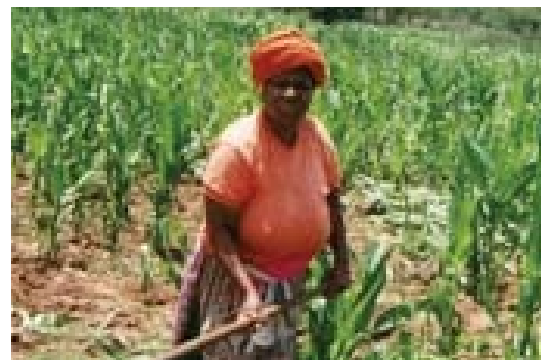


Nkuzi Development Association

ANNUAL REPORT 2008





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 10 members of the Board of Directors.

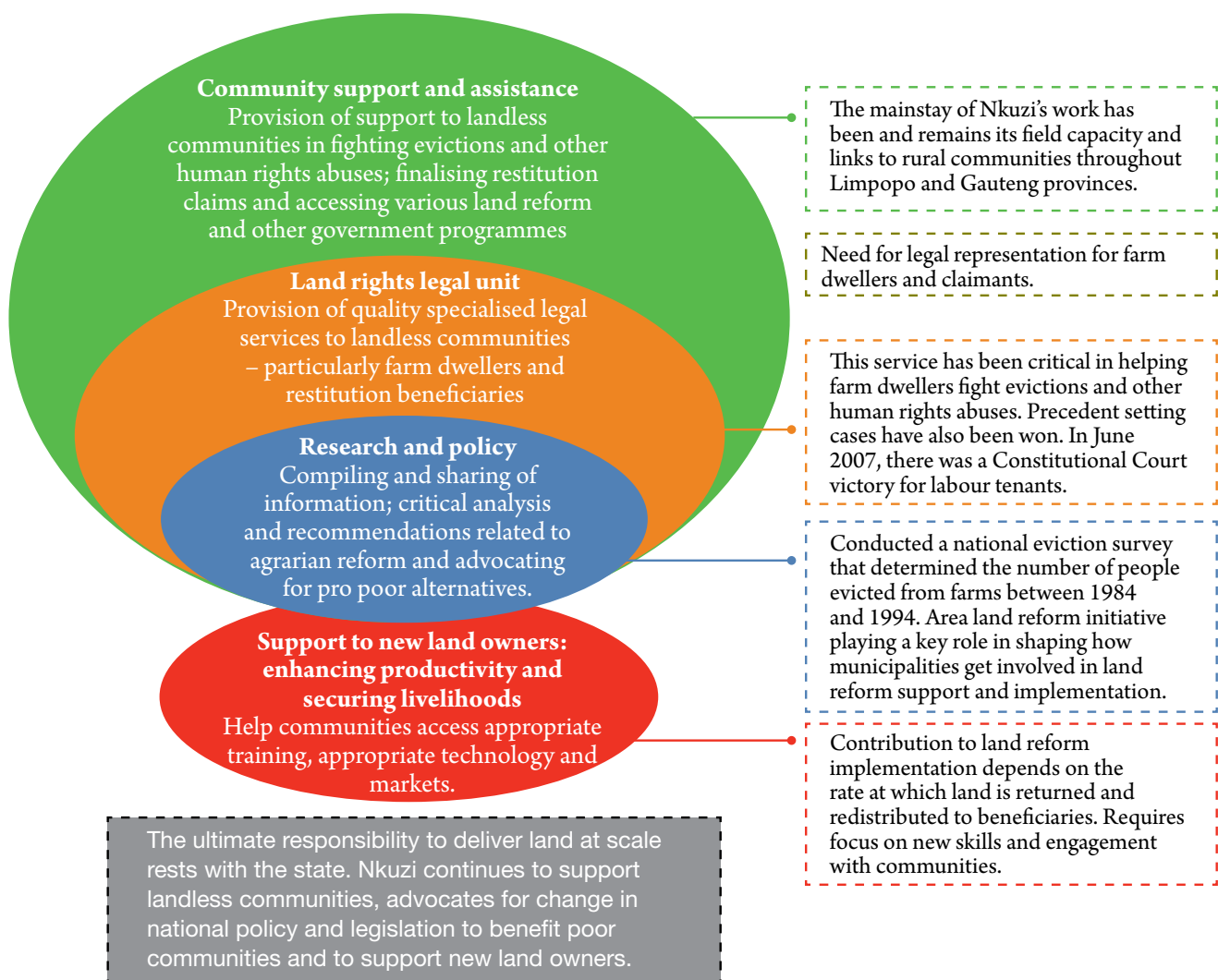
Vision

Disadvantaged women and men are organised 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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Summary of Nkuzi Development Association's contribution to land reform



Chairperson's Report

Minister of Agriculture and Land Affairs Lulu Xingwana introduced a 14-point strategic plan for rural development and the speeding up of land reform in the Department of Land Affairs' Strategic Plan for 2008 to 2011. She also said that expropriation would be applied if negotiation with land owners for land was not completed within six months. There was also a shift by the department to locate land reform within the wider agrarian context. This was indeed to many of us an indication that the stakes for land reform were higher. It put forward the expectation that land reform would start to contribute substantially towards the transformation of the economic landscape and rural development, as well as increase access to land for the rural poor.



The Monyeki Case has been in and out of court since 2002

Unfortunately another year has been added to the poor performance of land reform. To mention a few examples in Limpopo: the Mashishimale claimants, who were restituted in 2006, now risk losing their land in civil action; the Levubu claimants have been left with up to R1-million of debt in loans after a strategic partner introduced by the Land Claims Commission left them high and dry; down-stream processing plants, pack houses, dryers or atchar factories could have rendered the Letsitele Valley claimants very successful if the necessary post-settlement support was granted, but after five years none has been forthcoming.



