

# **NKUZI DEVELOPMENT ASSOCIATION**

## **2009 ANNUAL REPORT**



**NKUZI**  
DEVELOPMENT ASSOCIATION



Nkuzi Development Association was formed in 1997 with two staff helping communities with restitution applications. It has a current staff of 18, with oversight from 12 members of the Board of Directors.

## VISION

Disadvantaged women and men are organized and empowered to assert their rights and create their own sustainable and improving livelihoods. This is based on the fundamentals of access to sufficient land, secure tenure, the provision of basic services and integrated local economic development.

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## WORDS FROM THE CHAIRPERSON

This year has been characterized by the closure of many civil society organizations due to the impact of the global financial and this has led to the decline of the civil society voice. This impact was also visible within Nkuzi. It had to limit its intervention to urgent matters only, board sittings were also cut down and we didn't have an AGM due to the financial crisis. Nkuzi has survived due to its track record and the continued demand for its services as evictions and threatened evictions continue to plague farm dwellers, restitution communities are frustrated due to lack of progress on their claims and lack of support for redistribution communities.

Throughout South Africa rural communities are characterized by high levels of poverty, a backlog of social infrastructure development, low levels of basic services and tenure insecurity. These problems are interrelated, extensive and pervasive and one would have expected more significant improvement after 15 years of democracy in South Africa. Having worked with these marginalized communities for longer than 10 years, Nkuzi believes that the lack of tenure security, lack of appropriate support systems and lack of political will are some of the major factors inhibiting the promotion of human rights, delivery of basic services and alleviation of poverty.

It was always my vision that Nkuzi continue to enable and support marginalized communities in exercising their land and related rights. The delivery on programmes has created a reputation that has enabled the organization to grow and attract further funding and we continue to work together with staff towards getting Nkuzi on a safe footing again.

Land Reform has continued to move at a slow pace, so many claims are unresolved and so many redistribution projects have not received the support that is warranted to sound proof their success. The frustrations of communities persist. Nkuzi will continue to address problems where they exist and strive towards finding solutions and suggest workable alternatives to bring about positive change. We have revived the Area Land Reform Initiative that seeks to work with communities, government structures and other stakeholders as in, Capricorn with Redistribution Communities, Makhado with Restitution Communities and Baltimore with Farm Dwellers. Nkuzi has also continued to serve farm dwellers through its Farm Dweller and Legal Services programmes.

I would also like to extend my appreciation to the Board members who assisted me to steer this organization in the right direction. There were also 3 Board members who stepped down from the Board due to personal commitments and I would like to thank them for their contribution and continued support. I would also want to thank communities for their continued support and belief in Nkuzi and for not giving up on it during the hard times. To all Nkuzi staff who worked tirelessly and remained dedicated to the cause of the poor, thank you. Nkuzi would like to thank all its funders who have

contributed to the life of Nkuzi, with your support we were able to continue contribute towards the positive transformation of our country.

Tanya Mungulwa  
Chairperson

### **Additional Board Members**

Joyce Seema, Desiree Sehlapelo, Chris Mamabolo, Hudson Kgomoewana, Max Rambau, Shaidah Schaick, Elleck Nchabeleng, Monica Mnguni.

### **Nkuzi's Funders 2009**

Nkuzi will for ever be indebted to its funders who have played a major role in assisting it to meet its aims and objectives:

Atlantic Philanthropies; Christian Aid; Claude Leon Foundation; DKA Austria; Ford Foundation; Horizon T3000; National Development Agency; Terre Des Homes



## Director's Report

In her attempt to save face for the failure of the land reform programme in meeting its objectives, the minister of land and agriculture, Lulama Xingwana, introduced the "Use it or Lose it" campaign. The seizure of the farm Ystervarkfontein in Bapsfontein near Delmas was meant to be a wake up call to beneficiaries to use the land more productively. This approach laid the blame of the failure of Land Reform squarely at the feet of the beneficiaries. While it is the Department of Land Affairs mandate to distribute land, it was now called upon to seize it. This created a lot of confusion and compounded the problem of efficient resource allocation: How do you go about allocating resources to both facilitate the seizure and giving of land? This has caused government officials to second guess what the genuine policies are. This 'new' direction only added to the existing implementation paralysis.

On the 23<sup>rd</sup> of June 2009 the New Department of Rural Development and Land Reform unveiled its Strategic Framework. Priority was going to be given to the following:

- Aggressive implementation of land reform policies (which at least did not include the Use it or lose it policy)
- Stimulating agricultural production with the view to contributed to food security
- Improving delivery to ensure quality of life
- Revitalization of rural towns
- Skills development
- Exploration and support for farm and non-farm activities
- Institutional capacity development
- Cooperate development

The intention was to link the implementation of land reform to the greater objective of rural development.

The strategy pronounced the Departments responsibility to protect the rights of farm workers and dwellers and to provide post settlement support to beneficiaries of the 5, 2 million hectares that already been redistributed. At the time the department also recommitted itself to the redistribution 30% of agricultural land to blacks by 2014.

What was encouraging was the fact that the strategy acknowledged the heterogeneous construct of the beneficiaries of land reform both in their land needs and patterns of land needs. It states the main categories as:

- Landless households who require land for subsistence purposes
- Subsistence producers facing congestion in the former homelands
- Those who need land and support to shift to commercial production
- Commercial small holders who are currently restrained by lack of resources
- And established black farmers.
- These different needs and capabilities need to be catered for.

The department also started its programme by piloting it in three communities of which Giyani in Limpopo was one. They would draw lessons from these pilots on how the theory of the 'integrated approach' would become an on –the ground reality.

However budget constraints would make these initial ambitious targets eventually impossible to achieve. R 6 billion budget was inadequate and to achieve its goals set for 2014 it would need R 71 billion. The February budget of R1.8 billion was to serve previous projects and not new initiatives and this was R50 billion below what was actually needed to finalize all pending claims. By July, the commission admitted it spend 97% of it annual budget. This was blamed on complicated claims involving expensive land and the global recession. By September the commissioner, Blessing Mphela announced that no new sale agreements would be signed until there was money.

Shortly afterwards the commission started implementing the delisting of some 100 farms that have been gazetted for land claims. This evidently disadvantaged some communities. One of the claimant communities we work with, the Motse claimants in the Waterberg District, dealt a blow when they, instead of hearing news on when they can return to their land, they were told that their claim was being removed from the claim's list . This was brought on because of bogus claims to land put in by corrupt officials. The community is however ready to go to court on this matter.

Government went public to also criticizing the "willing buyer willing seller" principle, but has yet to come up with an alternative as expropriation has been treated very cautiously, although The Director General, Tozi Gwanya confirmed government's plans revive the Expropriation Bill in October.



The department was also faced with capacity problems and this was by the 'revolving-door' practice whereby staff would move between departments and different positions within the department. This affected operations within the department very adversely, especially in cases where new staff members were assigned to claims that have been worked on by someone else.

By the end of 2009 only 6.7% of the 30% of agricultural land had been transferred through various land reform programmes. There is now pressure on government to step up its act or perhaps admit that this ambition will only be fulfilled by 2025?





## **PROGRAMMES**

### **Land Reform And Sustainable Livelihoods**

#### **REDISTRIBUTION**

**The redistribution** leg of the land reform policy was to address the racially-skewed and unequal distribution of agricultural land, and aimed to make land available for agricultural production, settlement and non-agricultural enterprises. From 1994 to 2009 just over 3.4 million hectares were transferred to 185 858 beneficiaries through the redistribution programme. Over the same period, approximately 2.6 million hectares was transferred through the restitution programme, benefiting 1 597 227 people. Together, these amounts make up the 6.9% of agricultural land that has been transferred thus far, well short of the 30% government has targeted for the 2014 deadline.

