

NKUZI

DEVELOPMENT ASSOCIATION

ANNUAL REPORT 2006



Picture by: Nkuzi

These pictures showcase the work of Nkuzi, a Zimbabwean youth whose rights were defended after fingers were severed, the living conditions of Monyeki family who was reinstated after eviction, and the Sekororo community with a Mango farm that is producing Achaar.

ORGANISING FOR LAND AND PRODUCTION

**"Celebrating ten years of Successfully defending the land rights of
the rural poor"**

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1. Vision of Nkuzi

Disadvantaged women and men are organized and empowered to assert their rights and are creating 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.

(24 November, 2005)

Values

It was agreed that the values are to be practiced both internally and externally through the work with stakeholders.

The following are the values agreed

- Respect for human rights
- Listening and valuing each others voices
- Empathy and understanding
- Justice
- Transparency and openness
- Democracy
- Empowerment
- Acknowledgement of cultural diversity

2. WORDS FROM THE CHAIRPERSON



Tanya Mungulwa: Nkuzi Chairperson

Nkuzi Development Association was born this year ten years ago and therefore we should organize a celebration that is befitting an organization that is beginning to understand the world around it. I hope the management of Nkuzi shall organize this critical celebration which rarely occurs in organizations that operates in the land sector. Apart from helping many groups to lodge land claims and secure land settlement, one achievement that deserve a big celebration is the Eviction Survey research conducted in collaboration with Social Surveys in 2005. I am saying so because up to this year I hear it being quoted in radio news and newspapers whenever

farm workers issues are being discussed. The other achievements shall be the precedent setting cases won by Nkuzi that are benefiting the entire country such as the case "which proved in 2001 that the state has a constitutional obligation to provide legal assistance to farm dwellers when they have to deal with court cases. The most recent one which makes me particularly happy is the Popela community, a labor tenant's restitution claim that was challenged up to the constitutional court which ruled in our favor that labor tenants can claim their land through land restitution.

It is through these achievements that one can be proud to be associated with Nkuzi Development Association. It is through these achievements that Nkuzi has been able to put the rights of landless and poor people on the map. It is through these achievements that even when we celebrate and enjoy the fruits of democracy we are reminded every time that there are people who are less fortunate and who require institutions like Nkuzi to enjoy the fruits of democracy. It is through these achievements that the pain that was suffered by black people during the period of apartheid land dispossession could ultimately be turned into joy when people receive their land. It once again through these achievements that farm dwellers vulnerability is reduced and they begin to enjoy their rights like other citizens of South Africa.

We have gathered here today two years after the National Land Summit was held and resolutions were taken that were supposed to ensure speedy delivery of land to the poor but none of those resolutions were implemented. It was good for the Department of Land Affairs to gather people in Nasrec to express their frustrations with the pace of land reform and make suggestions on what needs to be done to bring about change. However, it is unacceptable for the Department to do nothing about the resolutions taken at huge expenditure to the tax payers' funds. We are yet to see any public consultation and involvement of landless and poor people on what is being done to implement the land summit resolutions. If indeed there is implementation, it is unfortunate that we do not see it nor hear about it. The strategies and mechanisms that have been put in place by the DLA will need to be revisited if the resolutions are to be quickly implemented.

There are two challenges that Nkuzi needs to overcome for the benefit of the poor and landless people in this country. One is the issue of developing a mentorship model that works for people who have received land through land reform programme. We must acknowledge that in as much as our people were successful subsistence farmers in the past, they need new skills and expertise to produce on a more commercial basis. It is not acceptable for white farmers to remain the only successful commercial farmers in our country we need more black farmers to

take over. The second challenge has to do with the support that is provided by the local sphere of government to the beneficiaries of land reform. Nkuzi should implement some of the creative ways documented in the model Area Land Reform Initiative (ALRI) to work with municipalities and other stakeholders at local level. Municipalities should begin to embrace land reform for it to become a success.

