Digging Dung. Fertilising Democracy.

AmaBhungane Centre for Investigative Journalism NPC
Narrative Report for the Year to March 31, 2017

ORGANISATIONAL UPDATE

ACTIVITIES
ORGANISATIONAL UPDATE

The amaBhungane Centre for Investigative Journalism is a non-profit company that develops investigative journalism—a public interest task we believe promotes free, capable media and open, accountable and just democracy.

We do so through the best practice of investigative journalism, helping others do the same, and advocating for better information rights.

The review period coincides with the first year since we ended our service agreement with M&G Media, the publisher of the Mail & Guardian. Under that agreement, M&G Media was the primary publisher of our content, for which it paid a fee.

We relaunched in April 2016 to become Southern Africa’s pre-eminent independent investigative journalism non-profit, with a distributed publication strategy.

Independence

Factors supporting our decision to end the publication agreement with M&G Media included:

- The circulation and financial decline of SA print media in general and the accelerating transition to digital, leveraged by the enormous growth of mobile internet access; and
- Our hunger to experiment and innovate in the delivery of investigative content to a wider audience, including younger and under-serviced people.

Key features of the change, which took effect in April 2016, were:

1. We rebranded, which included trading under our new name, amaBhungane Centre for Investigative Journalism. AmaBhungane, previously our nickname, is isiZulu for “the Dung Beetles”. Recognition of the amaBhungane brand grew markedly over the course of the year. We have built a national reputation for incisive journalism and integrity. Our work is widely cited and the “beetles”, as we refer to members of our team, have featured in numerous television and radio interviews.

2. In March 2017 we held our first amaB Town Hall meeting, in Cape Town. These events are intended to provide a platform for debate on the media and current affairs, and promote our profile to supporters and the public. Our first panel, moderated by Judge Dennis Davis, tackled the topical subject of “fake news” and attracted a lively audience of 150-200 people. We intend to have quarterly events.

3. We became a distributed publisher, physically via a range of print publications (to leverage the lingering impact of legacy media) and digitally via web publishers and social media (to exploit digital interactivity and ubiquity). We also continued publishing via our own website, amaBhungane.co.za. (We gave the existing site a makeover while working on a new site optimised for mobile access and reader interaction. The new site should go live in early 2018.)

4. We started raising funds directly from the public to help cover the shortfall left by the termination of the M&G Media agreement. While we expect most of our funding still to come from charitable foundations in the medium term, we now know that voluntary contributions from supporters can materially subsidise the cost of public interest investigative journalism. Over the course of the year, we raised the equivalent of about 11.5% of total expenditure.

Independence, even from a media house as cherished as M&G Media, has served us well. In 12 short months, we have established ourselves as a voice to be heard, achieved reach and impact, and chiselled away at the problem of how to sustain public interest media in the digital age.

---

1. The name change from MandG Centre for Investigative Journalism NPC to amaBhungane Centre for Investigative Journalism NPC was registered by CIPC on January 29, 2016.
Publication strategy

Under the service agreement, M&G Media had priority access to our stories, and our story production was synchronised with the Mail & Guardian's weekly publication rhythm.

Post-M&G, we have focused even more on tackling the really important stories, and doing them well. From there, our strategy is one of distributed publication—to follow readers to where they are, rather than herd them to our website at all costs.

Each story is offered to one of a number of partner publications. The choice of publisher depends on factors such as potential impact, audience and urgency. We co-publish the story on our website, both to have a central repository for all our work and to strengthen it as a hub for interacting with readers.

Stories are propagated actively via Facebook, Twitter and, as of October 2016, WhatsApp.

Distributed publication has served us well.

Our publication partners during the period included a large swathe of the SA print and online media landscape: Daily Maverick, Mail & Guardian, City Press, Business Day, News24, The Huffington Post SA, Sunday Times and eNCA.com.

We also contributed to stories published by The Times Group and Nyasa Times in Malawi, the Sunday Standard in Botswana and The Namibian in Namibia.

These new partnerships have extended our reach to collectively a very large and diverse audience, increasing our credibility and impact.

Our new partners are reporting much higher readerships for our stories—sometimes in the order of ten times what we got before. AmaBhungane has become an oft-cited source for other media. We are often in demand for radio and television interviews. And there is a noticeable increase in public reaction: more social media activity and members of the public contacting us with further information.