The slow progress made with transferring land has been lamented by both the ANC and the opposition, but the parties differ on the reasons for the failure. The ruling party puts the blame squarely on the 'willing-seller - willing-buyer' principle, and stated at Polokwane that 'the market is unable to effectively alter the patterns of land ownership in favour of an equitable and efficient distribution of land'. The opposition parties, however, argue that it is rather an inefficient Department and other state institutions, as well as budget constraints, which bedevil the process. This has all contributed to the major weakness of the programme – the lack of proper post-transfer support for people on restored or redistributed land. In this regard, there has been little or no synergy and co-operation between the programmes of the Department of Agriculture and the Department of Land Affairs.<sup>6</sup>

Land activists and the ruling party argue that landowners inflate their land prices, which government is forced to accept because of the 'willing-buyer - willing-seller' principle. However, research done by the Centre for Development and Enterprise (CDE) suggests that prices of farmland increased as much the same rate as the Consumer Price Index (CPI) in the period 1994 to 2003, staying the same in real terms (Centre for Development and Enterprise, 2008: *Land Reform in South Africa - Getting Back on Track*). The CDE research also points out that departmental officials may believe that prices are too high because they use the 'productive value' of the farm to set prices instead of the actual market value of the farm. The market value is higher than the productive value because the former takes into account not only the net value of the farm income, but also capital growth and alternative potential uses. Despite such research findings, however, land activists insist that anecdotal evidence suggests that the 'willing-seller - willing-buyer' policy does allow the seller to hold out for inflated prices, especially where the seller is not keen to sell at all. They further argue that when land dispossession took place during the apartheid years it did not happen on the terms of parity upheld by the 'willing-seller - willing-buyer' principle.

Budgetary resources have also been a bigger contributor to the failure of the programme than the 'willing-seller - willing-buyer' principle. The Department of Rural Development and Land Reform (DRDLR) continuously under-spends its budget. For example, in the 2009/10 financial year it managed to spend only 31% of its redistribution programme budget in the first six months, as opposed to having spent 81% of the restitution budget. Under spending is frowned upon by the treasury and usually means a reduced budget for the offending department. The DRDLR has also had to cope with a smaller budget for operational expenses, including salaries.

Opposition parties pointed out that the R6.7 billion apportioned would be insufficient for the department to execute its mandate fully. This speaks directly to the institutional incapacity to implement the programme. The DRDLR is seriously incapacitated because it simply does not have the right people to engage with the potential beneficiaries regarding their land needs, and to identify appropriate farm land to be purchased.

### **Summary of Activities**

Nkuzi has been working with 10 redistribution communities with approximately 850 beneficiaries. 3 communities were prioritized: Bophelo Ke Semphekgo, Maboi 6 and Dikgolo.

#### **Bophelo Ke Semphekgo**

The farm was acquired through the government's Settlement Land Acquisition Grant (SLAG) in 2000. The 80 beneficiaries of the farm come from Mahwelereng and Mapela within the Mogalakwena Local Municipality which is in the Waterberg District Municipality. The farm is situated about 60 kilometers south west of Polokwane.

Only eleven house holds settled on the farm even though there was no support forthcoming from government. Nkuzi was approached to assist with the starter packs e.g. broiler production, piggery, and vegetable production.

Renovations:

Nkuzi's lobbying and advocacy efforts prompted the local department of agriculture in Mogalakwena to prioritize the project for Comprehensive Agricultural Support Programme (CASP). The first phase of the Comprehensive Agricultural Support Programme (CASP) renovated two poultry houses: the sales house and the bigger house which accommodates ten thousand chickens at a time. The renovation package came up with all the required equipments in the house from drinkers to electric lights. This new developments has moved the project closer to their goal of establishing a small abattoir on the farm. The abattoir can be run at a profit if at least twenty thousand chickens are slaughtered per day.

Garlic Planting:

The project has planted five thousand leaves of high quality garlic supplied by the Garlic Grower Association of South Africa. The Bophelo is just two kilometers away from the Mokopane Fruit and Veg, with whom the project have had a long standing supplier and buyer relationship of other products.

#### Piggery:

We have been able to facilitate the training of three project members in piggery management with the Tompie Seleka Agricultural College. They are currently training others members of the project. At the moment there are eight pigs with two heavily pregnant. The Local Department of Agriculture in Mogalakwena Municipality has undertaken to assist in marketing their product.

#### Organic Training of Trainers:

Twenty participants were trained in organic farming. Nkuzi promotes perma culture farming as a safe, cheap and environmentally friendly type of farming. What makes it cheap is the use of waste materials such as dead woods, grass, chicken, cow, goats, sheep manure, and old tins. It also promotes the use of indigenous way of farming which is environmentally friendly and cheap to apply. The training took place over a period of three days on site with little theory but more practice.

#### Broiler Production:

The broiler production has reached new heights with an average of selling f six thousands chickens per cycle. Due to the experience accumulated over time the chicken mortality rate has dropped significantly to one percent. The loyal customers for the project continue to be the hawkers who drive to the project to buy and sell at the pay point every month.

#### Opportunities:

The municipality of Mogalakwena is having hygiene concerns over the hawkers who are slaughtering live chickens on pavements in town. This has provided an opportunity for Bophelo to consider the route of establishing an abattoir for this market.

The project beneficiaries come from two areas, Mapela and Mokopane. Amongst themselves they have been discussing the possibilities of opening two depositories of their own to provide fresh vegetables cheaper and chickens regularly.

The stakeholder forum created for the project is working very well with committed individuals to the project. The stakeholder forum consists of 3 Members from the Community, Nkuzi Development Association, Department of Agriculture Mogalakwena, and Local Economic Development Unit of the Mogalakwena Local Municipality.

#### Remuneration / Stipend:

The eleven project members continue to get the remuneration of R1,231.70 which is equivalent to the Sectoral Determination for Farm Worker as set by the Department of Labour. They will increase this amount once they have break even and are making substantial profit that warrant such increases. They have a clocking system at work and the cycle of who goes off when is working very well, each beneficiary worker puts in the amount work required for everybody.

#### Challenges:

Wild animals and mild theft is posing a serious challenge to the farmers. Phase two of the Comprehensive Agricultural Support Programme (CASP), will however provide for a quality fence to minimize these activities. They have also suffered losses due to the droughts.

#### **Maboi 6:**

##### Project Background:

Maboi 6 consists of community members from Ga-Maboi in the eastern part of Polokwane, approximately eighty kilometers from town. Maboi 6 farm was acquired through the Settlement Acquisition Grant (SLAG), after the community's failed attempt to get the same farm through the restitution programme. Two farms were purchased for this purpose and were named as Maboi 3 and 6. Maboi 6's beneficiary list is standing at 180, and most of the beneficiaries are involved in dry land farming with maize.

##### Capacity Building was done to:

- ❖ develop relevant policies to ensure proper governance for the project;
- ❖ impart strategic planning skills to all participants;
- ❖ develop proper management systems;
- ❖ Set appropriate prizes for products;
- ❖ develop financial projections; and
- ❖ develop a marketing plan.

##### Social Conflict:

Maboi 6 was always been plagued by social conflict which hampers progress on the farm for our intervention. With the community we embarked on a conflict resolution exercises in which we brought the factions together. The matters of conflict were resolved and the indication of success is seen in the harmony that now exists and the marginal progress that different projects have made. They are now collecting revenues from their Garlic, Piggery and maize production and they are planning to diversify crop planting in correlation to seasons.

##### Challenges:

There is a need for the regular payment a loan taken from the Land Bank. They have a shortage of water especially because of the broken windmill. It meant the borehole that was supposed to supply water for the vegetables, must also provide drinking water to the cattle and the pigs which were dependent on the windmill. Due to no electricity on the farm, the windmill is very critical as another source of water supply. Due to the recession experienced currently the prize of diesel for pumping water sky rocketed. Beneficiaries decided to scale down on crop production until the situation had improved.