One of the internal challenges that Nkuzi need to overcome is the question of high staff turnover. This is weakening the organization and leaves it with little capacity to deliver. The loss of staff at Nkuzi is felt mainly by beneficiaries of its services who begin to see the difference in the service rendered. We are working together with the management of Nkuzi to improve this situation. Different strategies have been proposed to mobilize more resources for the organization. The board has committed itself to work actively in support of the Management to acquire the necessary resources to implement its programmes. I therefore want to take this opportunity to appreciate the work done by the Executive Director, the management and all staff for keeping the organization central to land reform during this difficult time and remain committed to its vision and programmes. Finally I want to thank all the stakeholders who believed in Nkuzi especially all our donors who remain committed to Nkuzi and its work.

Amandla !

Tanya Mungulwa - Chairperson

Board Members

Chris Mamabolo	Regional Land Claims Commission
Desiree Sehlapelo	Working for Water Project (Water Affairs)
Elleck Nchabeleng	Member of Provincial Legislature
Hudson Kgomoewana	Polokwane Gateway International
Joyce Seema	Business Consultant
Lucas Mufamadi	Executive Director- Nkuzi
Max Rambau	Uchani
Oupa Lehulere	Khanya College
Tanya Mungulwa	Business Woman (Dealing with village arts and craft)
Tidimalo Cheune	Youth Commission

3. DIRECTORS REPORT

Introduction



Executive Director of Nkuzi Development Association: Mr. Lucas Mufamadi

This report covers the period from January 2006 until the end of December 2006. The report shall give an overview of the progress made and the internal and external challenges that Nkuzi was confronted with during the year. Land reform in the aftermath of the national land summit and the release of the national eviction survey report proved to be more challenging not only for Nkuzi but also for the Department of Land Affairs and other civil society organizations. This is as a result of little progress that was attained in terms of the implementation of the national land summit resolutions and the lack of reduction in the number of evictions during 2006. In response to the broad land reform challenges Nkuzi implemented the following programmes in 2006: Land Reform Implementation, Farm Dweller, Policy and Research and Legal Services programmes. These programmes are all supported by Administration and Finance which forms a fifth area of work.

3.2. External Context

Land restitution continues to be a priority in South Africa with the President of the country continuing to set targets occasionally in his state of the nation address. The extension of the deadline for completion of all land claims to end of 2008 clearly indicates that the President would like to leave a good legacy with regard to land restitution, that of the completion of all land claims. Following the prioritization of this area of work, there has been an increase in the budget, personnel and hiring of consultants in the Commission for Restitution of Land Rights. Unfortunately all these efforts have not led to an increase in the number of rural claims or claims that should be settled through land transfer. Instead there is an acknowledgement by different officials within the Commission for Restitution of Land Rights and the general public that the claims that are left to be settled are more difficult and complex. However, the Commission remains steadfast in its commitment to resolve all the claims by the year 2008, which is highly unlikely judging from their previous performance.

With regard to redistribution, the only policy that government is implementing is Land Redistribution for Agricultural Development (LRAD) which continues to benefit the rich over the poor. The maximum amount of grant, i.e. R100, 000; government gives to the wealthiest potential farmer cannot purchase a farm in the land market in which prices are inflated due to the amounts of money paid to farmers for restitution purposes. This has resulted in the purchase price being co-financed by the Land Bank and other commercial banks. This was also not properly communicated to beneficiaries of this programme that the loan shall need to be paid back to the banks. This has resulted in land repossession by the banks which are reversing the gains made through land redistribution. The slowness in the implementation of this programme is resulting partly from lack of land for redistribution purposes since most of the land is under

claim. This programme needs to be reviewed to ensure that beneficiaries are not set up to fail in the hostile farming environment. Government continues to chase the amount of hectares delivered, instead of telling us how many people have benefited from the programme.

Tenure reform on farms and in communal areas continues to be the least priority for government. This is demonstrated by little budgetary allocations and lack of commitment of staff members appointed for the implementation of this programme. The Nkuzi eviction survey study made it very clear that the Extension of Security of Tenure Act of 1997, has failed to provide protection to farm dwellers rights, farm workers continued to lose land rights through evictions both legal and illegal, they continue to suffer abuse both physical, in the form of assaults, and psychological in the form of the general treatment they receive which completely lacks dignity. Farm dwellers continue to be denied basic rights such as access to water and firewood, right to burial and right to have visitors. The farm workers continued to be denied the rights to tenure security. The tenure security of people who live in communal areas is still not guaranteed since the Communal Land Rights Act has not yet been implemented. The constitutional court challenge, which was anticipated by many in civil society organizations due to the flaws in the Act, does not help the matters either. If the resource allocations to the tenure security division do not improve tremendously, it is highly unlikely that this Act will ever get implemented since it will require a lot of financial resources.