Funding

Investigative journalism takes time and money. And we are independent. We do not sell advertising and do not accept grants from governments or corporates, or for specific stories or themes.

Under the service agreement, M&G Media contributed about 30% of our budget. So as to maintain our independence, we decided not to charge our new publication partners for stories. (We do, however, require joint sign-off on stories to ensure quality and that they carry the legal risk of publication.)

This has worked, but left a budgetary gap that was filled only partly by belt-tightening and larger contributions from two existing funders.

This led us to “crowd fund” directly from the public—a strategy with which there had been only very limited experimentation among SA media. At its core is our “be an amaB supporter” campaign, which is driven via the GivenGain fundraising platform, our website, social media and links accompanying our stories on the websites of publication partners.

The strategy has exceeded our expectations. During the review period, we raised R817,528, equal to about 11.5% of total expenditure. We believe that as we gain experience in crowd funding and our readers become used to the idea of supporting public interest investigative journalism, we can grow this component to 50% of total funding in the medium term. This will not only help safeguard our independence in an uncertain donor environment, but also allow for our further organic growth, better to fulfil our core task of developing investigative journalism that helps to ensure open, accountable and just democracy.
We acknowledge these 2016/17 grants from charitable foundations:  

the Bertha Foundation R600,000 grant and R51,432 re-grant of unspent prior year funds  
the Claude Leon Foundation R1,000,000 grant  
the Millennium Trust R1,900,000 grant and R74,980 re-grant  
the Open Society Foundation for SA R2,000,000 grant  
the Open Society Initiative for Southern Africa $48,362 grant  
the RAITH Foundation R873,855 grant and R53,538 re-grant  
the Social Justice Initiative R279,780 re-grant  

We also acknowledge these large donations during the review period in response to our crowd-funding campaign:  

the Egg Trust R325,000  
the Frank Robb Charitable Trust R80,000  
Rowan Brewer R31,000  
Sam Amod R15,000  
Laurie Slatter R10,000  
Magda Wierzycka R10,000  
Tony Cole R10,000  
Bryant Roux R9,000  

**Governance and people**

During the period, AmaBhungane’s board was strengthened by the appointment of three new directors. The full board—new appointments in bold—consists of:

- **Professor Tawana Kupe**, Wits University deputy vice chancellor (non-executive chair)  
- **Sisonke Msimang**, human rights and gender activist, writer (non-executive)  
- Angela Quintal, Committee to Protect Journalists Africa programme coordinator, ex-editor (non-executive)  
- Nicholas Dawes, Human Rights Watch deputy executive director for media, ex-editor (non-executive)  
- **Sithembile Mbete**, University of Pretoria politics lecturer (non-executive)  
- **Tabelo Timse**, amaBhungane investigator (non-executive, staff representative)  
- Sam Sole, amaBhungane joint managing partner (executive)  
- Stefaans Brümmer, amaBhungane joint managing partner (executive)  

Our staff consisted of:

- Managing partners: Investigative old hands Stefaans Brümmer and Sam Sole, who led jointly at editorial and corporate levels and participated in investigations, investigations support and advocacy.  
- Investigations support coordinator: Veteran journalist and teacher Drew Forrest, who played nanny to our fellows and helped to nurture new investigative centres in the rest of the SADC region.  
- **Advocacy coordinator**: Karabo Rajuili, who drove our advocacy for the information rights investigative journalists need.

---

2 Nameplate grant amounts are listed. Unspent amounts are repayable, meaning final donations are often less.  
3 The full grant was for R1-million/year over a period of three years ending March 31, 2017, now extended to December 31, 2017.  
4 We deem all crowd-funded donations over R6,000/year as grants. For these, we want to know the identity of the donor and that they meet our standards, such as not being government or corporate. All grants, whether from charitable foundations or our crowd-funding campaign, are disclosed publicly.  
5 We previously called this “skills transfer”, but the widening remit made the new name more appropriate.
Digital coordinator: Deshnee Subramany, who managed all things digital, including our web page and social media activities, until the new Huffington Post SA made her an offer she could not refuse; then (as of November 2016) Sally Evans, who took the leap from investigations to digital.

Investigators: Susan Comrie (who joined in July 2016), Tabelo Timse, Craig McKune and Sally Evans (until her move to digital). Micah Reddy joined immediately after the review period.

