low wages, long working hours in all weather conditions, unhygienic living accommodation, lack of employment benefits and lack of freedom of association to join unions.

Workers have no security of tenure or any kind of land security. The Extension of Security Tenure Act was meant to offer protection to farm labourers; however this is not so. The Act has flaws and does not provide adequate protection to workers and their families. Workers have no access to judicial redress. Their situation is worsened by lack of education, rendering them more vulnerable. They are powerless to assert their human rights in the face of eviction threats. Often the farmers have access to legal representation, resulting in successful litigation or better protection of their interests.

Farmers, crime and vigilantism

There have been escalating incidents of killings of farmers, and the Commission has been told by the office of the Provincial Police Commissioner that measures have been taken to curb this crime. However, increasing crime in and around farming communities has resulted in farmers and other groups organising themselves as Commandos or vigilante groups for protection. This is a worrying trend and leads to serious violations of human rights by such community watch bodies. The violations include assault, harassment of people found walking during the night, unlawful arrest and intimidation of rural councillors, union organisers and community workers. The growing worker awareness of human rights and the assertions thereof, the demand for better pay and better working condition, together with some loss of subsidy to farmers, seem to have put farmers under a lot of pressure and given them a sense of loss of control. The Commission intends to engage farmers and provide human rights education to facilitate more human rights-based solutions to the problems.

Crime, women and children

There are a number of women prisoners serving sentences for theft of food and for being in the country illegally (mainly from Lesotho). There also seem to be many children, who have committed serious offences, in detention in and around Bloemfontein. Most of these children have been to places of safety, but, having absconded more than once, the courts seem to be ordering them to be held in prisons because of the nature of the crimes. The rights of these two groups need to be protected.

Unemployment and Poverty

The major cause of unemployment is that both economic pillars, viz. mining and agriculture, have been under pressure in recent years. Retrenchment of mine workers since the late 1980s has added to the problem. The evictions of workers and their families and voluntary migration to the peri-urban areas have increased the populations of such areas without necessarily increasing job opportunity. Poverty is rife, especially in smaller towns, leading to increased crime, often of a social nature, for example assault.

Human Rights NGOs

There is a positive development by various non-governmental organisations to create a provincial Human Rights Forum. The Commission is playing an active supporting role, together with the Centres for Citizenship Education and Conflict Resolution, as this forum will strengthen our relationship with civil society.

General

Some parts of the Free State, in particular areas like Dealsville, Boshoff and Hoopstad, appear not to be part of the new South Africa. Racism and racial discrimination are practised overtly. Discussion of human rights evokes hostility and defensiveness on the part of the more affluent members of the communities. Integration is viewed in the same light and is regarded as a forced concept to be resisted at all costs. Exclusionary practices are rife in schools, social clubs and recreational facilities. The more affluent members often control institutions and resources like shops, social amenities, and legal facilities and the justice system. Thus it is more difficult for ordinary people to assert their human rights. Their access to legal representation is also limited due to lack of resources and lack of sophistication.

Future plans

Racial polarisation is rampant, especially in small towns. The SAHRC needs to focus on this polarisation and deal with it, by means of human rights education, before it explodes. For the pressing reasons outlined above, the Commission is planning to open its next and 5th provincial office in the Free State, probably in Bloemfontein, as soon as budgets allow.

10. National and International Liaison

In the effective execution of its duties, the SAHRC is required to liaise with other bodies and institutions in order to promote closer co-operation, advance clear and coherent policies and ensure common practice, especially in areas of overlapping jurisdiction. The Commission also has the duty to advise government on human rights policy and to strengthen human rights advocacy at all levels within our country.

A complementary responsibility we have undertaken is to monitor South Africa's observance of international human rights norms, our country's contribution to human rights observance in international forums, and the duty to take our place as a member of the international community.

The vehicle for national liaison on human rights policy and developments is through the Forum of Independent Statutory Bodies and through the Section 5 Committee on NGO/CBO Relations chaired by Commissioner Manthata. International relations are advanced through the Section 5 Committee on Policy and International Liaison convened by Commissioner Wessels.

The primary focus for our activities in 1999 has been in consolidating the Forum of Independent Statutory Bodies, strengthening our relations with human rights commissions, (especially in Africa), and playing our part in the international sphere. The Commission is a member of the International Co-ordinating Committee of National Institutions, attends the sessions of the UN Commission for Human Rights and has applied for affiliate status in the African Commission on Human and Peoples' Rights. Since July 1998, the Commission has the presidency of and has served as the secretariat for the African Co-ordinating Committee of National Institutions.

Members of the Commission have been invited to present papers, assist in training, and run seminars internationally. Various institutions from Africa have requested the Commission's assistance in giving exposure to their personnel on the operations and procedures of a national institution. In this regard, we have built particularly close links with national institutions in the SADC region, especially Malawi, Zambia and, further afield, Uganda and Nigeria.

National Liaison

Co-operation with other statutory bodies

The Commission initiated the *Co-ordinating Forum of Statutory Bodies Supporting Democracy* (now renamed the *Forum of Independent Statutory Bodies*) in South Africa to discuss ways of collaborating and to devise mechanisms for sharing information to improve human rights delivery in our country. This Forum was formed in 1996 and a Task Group established, comprising initially representatives from the SAHRC, the Public Protector, the Commission on Gender Equality, the Independent Complaints Directorate and some government departments.

With the establishment of the National Consultative Forum on Human Rights chaired by the Deputy Minister of Justice, it became necessary for the Forum to change its name to the *Forum of Independent Statutory Bodies* and to maintain its independent status. That meant also that government departments had a different forum to that of independent institutions. During the course of 1999, the Forum agreed procedures for co-operation, examined the issues of independence and regularly shared information.

Although members of the Commission on Gender Equality (CGE), the SAHRC and the Public Protector (PP) had been meeting and co-operating since 1997, there had been no formalised plan of joint action. In July 1999, they decided to draft terms of reference for their working relationship. Further discussions clarified plans for a Technical Committee for this *Forum of Independent Statutory Bodies*, meeting quarterly, and four specialised sub-committees. These sub-committees would focus on legal; public education and information; research; and finance and administration respectively. These committees will systematise referral, co-ordinate activities, share resources, address overlapping issues, develop common strategies and methodologies and prevent duplication. The three founder bodies will constitute the core participants but other independent statutory bodies will be invited to participate.

In some respects, the National Action Plan for the Promotion and Protection of Human Rights (NAP), adopted in December 1998, has taken over the process initiated by this *Forum of Independent Statutory Bodies* and therefore discussions were held to identify what role the Forum should take in the future. Cabinet approved the establishment of a *National Consultative Forum on Human Rights (NCF)* to oversee the implementation of the NAP. The NCF will also:

- Assist in the human rights training of civil servants;
- Co-ordinate the commemoration of human rights days (for example, Human Rights Day on 21 March); and
- Assist government departments in preparing reports to international and regional treaty bodies.

The SAHRC will continue its involvement in the NCF to observe and monitor the implementation of the NAP, to consult with government departments where necessary and to offer its expertise where required.

The Commission for the Promotion and Protection of the Rights of Cultural, Religions and Linguistic Communities.

The SAHRC has co-operated with the Department of Local and Provincial Government in the development of legislation to give effect to Section 185 of the Constitution, which requires the setting up of this Commission. We have regularly assisted in the September 24 National Conferences and we have advised on an appropriate relationship between the proposed commission and the SAHRC. The department commissioned the SAHRC to undertake research in order to develop appropriate policy on the complex issue of indigenous rights – see details in Chapter 7. Likewise, the SAHRC participated in departmental initiatives on the role and function of traditional leaders in our Constitution.

International Liaison

SAHRC affiliates to the African Commission

The 27th Plenary of the South African Human Rights Commission, held from 24-25 February 1999, resolved formally to request affiliated status to the African Commission on Human and Peoples' Rights and agreed to do all things necessary to achieve such status, including:

- The submission of the Commission's legal instruments, annual reports and programme of action;
- Reporting to the Commission on its activities every two years; and
- Assisting in the promotion of the African Charter at national level.

Such affiliation, once approved by the African Commission, will give the SAHRC a formal link to the formation and development of human rights policy and practice for the Continent. It will also strengthen the SAHRC's networking with other role-players in Africa through participation in the regular sessions of the African Commission and in the preceding NGO workshops.

United Nations / South African Government Human Rights Institutional Strengthening Project

The United Nations Office of the High Commissioner for Human Rights (UN OHCHR) and the South African Government launched an important joint project in April 1998. The aim of this project was to strengthen the promotion and protection of human rights in our country and to enhance capacity within human rights institutions and government departments.

The project was conceived against the background of SA's transition to democracy and the specific needs associated with this process. The primary focus was consequently on institutionalising democracy and respect for human rights. To this end, two activities were emphasised:

- Capacity building, particularly of the institutions established to strengthen democracy; and
- Human rights training, particularly in the area of socio-economic rights, where SA's racial past has left a devastating legacy.

Throughout 1998 and 1999, the project provided human rights training in most of the specified areas. With only a Project Manager, Dr Russell Ally, and three National Project Officers, a great deal of valuable work was achieved. Human rights training was conducted for, amongst others, the South African Police Services, the SA National Defence Force, Correctional Services and the Judicial Inspectorate. The SAHRC has assisted in some of these training programmes.

In late 1999 an assessment of the work done was carried out. It was decided to continue the project until 2001 to maintain coherence and allow for proper evaluation. The focus will now be on implementation and sustainability.

There are five new areas of activity proposed, three of which will involve the SAHRC:

- **Implementation and monitoring of the National Action Plan**
Dr Ally will co-ordinate these activities on behalf of the office of the Deputy Minister of Justice, which will fund and support the project.

- **Human Rights Education and Training Centre.**
The SAHRC has developed a proposal for this centre (refer to Chapter 5 for details) and the UN OHCHR has been approached to provide support.
- **The Judicial Inspectorate and Independent Prison Visitors**
The SAHRC is assisting in the training of the Independent Prison Visitors system being implemented by the Judicial Inspectorate. (See also Chapters 5 and 6)

National Action Plan

A very important aspect of the joint UN/SA Government Project has been the development of South Africa's National Action Plan (NAP) for the Promotion and Protection of Human Rights. The NAP was developed through an extensive consultative process, was adopted by Cabinet and was officially deposited with the United Nations on International Human Rights Day, 10 December 1998. (Copies of the NAP are available from the Commission on request.)

The NAP has become an important resource for government, human rights activists and human rights advocacy in our country. It has been widely distributed and is constantly referred to in assessing how government understands its human rights obligations and in monitoring government's implementation of human rights.