Civil society organizations continued to be weakened with the unity between former affiliates of the National Land Committee seriously compromised by lack of funding. The only programme that brought these organizations together was the farm dweller programme. The differences in approach towards community mobilization and the emergence of ALARM (Alliance of Land and Agrarian Reform Movements) further strained the relationship since it was viewed with suspicion. The invitation by government for civil society organizations to join the National Steering Committee in order to deal with the implementation of the land summit resolutions taken in 2005 did not help matters either. It is clear that to organize the land sector organizations we need to move beyond the former affiliates of the NLC and identify new rallying points. The reorganization of land sector organizations to fill the vacuum left by the NLC is crucial if non governmental organizations want to remain strong in lobbying and advocacy at national level.

3.3. Internal Context

Nkuzi continued to do sterling work among all the challenges posed by the environment. The Land Reform Implementation Programme deals mainly with restitution, community organizing and Sustainable Livelihoods Support. Nkuzi this year prioritized the involvement of municipalities in working with land claiming communities throughout Limpopo province as a result of our experience with lack of post settlement support after claims have been settled. Three local Municipalities and two district municipalities have embraced and prioritized land restitution projects in their IDP documents. The Regional Land Claims Commission claims to be left with 788 rural land claims to settle. This figure is seriously misleading and might not include lost files and claims that were unfairly dismissed. There are also many disputes among claimants and also with land owners that Nkuzi has to contend with, which required Nkuzi to mediate among other things. The disputes that could not be mediated were referred to court.

Since this was a year following the National Land Summit we planned to increase community

lobbying and advocacy role, through conferences, campaigns and seminars. This proved to be difficult to achieve due to lack of funding we only managed to organize communities to ALARM conference to consider strategies that should be adopted to increase the pace of implementation of the land summit resolutions. Most activities were carried out in support of communities that have received land to ensure that they make productive use of the land. These included training, facilitation, drafting of shareholders agreements between strategic partners and land claims beneficiaries, ensuring that there is provision of support at local municipality level. In other instances we have also facilitated the involvement of LIBSA and the National Productivity Institute. This programme continued function without a programme manager.

Nkuzi has prevented a number of evictions and assisted many to exercise their rights to live and work on farms. It is surprising that after the release of the national eviction survey findings there seem to be an increase in the number of families and individuals threatened with evictions and who are being evicted. Many of the land owners are beginning to follow procedure before carrying out an eviction, which is acquiring of a court order. There are also less evictions resulting from labour disputes. We continued to highlight the abuse of farm workers and farm dwellers rights through the media and campaigns. An additional feature in our work has been dealing with HIV/AIDS on farms project which we continued implementing and learning from since last year. Our staff members were hosted in different radio programmes and made headline news on television. The advocacy and lobbying activities were continued to put pressure on government to provide better policies and legislation to protect the rights of farm dweller. We have also made submissions and input into the development of different legislation.

The Land Rights Legal Unit continued to provide essential legal services to people who would have otherwise received no legal representation at all. The unit has achieved a number of successes in negotiating and settling cases between farm dwellers and land owners. With some of the land owners negotiations is not an option but they prefer taking cases directly to court. However, the judicial process remains a very expensive process, especially now that we are entertaining land claims.

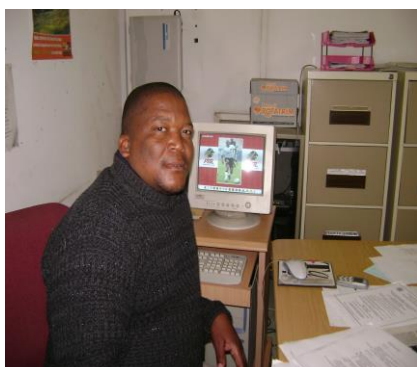
As far as staffing is concerned by the end of the year 2006 Nkuzi had 18 full time staff members excluding six volunteers who join the organization on a six month basis. We received three resignations from Marc Wegerif, Tshililo Manenzhe and Ntokozo Nzimande. These positions were not filled partly because the contracts with the donors came to an end and also because of cash flow problems. The positions shall be filled in the following year.