Administrator: Gugu Nyoni, who did anything and everything.

Fellows: We were joined by a number of SA and SADC fellows, who participated in our story research and writing. For more detail, see “Investigations support programme” below.

ACTIVITIES

Investigations programme—developing the best practice of investigative journalism

A watershed year has passed since we terminated our priority publication agreement with the Mail & Guardian at the end of March 2016.

Losing the infrastructure and security of having an anchor publication and taking on the extra complexity of building and maintaining multiple publishing relationships presented risk. But we have met the challenge.

We have increased our footprint greatly. And we have broken stories that shaped the news agenda out of all proportion to our small size, thanks, we believe, to our singular focus on producing original content in the public interest.

During the review period we published 97 stories via our SA publication partners: Mineweb (1), eNCA.com (1), Huffington Post SA (2), Sunday Times (3), News24 (4), Business Day (8), City Press (9), Mail & Guardian (24) and Daily Maverick (45). These stories were shared from time to time within titles’ wider publication groups.

Stories were offered to publications based on factors such as impact, audience and urgency. We also published each story on our website, amaBhungane.co.za, and proliferated them via Facebook, Twitter and, as of October 2016, WhatsApp.

In keeping with our objective of promoting open, accountable and just democracy, we try to manage our limited resources to highlight any democratic deficit.

During the review period our pioneering focus on the Gupta family and “state capture” paid dividends as this political and economic threat moved firmly to the centre of national debate. (The “GuptaLeaks”, which turned a torrent of exposures into a flood, came later, after the review period only. We believe that our reporting on the Guptas during the review period helped lay a very solid basis for what was to come.)

We are also particularly proud of the work we did on SA state institutions, including the faltering state owned companies, and our stories on SA’s social grants system and Net1, the company that pays grants on behalf of government.

AmaBhungane was chosen as the SA partner for the global Panama Leaks collaboration, which exposed the misuse of opaque offshore jurisdictions. Though there were few big SA names in the cache, we published stories from the data on fraud accused Gary Porritt, and on two suspect transactions in the DRC that have embroiled local players such as former presidential hopeful Tokyo Sexwale and Khulubuse Zuma, the president’s nephew.

Stories that stood out included:

Exposés of the Guptas’ political and commercial influence: These included how the Guptas backed ANC Youth League leader Collen Maine’s R140,000 monthly bond; their attempts to acquire a significant stake in the Independent Media group; the way they “captured” state arms company Denel and entered an offshore joint venture with it; and how the Guptas attempted to profit from a R51-billion train tender at the Passenger Rail Agency of SA.
They also included the Guptas’ questionable coal contracts with electricity utility Eskom and how its board approved a R587-million pre-payment to them in six hours; various stories about state transport operator Transnet awarding contracts worth hundreds of millions to Gupta-linked companies without open, competitive tenders; breaking the story of Finance Minister Pravin Gordhan’s court exposure of the billions in “suspicious and unusual” transactions linked to the family; and detailed exposés of how the Guptas or their associates laundered hundreds of millions in apparent kickbacks through letterbox companies.

Our detailed tracking of the capture or attempted capture of state institutions: This extended to players outside the Guptas circle and included stories on an alleged attempt politically to influence a supercomputer tender at the Council for Scientific and Industrial Research; how a friend of President Jacob Zuma diverted money from a Passenger Rail Agency of SA tender for “the ANC”; how the SA Revenue Service lost the expertise that brought down criminal mastermind Radovan Krejcir when the “rogue unit” was disbanded; suspicious cash deposits to the accounts of the second-in-charge at the Revenue Service; and how Revenue Service chief Tom Moyane’s nephew obtained a lucrative tax debt collection contract.

Our Craig McKune’s relentless focus on exposing and tracking the crisis of the social grants payment system: He got under the skin of US-listed conglomerate Net 1, whose Cash Paymaster Services subsidiary pays out the grants on government’s behalf while other subsidiaries sell loans, airtime etc to grant recipients. Exposés included how government paid Net 1 an extra R316-million based on a “lie”; how it paid R83-million to an associate of the social development minister’s close friend; and how access to the poor via the grants payment system was used to sell financial and other products to people who did not want them or could not afford them.

