

Progress Report # 1

Reporting Period:

November 1, 2004 – January 31, 2005

Access to Information Programme

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in



Submitted to:

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Appendices:

- 1) Baseline Report of the State of Access to Information in SADC.
- 2) Report of the Regional Meeting held on 13 January , 2005.

ABBREVIATIONS

ASF	Africa Social Forum
ATIP	Access to Information Programme
ATIP CC	Access to Information Programme Coordinating Committee
ATI	Access to Information
BOCONGO	Botswana Council of Non-government Organisations
CBOs	Community Based Organisations
cisa	Consumer Institute South Africa
CTP	Committee of Technikon Principals
EJNs	Economic Justice Networks
FOI	Freedom of Information
FOII	Freedom of Information Indicators
FXI	Freedom of Expression Institute
IFIs	International Financial Institutions
GENTA	Gender and Trade Network
GFDL	Gnu Free Documentation Licence
MEJN	Malawi Economic Justice Network
MISA	Media Institute of Southern Africa
MOU	Memorandum of Understanding
MWENGO	Mweleko wa non-government organisations
NGOs	Non-government organisations
ODAC	Open Democracy Advice Centre
OSISA	Open Society Initiative for Southern Africa
OSJI	Open Society Justice Initiative
PAIA	Promotion of Access to Information Act
SADC	Southern Africa Development Community
SACEJ	Southern African Centre for Economic Justice
SAHA	South African History Archives
SAUVCA	South Africa University Vice Chancellors Association (SAUVCA),
SEATINI	Southern African Trade Information and Negotiations Initiative
SMs	Social Movements
Wfc	Women for Change
WTO	World Trade Organisation
ZARD	Zambia Association for Research and Development
Zimcodd	Zimbabwe Committee on Debt and Development

STATUS REPORT

[The FXI – Access To Information Programme (ATIP) is funded by the Open Society Initiative for Southern Africa (OSISA).]

PROJECT NAME/COUNTRY: Access to Information/South Africa	PROJECT DURATION: 1 year	REPORT # 1	PERIOD November 1 – January 31	DATE January 28, 2005
FUNDING: US\$ 120,000-00	START/END DATE November 1, 2004 – October 31, 2005	REQUESTING EXTENSION PERIOD: November 1 – December 31, 2005		
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OBJECTIVES:				
<p>Development Goal: To develop an access to information programme that advances the cause of economic justice in the Southern African Development Community (SADC) region by focussing on access to information to support the work of the region's economic justice networks (EJNs), non-government organisations (NGOs), community based organisations (CBOs) and social movements (SMs) struggling for the realisation of socio-economic rights.</p> <p>Project Goals:</p> <ul style="list-style-type: none"> ▪ To access information about the state of delivery of basic services such as water and waste management, electricity, health, and transport with a view to having these evolving basic human rights written into the Constitutions of SADC countries. ▪ To address information deficits being faced by organisations struggling for socio-economic justice, and in the process develop 'models' that can be drawn on when the project is developed into a long term , multi-year programme beyond 2005. ▪ To engage in access to information activities around debt and debt related issues in SADC, budget monitoring and participatory budget making in SADC, transparency in macro-economic decision making in SADC, International Financial Institutions (IFIs) and their effects on SADC, Trade in SADC with specific reference to South Africa's expansion. ▪ To develop a common set of access to information principles that join together the activities. ▪ To develop a 'model' access to information law that economic justice groups could use to lobby for. ▪ In countries where ATI legislation exists, to file information requests relating to the activity areas; in countries where ATI legislation doesn't exist but constitutional provisions exist – to mobilise EJNs to ensure legislation is passed; in countries where constitutional provisions do not exist to mobilise EJNs for democratic constituent assemblies. 				

1. EXECUTIVE SUMMARY

The ATIP Head came on board on November 1, 2004. The month of November 2004 was thus dedicated to project mobilisation and this included literature review on the project, development of work-plan and familiarisation with individuals, organisations, court cases, internet sites specific to work around ATI in South Africa, the SADC and the World. The main approaches of locating the work of the programme in the context of FXI, and the broader world were meetings and email networking. In December 2004, a consultant was contracted to undertake the ATIP baseline study on the state of access to information in SADC. This task was successfully undertaken and completed in January 2005. Among other things the study examined the extent to which SADC countries meet the freedom of information macro indicators (FOII) developed by the Open Society Justice Initiative (OSJI), conducted a partner needs assessment with regards to the project goals, identified FOII in relation to women and youths, explored communication strategies used by partners in ATI work and how FOII influence the implementation of the Access to Information Programme. This report is Appendix 1. From December 10-14, 2004 the ATIP Head attended the Africa Social Forum in Lusaka with a specific mandate to explore regional partners interested in working with FXI in ATI work in SADC. This mission was successfully accomplished as the majority of partners that attended the first ATIP regional meeting in Johannesburg, South Africa where contacts form networking at the ASF.