Currently, the UN / SA Government Project is evaluating the process of developing the NAP and will co-ordinate the public awareness campaign on the NAP (which has already begun in the Eastern Cape and North West Provinces). Important contacts and working relationships have been established with government, NGOs, the institutions created to strengthen democracy and other statutory bodies. The new Deputy Minister of Justice, Cheryl Gillward, will take charge of the process and arrange for the convening of *the National Consultative Forum on Human Rights*: the body recommended by Cabinet to oversee the implementation of the NAP.

South Africa's NAP seen as a model

As the office of the High Commissioner for Human Rights has prioritised the development of National Action Plans, the SA experience could be a very useful model for other countries committing themselves to adopting NAPs. For example, Commissioner Jerry Nkeli of the SAHRC was invited to a 3-day workshop in Bangkok on developing NAPs, attended by over 20 countries in the Asia-Pacific region, to share the valuable experience gained by South Africa during the NAP development process.

The Nigerian Human Rights Commission, established in 1995, recognises the imperative to develop a plan of action to promote human rights, particularly as Nigeria's history of military dictatorships can contribute to a high level abuse of human rights. The Nigerian Human Rights Commission and the Federal Ministry of Justice are committed to developing this action plan for Nigeria in 2000, and, to this end, sent a number of staff members on internship programmes to other countries. A Nigerian HRC staff member spent five weeks with the SAHRC in late 1999. The aims of this visit were to:

- Study the process of developing, implementing and monitoring a NAP;
- Study the working of the SAHRC and facilitate co-operation and collaboration; and
- Establish links with government and non-governmental organisations involved in the NAP process and general human rights development in Africa.

In particular, the Nigerian intern at the SAHRC commented on some useful features of the SA experience, including:

- The unequivocal government commitment to the principles and process of the NAP as well as its implementation;
- The broad and articulate consultative process; and
- The massive and intense public awareness drive.

The Nigerian delegate noted similarities in the two commissions and complimented the SAHRC on its impressive work in the field of advocacy and its advanced use of technology in communications. Innovative aspects implemented by Nigeria and which South Africa can, in turn, learn from, are the establishment of human rights clubs in secondary schools and an essay and debate competition amongst students of tertiary institutions.

The African Co-ordinating Committee

SAHRC has been serving as the presidency and secretariat of the African Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights since July 1998. This role entails convening meetings of the Co-ordinating Committee, preparing reports and circulating minutes. It also means being recognised as the representative for African national institutions in international forums. It was in that capacity that we were invited by the Lisbon-based North-South Centre of the Council of Europe to assist with the organisation of the Euro-Africa Civil Society Forum to be held in Cairo during the Portuguese presidency of the European Commission in March/April 2000. The Commission is represented by the Deputy Chairperson in the Planning Committee and has seconded Ms Corlett Letlojane to the organising Committee in Lisbon for a period of six months. We have convened meetings in Geneva (March 1999) and in Algiers (October 1999). We are assisting with the organisation of the 3rd Conference of African National Institutions, scheduled for Lome, Togo in September 2000. We have published the report of the 2nd Conference of African National Institutions held in Durban in July 1998. (The full report is available in English and we are preparing the French version.)

We realised that the potential of the Co-ordinating Committee is not fully realised because of organisational limitations. We therefore proposed that a secretariat of the Committee be established, and have offered to host such a secretariat for five years. The secretariat will then undertake the task of organising programmes of African national institutions, seminars, training courses and exchange visits as well as a regular newsletter in English and French. These proposals will be submitted to the 3rd Conference in Lome, Togo in September.

The First Ministerial Conference on Human Rights in Africa

The Chairperson and Commissioner Tlakula attended the above conference, which was held in Grand Bay, Mauritius from 22-25 April 1999. Dr Mantho Tshabalala-Msimang, MP, (then Deputy Minister of Justice), led the South African delegation. The conference was widely representative of OAU member states. It provided an assessment of the state of human rights in Africa and identified an African approach to human rights development. The conference adopted the Grand Bay (Mauritius) Declaration and Programme of Action, since endorsed by the 55th OAU Summit of Heads of State and Government held in Algiers in July 1999. The Commission has undertaken to publicise the Grand Bay Declaration and to publish it in English and French. The Grand Bay Declaration follows.

Grand Bay (Mauritius)

Declaration and Plan of Action

The First OAU Ministerial Conference on Human Rights, meeting from 12 to 16 April, 1999 in Grand Bay, Mauritius;

Considering that the promotion and protection of Human Rights is a matter of priority for Africa, and that the Conference provides a unique opportunity to carry out a comprehensive analysis and reflection on the mechanisms for the protection of Human Rights to guarantee Human Rights for accelerated development of the Continent;

Recalling the Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World adopted by the Assembly of Heads of State and Government of the OAU in 1990, as well as the Declaration establishing within the OAU, a Mechanism for Conflict Prevention, Management and Resolution adopted by the Assembly of Heads of State and Government of the OAU in Cairo (Egypt) in June 1993;

Acknowledging that observance of human rights is a key tool for promoting, collective security, durable peace and sustainable development as enunciated in the Cairo Agenda for Action on relaunching Africa's socio-economic transformation adopted by the extraordinary session of the Council of Ministers held in Cairo, Egypt~ from 25 to 28 March, 1995;

Taking Note of the growing recognition that violations of human rights may constitute a burden for the international community;

Reaffirming its commitment to the purposes and principles contained in the OAU Charter, UN Charter, the Universal Declaration of Human Rights as well as the African Charter on Human and Peoples' Rights;

Deeply Concerned by acts of genocide and other crimes against humanity perpetuated in certain parts of Africa;

Emphasizing that respect for Human Rights is indispensable for the maintenance of regional and international peace and security and elimination of conflicts, and that it constitutes one of the fundamental bedrocks on which development efforts should be realized;

Considering the democratization processes taking place on the Continent and the expressed desires of African peoples to live in a state of law which secures the full enjoyment of Human Rights and fundamental freedoms for all peoples, regardless of their gender, race, place of origin, religion, social status, ethnic background, political opinions or language;

Further Considering the importance of the right to development, the right to international peace and security and the principles of solidarity and friendly relations between States provided for in the African Charter on Human and Peoples' Rights;

Recalling the determination of the collective leadership in Africa to establish conditions which will ensure social justice and progress and thus enable African peoples to enjoy better standards of living in greater freedom and in the spirit of tolerance towards all;

Reiterating the need to constructively examine Human Rights issues in a spirit of justice, impartiality and non-selectivity, avoiding their use for political purposes;

Recognizing the progress achieved by African States in the domain of Human Rights and the significant contribution of the African Continent to the universalization of these rights;

Further Recognizing the contribution made by African NGOs to the promotion and protection of Human Rights in Africa;

Recalling the recommendations made by the Second Conference of National Human Rights Institutions held in Durban in 1998;

Determined to consolidate the gains made in Africa in the promotion and protection of Human and Peoples' Rights;

Solemnly adopts the Grand Bay (Mauritius) Declaration and Plan of Action

1. The Ministerial Conference affirms the principle that Human Rights are universal, indivisible, interdependent and inter-related and urges governments, in their policies, to give parity to economic, social and cultural rights as well as civil and political rights.

2. The Conference also affirms that the right to development, the right to a generally satisfactory healthy environment and the right to national and international peace and security are universal and inalienable rights which form an integral part of fundamental Human Rights.

3. The Conference further affirms the interdependence of the principles of good governance, the Rule of Law, democracy and development.

4. The Conference recognizes that the development of the rule of law, democracy and Human Rights calls for an independent, open, accessible and impartial judiciary, which can deliver justice promptly and at an affordable cost. To this end, such a system requires a body of professional and competent judges enjoying conducive conditions.

5. The Conference recognises that the core Values on which Human Rights are founded, particularly (a) respect for the sanctity of life and human dignity (b) tolerance of differences (c) desire for liberty, order, fairness, prosperity and stability, are shared across all cultures. In this connection, integrating positive traditional and cultural values of Africa into the Human Rights debate will be useful in ensuring their transmission to future generations.

6. The Conference notes that Women and Children's rights issues remain of concern to all. Therefore it welcomes the decision to elaborate a Protocol to the African Charter for the more effective protection of Women's rights and calls on the OAU to convene a meeting of Government experts to examine the instrument. It urges all African States to work assiduously towards the elimination of discrimination against women and the abolition of cultural practices which dehumanize women and children. The Conference also recommends to States to take the necessary measures to stop the practice of child-soldiers and to reinforce the protection of civilian populations, particularly children in conflict situations. The Conference further recommends that States adopt measures to eradicate violence against women and children, child labour, sexual exploitation of children, trafficking in children and to protect children in conflict with the law as well as refugee children.

7. The Conference notes that the rights of people with disability and people living with HIV-AIDS, in particular women and children are not always observed and urges all African States to work towards ensuring the full respect of these rights.

8. The Conference is aware that violations of Human Rights in Africa are caused among others by:

- a) Contemporary forms of slavery
- b) Neo-colonialism, racism and religious intolerance
- c) Poverty, disease, ignorance and illiteracy
- d) Conflicts leading to refugee outflows and internal population displacement
- c) Social dislocations which may arise from the implementation of certain aspects of structural adjustment programmes
- f) The debt problem
- g) Mismanagement, bad governance and corruption
- h) Lack of accountability in the management of public affairs
- i) Monopoly in the exercise of power
- j) Harmful traditional practices
- k) Lack of independence of the judiciary
- l) Lack of independent human rights institutions
- m) Lack of freedom of the press and association
- n) Environmental degradation
- o) Non-compliance with the provisions of the OAU Charter on territorial integrity and inviolability of colonial borders and the right to self-determination
- p) Unconstitutional changes of governments
- q) Terrorism
- r) Nepotism
- s) Exploitation of ethnicity.

There is therefore the need to adopt a multi-faceted approach to the task of eliminating the causes of human rights violations in Africa.

9. While welcoming the improvements which have taken place in addressing the refugee problem, the Conference believes that the high number of refugees, displaced persons and returnees in Africa constitutes an impediment to development. It recognizes the link between human rights violations and population displacement and calls for redoubled and concerted efforts by States and the OAU to address the problem.

10. The Conference recognizes that the development and energization of the civil society, the strengthening of the family unit as the basis of human society, the removal of harmful traditional practices and consultation with community leaders should all be seen as building blocs in the process of creating an environment conducive to human rights in Africa and as tools for fostering solidarity among her peoples.

11. Deeply concerned about the acts of genocide, crimes against humanity and other war crimes being perpetuated in certain parts of Africa, the Conference appeals to African States to ensure that such acts are definitively eradicated on the Continent and recommends that these serious acts of violation be adequately dealt with.