I am a squatter on my own land

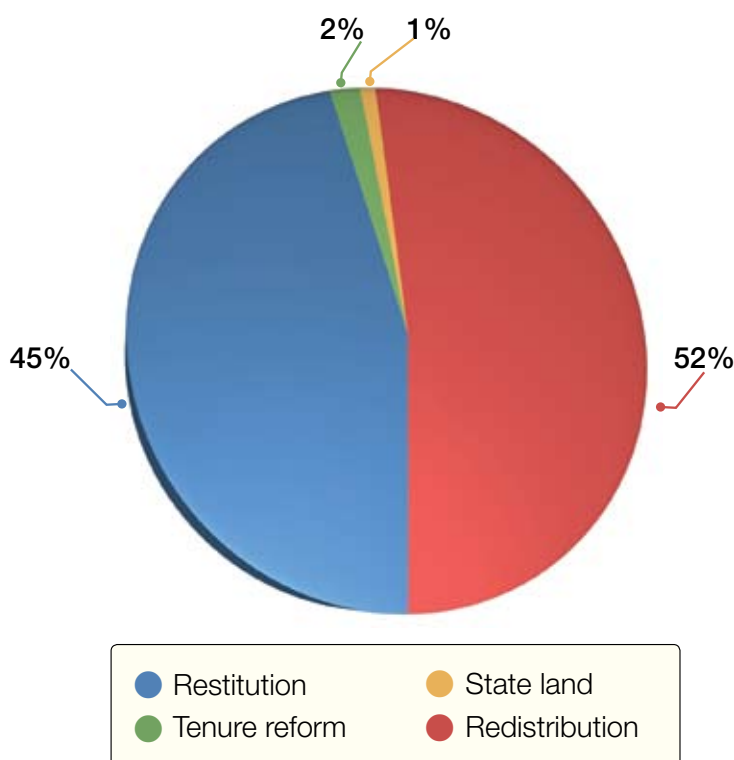
The Restitution community has been added as a “yet another failure of transferred land in black hands”. This idea of the failure of land reform is that land in black hands is doomed. These disadvantaged poor people are being humiliated again in the democratic dispensation. In one community, a member said: *“I have become a squatter on my own land.”*

Overall, only 69,7% of settled claims have been by means of cash, 26,4% by means of land restoration and 3,9% by way of the “alternative remedy” (Edward Lahiff, *Land Reform in South Africa: A Status Report 2008, Plaas Research Report 38*)

Redistribution is in an even worse dilemma since more than 88% of the land in Limpopo is under claim. The Land Redistribution Agricultural Development (LRAD) programme has pretty little to work on as it not allowed to entertain transactions on farms that are being claimed under restitution. Many farms, such as Lucer, Paardeplaats and Mfufula, have been awarded to beneficiaries though, while restitution claims have not been finalised. In Limpopo, 14 LRAD and two Proactive Land Acquisition Strategies (PLAS) were implemented in 2008, and in both cases beneficiaries and land owners are at loggerheads with the department on lack of delivery in terms of its commitments to both parties.

The Land Affairs Department went ahead and came up with the idea of the Land and Agrarian Reform Programme (LARP), which was launched in October 2007 with elaborated targets such as the redistribution of five million hectares of white-owned land; and production increase for target groups of 10% to 15%, among others.

Percentage of land delivered against overall 5%



Source: DLA February 2008

This new impetus, with the greatly insufficient resources for existing programmes and not having any budgetary attachment, did not have any significant impact on improving any aspect of land reform.

Tenure reform received the least attention and yet has to deal with the controversial issue of land ownership in communal areas. That reform of farm tenure had no ring-fenced budget speaks of how low a priority farm dwellers have within the land reform landscape. This became even clearer when an unbudgeted LARP came to nothing. Its rhetoric about the landless and farm dwellers was as empty as the Section 4 application of the Extension of Security of Tenure Act (ESTA). This is also evident in the phasing out of posts dedicated to the farm dweller arm of its operations by the Department of Land Reform, given that the protection and securing of farm tenure requires dedicated staff and specialised skills. Most unfortunately, we have seen that the pace of land restitution has not picked up and its final settlement deadline has been extended yet again; land redistribution has been fragmented and completely off target; and tenure reform has been in limbo.

All of this has strengthened the resolve for Nkuzi's continued existence and its efforts to help ensure "disadvantaged women and men are organised and empowered to assert their rights and create their own sustainable and improving livelihoods. This based on the fundamentals of access to sufficient land, secure tenure, the provision of basic services and integrated local economic development."

Extend Nkuzi's programmes to include gender and HIV/Aids

Nkuzi's Gender and HIV/Aids Policy requires all those involved in the operations, implementation and governance of the organisation to integrate gender in Nkuzi's work. We have seen more community woman participating in the decision-making processes regarding land and agrarian reform. We have achieved this goal because we all take gender integration seriously.

Although the core business of Nkuzi is land and agrarian reform, there are challenges that the organisation encounters in implementing its land services programmes. Nkuzi attempts to address these challenges of gender inequality, domestic violence, rape, poverty, HIV/Aids and the growing rate of child abuse through its Gender and HIV/Aids Programme. This is done through conducting workshops, disseminating information, providing counselling, participating in the annual 16 Days of Activism of No Violence against Woman and Children (25 November to 10 December) and referrals to the organisation's legal unit.

I would like to thank our client communities for their continued faith in Nkuzi's ability to assist them. Thank you to the board for its efforts and support. Teresa Yates, your input has been invaluable. I wish you well in your future endeavours. Our local partners and friends of Nkuzi - and especially local municipalities - we cannot do our work effectively without you. A big thank you to our donor partners for their support; without you we would not be able to continue the important work we do in Mpumalanga, Gauteng and Limpopo provinces or to engage in national policy debates.



Executive Director's Report



Teresa Yates: Executive Director of Nkuzi

The year 2008 has been another year of change for Nkuzi.

With the departure of the former executive director, I took over as the post in February this year; sadly this will be my final report as the executive director. I will step down at the end of December this year and hand over the running of the organisation to Eddie Barnett, the current deputy director and an

ardent campaigner for the rights of poor landless communities for more than a decade.

In addition to the pending change of leadership, Nkuzi has also added eight staff members this year to support the work that we do in the farm dweller programme and the legal unit. There is an increasing demand for our services as evictions continue, the government continues to provide inadequate support to new land owners who are beneficiaries of the redistribution and restitution programmes, and as landless communities struggle to gain access to secure tenure on productive land of their own.

Towards the end of 2008, indications were that poor rural communities would also suffer from the impact of the global economic crisis. Despite assurances from the South African government that this country's economic principles were sound and that South Africa would not suffer unduly because of the mistakes made on foreign capital markets, it is clear that the impact of the global recession will be felt far and wide.