The first ATIP regional meeting was held at the Parktonian Hotel, Braamfontein, Johannesburg, South Africa on 13 January, 2005. In addition to FXI staff, it was attended by delegates from Namibia, Zambia, Malawi, Botswana, South Africa, Zimbabwe. The report of this meeting is Appendix 2. Given the programme commitments of November and December 2004 and, the fact that most organisations close during the holiday season the meeting achieved its purpose of introducing the programme to SADC partners, debating and cross-fertilising the baseline report and suggesting the way forward. The next regional meeting will be on 2 and 4 March 2005, and following on the previous meeting will synthesise the draft memorandum of understanding between FXI and its partners with specific reference to what added value and benefits partners will get from the collaboration, discussion of the emerging access to information principles in SADC with regards to the activity areas, delineate in the terms of reference of the coordinating committee the roles of the programme head, the coordinating committee, the stakeholder forum, and finalise work-plans for the partners that will have been developed in February 2005. As the partner work-plan shows (Appendix 3), the ATIP Head will visit each of the nine partner countries in the next nine months, starting with Lusophone countries with the objective of running in-country training for local social movements with the country partner on access to information. Such awareness raising on the right to know, and education will be the basis for enlightened in-country partners to engage each other and government to develop appropriate legislation or and, improve on existing legislation and constitutional provisions.

The ATIP has faced a number of challenges in the three months of its existence. The inception of the project towards the end of the year meant many partners were winding

down their own program commitments and therefore had no time for collaboration. The ASF and preparation by many social movements for the World Social Forum in Porto Alegre further affected program implementation with partners. A major delay has been the delay by SEATINI to link with the ATIP in putting together an access to information request to the South African government on preparations it has put together for the World Trade Organisation meeting in Hong Kong. The ATIP is actively involved in FXI's pursuit of the Ebrahim Harvey access to information court case. Notwithstanding the challenges, the ATIP has demonstrated to partners and enthused them to collaborate energetically from now on in making access to information part and parcel of democratic open societies in SADC. The timing is perfect for national pilot campaigns in SADC.

2. ACCOMPLISHMENTS

2.1 Introductory Meetings

Meetings were held with FXI staff, and the FXI management Committee focusing on horizontal communication among the programmes (every Monday from November 1, 2004). Meetings were also held with partners to discuss areas and methods of cooperation as well as reflecting these in the MOU. Partners included SAHA (November 10, 2004); GENTA (November 11, 2004); George Dor – SACEJ (November 15, 2004); Riatz Tayob – SEATINI (November 15, 2004); Alison Tilley - ODAC (November 29, 2004); Attorneys representing Ebrahim Harvey (January 2005).

2.2 Baseline Study on Access to Information in SADC

The following issues are the main outcomes of the baseline study:

1.1 The Open Society Justice Initiative (OSJI) macro indicators are captured in three areas in the report, namely: an overview of legal framework, the constitution and other legislation; an assessment of public authorities' actual provision of information upon receiving requests and public authorities' internal readiness to provide information to the public with reference to case studies in SADC. Out of the case studies, the access to information needs of civil society organizations are explored.

Most SADC countries are signatories to the International Covenant on Civil and Political Rights (ICCPR), the Universal Declaration on Human Rights (UDHR) and the African Charter on Human and People's Rights (ACHPR). Swaziland is not a party to the ICCPR and the ACHPR. It is the only state in SADC that is not party to the ACHPR and is also one of two states in the region that is not a party to the ICCPR. However even those countries who are signatories of the above mentioned international instruments do not recognize the right to freedom to access information as espoused in the instruments but only protect the content of the right to freedom of expression either as a separate right and in most instances include under it the right to access information as an incident of the right to freedom of expression.