12. Also concerned by the scourge of terrorism as a source of serious Human Rights violation, especially the most basic of such rights - the right to life -the Conference urges African

countries to formulate and implement an African Convention for Cooperation in combatting this scourge.

13. The Conference reaffirms the commitment of Africa to the promotion, protection and observance of Human Rights obligations. In this framework, the Conference requests those states which have not yet done so to give consideration to the ratification of all major OAU and UN Human Rights Conventions, in particular -

- a) The African Charter on Human and Peoples' Rights;
- b) The African Charter on the Rights and Welfare of the Child;
- c) The Convention Governing Specific Aspects of Refugee Problems in Africa;
- d) The Protocol on the Establishment of an African-Court on Human and Peoples' Rights;
- e) International Covenant on Economic, Social and Cultural Rights;
- f) International Covenant on Civil and Political Rights;
- g) United Nations Convention on the Rights of the Child;
- h) United Nations Convention on Refugees and its Protocol;
- i) Convention on the Elimination of All Forms of Discrimination Against Women;
- j) The Four Geneva Conventions governing the Treatment of War Wounded, Prisoners of War and Civilians as well as the Two Additional Protocols;
- k) UN Convention Against Torture;
- l) UN Convention on the Elimination of All Forms of Racial Discrimination
- m) The Statute of the International Criminal Court.

14. The Conference recognizes the necessity for States to give effect to the African Charter, International Humanitarian Law and other major international Human Rights instruments which they have ratified, in their national legislations for wider effect throughout Africa.

15. The Conference reiterates the fact that the primary responsibility for the promotion and protection of Human Rights lies with the State. It therefore urges States to establish national human rights institutions and to provide them with adequate financial resources and ensure their independence.

16. The Conference recognizes that the reporting obligation of States Parties under the African Charter on Human and Peoples' Rights provides an important mechanism and an opportunity for African governments to engage in a process of continuous dialogue with the African Commission. Accordingly, the Conference recommends that States Parties take appropriate measures to meet their reporting obligations under the Charter.

17. The Conference recognizes the importance of promoting an African Civil Society, particularly NGOs, rooted in the realities of the Continent and calls on African governments to offer their constructive assistance with the aim of consolidating democracy and durable development.

18. The Conference calls upon all international organizations - governmental, inter-governmental and non-governmental - to cooperate and harmonize their initiatives with the OAU and its relevant organs as well as the various sub-regional blocs within Africa for a more co-ordinated approach to the implementation of Human Rights in Africa and for maximum effect of such programmes and initiatives.

19. The Conference notes that the adoption of the UN Declaration on the Protection of Human Rights Defenders by the 50 Session of the UN Commission on Human Rights marks a

significant turning point, and calls on African governments to take appropriate steps to implement the Declaration in Africa.

20. The Conference appeals to the Secretary General of the OAU and the African Commission on Human and Peoples' Rights to develop appropriate strategies and take measures to sensitize and raise the awareness of African populations about Human Rights and International Humanitarian Law through formal and non-formal educational processes comprising among others, a special module in school curricula.

21. The Conference recognizes that the media are important actors for building bridges between governments and peoples; it, therefore, urges States Parties to guarantee a free and independent press within their national borders to enable it play a role in the promotion of human rights in Africa. To this end, the Conference appeals to the Secretary General of the OAU to look into the possibility of providing assistance to media organizations on the Continent.

22. To ensure that Human Rights considerations are integrated into all OAU activities, the Conference recognizes the need for Human Rights to be reflected in the programmes of the Continental Organization.

23. The Conference noting that the working of the African Commission on Human and Peoples' Rights is critical to the due observance of Human Rights in Africa, believes that there is a need to evaluate the structure and functioning of the Commission and to ascertain the extent to which it is implementing the Mauritius Plan of Action during the period of 1996-2001, and to assist it to remove all obstacles to the effective discharge of its functions. There is also an urgent need to provide the Commission with adequate human, material~ and financial resources.

24. The Conference notes that under the African Charter on Human and Peoples' Rights, it is the Assembly of Heads of State and Government that is authorized to take decisive action on the activity reports of the African Commission on Human and Peoples' Rights and expresses the hope that the Assembly would consider delegating this task to the Council of Ministers.

25. The Conference underscores the fact that co-operation between the African Commission and national human rights institutions will greatly enhance respect for Human Rights in Africa. In that regard, the Conference welcomes the decision by the African Commission on Human and Peoples' Rights to grant affiliated status to National Human Rights Institutions.

26. Concerned by the fact that the external debt burden is crippling the development efforts of Africa and undermining the fostering and sustenance of respect for Human Rights, the Conference appeals to the international community, especially multilateral financial agencies, to alleviate the external debt and take all steps necessary to reduce this burden on States to enable them to fully realize the economic emancipation of their peoples and enhance the maximum enjoyment of Human Rights by African peoples.

27. The Conference requests the Secretary General of the OAU to submit this Declaration to the Assembly of Heads of State and Government, all African national governments, the African Commission on Human and Peoples' Rights, the UN High Commissioner for Human Rights and other relevant UN organs and agencies and to examine the feasibility of making this conference a regular feature of OAU activities.

28. The conference recommends to States to formulate and adopt national action plans for the promotion and protection of human rights.

29. Finally, the Conference requests the Secretary General of the OAU to submit a Report to the next Session of the Council of Ministers on the outcome of this Conference.

(Adopted at Grand Bay, Mauritius on 16 April, 1999.)

Following the Mauritius undertakings, we have written to the Minister of Justice and Constitutional Development enquiring about the timetable for the government's initiating a process for the speedy ratification of the Protocol to the African Charter on the Establishment of the African Court of Human & Peoples' Rights and the Rome Statute on the International Criminal Court.

South Africa's First Country Report to African Commission

The then Deputy Minister of Justice led a delegation to the 25th Ordinary Session of the African Commission on Human & Peoples' Rights held in Bujumbura, Burundi in April 1999 to present South Africa's initial country report. The report is required in terms of Article 62 of the African Charter, which South Africa has ratified. The timeously-presented report impressed the Commission and other observers by its comprehensive coverage of human rights practice and challenges in South Africa. It was both a sober and honest analysis of South Africa's strengths and weaknesses in its compliance with the African Charter, and could be a model for the reports of other states. The only blemish was that the report had not been made available in advance to South African NGOs so that they too could comment on it and make their own responses to the African Commission.

Other International Initiatives

Meeting of National Institutions

The Chairperson attended a *Meeting of National Institutions* in Paris from 3 – 5 December 1998. It was part of France's commemorations of the 50th anniversary of the Universal Declaration of Human Rights adopted in France in 1948 and of the 1991 Paris Principles. The well attended meeting proved a very useful occasion for networking. It was also an occasion for the Commission to exercise its leadership of African national institutions, especially as regards the process of accrediting national institutions. The role, procedures and structures of the ICC (International Co-ordinating Committee) were also finalised.

The 5th International Workshop of National Institutions will be held in Rabat, Morocco in April 2000.

International Workshop on Visiting Mechanisms

Commissioner Wessels represented the SAHRC at an International Workshop on *Visiting Mechanisms* in late September 1999. This workshop looked at "visiting mechanisms", i.e. visits under international law, to states that have ratified a United Nations human rights instrument for purposes of verification, monitoring and prevention. An attempt was made to move forward the implementation of the Draft Optional Protocol to the United Nation Convention

Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The Draft Protocol aims to build relationships of confidence, transparency and critical and constructive dialogue, and is thus merely a mechanism designed to implement preventative measures. The SAHRC will support both the Draft Optional Protocol to CAT, and will work with APT (Association for the Prevention of Torture) to assist them in their proposed project on police codes of conduct in Southern Africa.

Fair trials in Africa?

Commissioner Tlakula and Commissioner Dlamini attended the African Commission seminar on *The Right to a Fair Trial in Africa* held in Dakar, Senegal from 7-11 September 1999. The objective was to discuss the content and implementation of that section of the African Charter relating to the right to a fair trial (Article 7). Sub-themes covered an overview of international fair trial standards, obstacles to a fair trial, the development of norms by regional mechanisms, the independence of legal persons, and practical issues of implementation. Matters of concern included access to court procedures and legal representation by vulnerable groups; the right of access to civil justice; the rights to a fair trial in military, traditional and other special courts or tribunals; states of emergency; and training of judicial officers.

Elsewhere in the world, Regional Courts are the vehicles through which the right to a fair trial is effectively implemented. It may therefore be difficult for the African Commission to give effect to the right to a fair trial in the absence of the African Court. The SAHRC would therefore support all efforts at ensuring the speedy establishment of this court.

Miscellaneous international representations

In addition, Commissioners read papers at and addressed conferences in Illinois, USA (Pityana/Tlakula), Bangkok, Thailand (Govender/Nkeli), Fiji (Govender), Argentina and Uruguay (Pityana) and India (Kollapen). Deputy Chairperson Mabusela led a delegation on a study visit on child rights advocacy to Brazil, Mexico, Costa Rica, India and Senegal (details in Chapter 8). Commissioner Wessels undertook research visits to Zambia and Namibia. The Chief Executive Officer represented the Commission at the 3rd Workshop of the Asia-Pacific Forum held in Manila, Philippines in September.

World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

This follows a series of world conferences convened by the United Nations since 1990 as a strategy for raising awareness about international norms for human rights; to ensure implementation of the standards already established by the UN; and to draw on best practices from around the world. Previous world conferences on racism were held in Geneva in 1978 and 1983. The General Assembly has now resolved that the 3rd World Conference be held in 2001. Seven objectives for the world conference have been identified; foremost among them the need to review progress made in international efforts for the elimination of racism and to consider what further strategies ought to be adopted to combat racism.

It has been announced that South Africa will host the world conference in July or August 2001. The African National Congress has also announced that a national conference on racism will be held in South Africa in 2000. The NGO conference convened by ICJ in Kigali in November requested the SAHRC to co-ordinate Africa-wide activities in order to ensure that Africa participates at the conference fully prepared. The Chairperson has been invited to serve on several UN sponsored seminars and workshops for experts in the field of racism in preparation for the world conference. The UN High Commissioner for Human Rights has indicated that she

will be looking to the Commission to assist in popularising the conference not only in South Africa but throughout the Continent, and to ensure a high level of preparedness locally. The Commission has prioritised, for 2000, a major programmatic focus on racism and preparations for the 2001 3rd World Conference against Racism.