The Eviction Survey, published by Nkuzi and Social Surveys in 2005, continued to be debated and discussed from parliament to local government level. In March, Nkuzi presented to the Portfolio Committee on Agriculture and Land an analysis of the current status of farm dweller tenure security and evictions.

Highlights 2008

- ▶ Regional people's dialogue workshop in Namibia in April
- ▶ Start of the Madisha Redistribution Project in partnership with NDA
- ▶ Presentation at Regional Decentralisation of Land Reform Conference in Johannesburg
- ▶ Participation in the Vhembe Regional Land Summit
- ▶ National Agricultural Land Summit
- ▶ Successful annual general meeting
- ▶ Three-year strategic plan workshop
- ▶ Annual planning workshop

Instead of repeating what we have been saying for years to politicians and others, we decided to invite two farm dwellers to travel to Cape Town with us to tell their stories directly to the committee: Dorcas Letsoalo is a 75-year-old woman who had been illegally evicted with her husband from their home on a farm in Limpopo; Hans told of the many attempts by the owner of the farm on which he lives with his family to “persuade” them to leave. The owner’s most recent act, as recounted to the committee, was to remove the roof of the house in which Hans and his family lived. They remain on the farm but obviously with rising insecurity and fearful that they will ultimately be evicted.

The committee also heard from AgriSA and the Department of Land Affairs (DLA) regarding their impressions of the eviction crisis. The DLA was harshly criticised for not developing any effective strategy to combat ongoing farm dweller evictions. The criticism was not unfounded as the DLA presented no new ideas and offered very little in concrete plans to ensure the rights of farm dwellers were protected.

The Portfolio Committee presentation was just one of several engagements with government and politicians during the year, with very little in terms of concrete action emerging. We also had meetings with the minister of agriculture and land affairs, with senior members of the DLA, with the ANC at Luthuli House to look at what land issues should be included in the ANC election manifesto, and meetings with local government councillors and officials in Gauteng, Limpopo and Mpumalanga.

Throughout this report are accounts of Nkuzi’s work and efforts to move beyond a model of development and support for communities that are focused on benevolent assistance. Our aim rather has been to form strategic partnerships with communities and other organisations, engage with the government at all levels, provide support to Nkuzi staff in furthering their understanding of ever-expanding and sometimes complex issues, and other initiatives to ensure that we create an enabling environment where landless communities, farm dwellers and new emerging farmers are able to assert their rights and demand the support from the government and civil society that directly addresses their needs.

In the aftermath of the passage of the 1913 Land Act, Sol Plaatje wrote in 1916:

“The gods are cruel, and one of their cruelest acts of omission was that of giving us no hint that in very much less than a quarter of a century all those hundreds of heads of cattle, and sheep and horses belonging to the family would vanish like a morning mist...”

We continue to see the land and livestock of poor rural communities “vanish like a morning mist”. Evictions from farms continue at a pace, leaving thousands without land, homes or livestock. Emerging farmers are unable to succeed on newly gained land because extension services and support are not forthcoming from the government. Restitution beneficiaries waiting for years for grant money that is their right to be released so they can invest in their new land are threatened by the minister that their land will be taken away again because they are not producing. The chaos that continues to plague land reform implementation makes us sometimes believe that the gods are still inflicting their cruelty on poor rural communities.

Nkuzi, however, continues to fight for the rights of the landless poor and marginalized in the hope that one day the gods will smile upon us; that one day there will emerge productive rural communities that have opportunities to engage in multiple livelihood strategies; and where the human rights and dignity of all are protected and respected.

As I prepare to leave Nkuzi, I am saddened to be leaving an organisation that I have been a part of in various capacities for more than 10 years, but hopeful that Nkuzi's outstanding work will continue.

I would like to thank our donors for continuing to support our work, our partners in civil society, the government and the communities where we work and our committed Board of Directors. I wish Nkuzi the best of luck, strength and courage as the struggle for land and agrarian reform in South Africa continues.

Teresa Yates



There is an increasing demand for our services as evictions continue. the government continues to provide inadequate support to new Land owners who are beneficiaries of the redistribution and restitution programmes...

Farm Dweller Support

The farm dweller programme is perhaps our strongest area of work. With ongoing funding from The Atlantic Philanthropies, we have been able to raise the profile of evictions issues in the print and broadcast media. We have had one meeting with the minister of land affairs to raise concerns regarding evictions and legal services for farm dwellers.

We conducted 10 farm dweller workshops during 2008, where farm dwellers were informed of their rights and of the assistance that Nkuzi is able to give them. We include in the workshops presentations from the departments of Labour, Home Affairs and Health, and the Council for Conciliation, Mediation and Arbitration (CCMA), on labour and immigration issues, and HIV and Aids.

Farm dweller statistics on cases attended for the year 2008

AREAS COVERED	LABOUR CASES	THREATENED EVICTION	EVICTION	OTHERS/ REFERRALS	RESOLVED, CLIENTS ON THE FARM	UNRESOLVED, CASES PENDING	SECTION 4 APPLICATION
Polokwane	32	22	16	8	8	13	0
Elim	17	22	6	12	9	8	0
Modimolle	11	10	2	9	4	0	2
Gauteng	25	28	4	18	9	16	1
Totals	85	82	28	47	30	37	3



Farm Dweller Programme Case Studies

A case of severe human rights violations

Domingo Msimango was born in Mozambique in 1960. She came to South Africa in 1994 and entered into a customary marriage with Anthony Sithole, who died in November 2008. They were blessed with three children Armelia (13), Pinkie (12) and Tsaka (6). Msimango worked for Jan Vorster from 1996 until 2006, earning R10,00 a day. Her husband had been working for the same employer since 1991.

They were given permission to stay in a two-room brick house, but after her husband's death, the land owner began threatening Msimango with eviction. He accused her of having an infectious disease that killed her husband, and said she must vacate the house because she would infect his other employees.

In November 2008, the land owner served Msimango with an illegal notice to vacate the farm. The matter was referred to Nkuzi by a community development worker in Swartkraans. A letter was written to the land owner asking him not to carry out his intention since it was against the law, but he continued on his path of evicting the family. On 16 December, the land owner started to demolish one side of her house and removed the roof. The family is left with only one room in which to live.