In addition to the skewed picture presented by the constitutions of SADC countries, there is also a dearth of legislation facilitating access to information in specific instances of public life (i.e. local government finances). On the contrary, what you find is a proliferation of legislation proscribing access to information on the basis of national security, defense, and the integrity of the head of state. These find resonance in pieces of legislation such as the National Defense Law or State Secrecy Laws that are widely enacted in SADC. South Africa remains exceptional. Contemporaneous with section 32(2) of the Constitution, parliament enacted the Access to Information Act 2 of 2000 (AIA) to give effect to the right of access to information. AIA is therefore legislation with a particular constitutional status: it is legislation mandated by the Constitution to give effect to a Constitutional right. There can be no doubt that South Africa is enjoying more freedom of expression and access to information than it has done for many decades, even centuries. However, there is still a need for more vigilance. It seems that a lot of public debates must still be encouraged on these issues so that can actually penetrate the "grassroots" level. The other challenge faced by South Africa is to address the censorship effects that flow from huge numbers of people not having adequate access to the means of receiving and producing information. This great need presents possibly the most daunting, yet diffuse, challenge to ensuring that freedom of expression and access to information is a right owned and practiced by all.

Even though South Africa bears the most progressive legislative scheme for access to information in the region, the realization of this right hasn't been without fault.

It is also worth noting that despite the dearth of access to information legislation in the region, some countries such as Malawi, Zambia and Namibia currently have bills on access to information legislation. The precise contours that these legislations will take currently a matter under debate. In consultation processes, MISA has been quite active in ensuring that the key tenets of access to legislation are reflected in the bills.

1.2 Needs Assessment of Access to Information Partners (SEATINI, MISA, JUBILEE, OSIS, MEJN and MWENGO).

Access to information needs were explored in the areas of debt and debt related issues; budget monitoring and participatory budget making; transparency in macro-economic decision making; international financial institutions; and trade.

In the area of debt and debt related issues/ international financial institutions and trade

- Access to agreements between member states and the creditors is essential (IMF, ADB and the WB). In particular, information on the terms and conditions of loan agreements;
- Finance Ministers in most SADC countries have immense powers that enable them to unilaterally enter into agreements with IFI's. Campaigns should be developed around access to information in the hands of Finance Ministries;

- Basic information on revenue and expenditure as provided for mostly in Medium Term Expenditure Budgets of many SADC countries position organizations involved in debt and debt related issues to examine the extent of the borrowing of their countries; and
- Conduct workshops with government officials on issues and debates around the World Trade organization.

Macro- economic policy formulation/ transparency in macro-economic decision making:

- Budget analysis and monitoring requires reliable information;
- The use of other legislation other than national legislation, for instance, at local government level providing for access to information on local government revenue and expenditure has proved useful for organizations looking into budget formulation and analysis. In South Africa the Municipal Finances Management Act is a case in point whilst in Malawi the Public and Management Procurement Act is quite instructive.

1.3 To identify freedom of information macro indicators in relation to women and youth

- There is also agreement that in addition to the problems of unemployment and poverty, youth in SADC face the critical problem of HIV/ AIDS. Access to information around socio- economic rights should have a specific focus on these groups;
- A general measure of the extent of inequality between women and men in areas of socio- economic and political participation and decision making in SADC illustrates that women are still relatively weak and vulnerable compared to men;
- Some SADC countries still have laws that discriminate against women and exclude them from decision making in society. Campaigns should therefore also be directed at repealing laws that discriminate against women whilst advocating for access to information legislation.

1.4 To explore communication strategies being used by partners in Access to Information work.

MISA through its regional focus in 11 SADC countries offers best practice in terms of the co-ordination of activities in each country. MISA has been able to work with the Constitutional Review Commission in Malawi, Zambia and Namibia which has thus far resulted in draft bills on freedom of information legislation. Similarly, OSISA through its new AFRI- MAP programme seeks to develop a peer review framework for SADC region countries and offers interesting insights on how communication around SADC can be achieved effectively.

1.5 How freedom of information indicators influence the programming of the Access to Information Programme and the post implementation evaluation.

It is worth noting that the post evaluation of the programme's activities will also take place against the background of the strategic areas of intervention identified hereunder:

- A need to reach consensus with the partners about the importance of integrating access to information work in their respective areas of work linked to the attainment of socio-economic rights.
- There is need to explore the capacity of the Access to Information Programme's partners to integrate access to information work in their respective campaigns.
- A data base should be established that tracks trends and developments in access to information work in the respective SADC countries.
- There is a need for the development of strong advocacy material particularly around the link between access to information the realization of socio-economic rights.
- A model access to information legislative framework should be explored – and must provide basis for engaging in consultative processes where there is move towards the enactment of freedom of information legislation.
- As noted above, most SADC countries still have laws that discriminate against women and exclude them from decision making in society. There is therefore an added impetus to advocate for constitutional reform over and above access to information legislation.