Some awards made to the SAHRC

René Cassin medal

A medal commemorating the 50th Anniversary of the Universal Declaration of Human Rights was presented to Dr Pityana at the Meeting of National Institutions in Paris in December 1998. The medal was presented by the French Consultative Commission on Human Rights to honour René Cassin, a French jurist and principal drafter of the 1948 Universal Declaration of Human Rights.

SA Law Society Award

The Law Society of South Africa instituted an annual award in 1999, and the SAHRC was one of the organisations selected as initial recipients.

Appendix A

SAHRC Public Outreach Calendar – December 1998 – December 1999

Major seminars, workshops, presentations and lectures

Date	Venue	Forum	Topic	SAHRC person/s
3/12/98 - 5/12/98	Paris, France	Meeting of National Institutions	Clarifying the role of the ICC and the status of the National Institutions	Chairperson Pityana
5/12/98	Vosloorus, Free State	Meeting of Disabled Peoples Organisations	Stereotyping, marginalisation & discrimination	Commissioner Nkeli
8/12/98 - 12/12/98	Harare, Zimbabwe	8 th Assembly of the World Council of Churches	Guest speaker: Africa Plenary “Africa – the footprint of God”	Chairperson Pityana
10/12/98	Throughout SA	Activities to celebrate and increase awareness of International Human Rights Day Various luncheons and ongoing media releases		All Commissioners & many staff members
	Cape Town & KwaZulu-Natal	Launch of National Action Plan (NAP)		
	Johannesburg	Carnival Soccer Match – Orlando Stadium		
18/1/99 – 22/1/99	Arusha, Tanzania	Conference of Indigenous People - East, Central and Southern Africa	The African Charter and the Rights of Indigenous Peoples	Chairperson Pityana (as member ACHPR)
20/1	Drakensberg Sun Hotel	Workshop for the National Prosecuting Authority	A constitutional and human rights approach to prosecutorial policy and social context awareness	Commissioner Kollapen
22/1/99 - 23/1/99	Harare	Commonwealth Conference		Deputy Chair Mabusela
26/1	Roodepoort	Technikon SA – workshop for prosecutors	Human rights and constitutionalism	Commissioner Kollapen
28/1/99	Cape Town	Workshop – Health rights as human rights	Language as a barrier to access to health care	Commissioner Kollapen
28/1/99 - 30/1/99	Cape Town	African Seminar on Development, Co-operation, Disability and Human Rights	“Introducing Human Rights for Disabled People living in Africa”	Chairperson Pityana, Commissioner Nkeli - paper
12/2	Durban	Child Rights Barometer	Discussion on monitoring child rights	Deputy Chair Mabusela
12-13/2	Lagos, Nigeria	Nigeria-South Africa Civil Society Dialogue	Strengthening of the relationship between the two countries	Chairperson Pityana
17-18/2	Johannesburg	Disability Equity Workshop	The Employment Equity Bill for people with disabilities	Commissioner Nkeli & staff

Date	Venue	Forum	Topic	SAHRC person/s
20/2	Durban & Pretoria	Public consultative workshops	Papers on proposed equality legislation	Commissioner Kollapen
22/2	Rustenburg	National Conference of Churches	Respondent: Human Rights and Responsibility	Chairperson Pityana
22/2	Middelburg, Mpumalanga	Mpumalanga Regional Council of Churches	The Church and Human Rights	Commissioners Manthata & Kollapen
23/2	Pretoria	Justice College	Human rights and an efficient and winning criminal justice system	Commissioner Kollapen
27/2	Dube – Soweto	Catholic Women’s League	Workshop on Child Rights	Deputy Chair Mabusela
2/3	Johannesburg	NCRC (National Children’s Rights Committee)	Unpacking the NPA for children	Deputy Chair Mabusela
3/3	Johannesburg Int. Airport	Workshop	The employment of people with disabilities	Commissioner Nkeli
4-6/3	Randburg, Gauteng	Conference	Racial Integration in Schools	Commissioners & staff
6/3	Pretoria	Amnesty International – workshop	The legal and constitutional issues around the death penalty	Commissioner Kollapen
10-12/3	Vryburg, North West Province	Inquiry into alleged racism in SAPS, Vryburg district	Investigation and public hearings re anti-discrimination	Chairperson Pityana, Commissioners Tlakula, Wessels & staff
13/3	Thohoyandou, Northern Province	Northern Province Safety & Security Summit		Chairperson Pityana
15–22/3	All provinces, Various venues in SA	<p>Celebrations and raising awareness of Human Rights Week (South Africa) and its significance, focusing on racism and general human rights.</p> <p>A direct mail flyer was sent to all schools, calling for special activities</p> <p>Launch of “Stop Racism Now” poster competition amongst young people</p> <p>Visits by Commissioners and staff members to schools, universities - presentations and workshops</p> <p>Media campaign - statements and interviews</p>		Chairperson, all Commissioners & staff
15/3	Pretoria – Union Buildings,	Launch of Human Rights Week - Media briefing		
15/3	Pietersburg	Launch of Human Rights Week with Premier and Ministers		
18/3	Parliament Justice Portfolio Committee	Presentation of 3 rd Annual Report		
18/3	Central Police Station, Jhb	Launch of “Know Your Rights” comic		
21/3	St Mary’s Cathedral, Jhb	Human Rights Day Service		

Date	Venue	Forum	Topic	SAHRC person/s
21/3	Durban	"Challenge" Human Rights Lecture: "Racism – a violation of human rights"		Chairperson Pityana
20/3	Central Methodist Church, Jhb	1st anniversary of the Global March against Child Labour		Deputy Chair Mabusela
17/3	Cape Town	Conference	Child Sexual Exploitation	Deputy Chair Mabusela
22/3	Johannesburg	Dedication & official opening	Gumede-Pitje Human Rights Library and Documentation Centre	Various Commissioners & staff
22/3	Parktown, Johannesburg	Youth Theatre	Human Rights and Child Participation	Deputy Chair Mabusela
22-26 March	Gauteng	Peacekeeping seminar - UN/SA Govt Project	SANDF – peacekeeping and international humanitarian law	Various Commissioners & staff
25-27/3	Randburg	International Consultative Conference	Food Security and Nutrition as Human Rights	Various Commissioners & staff
29/3	Port Elizabeth	Seminar: Eastern Cape Department of Education	SAHRC's report on the study of Racism in Schools	Commissioner Tlakula
31/3	Gauteng	Alexander Health Clinic	Disability and human rights community health worker training	Commissioner Nkeli
March	Sizanani, Gauteng	SA Catholic Bishops Conference	The National Action Plan and the role of the Commission – Peace and Justice workers	Commissioner Kollapen
9/4	Durban	UCT's seminar for magistrates	Keynote address on constitutional and gender issues	Commissioner Govender
9/4	Johannesburg	Child Rights	Maximising input of child rights activities	Deputy Chair Mabusela
9-13/4	Geneva	UN Sub-committee on Nutrition – Symposium	Paper on "South Africa's case study on nutrition as a human right"	HOD Thipanyane
12-17/4	Mauritius	OAU Conference	1 st Ministerial Summit on Human Rights in Africa	Chairperson Pityana, Commissioner Tlakula
15-17/4	Accra, Ghana	Conference	Litigating Economic and Social Rights	Commissioner Wessels
16/4	Johannesburg	Institute for the Advancement of Journalism	Panel discussion – the Media and Xenophobia	Commissioner Kollapen
17-24/4 and 13-24/4	Geneva	54 th Session of the UN Commission on Human Rights (including International Co-ordinating Committee of National Institutions and African Co-ordinating Committee of National Institutions)		Chairperson Pityana and Deputy Chair Mabusela
22/4	Durban	University of Durban	Recent developments in constitutional law - human rights violation & litigation	Commissioner Govender

Date	Venue	Forum	Topic	SAHRC person/s
26/4-5/5	Bujumbura, Burundi	African Commission on Human and People's Rights	25 th Ordinary Session - SA county report presented	Chairperson Pityana, Commissioner Kollapen
2-5/5	Midrand	Seminar - Impact of Macro-Economic Policies on Child Rights	Sharing information, resources, action plan and mechanisms for assessing impact on children	Various Commissioners & staff
6-7/5	Pietersburg	University of the North	Human rights and constitutional law in the syllabus	Commissioner Govender
7/5	Johannesburg	Parktonian Hotel Conference	Victims' Rights	Various Commissioners & staff
15-22/5	Senegal	Child Rights Committee	Study Tour	Deputy Chair Mabusela, Commissioner McClain
12/5	Pretoria	Workshop on Transformation - National Dept Mineral and Energy	Affirmative Action & Gender Equality: Challenges facing Women.	Commissioner Tlakula
13/5	Durban	Street Children's Forum	Constitutional rights of children	Commission Govender
25/5	Uppington	Department of Education Seminar - crime & vandalism in schools	The advancement of human rights and the curbing of crime – opposing or complementary concepts?	Commissioner Wessels & staff
25/5	Pretoria	University of Pretoria	The SAHRC and "The non-judicial enforcement of human rights"	Commissioner Kollapen
26/5	Johannesburg	POWA campaign launch	Guest speaker – "Rape as a violation of human rights and the link between rape and HIV/AIDS"	Commissioner Tlakula
May	Durban	Provincial Parliamentary Portfolio Comm.	Presentation on problems re draft children's bill	Commissioner Govender & staff
5/6	East Rand	Vista University Graduation Ceremony	Guest speaker : "Challenges facing graduates"	Commissioner Tlakula
7-11/6	Vryburg, North West Province	Further public hearings re alleged racism in SAPS	Replies to allegations	Chairperson Pityana, Commissioners Tlakula, Wessels & staff
10/6	Pretoria	Institute for Criminal Justice and Human Rights	Paper on Section 49 of the Criminal Procedure Act	Commissioner Kollapen
11-12/6	East Rand	NCRC	Role of SAHRC in promoting & protecting child rights	Deputy Chair Mabusela