If Nkuzi wants to remain sustainable it should fill these positions with experienced and competent staff. The other element of sustainability shall be the income that Nkuzi needs to generate from running its own activities. This may enable the organization to offer competitive salary packages and eliminate cash flow problems. The donor environment remains difficult for NGO's, with many donors currently working directly with government. Within the harsh donor conditions Nkuzi has been able to maintain its donor base. Even though all the Nkuzi donors were maintained their conditions for funding changed and the amount of money committed towards our work decreased. Other donors' contracts came to an end and 2006 was spent negotiating new donor contracts. We hope to improve this situation in the near future.

4. Programme Overview

5. Land Reform Implementation

Nkuzi implements this programme through four sub-programmes: Restitution, Redistribution, Community Organizing and Support as well as Sustainable Livelihoods Promotion.



Acting Programme Manager, Land Reform Implementation: Mr Philemon Talane

5.1. Restitution

The pace of settling land claims through the restitution process has not improved in 2006 as anticipated by many people after the deadlines set for the settlement of all land claims. This year none of the claims that Nkuzi worked with were settled. The Commission has settled a number of claims through cash compensation and development award this year. This is the reason why none of the claims of Nkuzi were settled since Nkuzi only works with communities that have lodged rural claims. The Commission also claims to have settled all the claims except for 788 rural land claims remaining out of 5814 land claims lodged. There is general acknowledgement that the land claims that are left are more difficult and complex than the land claims that are already resolved. It is for this that the Commission established a Restitution Forum composed of key stakeholders such as Nkuzi Development Association, the Farmers Unions and the banks to find a way of improving the settlement of land claims as well as resolving land disputes before they go to court. Nkuzi is represented by the Director and other staff members who alternate in the forum. This is assisting stakeholders to understand each others point of view and is preventing the misunderstanding between the stakeholders.

The new target set for the settlement of all land claims is the year 2008. However the pace of settlement of land claims has not improved. On top of that there are cases that have to be resolved in court which complicates the matter. It is clear that the Commission shall not meet the second target. The Commission should change its strategy and find a way of settling claims in a sustainable manner rather than chasing after statistics.

It is highly questionable whether the number of claims left to be settled in Limpopo of 788. This is because there are still claims that are not accounted for such as claims whose files are lost and those that are unfairly dismissed. Rather than focusing on chasing after the targets, the Commission should focus on sustainable settlement of land claims. Nkuzi is involved in a pilot to provide sustainable settlement of land claims in Levubu. The Ravele cluster of land claims communities is receiving assistance, to make smooth entry into farming through the support provided by strategic partners. Strategic partners (SAFM and MAVU) have been appointed to assist beneficiaries to ensure that the farm remain productive.

Agreements have to be reached detailing the terms of partnership between land claims communities and strategic partners. Nkuzi appointed Deneys Reitz to represent the interest of communities in drafting the Memorandum of Understanding and the Shareholders Agreements. The process of negotiations between the strategic partners and the representatives of communities continues. Deneys Reitz have agreed to do the work pro-bono, Nkuzi is paying for

their travel and other expenses in the provision of this service and assist community members to participate.



Picture: Shirhami
*The meeting facilitated
by Nkuzi between the
Muhanelwa community
and Commission staff*

The local Municipality officials are involved in these arrangements. The farms concerned continue to operate with the assistance of shareholders even before the agreements are finalized. Workers are recruited from the beneficiary communities.