When taking a statement from her, Msimango told us that in 1999 the wife of the employer, Mrs Marlin, had forced her to abort her child; she was five months pregnant. She was told that she would not be accepted back at work if she went on maternity leave. Her husband was also pressurized by the land owner, and he agreed out of fear of losing his job. At that time they had no-one to turn to and were not aware of Nkuzi's services. The owner's wife took Msimango to a private clinic in Johannesburg and paid R1 000 for the abortion and kept the receipt. She has been deducting that money from Msimango ever since.

The case will go to court on 18 February 2009. While waiting for the judicial process to take its course, the family continues to live in the one room and is still on the land.

Jacob Dlamini, Steynskraal Farm in Heidelberg

Jacob Dlamini lives and worked on a farm called Steynskraal, a few kilometers outside Heidelberg in Gauteng. He is married with five children, aged between 20 and three. Dlamini is 43 years old and is now unemployed. He began working and living on the farm in 1996. It was bought by Andries van Rooyen in 2007, and within three months relations between Dlamini and the new owner had soured. He was fired by the new employer on 11 October 2008.

Their differences started when the employer claimed that Dlamini had refused to help fight a fire that was raging in another part of the farm. According to the farm manager, Dlamini had said he would not help them that night.

He was called before a disciplinary inquiry, which he did attend; he was given a letter of the outcomes of the inquiry, but the employer later asked for it to be returned, saying that it needed to be corrected as it contained some errors. He promised to return the corrected letter, but never did.

Jacob Dlamini...continued

A second hearing was called; Dlamini again did not attend. He says he was not informed about it, but it is alleged that he was told about the hearing and chose to stay away. He also did not know why there had to be a second hearing. He was subsequently fired.

Dlamini was also told that if he wanted to continue living in the farm house, he had to pay rent from that day as he was no longer working for the farm owner. A case of unfair dismissal was brought to us and we referred the matter to the CCMA; the farm owner did not attend the hearing. Afterwards, Dlamini called to report that the landowner has taken all his belongings from his wooden house and disposed of them. Several attempts to speak to the landowner were fruitless and a case of theft was opened against him.

On 12 December 2008, the landowner changed the locks on Dlamini's house, sealed the windows and left his family outside. He claimed that Dlamini had not paid his rent. Ntokozo, a field officer for Nkuzi, went to the farm that night and took the family to some relatives in the nearby township as it was raining.

An urgent court application was sought to force the landowner to open the house. It was successful and the house was opened within 12 hours of the delivery of the court order to the landowner. Dlamini's family returned to the farm.

The owner then wrote a letter proposing to settle out of court and offered to buy Dlamini a house. That offer is still to be examined, as has the issue of compensation for the goods the landowner removed from Dlamini's wooden house. The clients, at present, are back on the farm without any threats hanging over their heads.

Poverty

The Sectoral Determination for this sector requires that farm workers be paid R1 090 a month – not withstanding the hike in food prices, this sum is way below the breadline. To be paid less than this requirement is not only a violation of a right, but it is a travesty. It is also the reality of thousands of farm workers whose dignity is being impaired.

The plight of Manovhi Philemon Tshivhula echoes a demeaning tragedy of non-compliance by many farmers, who not only have a disregard for the law, but also a total disregard for the rights of farm workers to a decent life.

On 1 March 2006, a new minimum wage was promulgated for farm workers, but to Tshivhula this Sectoral Determination meant nothing, since he was being under paid. Tshivhula (42) was born in Ha-Makushu in Nzhelele, situated in the Vhembe District Musina Local Municipality in the Mopani area.

In 2002 and 2003, he worked for Willem Organ at plot number 50, Vera, where he was earning R500 a month. To still get R500 a month four years later, with a new employer – Vleissentral Mopani – is indeed too bitter a pill to swallow.

His supervisor, Montie van Niekerk, makes him work 24 hours a day from Monday to Sunday. During the day he is expected to clean the auction kraals and perform other duties and at night he becomes a security guard. After working 720 hours a month, Tshivhula only gets a stipend of R500,00 and 50 kilograms of maize. He is a family man with three children.

Poverty...continued

“With this money I cannot afford to properly cloth and feed my family. I am just working [there] because there [are no jobs]. These people, they don’t treat me as a valuable employee,” said Tshivhula, who got up from an old car seat which he used as a chair. The whole family looked underfed and malnutrition in the children was clearly visible. He lives in small store room which can hardly fit a single bed; everything else is stored under a loose cover that has to shield his belongings from the elements. This is simply a state of poverty that one cannot ignore.

Tshivhula contacted Nkuzi through a counsellor after his employers threatened to fire him. On 14 September 2008, Nkuzi file officers met the manager, a Mr Van der Wald, and his wife. After a tough session of negotiation, the owners agreed to at least pay the minimum wage. They have also drawn up a contract with Tshivhula that complies with the Basic Conditions of Employment and promised to build a proper house for his tenure. To date, his salary has improved, but he still lives in the uninhabitable store room.

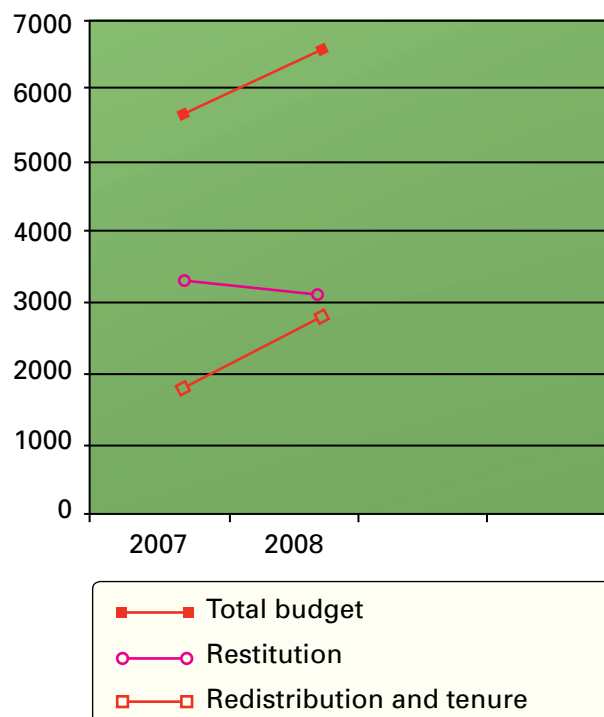


Land reform implementation 2008

Background

This Nkuzi unit supports beneficiaries of the government's redistribution and restitution programmes. During the period under review, we did not witness any shift in government spending towards providing comprehensive agricultural support to emerging farmers and post-settlement support in general. Activity around the Comprehensive Agricultural Support Programme (CASP) has also slowed and we are still eagerly awaiting the DLA's response to the CASP review completed a year ago.