2.3 Regional Meeting of January 13, 2005

The main objectives of the regional meeting were to:

- Convene a meeting of the coordinating committee (CC) of the ATIP in SADC;
- Present the SADC ATI Baseline Study and get inputs and views from the CC;
- Identify information needs around programme activities that the CC members need;
- Discuss the MOU and finalise it in time for the March meeting;
- To get suggestions for development of the partner work-plan;
- Establish mutual understanding on the objectives and outputs of the ATIP in SADC.

The Report of this meeting is Annex 2, attached. The objectives of the meeting were all achieved and have been the basis for the final baseline report, the final MOU and CC Terms of Reference, the SADC partners work-plan and, isolation of evolving access to information principles which are being improved using a process approach through email networking. These documents are also attached to this report. The meeting was attended by delegates from OSISA, MWENGO, Malawi Economic Justice Network, Bocongo, MISA, SAHA, ZARD and FXI. Fifteen delegates attended the meeting.

The following inputs were received on the program activities' access to information needs:

a. Debt And Debt Related Issues

- i. Debt cancellation. The issue is, debt is illegitimate and SMs need to access to information to argue collectively for cancellation.
- ii. The halfway house approach where we would then say, what are the debts that we can cancel in order to make those funds available for social services and further poverty reduction programmes. Can we start that process, while monitoring where the money is going, that has been cancelled. Such cancelled debt funds could go into education, roads, social services, health, transport.
- iii. It was observed that information is not readily available to support these efforts, particularly at community level in local languages. Very few communities know what loans have been contracted under what conditions, and who signs for the loans? How much per year is used for servicing the debt? So these are some of the critical advocacy and lobbying issues related to debt.
- iv. When the budget is being presented in Parliament it is important then to focus on debt - why is it that there are these expense in an accounting term but nobody is actually talking about it in terms of presenting what money would be used for the following year. So, there is a paucity of debt information in the public domain. It's almost like under lock and key somewhere and we want to unlock that safe and put a lot of information.
- v. Training and Education for people to understand how their lives are affected by debt? And the right to know could actually improve how they reorganise their livelihoods. There's a training opportunity in saying that leaders are not accountable to themselves but to the people. And that accountability includes letting people know what is happening and how it is going to happen.
- vi. Therefore, there is synergy between the macro and the micro, empowering communities to make demands to parliamentarians, to public and private companies, related to issues of debt, and then for any activities that are happening there that have an impact on the people's lives to feedback to the micro level.
- vii. And linking with FXI media aspects, popular media is needed for communities. Civil servants sometimes are gate keepers, that are more ignorant than even the communities in the villages because they don't have access to this information. So whatever training and education we do, we need to see champions within the civil service that we can co-opt into our campaigns.
- viii. If tackling the two issues, either swapping or debt cancellation is too big, then there is another window of opportunity which is, what are the mechanisms that can be put in place to access information on debt? And can we have, for example, a syndicated media

column in the countries that will deal with debt and debt-related issues in the pilot? Can we link them? An MOU with the Investigative Journalist Association, is important for country campaigns coverage related to debt issues.

b. Budget monitoring, participation and transparency

- i. There are difficulties in getting information on inputs by governments which makes it even more difficult to get information on the outputs..
- ii. The other challenge is the lack of proper information assistance, thus making it difficult for us to have detailed budgets. So you would find that money that was allocated, for example, in the health sector, is not broken down as to how much money is going to be put for antiretrovirals and other things. So that is also another challenge for us, as the public need to know exactly how much money is being used.
- iii. Donors contribute money outside the budget framework. However, we are not given an account of how this money is used. Audit reports are always delayed, thus denying the public of fresh information. A scenario in Malawi where an audit report is produced after two years was given as an example of how communities end up getting stale information.
- iv. Information sharing within the government system itself. Somebody from another ministry is unable to share information with another person in another ministry, so that itself is a drawback.
- v. Reluctance by governments to accept findings or reports from civil society. Need to use the name and shame mechanism where, if the government doesn't accept civil society's findings or reports, then civil society informs the donors to intervene or put some kind of restriction. The other one would be to share these findings to parliamentary committees or parliamentarians.
- vi. In terms of budget participation there should be a legal mechanism in place for a participative budget. In Malawi there's a lack of appropriate time frames, this is another challenge, for reading of the budget as well as passing it in Parliament. So you find that it's very difficult even for MPs to participate in the budget.
- vii. The other one is capacity of MPs. MPs are not qualified enough in some cases to comprehend the budgets, therefore it's difficult for them to participate in the process.
- viii. Under Transparency, the IMF determines the budget making process, so it's very difficult in that related to debt repayments, allocations to the social sectors are less than the money allocated to debt servicing. So, there's need for us to have well detailed budgets whereby we are told how much money is allocated to debt servicing and how much money is allocated to the other sectors. Budget presentations are also too technical, which limits access to

information by members of the public.