Date	Venue	Forum	Topic	SAHRC person/s
15/6	Pretoria	University of Pretoria	Human rights and the SA Constitution	Chairperson Pityana
17/6	Pretoria	Foreign Service diplomats	Human rights development, challenges and role of SAHRC	Commissioner Kollapen
17/6	Rome	Ius Primi Viri Conference	Human rights education in South Africa	HOD Moran
18-20/6	Geneva	Meeting - International Council Human Rights Policy	National Institutions	Chairperson Pityana
20/6-7/7	Brazil, Costa Rico & Mexico	Child Rights Committee	Study Tour	Deputy Chair Mabusela, Commissioner McClain
20/6	Durban	ML Sultan Technikon graduation ceremony	Guest speaker	Commissioner Govender
20/6	Pretoria	Celebration of Africa Human Refugee Day	Paper on "Refugee rights as human rights"	Commissioner Kollapen
25/6	Cape Town	Opening of new parliament		Chairperson Pityana
25/6-2/7	Zambia	Study Tour	International standards and states of emergency	Commissioner Wessels
25-29/6	Lesotho	African Commission	Promotional visit - briefing of various roleplayers	Chairperson Pityana
June	Johannesburg	University of the Witwatersrand	"Health rights as human rights" – Masters students	Commissioner Kollapen
June	Northern Province	University of Venda Conference	Xenophobia	Commissioner Kollapen
1/7	Pretoria	Dept of Sport and Recreation	Keynote speaker – Racism in Sport	Commissioner Nkeli
2/7	Johannesburg	National Dept of Sport & Recreation - Indaba	"No Racism in Sport"	Commissioner Tlakula
5-9/7	Bangkok, Thailand	Workshop	The development of National Action Plans	Commissioner Nkeli
7-10/7	Illinois, USA	Symposium	Human Rights and the Rule of Law in Africa	Chairperson Pityana, Commissioner Tlakula
8/7	Pretoria	African-Institute for visiting scholars	"Human rights perspectives of land reform"	Commissioner Kollapen
12/7	Thailand	Seminar	Independence of the Thailand Human Rights Commission	Commissioner Govender
13/7	Pretoria	European Union Foundation for Human Rights Campaign	Paper on "The place of human rights in creating a just and caring society"	Commissioner Kollapen

Date	Venue	Forum	Topic	SAHRC person/s
15-17/7	Cape Town	Consultative Workshop - Open Democracy Bill	Horizontal application of the Open Democracy Bill, and the Administrative Justice Bill	Commissioner Tlakula, other Commissioners & staff
16/7	Durban	Provincial Synod of CPSA	Guest speaker: "Truth and Reconciliation"	Chairperson Pityana
20/7	Grahamstown	Workshop – Cross Cultural Encounter	Facilitator: Racism in the church	Chairperson Pityana
21/7	Johannesburg	Wits University Masters students	"Health rights as human rights"	Commissioner Kollapen
23/7	Johannesburg	Workshop	The rights of indigenous people	Various Commissioners & staff members
24-31/7	India	Child Rights Committee	Study Tour	Deputy Chair Mabusela, Commissioner McClain
27/7	Johannesburg	Institute for Contextual Theology Seminar	Guest speaker: "The church & the gay & lesbian community..."	Chairperson Pityana
29/7	Palaborwa	Palaborwa Mining Company	Guest speaker: SAHRC	Chairperson Pityana
3/8	Mafikeng	North West Prov. Legislature induction seminar	SAHRC, human rights and socio-economic rights	Commissioner Tlakula &
5/8	Johannesburg	Tshwaranong Legal Advocacy Centre	Civil society and women	Commissioner Tlakula
5/8	Northern Province	University of Venda Conference	Xenophobia	Commissioner Kollapen
8-11/8	Malawi	Workshop	Orientation and planning for new Malawi Human Rights Commission	Chairperson Pityana
9/8	Gallagher Estate	Women's Day	Launch of Employment Equity	Chairperson Pityana
9/8	Impendle, KwaZulu-Natal	Launch of project & support centre	Guest speaker - Women and child abuse	Deputy Chair Mabusela & staff
10/8	Johannesburg	Summit with Aids Legal Network	HIV/AIDS and human rights	Commissioners & staff
11/8	Gallagher Estate	Council for the Aged Conference	Keynote address	Chairperson Pityana
12/8	Magaliesburg	African Christian Lawyers Network Conference	Address	Chairperson Pityana
20/8	Swaziland	UNDP Conference	Refugee populations in Africa	Chairperson Pityana
20/8	Umtata	International Conference on Consolidating Democracy in SA	Democracy and Human Rights	Commissioner Tlakula
23/8	Johannesburg	Wits University	Speaker: Wits Moot Court Competition	Chairperson Pityana
23/8	Cape Town	Department of Home Affairs	Human Rights training for immigration officers	Commissioner Kollapen & staff

Date	Venue	Forum	Topic	SAHRC person/s
27/8	Technikon SA, Johannesburg	Conference - UN/SA Govt Project & SAHRC	The International Criminal Court	Various Commissioners & staff
28/8–5/9	Argentina / Uruguay	Lecture Tour	Various addresses	Chairperson Pityana
30-31/8	Gauteng	Conference	Disability Equity	Commissioner Nkeli
6-8/9	Manila, Philippines	Asia-Pacific Forum		CEO Mokate
7-11/9	Dakar, Senegal	Seminar	The Right to a Fair Trial in Africa	Commissioners Tlakula & Dlamini
9/9	Johannesburg	Black Lawyers Association Seminar	Paper on Equality Clause	Commissioner Govender
9/9	Pretoria	Spring Human Rights Course	Presentation on selected human rights	Deputy Chair Mabusela & Commissioner Kollapen
10/9	Eastern Cape	Human Rights Trust Seminar on Democracy & Human Rights Education	Speaker: "Right to education"	Chairperson Pityana
13-16/9	Brussels	North-South Centre	Collaboration on Citizen Agenda 2000	Deputy Chair Mabusela
15/9	Cape Town	NCRA National Capacity Building Workshop	Presentation on "Forced Migration: Causes, Trends & Consequences"	Commissioner Majodina
15-18/9	Arusha, Tanzania	Training session for Indigenous peoples	African Charter	Chairperson Pityana
20-13/9	Pretoria	UN/SA Govt Human Rights Project	UN Treaty Report Writing Course	Various Commissioners & staff
20-21/9	Paris	UNESCO Seminar	10 th Annual Meeting of National Institutes	HOD Moran
22/9	Wits University	Law School	Address on "Race and Law"	Chairperson Pityana
23-24/9	Geneva	International Workshop	Visiting mechanisms	Commissioner Wessels
21-25/9	India	8 th International Symposium – India HRC	Topic: Torture and the Challenge for the Medical, Legal & Other Professions	Commissioner Kollapen
28/9	Robben Island	Spring School	Speaker: Human Rights Education: Lessons from Robben Island.	Commissioner Majodina
29/9	Johannesburg	Standard Bank management training	Speaker: Transformation – getting ahead	Commissioner Wessels
30/9	Durban	Natal Univ. - Gay & Lesbian Forum	Speaker: "Do queers have rights?"	Chairperson Pityana
Sept	Namibia	Study Tour	International standards and states of emergency	Commissioner Wessels
30/9-1/10	Pretoria	UNDP/UNDAF meeting	Incorporating human rights into UN programmes	Deputy Chair Mabusela

Date	Venue	Forum	Topic	SAHRC person/s
1/10	Johannesburg	Internal Workshop	Indigenous Peoples' Rights Project	Various Commissioners and staff
7/10	Johannesburg Wits University	Forced Migration Seminar Series	Xenophobia in South Africa	Commissioner Kollapen
8/10	Potchefstroom University	Seminar	Human rights – a dream or reality	Chairperson Pityana, Commissioner Wessels
October	Fiji	Conference on Constitutional Law	Presentation on "The Equality Clause, Constitutional Litigation and Affirmative Action"	Commissioner Govender
11/10	Pretoria	National Programme of Action for Children in South Africa (NPASC)	Post-graduate programme of Child Rights Committee	Deputy Chair Mabusela
15/10	Johannesburg	Workshop	Indigenous Peoples' Rights Project	Various Commissioners & staff
17/10	Johannesburg	Workshop: SADTU - SA Democratic Teachers Union	Curriculum Transformation and Human Rights	Commissioner Tlakula
18/10	London	Human Development Report Meeting	Member of Advisory group	Chairperson Pityana
21/10	Pretoria	Africa Human Rights Day	Seminar Address: Millennium challenge for human rights and democracy in Africa" Gala Dinner	Chairperson Pityana Commissioners & staff
21/10	Yeoville, Jhb		Cultural celebrations	Various Commissioner s & staff
23/10	Rosebank, Johannesburg	Child rights organisations	Children and the media	Chairperson Pityana, Deputy Chair Mabusela & staff
24/10	Nelspruit	Judicial Training	Panel discussion – social context in judicial process	Commissioner Kollapen
26-28/10	Algiers	2 nd Meeting African Co-ordinating Committee	Convenor	Chairperson Pityana , Deputy Chair Mabusela
28/10	Potchefstroom University	Inauguration of the student Parliament	Speaker - Transformation: Human Rights Challenges facing students	Commissioner Tlakula
30/10	Johannesburg	3 rd SAHRC Annual Poster Competition	Prizegiving	Various Commissioners & staff
31/10	Pretoria	SAHRC Trust Conference	Address: "Business and Human Rights"	Commissioner Wessels
4/11	Johannesburg IAJ	Seminar: Racism in the media:	SAHRC's Enquiry into Racism in the Media	Commissioner Tlakula

Date	Venue	Forum	Topic	SAHRC person/s
4/11	Centre for Development Enterprise, Jhb	Conference	"White Paper on International Migration"	Commissioner Majodina
2-16/11	Kigali, Rwanda	African Commission on Human and People's Rights	26 th Ordinary Session Representing SADC	Chairperson Pityana
13/11	Durban	Child rights organisations	Media workshops with children	Deputy Chair Mabusela
18/11	Pretoria	Afrikaanse Handelsinstituut – legal committee	SAHRC	Commissioner Wessels
19/11	Bloemfontein	Workshop	Disability	Commissioner Nkeli
20/11	Middelburg	Mpumalanga Dept of Sports, Recreation, Arts & Culture - Indaba	Keynote address: "No Racism in Sport"	Commissioner Tlakula
23/11	Johannesburg	Internal workshop	Indigenous Peoples' Rights Project	Various Commissioners & staff
23/11	Cape Town	Swedish/SA Co-operation	Child Rights	Deputy Chair Mabusela
29/11	Pretoria	Land Affairs Workshop	The Extension of Security and Tenure Act	Commissioner Kollapen
30/11	Pietersburg	Conference on witchcraft	Witchcraft and human rights implications	Commissioner Kollapen
2-8/12	Geneva	International Council for Human Rights Policy and United Nations High Commissioner for Human Rights – planning for World Conference on Racism		Chairperson Pityana
7/12	Pretoria National Institute for Public Interest Law & Research (NIPILAR)	Seminar: Traditional Leadership and Women's Human Rights:	Rights of Women in Public and Private Life	Commissioner Tlakula
7/12	UNHCR, Pretoria	30th Anniversary of the OAU Convention on Refugees	Presentation on: "The role of Governments and the Public at large towards Refugees"	Commissioner Majodina
7/12	Johannesburg		The Plight of Refugees in Africa	Commissioner Kollapen
10/12	NIPILAR	Duma Nokwe Awards	Keynote address	Chairperson Pityana
10/12	Johannesburg	Launch of SAHRC's Socio-Economic Report	Guest speaker	Commissioner Kollapen
15/12	Johannesburg Tribute Magazine	– Tribute Women pays Tribute to the Women of our Times	Human Rights Challenges for the next millennium	Commissioner Tlakula

Appendix B

Provincial Workshops

December 1998 – December 1999

The following are some of the country-wide workshops conducted by SAHRC provincial or head office staff, either as an independent activity by the SAHRC or in partnership with other organisations. The SAHRC's role varied – at times being organiser, facilitator or presenter.