Budget 2008/09 in millions



BUDGET LINE	2007/08 ALLOCATION	2008/09 ALLOCATION
Total DLA budget	5 600	6 659
Restitution	3 327	3 097
Redistribution and tenure	1 696	2 888

These figures show:

- ▶ The restitution budget declined by 7%;
- ▶ The redistribution and tenure budget increased by 70%; and
- ▶ The overall budget increased by only 19%.

Over the past 15 years, only 4,7 million hectares of land have been delivered, which represents 5% of the targeted 30% by 2014. The DLA budget for buying land was exhausted way before the end of this financial year and not enough land was bought to attain at least 3,6 million hectares a year – the amount needed to deliver on the 30% target. The DLA budget for this year was a total mismatch in this regard.

The Popela and Monyeki restitution claims

The intention behind supporting this project was to promote the finalisation of two precedent-setting restitution cases. The Popela and Monyeki restitution claims presented very similar sets of circumstances. They cut to the heart of the intended outcomes of restitution as stated in the Constitution and in the Restitution of Land Rights Act – to provide redress to communities who were dispossessed of rights in land after 1913 because of racially discriminatory laws or practices.

The communities, having lost their land, were forced into abject poverty in former homeland villages. Ensuring that they are returned to their land and are given opportunities to engage in sustainable production will contribute to reducing and ultimately eradicating poverty within these communities. Having won the court case, the challenge for the Popela claim is to ensure that community members are presented with a final settlement agreement that provides real opportunities for claimants to live productively on the land.

The remaining challenge on the Monyeki claim is to ensure that the Land Claims Court (LCC) follows the precedent set by the Constitutional Court and returns a final decision that favours the claimant communities.

Some of the restitution communities with which Nkuzi is still working are Marabola, Ximange, Maphondo, Muanzhele, Mavungeni, Munzhedzi, Vembhe, Getrusburg, Kraanskop and Morebeng. These communities have been settled but have received little or no post-settlement support from the DLA.

Still at various stages of the restitution process are the Levubu Cluster 1 and 2, Mahlahluvane, Mamukeyani and Davhana communities. They are but a few of the many communities that need services. Nkuzi has had to scale down on this important part of its work because of the shortage of funds for restitution work.

Restitution Summary

- ▶ By 31 March 2008, the official restitution deadline set by the president, 94% of the claims that had been lodged had been settled.
- ▶ The bulk of outstanding claims remain the rural claims.
- ▶ No new deadline for the completion of claims has been set; however, the restitution budget effectively suggested a deadline of 2012, which was postponed yet again to 2014.

Climate change

The impact of climate change is becoming more evident as farmers experience the challenge of continuing to produce in conditions of prolonged drought. This is particularly difficult for emerging and small scale farmers - those farmers that Nkuzi is supporting. They have suffered significant livestock losses because of a shortage of fodder and water. Small scale crop farmers also lost massive investment in their fields. The late response from the government in declaring a disaster exacerbated the problem – it is necessary to declare disaster areas for emergency funding to be made available.

Livestock and crops that may have been saved were lost because of the government's slow bureaucratic processes. In some areas supplies for beneficiaries were held at municipal agriculture offices but never distributed. It takes a long time for small scale farmers to recover from these shocks and stresses since they do not have insurance or other resources to fall back on, thus making support from the government more imperative. Sadly, the state has not developed any strategy or committed any funds to improve the response to climate related disasters.

Economic meltdown

As with most disasters – natural and man-made – the impact is harshest on poor communities. The worldwide economic downturn in 2008 has negatively affected poor rural communities the most. The price of fertilizers and seeds rose last year to such an extent that many small farmers and communities who intended to plant crops as a means to earn incomes had to reduce planting capacity because of a shortage of money.

In addition, another price fixing scandal in the wheat industry was exposed in 2008. Poor rural households are negatively affected by such artificial pricing as they spend their limited funds on buying bread and other wheat products. Bread, along with maize and meat, are the staples of rural South African diets. Higher prices mean increased nutritional vulnerability for households that are already nutritionally marginal.

Right to food security

The problem of food security in South Africa also has to do to with the lack of delivery of land reform, insufficient support and a lack of political will on the part of the government to ensure that:

- ▶ Enough food is available; and
- ▶ It is accessible.

There is a need for the government to set up progressive policies to realise the right to food as prescribed in section 27 of the Bill of Rights. The provision of land and the means of agricultural production to the landless must be fast tracked. Furthermore, adequate agricultural pricing policies, markets and safety nets for producers and for those who operate in the second economy are desperately needed, as are a strategy and plan to mitigate the effects of climate change. An environment conducive for small farmers to flourish is critical to ensuring the eradication of poverty and hunger and ultimately ensuring food security for all South African households.

Case study of livelihoods work

General description of the project

Name: Dikgele Community Trust Redistribution Project

Location: Modimolle Local Municipality, Capricorn District, Limpopo Province

Size: 326ha

Legal entity: Trust

Technical feasibility

Topography: the topography consists of gentle (flat) slope.

Soil type: the soil is sandy and is grayish in colour, with small stones.

Vegetation: thorny trees and grass suitable for grazing.

Water availability: there are two boreholes; one is equipped with a diesel pump.

Rainfall: varies between 500 and 750 millimetres a year, mostly in the summer months. **Climate:** the summers are hot, reaching temperatures of 30°C and the winters are cold, reaching 15°C.

Production

At present, the farm is used mainly for grazing. The beneficiaries have 34 head of cattle and they produce maize under dry land. They would like to farm vegetables, which are cash crops. The rest of the farm can be used for further agricultural development.



Market

With Nkuzi's support, the farmers are now producing maize only for household consumption, but they intend venturing into commercial farming by producing vegetable cash crops such as cabbage, beetroot, spinach and peppers. They intend targeting local and national markets with these crops.