Friend and foe recognised that Craig repeatedly penetrated the fog of misinformation and jargon to set the terms of the narrative. We have no doubt that this provided context and ammunition for the civil society organisations that came to the rescue of grant recipients via the courts.

Our focus on the sins of incumbency: Our exposé on a covert ANC project ahead of the 2016 local government elections set the news agenda in early 2017. The project involved a “War Room” that ran a media campaign intended to support the ruling party without revealing its hand. Our stories culminated in the resignation of ANC general manager Ignatius Jacobs.

We also pursued the official opposition DA’s record of questionable property deals in Cape Town—this time a R190-million conflict of interest of one of Western Cape Premier Helen Zille’s advisors.

Our preoccupation with the under-reported issue of rural democracy and dispossession: We highlighted a chief’s R175-million conflict of interest between his Mapela community and the company mining their lands; the R70,000 “peace offering” Mineral Resources Minister Mosebenzi Zwane allegedly extended to a rural activist before the latter’s murder; more reporting on Tormin’s controversial West Coast dune mining; and stories about unbuilt toilets and housing struggles in platinum miner Lonmin’s backyard at Marikana.

We are satisfied that we have not only served the public with our continued exposure of wrongdoing, but also journalists and the media in general by developing and showcasing the best practice of investigative reporting. Among other things, our stories are presented with a much greater degree of transparency than is usual in SA reporting. This includes often attaching documentary source material.

Investigations support programme—helping others do it

We previously called this the skills transfer programme, but its widening and changing remit has made the new name more appropriate.
We hosted four SA and four SADC fellows over the review period, conducted workshops and lectures, and supported investigative centres in the SADC region. All of the fellows were investigations-ready and receptive to learning new skills. Our fellows for the review period:

**Mashile Phalane** (Apr-Jun 2016), the editor of *The Eye News*, an investigative community newspaper based in Tzaneen, Limpopo, focused on issues in his home area. This included the Mapela community’s rejection of a R175-million “settlement agreement” between Anglo Platinum’s Mogalakwena mine and their traditional leader. He also exposed the chief’s conflicted position as a major contractor to the mine.

**Khonani Ontebetse** (Apr-Jun 2016), a published author, was the first fellow to join us from Botswana’s *Sunday Standard* newspaper. Most of his stories while with us related to state attacks on the media in Botswana. They included a telling anatomy of the sedition charges brought against his editor for publishing a story about President Ian Khama’s alleged involvement in a late-night car collision, and an interview with the journalist who fled to SA after writing the story.

**John Mukela** (Jun-Aug 2016), an experienced Zambian journalist who has worked as a BBC correspondent, was offered a fellowship as an act of support for an investigative journalism centre he and another former amaBhungane fellow, Charles Mafa, planned to set up in Lusaka. As his fellowship coincided with the contested Zambian election, he did a number of incisive analyses before and after the poll. In advance of the CITES conference, he also surveyed the poaching crisis facing elephant populations in Zambia and other regional states.

**Keiso Mohloboli** (Jul-Oct 2016), then employed by the *Lesotho Times*, was invited to do a fellowship after she fled to SA following the publication of a story that enraged the military, and the near-fatal shooting of her editor. Keiso used the fellowship to write a stream of stories that her home publication would probably not have run. They included an exposed of the many unsolved political murders in Lesotho since 2014. Her fellowship was also intended to prepare her for the launch of a new investigative centre she and some colleagues were planning back home.

**Tremaine van Aardt** (Oct-Dec 2016), a senior reporter at *The Herald* in Port Elizabeth, had a specialist interest in crime. At amaBhungane, Tremaine focused on the rise of gangsterism in Port Elizabeth. He also wrote a memorable feature on the appearance in the city of a deadly new drug, “krokodil”. Tremaine did considerable research on a detailed anatomy of the gangs, which he planned to complete once he returned to *The Herald*.

**Amil Umraw** (Jan-March 2017) joined us from *The Witness* in Pietermaritzburg, where he was both a senior daily reporter and an investigator. Amil looked at water issues, and had a story published about an irregular Rand Water Board tender award. He also did considerable research regarding claims about illegal immigration networks.