Date	Place	Topic	No.
GAUTENG			
15-19 February	SAHRC offices, Johannesburg	Training workshop for new provincial staff	11
17 February	Kalafong Hospital	Constitution, Bill of Rights and HIV / AIDS	50
19 March	Ceraw Primary School	Constitution, Bill of Rights, SAHRC	150
22 March	Lovejoy Youth Club	SAHRC	70
23 March	Sasolburg Prison	SAHRC, prisoners' rights	200
24 March	Dept of Health, Pretoria	HIV / AIDS	30
16 April	Hague Appeal for Peace	Human rights	30
4, 11 and 18 May, 1 and 8 June	Department of Labour	Constitution, Bill of Rights, SAHRC	40
17-21 May and 24-28 May	UNCHR / Correctional Services	Human Rights Training for Trainers	35
22 May	Wits Business School	Human Rights – MBA students	4
30 June	Themba Resource Centre, Daveyton	Human Rights and Bill of Rights	35
21 July	Interculture SA, Braamfontein	The SAHRC (Swedish and Irish visitors)	30
21 July	Jopie Fourie High School – educators	Training in multi-cultural education	
23 July	Vista University Centre for Community Development	Human Rights Training for Trainers	70
2 August	DEAFSA, Johannesburg	Constitution and Bill of Rights (Equality)	35
3 August	Fred Norman Secondary School, Ennerdale	Bill of Rights, Children's Rights	900
14 August	Thembisa Civic Centre	Constitution and Bill of Rights	100
19 August	Johannesburg College of Education – Students	Report on Racism in Schools	
26 August	Khutsong Community Hall	SAHRC	400
1 September	Bekkersdal Community Library	Constitution and Bill of Rights	50
3 September	Bekkersdal Community Centre	SAHRC	500
10 September	Kagiso Community Hall	SAHRC	100
10 September	Vereeniging Community Hall	Human Rights and the SAHRC	150

Date	Place	Topic	No.
13 September	Independent Baptist Church - Thembisa	Bill of Rights and Peace	45
5 October	Black Sash offices, Johannesburg	SAHRC / Bill of Rights - for paralegals	13
26 November	Johannesburg	The equal status and human rights of women — with CGE & others	22
NORTH WEST			
14 September	Rabboni Centre	SAHRC / Role of churches	50
24 February	Thabazimbi, Mabogo/Pede High School,	Constitution and Bill of Rights	
FREE STATE			
19-20 February	Phuthaditjhaba	Constitution, teachers and human rights education, HIV / AIDS	50
29 April	Tswelopele Library, Kroonstad	Human Rights and HIV / AIDS	
13 May	Boshoff High School	Racism in schools	60
17-18 June	Bloemfontein area	HIV / AIDS	
3 August	Thaba Nchu – Black Officers Forum	Bill of Rights and Policing in SA	45
15 August	Phuthaditjhaba	Constitution, Bill of Rights	70
MPUMALANGA			
26 February	Jerusalem High School, White River,	Constitution, Bill of Rights	
21 August	Ziketheleni Sec. School	SAHRC, Bill of Rights	30
13 September	Gugulabasha High School	Constitution, Bill of Rights	20
21 August	Standerton – Anti Human Rights Violation	Constitution, Bill of Rights	30
10 October	Thuto-Thebe Sec. School	SAHRC	300
NORTHERN PROVINCE			
23 February & 7 August	Raeleng Middle School, Warmbaths	Constitution and Bill of Rights	
3-7 May	HURISA Human Rights Training	Witchcraft Violence Statutory institutions supporting democracy	22
22 May	Mafefe Advice Office	Human Rights information session	35
10 June	Nylstroom prison	Human Rights and Responsibilities	
12 June	Mafefe Community	Human Rights	20
28 June	Warmbaths Comm. Centre	Human Rights and Bill of Rights	30
14 July	NG Church, Pietersburg	Human Rights and the elderly	129
30 July	Oasis Motel, Pietersburg	SAHRC	400
5 August	Maope High School, Warmbaths	Constitution and Bill of Rights	40
6 August	Bela-Bela High School, Warmbaths	Constitution and Bill of Rights	40
6 August	UI Building, Thohoyandou	SAHRC	16
16 September	Makhado College of Education	Discipline & human rights in schools	121
4 October	National Council of African Women	Socio-Economic Rights	63
23 November	Louis Trichardt - Elim	Human rights	20
24 November	Duiwelskloof	SAHRC, Bill of Rights, HIV/AIDS	45

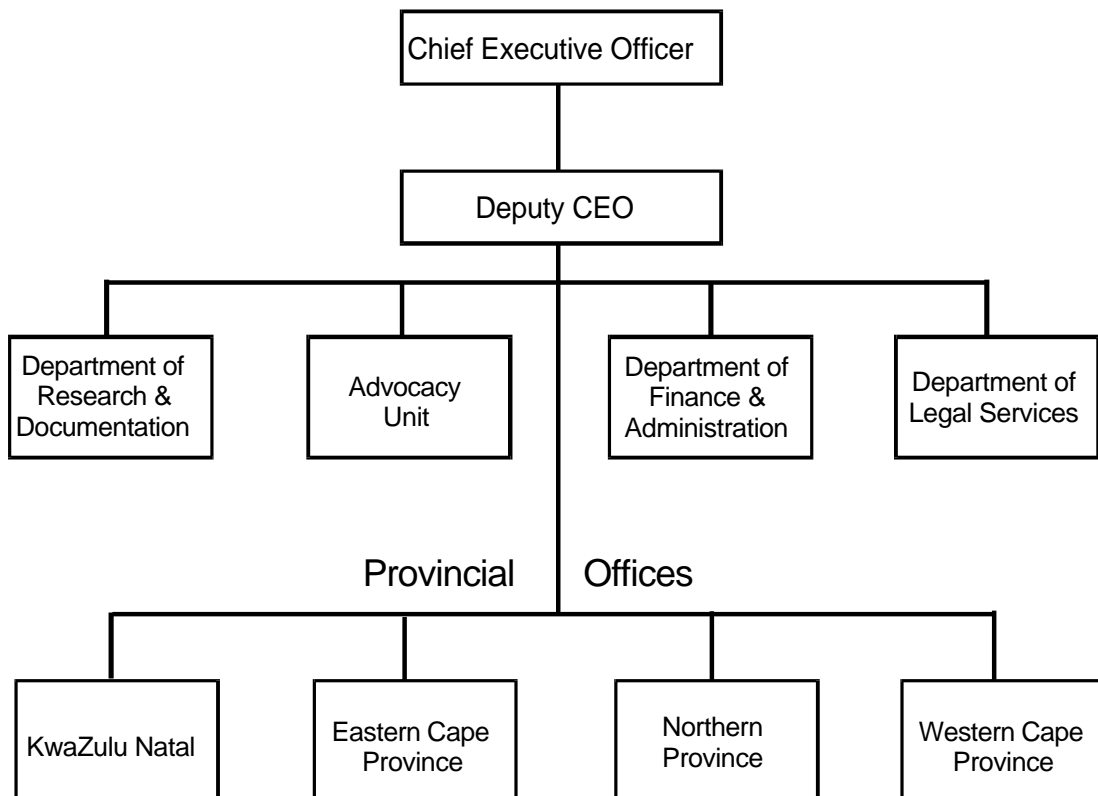
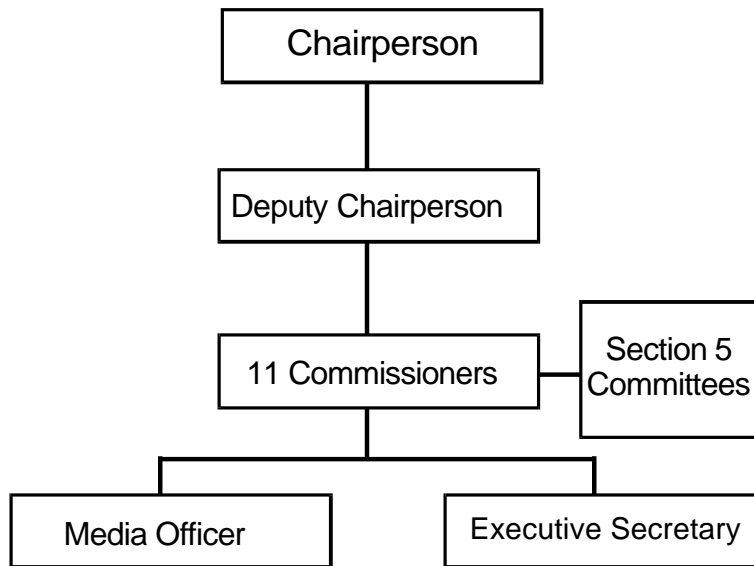
Date	Place	Topic	No.
27 November	Lebowakogmo	Human rights and HIV/AIDS	200
27 November	SACC Women's Conference, Pietersburg	Challenges facing church women in the new millennium	600
1 December	Giyani	Human rights and HIV/AIDS	250
4 December	Tzaneen	Human rights and HIV/AIDS	300
7 December	Dept of Education Nylstroom	Human rights and HIV/AIDS	55
8 December	Modjadji	SAHRC/Bill of Rights and Constitution	12
9 December	Turfloop/Mankweng	Human rights and HIV/AIDS	8
WESTERN CAPE			
23 March	Seapoint Synagogue	Human Rights for seniors	40
16 April	Zola Sec. School, Maitland	Human Rights & Discipline for teachers	30
28 April	Rust en Vreugde, Cape Town	Equality Bill	40
6 May	UCT Medical Department	The Health Professions Council and Human Rights	40
21 June	Pelican Park Primary	Children's rights	230
22 June	Ocean View Primary	Children's rights	350
24 June, 8 July and 30 September	Pollsmoor Prison	Rights of awaiting trial prisoners	25
3 August	Heideveld	Human rights and transformation	60
13 August	Kraaifontein	Rights of the disabled	50
17 August	Elsies River	Education and human rights	35
20 August	Langa	SAHRC	38
23-24 August	Home Affairs	Human rights for immigration officers	40
17-28 September	Robben Island Spring School	Designing human rights learning programmes	
September	UCT	SAHRC	12
15 September	Kenilworth	Equality Bill – input from the elderly	105
4-8 October	Cape Town – UN/SA Govt Project	Designing training programme for Judicial Inspectorate Independent Prison Visitors	
18 October	Retreat	Human rights for TB patients	
22-23 October	Langa, Tsoga Centre	Human rights training for trainers	
26-27 October	Khayelitsha	Human rights training for trainers	
November	Boland	Human rights public awareness	
EASTERN CAPE			
29 April	Provincial Education Department	The Constitution and corporal punishment – teacher training	50
19-23 May	Human Rights Trust & Dept of Education, Lusikisiki	Constitution, Bill of Rights, Democracy & Human Rights Education – training of trainers	30
28 May – 2 June	Human Rights Trust & Dept of Education, East London	Constitution, Bill of Rights, Democracy & Human Rights Education – training of trainers	50
24 June	Port Elizabeth Teacher Training Centre	SAHRC, Constitution, Bill of Rights, HIV/AIDS & the law	40