### **Pilot Project: Dikgolo**

Nkuzi continues to lobby and advocate for more resources and linkages to the projects which is working within the Limpopo province, and Dikgolo is no exception, with 585 beneficiaries.

The pilot project is a partnership with the Community, Nkuzi, Progress Milling and the Department of Agronomy University of Limpopo (UL). The new method of planting called ripper planting is being tried out.

The current method uses a tractor to turn the soil upside down, and the main reason is to do away with weeds. The disadvantages of this method are that it destroy the soil particles and makes it to loose it humidity quite rapidly. The objective of the proposed new method is to keep the moisture content for a longer period to last longer during the dry periods of the season. A demonstration plot will be used as learning for the other crop planting projects to implement the new method on their own individual plots. It is envisaged that the pilot project will run for a season. The community will be provided with the implements required an agronomists to carry out relevant tests such as tests, weeds control etc.



## RESTITUTION

Government has arguably been more successful with the **restitution programme**. Despite the above-mentioned factors bedevilling the transfer of land, more than 95% (79 696) of validated claims, lodged before the cut-off date on the 31<sup>st</sup> of December 1998, had been settled by the end of 2009. This translates into more than 2.6 million hectares, which cost the state an estimated R16 billion. It must be noted, however, that most of the settled claims are in the urban areas where many of the claimants accepted cash offers, the bulk of the more costly and potentially more contentious rural claims must still be settled.

In addition, DRDLR might not have enough money to settle outstanding claims. The restitution programme has been allocated a mere R1.5 billion, with only R800 million apportioned to purchase new farms, while an outstanding amount of more than R496 millions must be paid for farms already bought. Many land claimants whose claims have not yet been settled will have to wait for the backlog to be cleared, which means their claims will only be attended to in the 2012/13 financial year at the earliest.

### Claims to be Finalized

| Name of Province | Number of Outstansding Claims |
|------------------|-------------------------------|
| Eastern Cape     | 515                           |
| Free State       | 20                            |
| Northern Cape    | 169                           |
| Gauteng          | 3                             |
| North West       | 193                           |
| KwaZulu-Natal    | 1642                          |
| Limpopo          | 421                           |
| Mpumalanga       | 706                           |
| Western Cape     | 553                           |
| <b>Total</b>     | 4222                          |

(Source: Land Claims Commission, October 2009)

### Summary of Activities

#### 1. Munzhedzi Restitution Project

Post the attainment of democratic government, the Munzhedzi community under the leadership of Headman T.J. Munzhedzi, organized themselves to lodge a land claim. On the 1<sup>st</sup> of February 1998, they formed a land claims committee to assist facilitate the

lodgement and processes for the land claim within the community. The Munzhedzi community land claim was lodged with the Commission on Restitution of Land Rights (CRLR) the 22<sup>nd</sup> July 1998.

In 1999 disgruntled members of the Munzhedzi community under the leadership of headman T.J. Munzhedzi organized a land occupation in fear of the alleged municipality's plans for the extension of Vleifontein Township. The allegation was that the Municipality had proclaimed that new low cost houses (RDP houses) would be built on the same land. The headman was the first to erect a shack together with a few claimant households. Majority of the eligible claimants did not go to the land in the initial stage of land occupation. As a result, the headman T.J. Munzhedzi allocated land to any land hungry individual or household in order to create for himself broad base of support and increase chances of resistance to removal.

Efforts to remove the community were met with resistance from the community. The office of the Regional Land Claims Commissioner for Limpopo (RLCC) responded by settling the land claim in 2001 with the return of 1204 ha of land to only 486 claimants. Further delays in planning for resettlement resulted in an influx of people from different places around Makhado Municipal area and elsewhere. While there were only 486 members registered as the rightful claimants during the process of claimant verification, currently there are approximately 1,500 residential sites allocated in Munzhedzi and approximately 90% of these are occupied. The reason for an increase in the number of resettled families is because that the headman started to allocate land to anyone who had money to buy a residential stand. Many people from the nearby township and other areas who were not members of the original claimant community came in search of land for residential purposes.

There are however some land that has been preserved for agricultural purposes. Currently the farmers are engaged in poultry production. There is a 400 – 500 carrying capacity poultry house. There is also a cleared land where beneficiaries are intending to produce vegetables (cash crops) such as cabbages, beetroot, spinach, peppers etc. The said cleared land is used for maize production under dry land. The rest of the area can be used for further agricultural development and Nkuzi is attending to 3 agricultural projects.

### **Pfano Poultry Project**

Pfano poultry project was established in 2002 with the aid from Nkuzi Development Association and Muzhedzi community with 17 members (15 women and 2 men) in 2003. Today Pfano has 5 full time members.

Market



They sell to the villagers at about R40.00 per chicken and to hawkers at about R30.00 – R35.00 because they buy at bulk but they are intending to venture into commercial farming.

Therefore Nkuzi Development Association engaged relevant stakeholders, extension officer who service the area, Agricultural Value Chain Economist and land Reform Advisor to assist with market related information.

Previously Pfano poultry project used to buy their one day old chicks from La Chicks in Makhado which is about 30 km from the project at about R475.00 per box containing 100 chicks excluding transport, usually they buy two to three boxes but they complain about the quality of the chicks that they got from them suspecting that they are pre mature chicks as they die easily and as Nkuzi we advised them to change the market and suggestion was made to buy from Lufafa Hatchery which is situated in Tzaneen at the same price of R475.00 per box including transport.

An exchange visit was organised with the Dikgolo piggery project for Jan 2010. Other training will involve: Basic financial & Project Management and Marketing.

## **2. Chicks Vegetable Production**

Tshikota Thabelo is a small scale farmer who produces cash crops (vegetables) on 1 hector under irrigation pumping ground water using Honda generator. Currently he is producing spinach, beetroot, carrots and onions. Also there is nursery with flowers like shiners gold, palms and lilies.

There are two workers who are Zimbabwe internationals. Thabelo indicated that it is difficult to find locals particularly youth who are willing to do the work with him.

## **3. Mmbooi agricultural Project**

Mmbooi Ntsundeni Daniel is a part time worker, employed by Makhado windscreen and glass, and he is supporting a household of five (5). He has employed two (2) permanent workers who are helping him at the project, Ramudzuli Jimmy and Mulaudzi Mashudu. Ramudzuli.

The farmer is producing cash crops (vegetables) on 1 hector under irrigation. Currently he is producing spinach, beetroot, carrots and onions. There are also Macadamia, Litchi and Mango trees.

Nkuzi is also involved in three other Post Settlement communities:

## **Shimange Restitution**

The Shimange community was successful in obtaining the farm portion, Syferfontein 85 LT through restitution process. A claim was lodged on June 13 1998 with assistance from Nkuzi. On March 2, 2002 the farm was returned to the Shimange community. There are about 366 claimants household and approximately 500 beneficiaries. The claimants are represented by the Shimange communal property association (CPA) and the community is mainly involved in crop production.

### **Mavungeni Restitution**

This community is involved in Macadamia, Vegetable and Honey Production and there land was returned in 2001 with 360 house holds.

### **Muananzhela Restitution**

The project consists of about hundred and eighteen (118) beneficiaries registered with Regional Land Claim Commission (RLCC).

The project has employed about eight permanent workers and have 20 seasonal workers mostly women from the nearby villages.

Currently the farmers are engaged in Vegetable (cash crops), poultry, piggery and beef productions. On vegetable production there is about 10 ha of cabbages under sprinkler irrigations, there is a 10 000 – 20 000 carrying capacity poultry house, there is about 12 cattle, 15 goats and 10 pigs. About 15 ha of land are being used for maize production.