**Micah Reddy** (Jan-Mar 2017) is a journalist with working experience in Yemen and Egypt, who joined us from the Right2Know campaign, where he was media freedom coordinator. He focused on the government’s controversial plans for a fleet of nuclear power stations, publishing a story about a government adviser going aground amid rumours of a Russian “commission” payment. He also had a story published on the misuse of government ad-spend to promote “friendly” publications. He joined amaBhungane full-time after his fellowship.

**Serah Makondetsa** (Jan-Mar 2017) is a promising young journalist who joined us from Malawi’s *Times Group*. A resident of Blantyre, she quickly had a story published about the Malawian government’s abandonment of a semi-completed renovation of the city’s stadium in favour of plans to build an expensive new structure. She also wrote a powerful investigative feature about a criminal syndicate that abducted and extorted money from Malawian travellers to SA.

We also had **Ferial Haffajee** (Jan-Mar 2017), former editor of the *Mail & Guardian* and *City Press*, as a supernumerary part-time fellow during the period. She participated in some of our research activities.

Our efforts to support investigative journalism in the rest of the SADC region have borne tangible fruit: two investigative journalism centres were up and running in Botswana and Malawi, while an investigative unit was successfully operating in Namibia. An investigative centre in Lesotho launched after the review period and one in Zambia was preparing to go live.
Each centre/unit is driven, at least in part, by alumni of the amaBhungane fellowship programme. Helping build and working with such centres has become a key focus of this programme. It cements sustainability by making efforts to develop investigative journalism self-replicating.

We worked with these five functioning or planned institutions in the rest of the SADC region during the review period:

**The INK Centre for Investigative Journalism** in Botswana launched in October 2015. Its managing partners are amaBhungane fellowship alumni Ntibinyane Ntibinyane, previously editor of *Mmegi*, and Joel Konopo, former editor of the *Botswana Guardian*.

Our initial assistance consisted of training, inspiration and advice during and after the above fellowships, and included specific guidance on budgeting, fundraising, etc. We signed an MOU with INK in September 2015 to regulate organisational and story support, workshops and fellowships.

During the review period, amaBhungane provided editorial input on a number of investigations by the centre and, to give it wider exposure, had them placed for publication in SA.

We conducted a one-day workshop on investigative tools for Botswana journalists in association with the centre in August 2016.

**The Centre for Investigative Journalism Malawi** started operating in earnest during 2015. Its executive director is Collins Mtika, an amaBhungane fellowship alumnus, and its council includes a number of other alumni. We signed an MOU with the centre in May 2015 to regulate organisational and story support, workshops and fellowships.

During the review period, amaBhungane advised the centre on a new operational model and budget, and helped with its fundraising efforts. Through editorial interactions, we helped to re-orientate it towards the more consistent production of investigative stories. AmaBhungane has edited a number of solid investigative stories by the centre and had them placed for publication in SA.

**The Namibian** ramped up its investigative capacity in recent years through our hosting a series of its reporters as fellows. With our input, the newspaper moulded this capacity into a dedicated investigative unit. AmaBhungane alumni Ndanki Kahiurika, Tileni Mongudhi and Shinovene Immanuel have staffed the unit.

During the review period, amaBhungane helped to process a number of investigations produced by the unit for publication in SA, including an article revealing how a R11-billion oil deal was stalled by a scramble between presidential cronies for a slice of the action. As detailed below, amaBhungane staged two workshops in association with *The Namibian*.

**The Makanday/Zambia Centre for Investigative Journalism**: An earlier initiative associated with the publication *The Bulletin & Record* failed to get off the ground despite our intermittent advice over a number of years. However, a new, independent centre has been registered and is ready to commence operating in earnest.

To help this initiative take off, amaBhungane provided a fellowship for one of its partners, John Mukela, in April-June 2016. A second partner, Charles Mafa, is an earlier alumnus. We have also advised the centre on grant applications and presented at a workshop it organised.

**The MNN Centre for Investigative Journalism in Lesotho**: Four of Lesotho’s small group of investigative journalists, two of them former amaBhungane fellows, have banded together to register a new centre in Maseru. It launched after the review period.

As support for the centre, amaBhungane took on one of its members, Keiso Mohloboli (see above), as a fellow in July 2016, and this resulted in a steady stream of investigative stories about the political crisis in Lesotho. We also provided major input on its first application for grant finance, particularly advising it on the governance and financial requirements. As mentioned below, we also conducted two one-day training sessions for would-be investigators in Maseru, Lesotho.
AmaBhungane journalists gave a number of presentations at conferences/public events. We also conducted these formal workshops/lectures:

**Intermittent**: Our Craig McKune gave a number of lectures in investigative journalism to Stellenbosch University journalism honours students. He also supported the students in their investigative projects and marked papers.