There is an extension officer from Greater Molemolle Local Municipality who services the area. The intention is to add an agricultural value chain economist and a land reform adviser to the municipality to assist in farm management and market-related information.

Infrastructure

Available infrastructure

- ▶ There is an old fence on the farm;
- ▶ Two boreholes, one equipped;
- ▶ A broken wind mill;
- ▶ A dam; and
- ▶ An old kraal.



Required resources

- ▶ A new cattle fence;
- ▶ A new kraal;
- ▶ A pump house;
- ▶ Farming equipment;
- ▶ Equipping of the borehole;
- ▶ A farm house with an office and a storeroom; and
- ▶ A tractor.

Human resource management

Number of beneficiaries: 11 households

They employ one person who looks after their livestock; he is also a beneficiary of the project.



Skills and knowledge

The beneficiaries have maize production skills acquired through subsistence farming; however, they will need further training in livestock and vegetable production. They will also need training in farm management, financial management, business management, technical skills, marketing, et cetera.

Capacity building

Ongoing training will be needed to improve the farm's performance and production as well as the self-potential of the project. Skills development in business management, conflict management and resolution, marketing and financial management must be done by the relevant stakeholders, namely the Department of Labour in partnership with the Limpopo Department of Agriculture, Forestry and Fisheries.

Other redistribution communities with which Nkuzi is working:

- ▶ Dikgolo;
- ▶ Maboï 3;
- ▶ Maboï 6;
- ▶ Monkwon Integrated; and
- ▶ Bophelo.

Nkuzi is also working on two church land projects which the National Development Agency is willing to support:

- ▶ Anglican – Jane Furse; and
- ▶ Catholic – Glen Cowie; Mashabela; and Luckau.

Rifilwe project

The Rifilwe project, in the Mopani District Municipality, on which one of Nkuzi's volunteers worked, is a tomato project.

The tomato-growing project was fully supported by the CASP, proving that with the necessary support from the government, communities can prosper. The photographs show the different stages of the project.



These tomatoes are sent to a local factory that supplies Woolworths, the national retailer, with purées and jam.

Research and policy

Nkuzi does not currently have a programme manager for policy and research; however, the director oversees a few projects. We will conduct a study in Makhado on the status of restitution claims, in collaboration with PLAAS and other land NGOs, and we will conduct a study on women's access to land in communal areas.

We finalised a proposal for a small project that will look at women on farms and their expectations of land reform programmes. It was submitted to the Institute for Poverty, Land and Agrarian Studies (PLAAS) and is linked to an eastern and southern Africa co-ordinated project examining women's access to land and land rights. The director spent a week in Nairobi, in Kenya, with other organisations from east and southern Africa at an "inception workshop" for this project, where she did a presentation on strategies to link research to advocacy.

The proposal, which was a collaboration with the Association for Rural Advancement (AFRA), Southern Cape Land Committee (SCLC) and Free State Rural Development Association (FRUDASSA) in partnership PLAAS, however, fell apart. We decided to raise our own funding to complete this all-important work. Some funders have already indicated an interest in supporting such a venture. It will obviously play itself out in 2009.



Two researchers worked with us on a small study of the Popela community, and we will publish a short report on the experiences of the community in getting their claim finalised and their desires for the final settlement of the claim.

Two international researchers worked with us during this period. One, a Canadian who has recently completed a Master's degree, will spend some time with Nkuzi looking at communal land rights. The other is a PHD student from India who is based at the Elim office. His research is focused on the impact of strategic partnership agreements on restitution claimant communities.

We continue to contribute to national policy debates, including those on farm dweller housing, the Minerals and Energy Bill, the Expropriation Bill and others.



Participants in Nairobi, where the director attended the inception workshop for the Women on Farms project

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We will conduct a study in Makhado on the status of restitution claims, in collaboration with PLAAS and other Land NGOs, and we will conduct a study on women's access to land in communal areas

Land rights legal unit

The legal unit comprises the unit manager, one attorney and two legal secretaries. It has offices at Modimolle and Polokwane, both of which are accredited law clinics by the Law Society of the Northern Province.

Loss of funding for the legal clinic, however, has forced the unit to limit the number of cases it can handle. With Rural Legal Trust (RLT) funds Nkuzi continues to provide legal services to farm dwellers. However, we are still not taking on any new restitution cases. The outcome of the Monyeki case, which has similar facts to the Popela case that we won in the Constitutional Court in 2007, is still pending.

The Law Society of the Northern Province refused us permission to take candidate attorneys because we only deal with land related and labour matters. The unit will have to employ one attorney who will be based at Polokwane.

The Department of Land Affairs established a panel of land reform attorneys, and the firm of Cheadle, Thompson & Hudson Attorneys won the tender to establish, appoint and train panelists. We submitted a proposal to the department to be included on a panel to provide legal services for farm dwellers. The proposal was accepted, which means that cases are now referred to our legal clinic through the DLA's panel.

We have submitted invoices for the work done on six cases to date. We expect this panel to continue to provide some supplementary funds for the law clinic, but we still need to attract more funding to provide representation to restitution claimants.

We intend opening law clinics at our Elim and Pretoria offices if and when funds become available so we can employ two more attorneys who will be based at those offices. This will enable us to deliver more effectively on our legal services.

By the fourth quarter of 2008, 109 farm dweller cases were handled by the legal unit. Most of these were resolved through negotiation; 41 went to court. Negotiations have favoured our clients more and are far less expensive. Going the court route is usually the last resort.



We intend opening law clinics at our Elim and Pretoria offices if and when funds become available so we can employ two more attorneys who will be based at those offices

Some of the trends

- ▶ Farmers convert crop and cattle farms into game farms and this leads to indirect and direct eviction of occupiers.
- ▶ Threatened eviction cases are still high; however, farm owners – more especially those around Thabazimbi – are now applying to court before evicting people.
- ▶ There is a continued need for Nkuzi to educate farm workers about labour legislation and to apply them accordingly.
- ▶ Some farms are owned by absent owners and/or foreigners and we experience problems when we want to liaise with them.
- ▶ Some clients come to Nkuzi when they have already been legally evicted. There are many lawyers who take on eviction cases and do not consult with clients afterwards. Some of them reportedly do not attend the court hearings and do not bother to report back to their clients. Their clients become aware of the outcome of their case when the sheriff serves them with eviction notices. As Nkuzi we have taken it upon ourselves to report such incidents to the Law Society as these lawyers are paid by the Legal Aid Board.
- ▶ Some councillors take the lead in negotiating for affected farm dwellers or farm workers. This has led to many of the farm dwellers accepting unreasonable offers and waiver of rights. Farm dwellers are vulnerable and they trust anyone who portrays knowledge of and sympathy for their cause, and they are easily exploited in the process.