There is a settlement plan on portion 7, 9 and 13 for the household beneficiaries.



Nkuzi is also working with the following communities that are still within the current claiming process:

| <b>Name of the claim</b> | <b>District</b> | <b>Beneficiaries</b> |
|--------------------------|-----------------|----------------------|
| Solingen                 | Capricorn       | 333                  |
| Bellevue                 | Vhembe          | 192                  |
| Caledon                  | Waterberg       | 112                  |
| Hugomond                 | Capricorn       | 315                  |
| Bakgaga ba Maupa         | Mopani          | 241                  |
| Mashilane                | Sekhukhune      | 263                  |
| De Gracht                | Vhembe          | 97                   |
| Musingadi                | Vhembe          | 391                  |
| Vergelegen               | Sekhukhune      | 227                  |
| New Pietersburg          | Capricorn       | 53                   |
| Lekalakala               | Waterberg       | 33                   |
| Makgoba                  | Mopani          | 398                  |
| Molele                   | Capricorn       | 284                  |
| Popela                   | Mopani          | 75                   |
| Phago                    | Waterberg       | 196                  |
| Mabohlajana              | Capricorn       | 760                  |
|                          |                 |                      |

Most of the land claims are at the negotiation stage of restitution. Three of them (Popela, Mashahse, and Vergelegen) are on the verge of settlement and the Commission on Restitution of Land Rights claims that the slow pace of finalizing the claims is due to budgetary constraints, Popela, e.g., has been dragging on since 2007.

### **Some Highlights**

#### **Provincial Land Summit:**

Due to the slow pace of restitution in the province amongst the claimants, the insecurity of farm dwellers / communities living in the mining areas and lack of post settlement support to beneficiaries of Land Reform, a Provincial Land Summit was called. The purpose of the summit was to map out new strategies on how to unlock the blockages and how to put pressure on those concerned to deliver.

The participants represented constituencies such as, the farm dwellers and workers; restitution claimants; mining evictees and beneficiaries of land redistribution programme.

At the end of three day meeting the delegates drafted the conference declaration as road map for future actions which is published on the Nkuzi website.

### **Southern African Rural Women' Assembly:**

Nkuzi had a privilege of being invited to participate in the Rural Women' Assembly which brought together rural women to deliberate on issues that make the lives of the rural women difficult. Amongst the issues tackled are patriarchy, food sovereignty, women and land and the impact of HIV and AIDS. Ten members of the Landless People' Movement (LPM) were delegated to the Assembly. The coordinating organizations have been charged with the responsibilities keeping the solidarity going amongst country organizations and those within SADC.



### **AREA LAND REFORM INITIATIVE (ALRI)**

In an attempt to breathe new life into the land and agrarian debate in South Africa, Nkuzi conceptualized a project called the Area Land Reforms Initiative (ALRI) with the specific aim of developing and approach to land and Agrarian reform, that could address the challenges of delivering land at the scale required, whilst at the same time, ensuring that economic value from the land maximize to benefit all those that worked the land and lived on the land. Therefore interaction between Nkuzi and different municipalities within the province of Limpopo was established. The reason behind this interaction is to build the relationship with the municipalities and work with them in all

the land reform related issues and also work hand in hand with them on some of the community projects.

With the ALRI focus in mind, Nkuzi Development Association went out to investigate the situation in Muyexe and will continue to monitor the unfolding events and development in this community.

President Jacob Zuma on Monday, 17<sup>th</sup> of August 2009, launched the Comprehensive Rural Development Programme (CRDP), in Muyexe Village, Greater Giyani Municipality, Limpopo Province.

The Comprehensive rural development is a national project of government, with the department of Rural Development and Land Reform as a catalyst and a facilitator to ensure rural development takes place at the required depth and scope.

The programme will facilitate, processes to address the specific and prioritised needs of the communities in rural areas, ranging from running clean water, decent shelter to proper sanitation and enterprises development support; based on the three strategic pillars: Agrarian Transformation, Rural Development and Land Reform. Central to delivering CRDP programme is Community participation and needs identification, programme development and service delivery monitoring.

In an attempt to breathe new life into the land and agrarian debate in South Africa, Nkuzi conceptualized a project called the Area Land Reforms Initiative (ALRI) with the specific aim of developing and approach to land and Agrarian reform, that could address the challenges of delivering land at the scale required, whilst at the same time, ensuring that economic value from the land maximize to benefit all those that worked the land and lived on the land. With the ALRI focus in mind, Nkuzi Development Association went out to investigate the situation in Muyexe and will continue to monitor the unfolding events and development in this community.

## **1. Background**

The dusty and impoverish village of Muyexe in the greater Giyani municipality in Mopani district was chosen to become a pilot for service delivery for government CRDP. The village was chosen because it is economically social under privilege with improper infrastructure like roads, water supply, sanitations and no electricity supply.

Clinics were luxury that they did not have and therefore they were compelled to travel long distance to access health facilities. With a bus service going to the village only twice in a day, they sometimes use donkey carts as a means of transport. Schools are not enough nor up to standard.

Unemployment level is high in the area (which contribute to the 40% of unemployment figure in the greater Giyani municipality) with those who are working being at low

income levels. Two other communities, Gonono and Dzingamazi, were visited by the provincial task team of the presidency, but were found to be more advanced on an infrastructural level.

Muyexe forms part of the traditional authority of Thomo, which has three other villages under its jurisdiction. The practice in this communities was to name the villages after the headmen and the “main” village where the chief resided after him. There is said to be squabble between headman Muyexe and chief Thomo about the status of headman Muyexe who claims to be a chief in his own right.

Muyexe is divided into two sections, i.e., sections A and B, which is divided by a small riverbed. Section A is characterized by people having big yards in which subsistence farming is being practice by the elderly. To the contrary section B has smaller yards and is inhabited mostly by young people who have no interest in planting. It seems as if the elderly in section A are more green conscious than the young in section B whose yards are more “cemented” the layout of section B was well planned and was done by the department of Agriculture ,

## **1. The intension of the pilot**

Muyexe is ideally situated next to Kruger Park and seeks to put in place tourism opportunities in the form of lodges, arts and crafts and seeks to benefit other surrounding villages like Gonono and Dzingamanzi. It also seeks to improve infrastructure development. Existing vegetable gardens will be expended with the provision of water and other projects will be established to beef up livelihoods options.

Opportunities on how the communities can benefit from the existing mining operations will also be explored. Amongst the deliverables, the programme has promised, employment of at least one person in each household of (900) in Muyexe with quality jobs and training for a period of two years. R8 million was set aside for the Muyexe project.

The Independent Development Trust (IDT) has been appointed as the implementing agency together with the local municipality and other service delivery departments.

The lessons learned from this pilot project that is aimed at fighting poverty, hunger and unemployment and lack of development, will be replicated in rural areas throughout the country.

## **2. Current situation**

### **Infrastructure Development**

- Out of 300 RDP houses to be built 183 with toilets are already completed.
- The reticulation of water pipes to be connected to the boreholes is 90% completed

- Renovations of the primary school: new toilets were erected and 4 classrooms were added.
- The Department of Roads and Transport are constructing a road that connects Muyexe and Thomo which has partly paved. Taxis refuse to enter the village until such time the access roads and internal roads have been upgraded.
- The temporary visiting point for the mobile clinic was renovated to house the clinic with three professional nurses and one Ambulance which operate from 8am to 4pm.
- The construction of Thusong service Center (8 offices) is complete and serves only as pay point for social grants and community meetings.
- The Department of Education installed a Jungle Gym at Pre school
- Satellite Police station renovations have been completed with 11 police officers and two vehicles

### **Livelihoods**

Livelihoods activities are marked by a few projects that were started by culmination of this pilot project and the traditional practice crop production and livestock farming, which is mainly with beef and a small number of goats.