- ix. For the legal framework, it's important for us to identify socio-economic issues under FXI, then come up with a common or original legal intervention. This would help us come up with best practices that would form a model.

c. Policy and legislation

- i. There are two areas here - policy at one level and the second one is legislation.
- ii. Under Policy development is attentive to legislations. In the region it's become evident that certain governments have no capacity to take the route of developing legislation for access to information. Either they don't have infrastructure, the resources and again the human resource to do that.
- iii. No information at hand to say that there is a need to conduct research first of all, on policy documents that are available in the region, where those policy documents recognise access to information .
- iv. To do an audit on policy practices, on practices within governmental departments and institutions. In terms of norms and standards what are the norms in SADC, what are the standards for departments to give information. And also it came out of Malawi where there is no sharing of information between different institutions, whether governmental or corporate and so on.
- v. The other element around policy is to try and simplify PAIA guidelines, the South African model, and make it easy to digest. And then to further use and develop the guidelines as a form of a regional model. Because the guidelines themselves are so good, they can be used as a guideline of access information legislation. Around legislation issues of litigations are important.
- vi. There is a need to do research, further research on freedom of expression models, specifically looking at the South, whether there are any models that come out of the South without the developing countries necessarily copying Western Europe models.
- vii. Lack of advocacy materials around legislation, as well as to develop the campaigns. Advocacy materials should be issue-based, it should relate to issues of debt relief, HIV/AIDS and so on, so that they can complement better with other work partners are involved in.
- viii. To develop materials on the principles, not necessarily on the lack of information, but on the principle of access to information, what are the principles. Because if we go to communities we need to understand what are the principles of access to information.
- ix. To develop issues around the legal frameworks which are related to the model law on access to information.

To do a study on the legal regimes that affect NGO participation, because NGOs need

to participate in all these issues, but there seems to be some impediment, legal impediments around NGO participation, so there's a need to look at that, and how an NGO can actively participate in issues of access to information, dissemination and education.

d. International financial institutions

- i. The constitutional documents of the international organisations and the basic framework documents which explain when it is, for example, that certain investigations have to be carried out, certain substantive issues have to be investigated need to be the starting point for review. From that, you then know when there is going to be an information gathering process and you can then work out when it is that there's potential information there that you can access. FXI have been talking to SEATINI about formulating a request with respect to what went on, for example, at the Hong Kong ministerial, or what will happen at the Hong Kong ministerial. The preparatory sort of briefing documents for those who will be representing South Africa at the ministerial. And that's an example, obviously, the procedures there provide for these meetings to occur and so you want the preparatory documents. Another example is in the presentation from Malawi where a study had to be done about the poverty impact before certain measures could be introduced. Again, there's provision for that so you know that those things are going to occur, so you're able to target the sort of issues that you want to be asking for information about.
- ii. One can get information sometimes out of head offices of international bodies, but you can't out of the regional offices. One strategy that may arise from that is that you may, through that mechanism, be able to get lists of upcoming meetings or lists of situations in which certain issues are going to be investigated that you can then target, using national approaches.
- iii. And the other very general point about issues to work or campaign on is that there is an international freedom of information e-mail service which to subscribe to.
- iv. The same concerns which are reflected in the exemptions of the general framework of information law in South Africa, are the same ones that you are going to base in terms of why governments won't give information, even if you have no formal legal framework. Things like the official Secrets Act in various countries do reflect the same concerns, it's international relations, it is the economic welfare of the country, and you see them coming up in formal laws under freedom of information, those are the exemptions. And you also see those are the same reasons that governments will cite when there is no law. So those are the issues that are likely to arise in any case. And in terms of the exemptions that would be - the ones in South Africa, it's the international agreements. It's not

always that international agreement is going to itself preclude, reveal certain information, but there is also international relations. It's the exemption for economic welfare of the Republic and the other exemption is the exemption which is with respect to preliminary discussions for policy formulation or for decision making. So I think those are the issues that arise in that area.