**June 2016**: In collaboration with The Namibian newspaper and the Namibia Media Trust, our Drew Forrest ran a two-day training workshop for 14 Namibian print and radio journalists, and four journalism students, in Windhoek. The opening session, devoted to a lively discussion of the nature of investigative journalism, its typical themes and pitfalls, was followed by a presentation on media law and an address by the trust’s chairperson, Gwen Lister. Day two was mainly concerned with group discussions of presentations by participants on actual investigative stories they had done or planned to do in the future.

**August 2016**: Craig McKune presented a one-day workshop for Botswana journalists in Gaborone, in association with the INK Centre for Investigative Journalism. The workshop, which looked inter alia at open-source investigative tools and developing a clear hypothesis in order to find, develop and source investigations, was well received. INK partner Joel Konopo later acknowledged that certain investigations done by his unit would not have been possible without it.

**September 2016**: In conjunction with the Media Institute of Southern Africa, Drew Forrest conducted a two-day training workshop on investigative journalism in Maseru, Lesotho, for 15 local print, radio and television journalists. Among other activities, journalists were asked to identify a suitable issue in Lesotho and plan an investigative story. Drew also addressed a meeting of the Lesotho Press Club on the growth of investigative journalism in the region.

**October 2016**: To help strengthen the newly registered Makanday/Zambia Centre for Investigative Journalism, amaBhungane’s Sam Sole travelled to Lusaka to conduct a one-day training workshop on investigative journalism for local journalists. The workshop was organised by the centre’s Charles Mafa, who sourced funding for it from the Panos Institute. The workshop provided an introduction to investigative journalism, its nature, methods, pitfalls and typical themes.

**January 2017**: Craig McKune held another one-day training workshop for selected journalists in Maseru, Lesotho, again inter alia looking at open-source investigative tools and hypothesis development. The workshop, a joint project of amaBhungane and the Media Institute of Southern Africa, took place at the latter’s offices.

**March 2017**: Craig McKune conducted a similar one-day course in Windhoek for Namibian print, radio and television journalists, again in association with The Namibian.

**Advocacy programme—advancing the information rights investigative journalists need**

Our more significant engagements during the review period to help secure better information rights for investigative journalists included:

**Corporate transparency**: Our parliamentary intervention in 2010 helped to preserve the Companies Act provision to access share registers, and we secured a subsequent High Court judgment confirming the right.

But a later High Court judgment qualified the right. When Moneyweb sued Nova Property Group Holdings, linked to a ponzi scheme, for not disclosing its share register, the court said companies might have legitimate reason to withhold the information.

We joined as amicus when the matter was appealed to the Supreme Court of Appeal (SCA). We traced the provision’s legislative history and the effect on journalists and others.
The SCA handed down judgment resoundingly in our favour in May 2016, finding that the right to access share registers is unqualified. Nova appealed to the Constitutional Court, which dismissed it in September 2016—confirming, once and for all, that any member of the public has the right to inspect any company’s share register.

But flaws remain in the law, including provisions permitting true shareholders to hide behind nominees. We have joined a process of representations to the department of trade and industry led by Who Owns Whom and have submitted a memorandum with suggested Companies Act amendments both to make beneficial ownership transparent and to further tighten disclosure obligations.

**Maharaj and the right to publish:** This matter started in 2011 when we were prevented from publishing a corruption exposé on Mac Maharaj, then presidential spokesperson, because of a secrecy provision in the National Prosecuting Authority Act. The High Court finally heard the matter in March 2016 and handed down judgment firmly in our favour in May 2016.

However, we remain unable to publish as Maharaj and the NPA have appealed. The matter was heard by the SCA in August 2017, after the review period. Judgment was reserved.

**Interception and protection of sources:** In 2015, it emerged that conversations of our Sam Sole and Billy Downer, then prosecutor in the Schabir Shaik matter implicating Jacob Zuma, had been intercepted. We lodged a complaint with the Inspector General of Intelligence and filed requests under the Promotion of Access to Information Act (PAIA). This led to us getting unprecedented confirmation from the SSA that interception orders had been granted against Sam.