The department of agriculture has also helped 300 household by fencing their gardens which was started by women to feed their families due to the lack of income. These gardens are currently not fully utilized due to the serious shortage of water that is prevalent in Muyexe.

The ratio between men and women is 40 to 60, since most of the men seek for the work outside Muyexe which leave woman to fend for themselves and their families under very strenuous economic conditions that exist within this village. 21 communities members consisting of youth, elderly women and men have been organized into the Macena gardening project, although functional, is being hampered by the shortage of water. The close proximity of the Kruger National Park and the prevalence of the foot and mouth disease which declared parts of Muyexe as red line area, constrain the community from selling their livestock outside of the village. The community also faces the problem of wild animals from the park attacking and eating the livestock.

30 community members has grouped into a brick project that supply bricks to the RDP housing construction which also employ the number of sixty local men and women. The sustainability of these projects is questionable. Overall the projects created 205 jobs of which the majority has been temporary.

Other means of income include “*I Lift*” which owner of private cars acting as taxis. One family has purchased a tractor and ploughshares and does the ploughing within the community and surrounding villages to generate income. Some women sell fat cakes and other popular *takeaways* during school breaks, community meetings and events.



### **4.3 Water Supply**

Muyexe's source is from boreholes that are privately owned and have to be bought. To salvage this problem, for especially the unemployed and those heavily dependent on social grant, 18 boreholes have been drilled by the Department of Water and Forestry, but it is not operational, which leaves the community with same dilemma. The Mopani District Municipality supplied the pipes for water reticulation; this process is still to be completed.

Plans are in place to supply water from the Nsami dam which got dry due to severe drought in the area for the last year. This had very adverse effects for bulk water supply in many areas of Mopani and Vhembe District municipalities. Although the Nsami dam is now 70% full, Muyexe can still not benefit from this turn of events, since water supply from the dam to the village is still in construction. This has impacted very negatively on IDT provided 40 households with JOJO tanks to harvest rain water for irrigation and washing clothes. The Mvula Trust also donated 70 water tanks of which 40 were supplied. Taps have been installed for each household but are useless at this point due to the shortage of water.

Livelihoods activities that are largely dependent on agricultural production and those projects that need water for its sustenance have been severely impaired by this state of affairs.



### **4.4. Social Environment**

- The crime rate is low and limited to assault and petty theft.

- Teenage pregnancy is a common problem which is exacerbated by the high unemployment rate, poverty and lack of recreational activities.
- The low population rate of young people within the community is due to them seeking employment in nearby towns and cities.
- The majority of legible people are dependent on social grants and subsistence households activities such as crop production that is hampered by the lack of water.
- There is a definite lack of food security which explains the prevalence of malnutrition of children within the community.
- Access to health facilities is limited to a poorly resourced clinic which is only accessible between 8am to 4pm.
- There are a lot of child headed household due to the HIV/AIDS pandemic, high poverty level and lack of employment opportunities (the latter forces parents to work outside of the village)
- Poverty level also contributed to school dropout which is prevalent in most communities with similar circumstances.
- Strong conservative religious influences have contributed to low incidences of substance abuse.

### **3. Interviews**

Interviews were conducted with some members of the community regarding the new development in Muyexe:

Interviews with youth from Section A

- Doctor Manganyi
- Max Maluleke
- Siphon Ngobeni

The situation in our village was unacceptable before the government decided to bring this development. Shortage of water is still our main problem because we have to travel far to get water that is not even clean. We also have to buy water for R1 per 25L which is expensive for those of us who are not working and for those who only depend on the government grants.

We got employment from a project which involves the ploughing of fields for other members of the community. This and other projects have brought financial relief although some were of a temporary nature. We are in particular glad for the clinic which was one of the priorities of the community although its access is limited to 4pm. We hope government will do more especially for the upliftment of the youth. We have been waiting for this kind of intervention from government for the very long time. We guess that Muyexe was lucky to be chosen by the president as a pilot.

Interview with a 40 years old woman Mrs Elinah Machabe

I only came to stay at Muyexe in 2003. I have four children and my husband is not working. I depend on the child support grant from the government. The total amount that I get from the grant is R720 per months, for my three children. The last born in this family is 2 years old and he attends preschool, for which I pay R50 monthly. I got temporary employment from the construction company that is building RDP houses at Muyexe. We earn R 275 per house and this payment model is the same regardless of the gender. The income is too little to give food to my family for the whole month. The spaza shops in the village are very expensive and Giyani is more than 40 kilometers from us. I wonder if I will be able afford the levies for basic services that will shortly come to our village.



Interview with a 22 year old Mixo Ngobeni. (She stays in Mithlaba village adjacent to Muyexe and also falls under the Thomo tribal authority)

I am aware of the development in Muyexe wish that the same was done here (Mithlaba) I am glad for the construction of the main road, because it will make our village more accessible. The municipality always calls meetings with the community regarding service provision, but I don't see any prove of it. Our community is one of the poorest communities around the province of Limpopo and is badly affected by unemployment. The last time any government intervention happened was when our community was affected by the rain disaster of the year 2000 where some houses collapsed. The government built only 20 houses for those who have been affected.

Most of the projects within the community have collapsed due to lack of funding. There are some community members who engage in agricultural practices which are hampered by the lack of water. I hope government will do the same within our community that it is doing in Muyexe

## **6. Nkuzi's take**

### **6.1 Context**

- Unemployment is still the problem in the whole area of Giyani at 40%
- For the last 10 years the district municipality has contributed only on the water supply and sanitation in Muyexe which is not properly functional due to drought
- Giyani consists of 91 villages with the population of  $\pm 278\ 000$  people and only one percent of basic service delivery has reached these communities
- R 140 million is the actual budget that was allocated to Giyani. 72 % of this budget is going to be spent on operational activities such as salaries and maintenance and 28% on capital expenditure related activities.
- Only R 78 million was budgeted for development of infrastructure in the Giyani and only 1% of this budget will reach the 91 villages for service delivery.

### **6.2 Conclusion**

It is clear that the community of Muyexe is benefiting from this particular initiative by government even though it is not sufficient, there is still a long way to go. It is also clear that where more resources and conscious effort of mobilization of complimenting service delivery agencies are employed, delivery is enhanced. In this instance agencies such as the Departments of Rural Development, Agriculture, Education, Road and Transport, Water and Forestry, Safety and Security, Health and Social Services, the Independent Development Trust, National Development Agency, Mvula Trust, the Local and District Municipalities, were well coordinated to deliver this partial success. This integrated approach has been preached for long time by NGOs and other actors as oppose to the silo approach to development that has been prevalent within government practice thus far.

This turnaround of service delivery in Muyexe, though small it may be, would not have been achieved on the small budget of Giyani's R140 million. Mixo Ngobeni from Mithlaba village dream for speedy service delivery will certainly remain a dream for the next 5 years. It took a disaster that happened in the year 2000 within her community to bring in extra resources to build 20 houses and nothing significant has changed since then. If government is serious with changing the rural landscape for the better, it will have to pump more resources into the rural municipalities to effectively deliver.

Till recently, large amounts of money are being given to urban municipalities like Polokwane that are able to generate their own income from tax levies and payments for services such as, water, electricity supply, sewage and waste collection. The more a

municipality generates the bigger chunk of the national budget it receives. With this system at work, rural municipalities with lower income generating opportunities and largely poor communities who at times need subsidized services are disadvantaged. This practice will have to change to favor and enable rural municipalities for effective and sufficient service delivery. Notwithstanding the fact that incompetence and corruption need to be dealt with succinctly.