2.4 Africa Social Forum (AFS)

The FXI delegation to Lusaka, Zambia, consisted of Console Tleane, Virginia Setshedi and myself (Titus Moetsabi). In preparations for participating in the conference the three FXI representative participants had strategised to attend different sessions related to their programme work in order to be more effective. For myself, it was also part of my induction and establishing the pulse of social movement initiatives that ATIP could partner with in both the pilot and the three year subsequent programme. The sessions I attended were:

- 2.4.1 The opening ceremony – which was lively and punctuated by song, chants and dancing under the revolutionary theme ‘ Another Africa Is Possible!’
- 2.4.2 Debt and Macro-economic policies – where I made contacts with ZIMCOD, AFRODAD, MWENGO, JUBILEE Zambia, Africa Trade Network, Southern African Social Forum , Southern African Peoples Solidarity Network, and MEJN.
- 2.4.3 Millenium Development Goals
- 2.4.4 World Bank and Civil Society Engagement
- 2.4.5 Problems Affecting Social Movements in Africa
- 2.4.6 The Social and Solidarity Economy - an alternative for Africa
- 2.4.7 Debt and Macroeconomic Policies

The issues for debate that I contributed from the flow and shared with others included the following:

- a. That SMs have to name and shame the G8 through the African Peer Review mechanism in order to expose their true intents to maintain the staus quo as opposed to achieving great equality in social and economic justice in the world order;
- b. That NEPAD is a system in which all the rules are biased against Africa and therefore SMs have to take a common stand for a more robust paradigm shift that rejects neo-liberalism;
- c. That there needs to be a renewal of the compact for resistance to reverse the trend of capitalist profiteering by way of initiatives at policy level that energise the groundswell;
- d. Campaigns by SMs should ally with radical elements in parliaments while pushing the view of the groundswell to the global world;
- e. That the fact that sometimes our eyes do not see the other horizons does not mean the other horizons do not exist. To that extent, SMs need to explore other concepts of human dignity, equality, and justice in which political

democracy is not intrinsically to a market economy that ensure people are unemployed and or poorly paid for their labour through slavery rewards and wages.

- f. SMs strategies should embrace education for liberation; and
- g. That civil society should continue to meet outside the sphere of the state to converse among cultures alternative political and economic paths and spaces that are just.

As is the case at conferences of this nature, the ATIP benefited from numerous relevant literature from the processes and this information is informing program implementation with SADC partners.

2.5 Presentations

The ATIP made a presentation on Access to Information and access to learning materials –Integrating Intellectual Property Rights and The Development Agenda- on 24 January 2005. The conference was jointly hosted by South Africa University Vice Chancellors Association (SAUVCA), Committee of Technikon Principals (CTP), Consumer Institute South Africa (cisa). The main sessions that contributed to the ATIP growth were those on Trade Policy and Access to Learning Materials, and Open Source Software and the Public Domain in Education which exposed how social movements in these areas are undertaking campaigns for alternative open society copyright laws as well as creating through the concepts of ‘ creative commons and commons sense’; materials for learning that are copied and distributed for free learning while acknowledging the originators and ensuring that such materials were not sold hence their availability for resource poor communities-this is the concept of Gnu Free Documentation Licence (GFDL). This paradigm had parallels that could be adapted for the ‘model access to information law’ campaign in SADC. The milestones on ‘creative commons alternative publishing, copyright legislation and access to learning materials can be found among others on the following websites: www.meraka.co.za, www.openoffice.org, www.commonse-sense.org, <http://za.creativecommons.org>, www.freeculture.org, <http://savannah.gnu.org>, and www.nongnu.org. A major theme of the conference was the recognition that the idea of open access publishing models to allow more access to learning materials is very attractive as it is founded on the ethos of shared, participative development.

2.6 Social and Economic Justice Court Cases

The ATIP and the Legal Unit of FXI submitted a Notice of Appeal on November 17, 2004 against the Department of Water Affairs in the case where FXI is contesting the issue of privatisation of water and the concomitant limit of the free threshold of 6000 litres of water per household per month.

The two units have also collaborated in the Ebrahim Harvey case in which Ebrahim Harvey is trying to access certain documents from Johannesburg Water in order for him

to complete his Masters Degree on corporatisation of water and sanitation services. The case is a clear illustration of the paradox of struggling to get information since 2002 in a country with a 'progressive' freedom of information legislative framework. The case is now pending arguments in the High Court. The recent court judgement of 26 January 2005, related to a request in terms of the Promotion of Access to Information Act (PAIA) filed by ODAC on behalf of Mondli Hlatshwayo, an MA student at the University of Witwatersrand gives hope to those wanting records in public bodies. The Pretoria High Court directed Iscor Limited, the steel giant to release certain records , including minutes of management meetings between the period 1965-1973.