Meetings

Along with other civil society organisations, including the RLT, Nkuzi participated in a meeting with the minister of land affairs, the director-general and other senior managers. Among the issues raised were concerns regarding the Department of Land Affairs' proposed new approach to provision of legal services for farm dwellers, which prolong service delivery amid the long and cumbersome judicial processes. This process is more expensive since it is now using private firms to facilitate services delivery. This money could be spent more effectively on the RLT, which already has a proven service delivery system in place. While a number of commitments were made with regard to follow-ups to this meeting, we are still awaiting the promised further meetings with the director-general of the DLA. We also await the formal establishment of the Minister's Advisory Council which was promised last year but has not yet been formalised.

Nkuzi also supported the RLT in engaging with the department regarding renewal of the agreement to pilot the incorporation of teams from the trust into Legal Aid Board Justice Centres.

We presented a report on eviction trends in Limpopo and Gauteng provinces to the Portfolio Committee on Land and Agriculture. Two farm dwellers from Limpopo also told of their treatment and of their evictions from farms. Meetings were also held with the provincial DLA and some municipalities, including Mogale City and Kongwani, to again highlight the plight of farm dwellers and workers and their right to be treated with dignity.

Case Studies

Sithole family. Muldersdrift - illegal eviction

The case was referred to Nkuzi by the community development worker. The house was demolished by the owner and the case was reported to the police as it was an illegal eviction. The DLA was approached for legal assistance and it appointed a lawyer to help the family. When the owner was made aware of his wrongdoing he hired a tent for the family. He engaged his lawyers, who proposed an out of court settlement. The landowner then made an offer of R150 000 to the family for them to move off of the farm, which was agreed on. The family now lives in Munsieville.

Shadrack Mathye - Louw's family

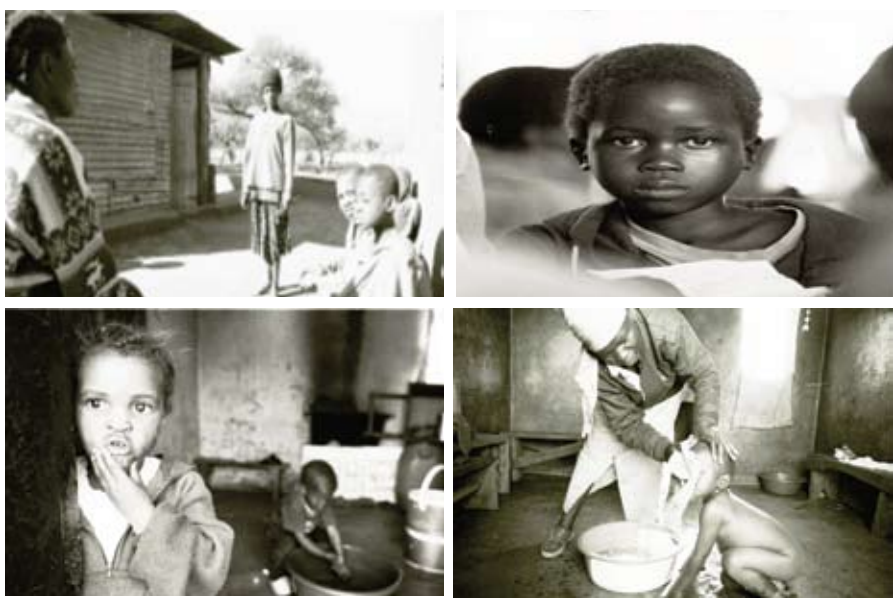
Shadrack Mathye was born on the farm Purekrans, in Mookgopong, in 1945. He lives on the farm with his wife and nine children. The farm was owned by Chris Louw, who died in 2007.

Mathye had cattle, sheep and goats and in about 2002, the landowner told him to reduce his livestock. He did not do so. Louw then divided the farm into three portions and put Mathye's cattle in a waterless portion where there was no grazing. As a result, his cattle died.

After Louw's burial, his wife and daughter informed Mathye that they were selling the farm and he and his family should look for another place to live. The Louw's lawyer offered Mathye R100 000 to terminate his rights of residence – he did not accept the offer.

On 19 March 2008, a meeting was held between the Mathye family, Nkuzi Development Association and the Department of Land Affairs at Mookgopong.

The outcome was that the family will not vacate the farm. Mathye is over 60 years old and has been living on the farm for more than 10 years; he is a long-term occupier, according to ESTA. The rights of Shadrack Mathye were protected and his wish to remain on the farm was fulfilled.



Networking

Nkuzi remains strong regarding networking. We are still involved with ALARM (Alliance on Land and Agrarian Reform Movements) activities, and have ongoing engagements with land and other development organisations.

Two members of staff attended the Vhembe District Land Summit in June 2008. Nkuzi assisted in planning the summit and shaping the discussions.

Our director, deputy director, farm dweller programme manager and volunteer researcher attended a week-long training workshop on participatory action research in the southern Cape, which was linked to the Women on Farms Research Project.

We were invited to participate in discussions at the African National Congress headquarters on farm dweller issues. The outcome of the discussions was meant to feed into the party's election manifesto for 2009. We have also been asked to participate in a small task team that will help to draft an alternative farm dweller policy document in 2009.

A new partnership, started in December, culminated in the Church Land Project with Anglican and Catholic churches which cemented our donor relation with the National Development Agency, which wants to fund this project. This is in relation to restituted communities that need post-settlement support on land use options.