Date	Place	Topic	No.
19-23 July	Human Rights Trust & Dept of Education, Port Elizabeth	Constitution, Bill of Rights, Democracy & Human Rights Education – training of trainers	30
27 July	Cradock Civic Centre	SAHRC, Constitution, Bill of Rights, HIV/AIDS & the law	25
28-30 July	King Williams Town	Equality Bill as relating to older persons	200
24 August	Fort Beaufort	Constitution, Bill of Rights, SAHRC	20
24-26 August	Grahamstown, Uitenhage, Humansdorp	Human rights and the elderly	80
7-9 September	King Williams Town	Education and human rights	80
10 September	Bisho Campus of the University of Fort Hare	Democracy and human rights education	300
14 September	Umtata	Human rights and disability	50
28 September	Port Elizabeth	Constitution, Bill of Rights, equality, rights of women	40
1 October	Port Elizabeth – Dora Nginza Hospital	Human rights, health workers and HIV / AIDS	40
5-8 October	Elliotdale	Constitution, Bill of Rights, equality, rights of women	80
8 October	Human Rights Trust – & Dept of Education	Human Rights training for trainers	30
NORTHERN CAPE			
25 May	Department of Education	Racism in schools	50
KWAZULU-NATAL			
15-17 January	Peace Education Workshop - Durban	Human Rights training for trainers	30
9-10 March	La Mercy Hotel – Peace Monitor training	Constitution, Bill of Rights, Human Rights	30
6 May	Dept of Education, Pmb	Racism in schools	60
15 May	Swayimane	SAHRC, Bill of Rights	100
20 May	Pietermaritzburg – NGO groups	SAHRC, Bill of Rights	20
21 May	Riverview Women's Movement	SAHRC, Women's rights	20
28 May	Richmond teachers and principals	Introduction to the Report on Racism in Schools	50
7 June	Riverview	SAHRC, cultural rights	19
15 June	Anti-Discrimination Task Team	Pilot anti-discrimination training, focussing on race	85
25 June	University of Natal campus law clinics	Constitutional Litigation – attorneys and candidate attorneys	15
30 June	Lawyers for Human Rights – launch of child rights manual	SAHRC, basic human rights training	16
2 July	Regional Consultative Forum on Rural Development	Human rights training for community leaders	20
9-11 July	Peace Education Workshop - Durban	Human Rights training for trainers	30

Date	Place	Topic	No.
8 August	Pietermaritzburg Lesbian Group	Constitutional rights	19
2 September	Port Edward – women’s group seminar	SAHRC, human rights, women’s rights	27
17 September	Port Shepstone – Muslim Forum for Justice seminar	Human rights issues	500
20 September	Four Seasons Hotel	SAHRC, Bill of Rights – paralegals	18
21 September	Mandini	SAHRC, Bill of Rights – paralegals	2
October	Children in Need and Distress (CINDI)	SAHRC	17
November	Dept of Education Anti-Discrimination Task Team	Corporal Punishment in schools and other human rights abuses	20
3 December	Durban	“Red-eye” event – distribution of materials and interaction with public	

Appendix C

Structure of the Commission



Appendix D

Profile of Commissioners and CEO

Dr. Nyameko Barney Pityana, Chairperson

Dr Pityana was elected chairperson at the inaugural meeting of the Commission on 2 October 1995. All Commissioners were officially sworn in by Justice Arthur Chaskalson at the official launch of the Commission on March 21 (Human Rights Day) 1996.

After sixteen years in exile in both England and Geneva, Dr Pityana returned to South Africa in 1992. Whilst in Geneva he served as director of the World Council of Churches' Programme to Combat Racism. Dr Pityana is an ordained Anglican Priest and also an attorney. The University of Cape Town awarded him a PhD in Religious Studies in 1995.

Dr Pityana is the convenor of the Parliamentary and Government Liaison Committee, serves in an ex officio capacity in the SAHRC Trust and represents the Commission both nationally and internationally. He is a trustee in a number of grass-roots development bodies like the Eastern Cape-based Microprojects Trust and the Maths Centre for Professional Teachers in Johannesburg and is on the Board of the Geneva-based International Foundation for Human Rights Policy. He is also a member of the African Commission.

Shirley Mabusela, Deputy Chairperson

Ms Mabusela is a qualified social worker with nearly twenty years' experience working as an activist and lobbyist for children's rights. She worked in senior management positions for the Johannesburg Child Welfare Society, the Children's Foundation, and served as the executive director of the National Children's Rights Committee before joining the Commission in 1995.

Commissioner Mabusela is the Convenor of the Child Rights Committee of the Commission because child rights are the focal area of her work. She takes provincial responsibility for Gauteng and serves in a number of capacities outside of the SAHRC. She is a fellow of the Advocacy Institute based in Washington DC and serves on the Board of the Centre for Education Policy and Development.

Commissioner Charles Dlamini (part-time)

Commissioner Dlamini obtained qualifications from the Universities of Zululand, Pretoria, the Western Cape and South Africa. In 1991 Commissioner Dlamini was made a senior counsel (SC), and he is an admitted advocate of the High Court of South Africa.

In 1979, Commissioner Dlamini became senior lecturer in the Department of Private Law at the University of Zululand, and in 1984 was appointed professor and head of department of Criminal and Procedural Law. From 1988 to 1990 he was Dean of the Faculty of Law of the University, and then became Registrar (Academic Administration). In July 1993 he was appointed Rector and Vice Chancellor of the University.

Commissioner Dlamini, with the SAHRC since 1995, shares responsibility for Mpumalanga with Commissioner Kollapen and KwaZulu-Natal with Commissioner Govender. He belongs to a number of professional community organisations and was the president of the Society of University Teachers of Law. He was a member of the South African Law Commission and is still with the governing council of UNIDROIT, the international institute for the unification of private law.

Commissioner Karthy Govender (part-time)

Commissioner Govender is an associate professor in the Law Faculty at the University of Natal, teaching Constitutional and Administrative Law. He gained legal academic qualifications in London, Natal, and Michigan. After qualifying as a barrister in England, he passed the South African bar examinations in 1993. He is now an associate member of the Durban Bar, and has been involved in a number of cases dealing with the Constitution.

Before joining the Commission in March 1996, Commissioner Govender was a member of the KwaZulu-Natal Town and Regional Planning Commission, and also assisted in the drafting of the provincial constitution. He takes responsibility, with Commissioner Dlamini, for KwaZulu-Natal and is a member of the Legal and Constitutional Affairs Committee. His primary contribution is legal, writing judgements, giving opinions and mediating on human rights. He serves on both the mediation and arbitration panels of IMMSSA and has published and spoken widely on Constitutional and Administrative Law.

Commissioner Jody Kollapen

Commissioner Kollapen joined the SAHRC in December 1996, after five years with Lawyers for Human Rights, which he joined in 1991 to co-ordinate the Political Prisoners' Release Programme. He then spent two years as a Projects Director before being appointed National Director in 1995.

As a practising attorney, Commissioner Kollapen worked on political cases such as the Sharpeville Six, the Delmas Treason Trial, and the failure of the Medical and Dental Council to enquire into the behaviour of the doctors who treated Steve Biko. He was also a member of the selection panel that chose the Commissioners for the Truth and Reconciliation Commission.

Commissioner Kollapen is responsible for Mpumalanga and the Northern Province, and is a member of the Legal and Constitutional Affairs Committee. He served as a member of the National Advisory Council on Correctional Services, and is currently on the SA Law Commission's Project Committee on Sentencing. He is a member of the Legal Resources Trust and a board member of the Centre for the Study of Violence and Reconciliation.

Commissioner Zonke Majodina (part-time)

Dr Majodina joined the Commission in August 1999. Dr Majodina is a senior lecturer at the Graduate School for the Humanities and Social Sciences, University of the Witwatersrand, where she is setting up a new Master's programme in Forced Migration. She obtained her BSc degree (Psychology) from Fort Hare, and a Masters degree in London. She spent 18 years in Ghana as a Clinical Psychologist at the University of Ghana Medical School, and was later a Visiting Fellow at the Refugee Studies Programme, University of Oxford. She returned to South Africa in 1992 and completed her doctorate with the University of Cape Town in 1999.

Commissioner Majodina spent time at the Office of the Public Service Commission, being responsible for promoting a more representative public service. She is a member of many professional associations, mainly concerning forced migration and child abuse. Currently she is serving on the Executive Committee of the International Association for the Study of Forced Migration. Dr Majodina has published and presented many papers on the effects and problems of war, violence, exile, refugees and repatriation.

Commissioner Majodina's special focus is the rights of refugees, asylum-seekers and migration policy and she shares responsibility for the Northern and Western Cape Provinces with Commissioner Wessels.

Commissioner Tom Manthata

Commissioner Manthata was appointed in January 1999. After some initial theological studies he taught in Soweto, being very involved in youth and student organisations. For many years Commissioner Manthata was a field worker for the Dependants Conference of the South African Council of Churches, where he was responsible for looking after the welfare of political detainees and their families.

Commissioner Manthata left teaching when he was banned in the 1970s but was later able to do postgraduate studies in England, focussing on development, administration and finance and ultimately obtaining a Masters degree from Coventry. After returning to South Africa in 1995 Commissioner Manthata served on the Truth and Reconciliation Commission until he joined the SAHRC.

Commissioner Manthata takes responsibility for the aged and for the Eastern Cape Province, but is also deeply concerned about the current educational climate, especially in rural areas, and the need to establish a culture of learning, teaching and service in South Africa.