3. FACTORS IMPACTING PROGRAM IMPLEMENTATION

A. PROBLEMS, PROPOSED SOLUTIONS, ACTIONS REQUIRED

Problem	Proposed Solution	Action Required
Difficult to get partners such as Wfc, SEATINI, Jubilee Angola and SAREJ to meetings	Broaden Coordinating Committee representation	Other partners found through networking at Africa Social Forum
Program commencement during peak annual close down and holiday period	Utilised email network for participatory programme design	Email conferencing and telephones succeeded in providing information to the baseline study and arranging the regional meeting on January 13, 2005.

B. MAJOR ACHIEVEMENTS/MODIFICATIONS

1. Held successful and strategic introductory meetings with South African based partners;
2. Completed the SADC baseline study on ATI;
3. Successfully hosted the first coordinating committee meeting;
4. Participated in the ASF and benefited by linking with new partners that are part of the coordinating committee;
5. Developed the Head of ATIP work-plan;
6. ATIP is collaborating with FXI legal Unit on two cases and, is taking up a third one in collaboration with SEATINI on the South African government records related to the WTO meeting in Hong Kong in December 2005.

4. KEY ACTIVITIES PLANNED FOR NEXT QUARTER

- 4.1.1 The March regional meeting to discuss and adopt and sign the MOU, and principles for access to information, and a one day Training of Trainers (TOT) for partners on ATI.
- 4.1.2 Following on the TOT, to conduct with country partners ATI public awareness and education for country civic society while assisting them to implement their pilot program activities as well as developing campaigns and work-plans for the three year program for their country. At least four countries to be visited – Namibia, Mozambique, Angola, Zimbabwe.
- 4.1.3 Start the filing ATI request with SEATINI for the South African documents on preparations for Hong Kong WTO meeting in December 2005.
- 4.1.4 WTO position & SA domestic obligations Consultancy
- 4.1.5 Legal opinion on access to information principles with regards to debt, budgets monitoring, SA hegemony and IFIs, and transparency in decision making.

ATIP Head ANNUAL WORK PLAN

GHANTT CHART November 1, 2004 – December 30, 2005

Activities	N o v	D e c	J a n	F e b	Ma r	A p r	M a y	J u n	J u l	A u g	S e p	O c t	N o v	D e c
1. Project Mobilisation														
2. Literature Review and acclimatisation														
3. Freedom of Information Macro Indicators Consultancy (one month)														
4. Regional Workshop Preparation														
5. Regional Feedback Workshop to Partners Joburg (3rd week)														
6. Legal Opinion on brief to Access to Information														
7. Regional Meeting preparation – Strategic Meeting with partners on methods of accessing information														
8. Strategic Meeting with partners on principles of accessing information														
9. Consultative Meeting FXI and MISA														
10. Implementation plan FXI & MISA														
11. Legal intervention on information not capable of disclosure														
12. WTO position & SA domestic obligations Consultancy														
13. Social Movements Workshop preparation on access to information instruments needed & availability														
14. Social Movements Workshop on access to information instruments needed & availability														
15. Workshop import of information received on international trade agreements - preparation														
16. Workshop import of information received on international trade agreements														
17. Partner and Regional Organisations Regional Meeting - preparation														
18. Partner and Regional Organisations Regional Meeting														
19. Model Access to information Law Consultant														
20. Evaluation														
21. Regional Workshop Evaluation Adoption Prep														
22. Regional Workshop Evaluation Adoption & Planning for next Phase														
23. Next Phase Finalisation of Proposal														

Work-plan for Partners

Country	Partners	Activity Area	6 months campaign activities
Angola	Jubilee Angola	IFIs	Materials production for advocacy around WTO meeting in Hong Kong, ATI training in country and, legal challenge
Botswana	BOCONGO	South Africa hegemony	ATI training, materials production and awareness seminar
Namibia	MISA	South Africa hegemony	ATI training, materials production and awareness seminar
South Africa	SACEJ, SEATINI, SAHA	IFIs	Materials production for advocacy around WTO meeting in Hong Kong, training in country and, legal challenge
Lesotho	LEJN	Transparency in macro-economic decision making	ATI in-country training, materials production and, seminar
Malawi	MEJN	Transparency in macro-economic decision making	ATI in-country training, materials production and, seminar
Swaziland	CORN –cross border association	Transparency in macro-economic decision making	ATI in-country training, materials production and, seminar
Zambia	ZARD, Jubilee ZAMBIA, Wfc	Debt	ATI in country training, materials production, and seminar
Mozambique	CORN	SA Hegemony	ATI training, materials production and awareness seminar
Zimbabwe	MWENGO, ZIMCODD	Debt	ATI in country training, materials production, and seminar