Nkuzi agrees with Mr S.J Manganyi that what is happening in Muyexe is nothing extraordinary, but should be a natural outcome of service delivery within the rural communities. Government does not have to wait another two years to learn from this “Pilot”. It is so obvious that a change around strategy as in Muyexe needs implementation right away.



## **Farm Dweller Programme**

### **Background/analysis**

#### *The farm dweller population*

There are about 2.9 million farm dwellers, according to the Census. Legislation defines farm dwellers as ESTA occupiers who resided on the farm on or before February 1997 with the consent of the landowner. Farm workers/dwellers are clustered nationally. Nkuzi's area of operation is Gauteng and Limpopo Province



## *Evictions*

The 'Nkuzi' evictions survey (2005) is the most extensive source of data available. It shows the movement of 2.35 million farm dwellers off farms since 1994, of whom an estimated 940,000 were forcibly evicted illegally.

Peaks in evictions coincided with national events (like the 1992 drought, introduction of the LRA, BCEA, ESTA, and minimum wage) and more immediate shocks at farm level (like the sale of farms, liquidation of farm enterprises, land use changes, commodity crises like the cost-price squeeze in the apple industry in the late 1990s). Among these evictions, only about 1% involved a legal process and 77% of those evicted were women and children (ie. whole families were evicted). Field-based research and interventions in support of farm dwellers rights have shown that:

- It is clear that evictions involve people losing not only their homes and access to land, but also key assets, particularly livestock, and various other livelihood strategies.
- It appears that, in the absence of enforcement, people are “selling” rights, and transacting – eg. Striking deals to get farm dwellers to move off-farm in return for cash / kind payments.
- Many people who find themselves victims of illegal evictions are elderly people since they can no longer work on the farm and widows.

## *Improving access to land and tenure security*

The provisions for farm dwellers to upgrade their tenure rights have not been vigorously pursued due to the limitations in the Act, very few households have acquired improved tenure, through the LTA, and ESTA projects most of which have been off-site housing projects have been pushing farm dweller off the land. Essentially, Section 4 of ESTA has been ignored and the limited implementation of ESTA has focused on regulating evictions.

Key obstacles to the realization of the right of farm dwellers to secure tenure are:

- Legal issues: The existing legal framework fails to provide substantive land rights (as opposed to procedural rights). The use of inexperienced attorneys on land Reform issues. Labour and tenure rights have been conflated which results in the erosion of tenure rights of farm dwellers in practice. Delinking labour and tenure is needed to secure independent tenure rights – in order to ensure that a loss of a job doesn't lead to eviction. Jurisprudence has over time eroded farm dwellers' tenure rights, in respect of “alternative accommodation”, the creation of a category of “secondary occupiers” and the equation of employment as the basis on which occupiers have acquired tenure rights. The role and rulings of the Land Claims Court, and whether its

rulings have been “anti-poor”, therefore need to be reviewed, and the legislation changed.

- Policy issues: The value of existing access to land – existing tenure rights – and the relationship between these rights and ownership rights has not been addressed in policy, or by the Department of Land Affairs. These are often not multiple or overlapping use rights: labour tenants’ use rights have a value. This should be addressed in policy. The Department of Housing’s draft policy on farm dweller housing is clear: anyone living on a farm should be a tenant of rental accommodation, or should move into an urban township. This contradicts existing tenure policy.
- Enforcement issues: The economic context is undermining farm dweller livelihoods, but is aggravated by non-enforcement of rights; there has been very few conviction recorded of a landowner for illegally evicting farm dwellers, and this resulted in a fine and did not in some cases enable the evicted farm dwellers to return to their homes. Enforcement is hampered by severe institutional failure, particularly coordination among agencies, including municipalities (eg. responses to Section 9(2)(d) notices). Those responsible for enforcing the law also are not applying the appropriate laws; PIE is being used by magistrates to evict farm dwellers instead of ESTA.
- Social mobilization of farm workers underlying reasons for the failure of tenure reform on farms is the absence of formalized networks of farm workers who will push for their agenda. Their issues are individualized and they lack the power to face aggressive landowners.



### **Programme Objective:**

The main objective of this programme has therefore remained to secure farm dwellers existing tenure rights and facilitate long term tenure security on farms. Nkuzi continues to offer range of services to farm dwellers ranging



from threatened evictions and labour matters and other human rights abuses that are happening on farms. The farm dweller programme also focused on mobilizing farm dwellers into social formations in their respective areas whereby they can challenge whatever obstacles without waiting for Nkuzi's intervention. This has been particular difficult since farm dwellers are scattered and many change employment or are being evicted.

On the labour front we seen a continue wave of retrenchments and further impoverishment amongst the farming communities together with the mushrooming of informal settlements. Along with the decline in employment came a structural change in the nature of agricultural employment which left a gap for employers not comply with minimum wage requirements. A new trend is to resort to migrant employment that is cheaper and more 'reliant' without the hassle of having to comply to labour law. This has brought with it its own social problems and exploitations especially of women and children. This has expended the programme to the protection of the rights of migrants and having to deal with xenophobic notions.

The programme also addresses HIV/AIDS awareness and prevention among farm workers and creates space for women to share their experiences of landlessness and poverty and their understanding of what Land Reform means to them. The programme also creates an enabling space for women to speak of the violence of dispossession, the courage of resistance, through mobilizing women

During this year, Nkuzi has intervened on cases of threatened evictions, unfair labor practice, and cases of human rights violations. Nkuzi has seen a significant number of cases which were lodged in the Land Claims Court. Many cases of illegal were successfully opposed through our Legal Unit and partner attorneys in Gauteng Modimolle and Polokwane. Cases are reported through our contact with farm dwellers, our networks with Advice offices, Parliamentary constituency offices, individual rural councilors and rural municipal managers. The statistics are illustrated in the table below.

| <b>Type of cases</b>                   | <b>Number of cases</b> |
|--|------------------------|
|  |                        |
| Threatened Eviction                    | 333                    |
| Evictions                              | 17                     |
| Labour disputes                        | 318                    |
| Violations of Human Rights             | 23                     |
| Resolved matters clients still on farm | 173                    |
| On/off site settlement (section 4)     | 06                     |

|                       |     |
|-----------------------|-----|
| Other Referrals       | 203 |
| Matters still pending | 30  |

Most of the cases are settled out of court through negotiations. Litigation is used to prevent illegal eviction or to restore evicted occupiers back on the farm.

### **Workshops**

About 08 information dissemination workshops were run for the farm dwellers and 6 Municipal workshops done on popularizing the Findings of the Eviction Survey.

### **CASE STUDY – NDALA FAMILY: INITIATION ROW GOES TO LAND CLAIMS COURT**

The vulnerability of farm dweller in 15 years of democracy has not decreased as the following case study illustrates.

Members of the Ndala family came to the Bapsfontein farm during 1986. They continued to stay on the farm enjoying all the rights as occupiers. During the previous years the families have practiced all their cultural beliefs without any hassles. It only came to their attention when they went to seek permission to do an initiation ceremony the landowner refused, citing the fact that it was against his religion. The family came to Nkuzi for assistance, when speaking to the landowner he refused to grant them permission to go ahead with the ceremony. The farmer cited his Christian belief as reason for refusing. The Ndala family says while they respect his Christian beliefs, that doesn't entitle him to prevent them from practicing their Ndebele tradition. The Ndala family, in reply to the religious objections raised by Jacob Visagie, has said in court papers that the holding of an initiation ceremony was central to the Ndebele cultural tradition.

Visagie, in stating his reasons for objecting to the family hosting the ceremony on his farm (which is in a family trust) said the initiation ceremony was against the Dutch Reformed Church's beliefs and breach of the commandments of the Almighty God. In reaction to this the family stated that they too, were Christians who lived according to the values of the Christian faith.