Commissioner Charlotte McClain

Commissioner McClain joined the Commission in August 1999, focusing on socio-economic rights, and is responsible for Mpumalanga. She has been serving on the Commission's Committees on Children's Rights and Disability since 1997.

Commissioner McClain obtained a Master of International Law at the University of Warsaw in Poland in 1998, and thereafter studied at Cornell Law School in New York.

Commissioner McClain has always been involved with human rights issues, particularly for children and people with special needs. She was Project Officer on Child Protection for UNICEF (United Nations Children's Fund). She helped draft provincial policy for street children and convened a task team to establish a national register for sexual offenders against children. She is a member of the S.A. Law Commission Project Committee on sexual offences by and against children, and was Legal Advisor to the Disability Desk in the Office of the Deputy President during 1996.

Commissioner McClain has been a member of international delegations on child issues, disability institutes and steering committees and has consulted and researched on children's rights. She is the chair of the board of RAPAN (Resources Aimed at the Prevention of Child Abuse and Neglect).

Commissioner Jerry Nkeli

Commissioner Nkeli joined the SAHRC in January 1997. He practised as an attorney in Johannesburg and on the East Rand for several years, specialising in personal injury cases. Commissioner Nkeli became a paraplegic as a result of being stabbed whilst a student.

After graduating with a B. Proc degree from the University of the North, Commissioner Nkeli worked at Katlehong Legal Resources Centre, offering free legal advice. He then became the National Development Officer for Disabled People South Africa (DPSA), and later their deputy chairperson (Human Rights). He did his articles with Malcolm Lyons & Munro Attorneys in Johannesburg.

Commissioner Nkeli takes responsibility for the Commission's Committee on People with Disabilities within the Commission, and is responsible for the Free State Province. He is an executive member of the National Paralympic Committee of South Africa (NAPCOSA); vice president of South African Sport for the Physically Disabled; and a board member of Access College, a computer and secretarial school for people with disabilities.

Commissioner Pansy Tlakula

Commissioner Tlakula received her tertiary education at the Universities of the North and the Witwatersrand, and at Harvard University in the USA. She lectured in Law at the University of Bophuthatswana from 1985 to 1993. She then became the executive director of the Black Lawyers' Association (Legal Education), until she was appointed as a full-time member of the South African Human Rights Commission in 1995. She is responsible for the North West Province, and is also the National Commissioner for Equal Opportunities.

Commissioner Tlakula is an admitted advocate of the Supreme Court of South Africa. She is a council member of the University of the North West's University Council, and is deputy chairperson of the University of the North SRC Trust. She is also the deputy chairperson for the National Institute for Public Interest Law and Research (NIPILAR), and a member of the Rules Board for Courts of Law.

Commissioner Leon Wessels

Commissioner Wessels joined the Commission in January 1999 and his particular focus is Access to Information. He also takes responsibility for the Northern and Western Cape Provinces, assisted by Commissioner Majodina. Commissioner Wessels, an advocate since 1973, comes from private practice in the Johannesburg Bar. Advocate Wessels served for many years as a National Party Member of Parliament for Krugersdorp and held a number of ministerial posts, including Manpower, Planning, Provincial Affairs and national Housing. He was Deputy Chairperson of the Constitutional Assembly from 1994 and left Parliament in 1996, upon the adoption of the final Constitution.

Commissioner Wessels also served in the police force and was a member of the Transitional Executive Council Sub-Council on Foreign Affairs, which helped to pilot South Africa's re-entry into the international community. He is also a member of the Council of the University of Potchefstroom.

Lindiwe Mokate, Chief Executive Officer

Ms Lindiwe Mokate was appointed Chief Executive Officer of the South African Human Rights Commission in August 1998. Ms Mokate holds postgraduate qualifications in Economics from the University of Manchester in the United Kingdom. In the eighteen years Ms Mokate spent in exile, both in Africa and in England, she worked as an economist, holding various strategic positions with the United Nations on a number of programmes.

She was seconded by UNICEF to develop children's programmes in the National Children's Rights Committee and was responsible for initiating the National Programme of Action for Children. She later transferred to the RDP office. Ms Mokate then joined the Office of the Deputy President, where she piloted the Poverty Reduction Programme. Before joining the SAHRC she served as Special Advisor to the Deputy Minister for Trade and Industry.

Appendix E

List of SAHRC Publications

Reports

1. Economic & Social Rights 1997 ~ 1998
 - Baseline Information Vol I
 - Protocols Vol II
 - Governmental Responses to Protocols Vol III
 - Researcher's Evaluation of Government Responses Vol IV
 - SANGOCO's Report on Poverty and Human Rights Vol V
 - CASE Report Vol VI
2. Racism, 'Racial Integration' and Desegregation in South African Public Secondary Schools March 1999 *
3. ILLEGAL? Report on the Arrest and Detention of Persons in Terms of the Aliens Control Act
4. Investigation of Alleged Violations of Farmworkers' Rights in the Messina/Tshipise District February 1999
5. Interim Report of the Inquiry into Racism in the Media November 1999*
6. Inquiry into Racism in the SAPS ~ Vryburg District November 1999
7. Workshop on Open and Accountable Democracy Conference Report 15 ~ 17 July 1999
8. Report of the International Consultative Conference on Food Security and Nutrition as Human Rights January 2000

* Available on SAHRC website: www.sahrc.org.za

Booklets

1. My Rights Your Rights ~ 11 official languages
2. Introducing ... The SAHRC

Pamphlets

1. Protecting Your Rights ~ 11 official languages

Posters

1. Mission Statement
2. Equality For All
3. The Bill of Rights ~ 11 official languages
4. Stop Racism Now

Newsletters

- | | |
|-------------|------------------------------|
| 1. Kopanong | Vol 1 No 1 March/April 1999 |
| 2. Kopanong | Vol 1 No 2 May/June 1999 |
| 3. Kopanong | Vol 1 No 3 July/August 1999 |
| 4. Kopanong | Vol 1 No 4 Sep/October 1999 |
| 5. Kopanong | Vol 1 No 5 Nov/December 1999 |

Miscellaneous

1. Human Rights Resource Catalogue 2000

Appendix F

SAHRC Complaint form

This form is not yet available in MSWord format – hard copies are available from any SAHRC office on request, or alternatively you can fill in a complaint electronically on our webpage : www.sahrc.org.za

Appendix G

A selection of visitors to the Commission in 1999

DATE	VISITOR	PERSON VISITED
8 Jan 1999	Ambassador B S Kubheka SA Ambassador in Indonesia	Chairperson
12 Jan 1999	Ms Barbara Cohen Principal Legal Officer of the Commission for Racial Equality London	Commissioners and staff
13 Jan 1999	SANEF	Chairperson, Commissioners and staff
26 Jan 1999	Richard Carver International Council on Human Rights Policy	Commissioners & Staff Chairperson
27 Jan 1999	Ms Laurent Bondi Human Rights Watch	Chairperson, Commissioners
26 Feb 1999	Mr Tim Clarke EU Foundation	Chairperson, Commissioners & Staff
10 March 1999	Ms Christine Dell Northern Ireland Human Rights Commission	Chairperson
19 March 1999	Ms Delia Roberts Voice of America	Chairperson
19 March 1999	Mr Tony Brenton First Secretary, British High Commission	Chairperson
19 March 1999	Claire Roberts SABC	Chairperson
10 April 1999	Sri Lanka Delegation	Commissioners
17 May 1999	Reps from Nationale Pers	Mr L Wessels, N Pityana and CEO

DATE	VISITOR	PERSON VISITED
21 May 1999	Independent Commission on Policy from Northern Ireland delegation	Commissioners and staff
7 June 1999	Hon Kiraitu Murungi Kenya Member of Parliament	Commissioners & CEO
18 June 1999	Professor J F Mbwiliza Ombudsman for Tanzania	Commissioners & Staff
2 Aug 1999	Minister of Justice and Constitutional Development Mr P Maduna	Chairperson, Commissioners & staff
26 Aug 1999	Uruguay Ambassador Mr Adelbadi	Chairperson
21 Sep 1999	Afrikanerbond	Chairperson & Commissioners
21 Sep 1999	Martin Edjil Rep from the UN High Commission for Human Rights	Chairperson
5 Oct 1999	Mr Craig Mokhiber (International Council on Human Rights Policy)	Dr N Barney Pityana
22 Oct 1999	Group of German Parliamentarians	Secretariat
16 Nov 1999	Ms T Bare Commonwealth Secretariat	Chairperson & Commissioners & CEO
17 Nov 1999	EATASA (Adult Educators and Trainers Association in SA)	Commissioners & staff
1 Dec 1999	Mr Andy Pearce & Ms J Withworth (British High Commission)	Chairperson
9 Dec 1999	Ms Rita Regsdale American Embassy	Chairperson

Appendix H

Acknowledgements

The South African Human Rights Commission could not function as well without the support of many organisations and individuals who have not only given donations of money or concrete items such as books, venues or facilities but in some cases time and expertise. All these, combined with financial and other forms of support received from government departments, are greatly appreciated – we believe our partnerships have enhanced human rights development in our country. We would like to mention these valued supporters by name – and we would also like to take the opportunity of acknowledging the invaluable role played, often in the background, by staff at all levels at the Commission.

- AusAid
- BP (South Africa)
- CIDA (*Canadian International Development Agency*)
- Comair
- European Union Foundation
- Gumede family
- HURISA (*Human Rights Institute of South Africa*)
- Mondeor High School
- NASOU- Via Afrika
- OSF (*The Open Society Foundation*)
- Pitje family
- Radda Barnen
- SAB (*South African Breweries*)
- Standard Bank
- The Golden Era Group
- The Government of Finland
- The Sowetan
- The Venice Commission
- Trustees of the SAHRC Trust
- UNESCO (*United Nations Educational, Scientific and Cultural Organisation*)
- UNICEF (*United Nations Children's Fund*)
- USAID
- Van Schaik Publishers

Supporters of the Roll Back Xenophobia Campaign:

- All the refugee participants
- Angie Kapelianis
- Brett Davidson
- Caroline Terrier
- Chevon Erasmus
- Gael Reagon
- Hugh Masebenza
- Imation South Africa
- MuseuMAfrica
- NIZA (*The Netherlands Institute of SA*)
- Peter McKenzie (*Institute for the Advancement of Journalism*)
- PictureNet Africa
- PM Live
- Shoki Sekele
- The Durban Art Gallery
- The Gauteng Department of Sports, Recreation, Arts and Culture
- The Market Photography Workshop
- Workshop facilitators for Africa Human Rights Day



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