Memorandum of Understanding - ACCESS TO INFORMATION PROGRAMME-

We, the undersigned, out of our free will, and mandated by and acting on behalf of our organisations:

Realising, that the right of access to information is a human right that can be used to empower individuals, NGOs and social movements to inform struggles around social and economic justice issues;

Realising, that some SADC countries have and others do not have access to information legislation and, or access to information as a constitutional right;

Acknowledging, that commercialisation and privatisation of basic services, such as water, electricity, waste management, health and transport, is leading to these services becoming increasingly unaffordable to the poor who are increasing in numbers as globalisation intensifies;

Believing, that focusing on the access to information about the state of delivery of basic services that are being delivered increasingly on a regional basis by public and private companies will equip social movements with information to enable them to struggle effectively against social and economic inequalities;

Affirming our intention of the Access to Information Programme regional activities to build a culture of popular usage by relating information access to bread and butter issues that would lay a basis for more popular usage;

1. Hereby agree to undertake the following activities together in 2005:
 - 1.1 Tackle debt and debt-related issues in the SADC region;
 - 1.2 Participate in budget monitoring and participatory budget making in the SADC region;
 - 1.3 Ensure transparency in macro-economic decision-making in the SADC region;
 - 1.4 Raise awareness and knowledge about international Financial Institutions (IFI's) and their effect on the SADC region;
 - 1.5 Publicise trade in the SADC region with a specific reference to South Africa's expansion and its consequences on national economies and households.
2. We form a Consortium representing our organisations as a vehicle for:
 - 2.1 Public education on the existence of the Constitutional right and the Act where they exists and advocacy and lobby for the existence of these legal guarantees in SADC countries where they do not exists – working through organisations and social movements that engaged in struggles around access to basic services ;
 - 2.2 Assisting individuals , organisations and social movements with information requests on activities of South African public and private companies involved in delivery of basic services , and lobbying these companies to ensure compliance with the Constitutional provision around access to information in their operations in South Africa and the SADC;

- 2.3 To undertake a SADC wide campaign to change the information access regime to ensure proper usage by those most affected by the delivery of basic services and government policy on these services;
 - 2.4 To enable the FXI legal unit to link with SADC lawyers representing test cases in these areas for the purposes of scoring social and economic victories while suggesting areas for law reform to improve access to information legislation in SADC.
3. We shall establish a Coordinating Committee representative of SADC whose terms of reference will be:
 - a. To meet quarterly and advise the Head on programme implementation;
 - b. To be the in-country focal point for the pilot campaign taking place in CC member country;
 - c. To monitor the in-country work-plan for completion by end August 2005;
 - d. To liaise in FXI ATIP Head and in-country activities;
 - e. To share and be participatory in all programme activities and methods.
 - f. To coordinate an advocacy strategy for enabling ATI legislation in countries without and, amending ATI legislation where it is problematic.
 4. We confer to the Coordinating Committee the powers to advise the FXI Head of Access to Information Program through coordinating committee meetings;
 5. The Coordinating Committee shall assemble partners who will be representative of all subject areas of Access to Information Program focus;
 6. We state our commitment to adequate gender representation in the Coordinating Committee or any other structures that may be established for the purposes of the implementation of the Access to Information Program;
 7. The day-to-day management responsibilities and functions of the project are the responsibility of the Freedom of Expression Institute (FXI) of South Africa. Such duties shall include, but not be limited to, being the Secretariat for the Coordinating Committee; managing and administering the funds for the project; liaising with donors and entering into agreements with them through the Executive Director of FXI, and the FXI Head of Access to Information Programme.

Concluded and signed on this, the 13Th January 2005, in Johannesburg, South Africa by:

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 Titus Moetsabi
 Freedom of Expression Institute

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 Malawi Economic Justice Network

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 Mwengo

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 MISA

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 BOCONGO

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 Zambia Association for Research &
 Development

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Community Organisations Network

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SAHA

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SEATINI

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S.A. Centre for Economic Justice

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Jubilee Angola

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Women for Change

Witnesses:

(1)

(2)