During the review period we worked on phase two: preparing to challenge the constitutionality of aspects of RICA and so-called bulk interception. Papers were filed shortly after the review period, in April 2017.

The reforms we seek include greater independence for the designated judge who signs off on interception orders; an adversarial process including a “public advocate” to represent unwitting targets before the designated judge; heightened protection for journalists and others with source protection duties; that targets of interception be informed retrospectively; and an end to unregulated bulk interception. These are consistent with international best practice.

**Cyber Bill, a new secrecy threat:** In 2015 we, the Right2Know Campaign (R2K), the Open Democracy Advice Centre (Odac) and other civil society partners made submissions to the justice department regarding the Cybercrimes and Cybersecurity Bill, which contained provisions that were intrusive, handed control of key internet infrastructure to the security cluster, and replicated secrecy provisions also found in the “Secrecy Bill”. AmaBhungane’s submission focused on the secrecy provisions.

Following the submissions, the justice ministry composed a panel including Odac’s Alison Tilley as R2K nominee. This led to a revised and somewhat improved Bill being gazetted in December 2016. A major change was the complete omission of the secrecy provisions we had complained about—a major victory.

However, significant weaknesses remained. We remain seized of the matter and after the review period worked with R2K towards parliamentary submissions.

**Protected Disclosures Act reform:** Parliament’s justice portfolio committee processed the Protected Disclosures Amendment Bill, intended to broaden the classes of employees who qualify for whistleblower protection, during the review period.

Among the new protections the Bill sought to introduce was a clause protecting employees not only against occupational detriment, but also criminal sanction. (Criminal sanction would follow where e.g. secrecy legislation is contravened by whistleblowing.)
We spotted a defect that might have rendered whistleblowers vulnerable after all. We alerted Odac, which included the matter in submissions to the portfolio committee in August 2016. The committee acceded in substance and the amendment Bill was promulgated in August 2017, after the review period, with the necessary fix.

Secrecy Bill: Luthuli House has made sensible noises about referring the “Secrecy Bill”, long held up on the president’s desk, back to parliament so remaining areas of contention could be addressed—although how this might be achieved in practice remained unresolved.

The ANC Legal Research Working Group convened a panel in September 2016. Our Stefaans Brümmer was invited and contributed from the floor.

Procurement transparency reform: Since 2015, amaBhungane and civil society partners coordinated by the International Budget Partnership (IBP) have worked towards legislative reform aimed at greater procurement transparency, resulting in detailed submissions to Treasury for inclusion in a new Supply Chain Management Bill.

During the review period amaBhungane followed up by meeting with some of the experts drawn in by Treasury to help draft the Bill, to explain our particular transparency concerns. Our input was well received—we got feedback that our suggestions were implemented. We await the parliamentary tabling of the Bill.

Access to labour proceedings: Following allegations in 2014/15 that disciplinary proceedings had been brought against senior officials at the NPA, SARS, IPID and Hawks on spurious but politically-motivated grounds, we made it our task to win access to their disciplinary hearings for monitoring purposes.

We chalked up some victories, including a ruling permitting in-principle access to Commission for Conciliation, Mediation and Arbitration hearings (CCMA), following a joint application with Media24 to the CCMA.

During the review period, the ruling was tested and bore fruit: the media attended two matters of public interest: that of former SARS spokesperson Adrian Lackay, and of a whistleblower against Gupta-aligned Trillian Capital Partners.

Access to nuclear briefing: In November 2016, Business Day reported that a key department of energy briefing to parliament’s energy portfolio committee would be held in camera. AmaBhungane assembled a civil society coalition to mount a legal challenge. Following our lawyers’ letters to the committee warning of an urgent court application, the committee chair stated that the briefing would be open to the public.

Our flexing of information access provisions as a means to help secure better information rights also continued apace. During the review period, we lodged 18 new PAIA applications and 42 new Companies Act applications (the latter for share registers).

During the same period, these or earlier applications led to six full or partial PAIA disclosures, and 26 Companies Act disclosures. In select instances of non-disclosure, we progress matters to the courts or, in the case of Companies Act matters, to the Companies and Intellectual Property Commission (CIPC) enforcement division.