They respected his beliefs in that regard and did not expect him or his family to take part in any of their Ndebele cultural Traditions. Visagie expressed concerns about the hygienic aspects of the ceremony, as well as other safety aspects. He said that for those reasons he could not allow them to practice their tradition on the farm.

But Rekie Nellie Ndala, an elderly woman living on the farm and the guardian of the four young men due to come of age, said there was no other venue for the ceremony. She explained in court papers that in terms of the tradition, the school was held at the birthplace of the initiates. The reason is that when a child is born, the umbilical cord is buried at the place of birth. “The initiation school is an important step in the continual process of growth, from birth to death, and marks the transition into adulthood. The initiation ceremony must thus be performed at the place where the umbilical cord is buried,” she said.

The family was assisted by Nkuzi Development to lodge their case in Randburg Land Claims Court to seek relief from court as all avenues explored with the landowner have proved to be fruitless. Our clients eventually won the case in court and the initiation went on as planned. In the absence of such support this family would have been denied their constitutional right to practice the ritual of their belief and their culture.

### **5.3 Policy and Research**



The bulk of Nkuzi’s research work would be dominated by the EED/ ICCO process that seeks to find alternatives to current Land Reform Practices that have failed to make any significant changes within the Land Reform domain. This we intend doing in collaboration with University of Hohenheim. This project will focus particularly on the Area Land Reform Initiative in Makhado. Institute for Social Sciences in Agriculture Center for Gender and Nutrition Stuttgart. The overarching collaboration will be with sister organisation such as TCOE.

The small project that will look at women on farms and their expectations of the land reform programmes will also be taken forward with the same group the University of Hohenheim.

In December a contract was signed with Terres Des Hommes, who mainly concentrate on the rights and care of children, to investigate the state of

children on farms. This is only a six month project that will create the platform for further collaboration



## **LEGAL SERVICES**

The Legal unit was established to ensure that quality legal services are provided to the landless communities in particularly farm dwellers and restitution beneficiaries. This still an earnest need since the provision of legal services to these groupings is yet another area of services delivery that has not come off age. The provision of legal support for farm dwellers has, for the short term at least, been outsourced by the state to a private legal practice.

The establish of the Legal Services Project by the Department of Land Reform, now the Department of Rural Development and Land Reform, was born out the Nkuzi judgement of 2001 that placed an obligation of the Ministries of Justice and Land Affairs to implement a reasonable programme to give effect to the declaratory order.

The success of this project is yet to be determined. Some concerns about this arrangement are that:

- Its access is however still depended on grassroots organisations whose capacity has been severely crippled due this recession. Meaning that where many of these organisations were forced to close shop hence many of the indignant farm dwellers needing litigation did not get it.
- It is still an interim measure.
- The quality of services are compromised by inexperience lawyers since the e panel of lawyers with specialist knowledge of the Extension of Security of Tenure Act (ESTA) and other land reform related legislation is very thinly sowed.

- Cases are mostly limited to evictions without considering other issues such as compensation to loss of shelter, livelihoods, etc.
- This body has not being able to put processes in place to reach the rural poor other than through locally based organisations and these are very thinly spread. The fact is that these services are still privy to few over against the thousands that need it in the face of evidence that as few as 1% of those evicted from farms have had access to courts.

This is notwithstanding the fact the enforcement and the weakness within ESTA does not favor farm dwellers in the least. To date nothing has change for farm dwellers. They still do not have real security of tenure and women and children are still the most vulnerable in this equation. There has been a promise by the department to attend to the review of the ESTA and the Labour Tenants Act (LTA), but nothing to this effect has been forth coming.

### **Activities**

- Taking new instructions and consulting with both new and old clients.
- Assist Clients in completing CCMA referrals forms.
- Advice Clients on various Legal matters.
- Liaise with other Attorneys.
- Draft Letters and legal documents.
- Represent Clients in a Court of Law (Magistrate Court and Land Claims Court) and the Commission for Conciliation Mediation and Arbitration (CCMA)

### **Training / Workshop**

- On the 20<sup>th</sup> of January 2009 an information dissemination workshop was conducted at Lephalale for Municipal councilors, officials and community Development workers. The Extension of Security of Tenure Act (ESTA) was explained to the attendants.
- On the 8<sup>th</sup> of March 2009 an information dissemination workshop was conducted at Doornfontein farm (Modimolle) for farm workers/ dwellers. The ESTA was explained to them.
- Attended a mediation workshop from the 11<sup>th</sup> to the 13<sup>th</sup> of March 2009 which was organized by the Department of Land Affairs and facilitated by Mr Rodney Dreyer from mediation and transformation practice in Cape Town. The purpose of the workshop was to create a panel of mediators who will serve as such in dispute arising out of land reform.
- On the 22<sup>nd</sup> of March 2009 an information dissemination workshop was conducted at Sentrum (Thabazimbi) for farm workers / dwellers. ESTA was explained to them.

- Attended a meeting of farm workers / dwellers and all relevant Stakeholders, on the 28<sup>th</sup> of March 2009 at Ceres in the Western Cape.
- Attended a legal capacity building workshop on freedom of expression from the 2<sup>nd</sup> to the 3<sup>rd</sup> of June 2009 which was organized by Freedom of Expression Institute and facilitated by Ms Mbali Cele from FXI in Johannesburg. The workshop's main focus was on people's rights to protest (The Regulation of Gathering Act) and the right of access to information (Promotion of Administrative Justice Act)
- The Legal Unit is one of the stakeholders of Land Forums at Lephalale, Thabazimbi, Mabatlane and Mapela.

### **Networking / Partnering**



### **Case Survey**

| <b>Type of cases</b>        | <b>Number</b> |
|-----------------------------|---------------|
| Eviction                    | 34            |
| Access to Graves            | 15            |
| Burial Rights               | 3             |
| Access to Grazing           | 3             |
| Access to water             | 1             |
| Land Claims: Redistribution | 4             |

|  |            |
|--|------------|
| Labour   | 102        |
| Criminal/Civil/Maintenance/Pension/other cases | 15         |
| Threatened evictions                           | 244        |
| <b>TOTAL</b>                                   | <b>421</b> |
| Clients advised only                           | <b>293</b> |

## **CASE STUDY**

### **DARIUS MOTHEMANE / SIRKEL N LANDGOED (PTY) LTD**

Darius Mothemane started working and staying on the farm Circle N Boerdery around 1982 and by then he was only 11 years old.

He worked on the farm until February 2008 when he was dismissed for allegedly defaming the Manager's character. He continues staying on the farm. Around July 2008 he got a job on a nearby farm but he stayed there during the week and on weekends he went back his home Circle N.

The farm owner never had a problem with him last year after his dismissal. It only started in 2009 at the beginning of March when he was not feeling well. He went to visit a Traditional Healer by the name of Sekwadile for two weeks. When he returned to the farm, the Security Guard refused him entry on the 15<sup>th</sup> of March 2009. He slept outside the whole night.

In the morning when the owner's wife was taking their child to school, after she opened the gate, he then went in. Later that day the Security Guard went to his house and instructed him to leave, he refused. Then the Police came but could not act without an order of court.

He was then charged with trespassing. The owner made an urgent application to interdict them from entering his farm and it was granted. He was later removed by police officers and thrown on the street.

We made an application for restoration. The trial of the matter took approximately five days in court before it was finalized.

On the 10<sup>th</sup> July 2009 was the last day for trial and a ruling was made in our client's favour. It was indeed confirmed that Mr. Mothemane is an occupier in terms of section 1 of ESTA. An interim order previously granted by the court was discharged and Mr Mothemane was restored back to the farm with all the rights he had prior to his illegal eviction.