We would like to thank the following partners and donors for their continued co-operation and support in the struggle for land rights and human dignity for the rural poor of South Africa:

Partners

ALARM	Alliance on Land and Agrarian Reform Movements
CBOs	Community based organisations (Local)
CCMA	Commission for Conciliation, Mediation and Arbitration
CDWs	Community development workers
CGE	Commission on Gender Equality
CPA	Communal Property Association
CRLR	Commission for the Restitution of Land Rights
DLA	Department of Land Affairs
DOA	Department of Agriculture
DSD	Department of Social Development
LIDSA	Limpopo Business Development Agency
LPM	Landless People's Movement
LRC	Legal Resources Centre
NDA	National Development Agency
PLAAS	Institute for Land Reform and Agrarian Studies
PLRO	Provincial Land Reform Office (DLA at the province)
RLCC	Regional Land Claims Commission
RLT	Rural Legal Trust
SANGOCO	South African Non-Government Organisation Coalition
SMI	Sisonke Masilwe Indlala

Donors

The Atlantic Philanthropies
 Christian Aid
 DKA
 Ford Foundation
 Horizon T3000
 Rural Legal Trust
 National Development Agency
 Department of Land Affairs
 Department of Agriculture
 Department of Social Development

Training for 2008

- ▶ Regional food security workshop in Namibia;
- ▶ People dialogue on agro-fuels industry in the region, sponsored by the SADC;
- ▶ Scale of production of food for energy in the SADC region research seminar;
- ▶ Agricultural practices in South Africa short course by the University of Pretoria;
- ▶ Post-settlement support dialogue by civil society organisations in South Africa;
- ▶ Workshop on women's access to land, in Nairobi, Kenya; and
- ▶ Methodology on action research workshop in George.

Staff members

Teresa Yates	Executive Director
Shirley Mmakoma Mafemo	Book-Keeper
Cross Nandu Malumbete	Unit Co-Ordinator
David Ndiafhi Kwindi	Project Officer
Emision Mapula Mnisi	Legal Secretary
Joseph Geophrey Shivambu	Project Officer
Vasco Falaza Mabunda	Project Officer
Phillemon Sekubate Tlane	Project Officer
Lourain Morongoa Moshaba	Administrator
Moses Morupile Sekobane	Project Officer
Frans Mokibelo Malemela	Financial Accountant
Annastacia Ntokozo Nzimande	Project Manager
Reuben Mohale	Project Officer
Azwianewi Makhado	Administrator
Derick Tebogo Manenzhe	Project Officer
Stephina Raesetsa Ngoasheng	Legal Secretary
Shirhami Shirinda	Project Officer
Edmund Gabriel Barnett	Deputy Director
Mothokoa Kgobe	Attorney
Matilda Moshaba	Cleaner
Sindisa Makhuvha	Cleaner
Anna Baloyi	Cleaner
Clara Mahatsela	Cleaner
Letago Langa	Unit Co-Ordinator
Andile Mnexitama	Project Officer
Constance Mathata	Legal Secretary
Hezekiel Rambwabeli	Project Officer
Tsholofelo Maleka	Project Officer
Thomas Phooko	Project Officer

Nkuzi Development Association Financial Report



LiebenbergErasmus

Chartered Accountants (S.A.)
S.A. Institute of Chartered Accountants (SAICA)
Practice Number : 923729

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TO THE MEMBERS OF NKUZI DEVELOPMENT ASSOCIATION

We have audited the accompanying annual financial statements of Nkuzi Development Association, which comprise the directors' report, the balance sheet as at 31 December 2008, the income statement, the statement of changes in equity and cash flow statement for the year then ended, a summary of significant accounting policies and other explanatory notes, as set out on pages 6 to 15.

Directors' Responsibility for the Financial Statements

The company's directors are responsible for the preparation and fair presentation of these annual financial statements in accordance with the South African Statement of Generally Accepted Accounting Practice for Small and Medium-sized Entities, and in the manner required by the Companies Act of South Africa, 1973. This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of annual financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditors' Responsibility

Our responsibility is to express an opinion on these annual financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the annual financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the annual financial statements. The procedures selected depend on the auditors' judgement, including the assessment of the risks of material misstatement of the annual financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the annual financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the annual financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Basis for Qualified Opinion

In common with similar organisations, it is not feasible for the organisation to institute accounting controls over cash collections from Grants received and Organisational income prior to initial entry of the collections in the accounting records. Accordingly, it was impracticable for us to extend our examination beyond the receipts actually recorded.

Opinion

In our opinion, the annual financial statements present fairly, in all material respects, the financial position of the company as of 31 December 2008, and of its financial performance and its cash flows for the year then ended in accordance with the South African Statement of Generally Accepted Accounting Practice for Small and Medium-sized Entities, and in the manner required by the Companies Act of South Africa, 1973.

Accounting and Secretarial Duties

Without qualifying our opinion, we draw your attention to the fact that with the written consent of all members, we have performed certain accounting and secretarial duties.

**NKUZI DEVELOPMENT ASSOCIATION
(ASSOCIATION INCORPORATED UNDER SECTION 21)
ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2008**

BALANCE SHEET

	Note(s)	2008 R	2007 R
ASSETS			
Non-Current Assets			
Property, plant and equipment	2	242	232
Current Assets			
Trade and other receivables	3	295,840	749,921
Cash and cash equivalents	4	1,096,002	466,392
		1,391,842	1,216,313
Total Assets		1,392,084	1,216,545
EQUITY AND LIABILITIES			
EQUITY			
Retained income		708,287	822,854
LIABILITIES			
Current Liabilities			
Trade and other payables	5	613,246	336,391
Provisions		70,553	57,302
		683,799	393,693
Total Equity and Liabilities		1,392,086	1,216,547



**NKUZI DEVELOPMENT ASSOCIATION
(ASSOCIATION INCORPORATED UNDER SECTION 21)
ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2008
CASH FLOW STATEMENT**

	Note(s)	2008 R	2007 R
CASH FLOWS FROM OPERATING ACTIVITIES			
Cash receipts from customers		4,798,957	5,189,455
Cash paid to suppliers and employees		(4,231,112)	(4,789,596)
Cash generated from operations	8	567,845	399,859
Interest income		31,776	363
Net cash from operating activities		599,621	400,222
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchase of property, plant and equipment	2	(11)	(8)
Sale of property, plant and equipment	2	30,000	-
Net cash from investing activities		29,989	(8)
Total cash movement for the year		629,610	400,214
Cash at the beginning of the year		466,392	66,181
Total cash at end of the year	4	1,096,002	466,395





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