We engaged in the following PAIA-related litigation/potential litigation:

World Cup bribery: When the US in 2015 indicted football officials and business people internationally on allegations of “rampant” corruption, SA officials were implicated too—inter alia for paying a $10-million bribe to secure the right to host the 2010 World Cup.

We published a number of articles corroborating aspects of the American allegation and poking holes in official denials. However, key information in the possession of the Local Organising Committee (LOC), the public company that ran the 2010 event, remained under wraps. We requested access under PAIA to the LOC’s records in June 2015, followed by a more narrowly focused one in May 2016.

When the LOC and its former CEO, Danny Jordaan, failed to respond, we filed a High Court application in December 2016. In response, the LOC formally transferred the request to its parent body, the South African Football
Association (SAFA). After the review period, SAFA entered negotiations with us which we hope will result in adequate disclosure.

**Gupta Waterkloof landing info access:** After exposure of the Gupta family’s use of Waterkloof Air Force Base to land wedding guests in 2013, we submitted a PAIA request for records of all private landings at the base over the preceding 24 months.

When the department of defence failed to respond despite our constant entreaties over the course of more than a year, we filed an internal appeal to the minister of defence, in 2014. The minister dismissed our appeal in late 2014 on the ground that releasing the information would “cause prejudice to the international relations of the Republic”.

We felt that the refusal could not remain unchallenged, given the department’s complete disregard for the provisions of PAIA, including its time limits and the specious claim that disclosing information about e.g. a flight of wedding guests could risk diplomatic relations.

We filed a High Court challenge in May 2015. The matter finally came before court after the review period, in May 2017. The department failed to mount a defence and the court ruled in our favour, with costs. The judgment highlighted how inordinate delays had frustrated our right to access information. The department handed over the records in June.

**African Renaissance Fund irregular expenditure:** In 2013, the department of international relations and cooperation announced that its director-general had been put on indefinite leave pending an investigation into the irregular expenditure of R500-million from the African Renaissance Fund, which is used to support other African countries in the event of calamity. However, the department released no information on the outcome of the investigation and the director-general remained in his job.

We submitted a PAIA request for the investigation reports, records of disciplinary procedures, etc. In the absence of a positive decision, we filed a High Court application in May 2016. The department capitulated, tendering records and costs. The records were produced piecemeal, the last in September 2016.

We closed the litigation, satisfied that sufficient disclosure was made. We have marked this down as a victory to enforce PAIA compliance and unearth potentially important information.

**PetroSA R1bn info access:** In 2013, we revealed how officials at PetroSA had wasted/risked some R1-billion in contentious deals. We directed a PAIA request to PetroSA for full records of a Ghanaian oil field acquisition.

After PetroSA refused, we filed a High Court application in 2014, represented by the Legal Resources Centre (LRC). PetroSA caved in, admitting its duty to disclose. However, the records provided were not complete, to which we objected. PetroSA filed an affidavit in August 2016 refusing further disclosures. LRC has lacked capacity to progress the matter.

**Mining rights transparency:** A range of civil society organisations have been pushing for greater transparency regarding the allocation of mining rights by the department of mineral resources. At odds with international best practice, SA does not publish a database of mineral rights allocations, contracts etc.

In 2014, we lodged a PAIA application for all coal mining rights allocations nationally. The mineral resources minister ruled in our favour on appeal in January 2016. We regarded this as a big victory, but the department failed to comply.

During the review period, we prepared a High Court application for an enforcement order, which was filed after the review period, in July 2017. The department subsequently made further promises but at the time of writing, with the litigation pending, much of the information remains outstanding.

In many of the above matters, we continued working in partnership with like-minded organisations. We highlight three partnerships:
We continue working closely with the **R2K Campaign**, which we helped found, by serving on a number of focus groups and assisting with campaigns relevant to our mandate. Our advocacy coordinator, Karabo Rajuili, was reelected to the R2K national working group in March 2017 after a one-year hiatus.

We are active in the 13-member **Access to Information Network** (previously PAIA Civil Society Network), which shares experiences, takes joint action and publishes an annual report on PAIA compliance.

Karabo has since May 2016 chaired the South African media freedom committee of Unesco’s **World Association of Newspapers and Newspaper Publishers**. The committee consists of members from 14 print and digital titles.

____________________________________
Stefaans Brümmer and Sam Sole

Managing partners