**TSUKUTLA FANNIE MASIPA (ON BEHALF OF THE MATHYE FAMILY /  
LUCAS CORNELOUS EKSTEEN AND TWO OTHERS**



## **ACCESS TO GRAVES**

The Mathye family resided on the farm Buffelsfontein until the 1950's. Resenga William and Maria Ramasela Mathye resided on the farm Buffelsfontein. They had children and all of them were born on the farm. The first child was born in 1925 and her name was Johanna Nkuna (Nee Mathye) Whilst staying on the farm around 1845, Maria Ramasela Mathye died and she was buried on the farm in Buffelsfontein.

Two years later one of Resenga William and the late Maria Ramasela Mathye's child, Boloi Anna Mathye died and was buried on the farm next her mother, Anna Ramasela Mathye.

In 1953 the Mathye family left the farm and moved to Jerico village in the North West Province. Around 2007, the Mathye family went to the farm to erect tombstones for their mother Maria Ramasela Mathye and Boloi Anna Mathye and upon arrival the land owner turned them away and they left. We tried to negotiate on behalf of the Mathye family with the land owners so that they could allow the Mathye family to have access to their graves including erection of the tombstones but we were not successful. We then made an application in terms of Section 6(5) of the Extension of Security of Tenure Act to court.

After they received the copy of the application, they did not even try and oppose it, they wanted to negotiate. The matter is now settled. The Mathye family will erect their tombstones on the 31<sup>st</sup> October 2009 and thereafter will have the rights to visit the graves four (4) times in a year.

## **BEN COHEN VS THOMAS MANGENA AND OTHERS**

Mr Ben Cohen runs a farm, butchery and a mine in Leeupoort. Mr Thomas Mangena and the other seven respondents were employed by Cohen.

Around November 2006 the respondents embarked in an unprotected strike. They were dismissed. We assisted them to refer the matter to the CCMA. The CCMA confirmed dismissals.

The respondents are all staying with their families at the farm. After they were dismissed, Mr. Cohen applied for an eviction order.

We defended the application but our correspondent attorney failed to furnish us with the notice of set down. The matter then went to court in our absence. The application was granted. The matter was referred to the Land Claims Court for review. We made our representations. The LCC ruled that the matter must revert to the Magistrates Court to start *de novo* (afresh).

The matter is now before the Magistrate and we are only waiting for Judgment.



## **NETWORKING:**

**Sisonke Masilwe Indlala (SMI):** (SMI) is a land sector coalition comprised of Landless People's Movement (LPM); Nkuzi Development Association; Southern Cape Land Committee (SCLC); United Congregational Church; Department of Social Responsibility of Anglican Church; and the Presbyterian Hunger Programme in the US. The network is focusing on land justice and creates appropriate technologies for small farmers.

The network had a Community Organizing Training for its members to take their initiatives to another level. The training covered topics such as:

- what is a campaign,
- key steps in campaign organizing;
- celebrating small victories along the way.

The coalition has also taken an interest in the evictions around the mining areas. In one Core Team Meeting a community leader representing the Ga-Pila community presented their case of resisting to be relocated by the Potgietersrus Platinum Mine (PPM). A decision was taken to do household surveys to determine the extent and the impact of these evictions on the household livelihoods and furthermore to use it to engage policy makers on tenure insecurity of people living within communal areas.

**South African NGO Coalition (SANGOCO):** Nkuzi continues to provide administrative support to SANGOCO so that the vibrancy and visibility of the Civil Society sector can be maintained. Amongst the activities carried was the

mobilization of the sector to take active participation in the African Peer Review Mechanism (APRM) organized by the African Union.

**The Human Rights Institute of South Africa (HURISA)** worked with Nkuzi to organize NGOs and CBOs who are part of SANGOCO to reflect on the constitutional mandate of the chapter nine institutions.

**Land and Agrarian Reform Initiative (LARI):** Nkuzi was approached by LARI, which is a land desk within the South African Catholic Bishop's Conference (SACBC), to assist in facilitating the land transfer in their hand to the neighboring communities for poverty eradication. The three farms are in the area of Sekhukhuneland. On one of the farms Glencowie a partnership developed with the Department of Land And Rural Development about settling the title deed of Glencowie. At the level of productive use of the land a business plan for small enterprises have been developed in regard to carpentry, dairy production, vegetable production, and milling. A funding application was sent to the National Development Agency (NDA) for consideration and a grant was approved for 2010.

### **Some of the Highlights and Training in this period**

- The National Farm Dwellers Meeting in Cape Town
- The Provincial Land Summit
- Organic/Permaculture Training
- Re-launching of ALRI work in Makhado
- Advancement Training for NPO's
- Southern African Rural Women's Assembly:

### **MANAGEMENT AND INSTITUTIONAL DEVELOPMENT**

Middle management have been drawn the decision making process. Some tasks were delegated to a middle level of management of office and programme managers.

In order for Programme managers and other members of staff to share the responsibility of fundraising, a fundraising team was established. Nkuzi also became part of an Advancement Programme which is run by INYATHELO an Advancement Organization on behalf of Atlantic Philanthropies.

Quarterly review and planning meetings have been put in place to improve on service delivery monitoring and evaluation of internal work.

Nkuzi continued to take in unemployed graduates as volunteers to enable them to gain work experience. During this period Nkuzi had one such volunteer. The volunteers stay for a period of six months with the organization. Nkuzi received financial support for this volunteer through the Services Sector Education and Training Authority (SETA).

## **BENEFICIARIES**

The beneficiaries of Nkuzi projects are the socially and economically marginalized people of rural communities in Limpopo and Gauteng Provinces, more particularly women, peasants, farm dwellers and the landless. Some of the client communities that Nkuzi has assisted have through this assistance gained land and/or secure tenure, while the majority of Nkuzi clients remain landless and with insecure tenure.

## **SUSTAINABILITY FACTORS**

This year has been a particularly difficult year for Nkuzi. It has seen most of its funders withdrawing due to the credit crunch and has put it in the survivalist mode.

Nkuzi has however attracted the funding of EED, NDA, Rural Legal Trust, Terres Des Hommes, Claude Leon Foundation, DKA and the Lottery.

Nkuzi want to extend it gratitude to its funders who make possible to continue to serve its constituents unreservedly.

## **STAFF : 2009**

| <b>Nr.</b> | <b>Name &amp; Surname</b> | <b>Male</b> | <b>Female</b> | <b>Position</b>            |
|------------|---------------------------|-------------|---------------|----------------------------|
| 1          | M.S. Mafemo               |             | ▪             | Bookkeeper                 |
| 2          | N.C. Malumbete            | ▪           |               | Legal Unit Manager         |
| 3          | N.D. Kwinda               | ▪           |               | Project officer            |
| 4          | M. Mnisi                  |             | ▪             | Legal Secretary            |
| 5          | S. Ngoasheng              |             | ▪             | Legal Secretary            |
| 6          | J.G. Shivambu             | ▪           |               | Project officer            |
| 7          | F.V. Mabunda              | ▪           |               | Project officer            |
| 8          | S.P. Talane               | ▪           |               | Project officer            |
| 9          | M.L. Moshaba              |             | ▪             | Administrator              |
| 10         | M. Sekobane               | ▪           |               | Project officer            |
| 11         | F.M. Malemela             | ▪           |               | Financial Accountant       |
| 12         | N. Nzimande               |             | ▪             | Farm Dweller Prog. Manager |
| 13         | T. Phooko                 | ▪           |               | Project officer            |
| 14         | A. Makhado                |             | ▪             | Administrator              |
| 15         | T. Manenzhe               | ▪           |               | Project officer            |
| 16         | E. Barnett                | ▪           |               | Director                   |
| 17         | M. Kgobe                  |             | ▪             | Attorney                   |
| 18         | R. Mohale                 | ▪           |               | Project officer            |