5.2. Redistribution

During this period Nkuzi was approached by more communities wanting to be assisted with applications for land through the Land Redistribution for Agricultural Development (LRAD). Many of these communities are those who felt that the restitution process left them out even though they have a legitimate claim. We have engaged the Department of Land Affairs to assist these groups of people to acquire land through LRAD. By the time an application is lodged with DLA the community has already reached an agreement with a land owner who is desperate to sell. However, DLA takes too long before they process applications and by the time DLA is ready to buy, sometimes the land is no longer available. It is sometimes important to check and verify agreements between land owners and communities before DLA purchases the farm since they might be fraudulent in nature. The fact that none of the four groups we assisted to lodge applications have been successful is an indication that this programme is not working for the poor people. One of the reasons advanced by DLA is that the land earmarked by the groups that are who have applied for redistribution is under claim.

5.3. Community Organizing and Support

The communities in Limpopo were organized and assisted to lobby and advocate for the implementation of the summit resolutions. This took the form of mobilizing land claimants communities to stand for their rights at the land claims level and engage the RLCC for speedy processing of their claim to a regional level where regions organized under the banner of Landless Peoples Movement (LPM) were provided with information and reports on the land summit resolutions. The dissemination of the land summit report was done at provincial level of

the LPM where response to the report was compiled to the Department of Land Affairs. The LPM members were also organized to participate and attend the conference which was organized and supported by the Alliance of Land and Agrarian Reform Movements (ALARM). In preparation for the ALARM conference a representative from Limpopo was selected to sit in ALARM national steering committee.

The farm workers were also organized to participate in the LPM and ALARM activities. The eviction response forum established in Limpopo province especially the Lephalale branch participated actively in LPM activities. The LPM organized a campaign against eviction, demanding a moratorium on all evictions. This campaign was carried out at regional level and municipalities in which evictions were high were targeted. The campaign was supported by the local eviction response committees and was supported by the Department of Land Affairs. In all the campaigns and workshops eviction survey findings were presented to the audience to talk about their tenure rights. The local officials of the Department of Labour as well as the CCMA were involved to brief people about their labour rights. The mayors of each municipality were given space to open each workshop and it was used as a recruitment tool for the LPM leadership.

Nkuzi assisted farm dwellers to participate in the national farm dweller campaign which was held in Pietermaritzburg. Farm dwellers from Limpopo and Gauteng were organized to attend this event. The message was again the same that a "Moratorium on evictions should be imposed" and they also demanded the implementation of the land summit resolutions of 2005. In preparation for the World Social Forum which was going to happen in Africa for the first time, Nkuzi also organized participants from Gauteng and Limpopo province to attend the Africa Social Forum in Malawi. Nkuzi represented the land sector and made presentations in the summit about the plight of landless people in South Africa.

5.4 Sustainable Livelihoods Promotion



Picture by: Lucas
*Sekororo Achaar factory
recovering towards full
production.*

As more communities are beginning to receive land there are more post settlement issues that needs to be facilitated. Some of the issues that Nkuzi engaged with from beneficiaries of land reform include the following: facilitation of land transfer into the name of the community, the

appointment of a caretaker farmer to ensure continued productivity, the release of discretionary grants for development purposes that communities are entitled to, and the appointment of

strategic partners. This year Nkuzi has actively worked with the following communities: Bophelo ke Semphekgo, Mmarobala O Itsose, Dikgolo, Mmaboi, Gumbu, Lebelo, the Ravele cluster which include, Shigalo, Masakona, Tshivhazwaulu, Ratombo, Tshakhuma, Magwada and Ravele communities in one cluster. These communities are facing a range of problems starting from the release of discretionary grants, land transfer to the issues of support by Department of Agriculture and strategic partnership issues. One problem which is common among all the CPA's is lack of trust in the leadership or internal conflicts and in other instances even before the farm is productive over the money for rental of the farm houses or who should use the houses that are located in their farms.

We continued to provide some support to Manavhela, Munzhedzi and Shimange. We took on a few new communities we assisted at the pre-settlement phase this year including Kranspoort, Morebene, Madisha and Sekororo community. More work still need to be done with these communities. Apart from the training that was offered to build skills, Nkuzi actively coordinated support and facilitated involvement of key stakeholders such as the Municipality, the Department of Agriculture, LIBSA and NPI. The Regional land Claims Commission (RLCC) was consistently engaged to mediate conflict and for the release of discretionary grants. The Restitution Forum in which Nkuzi is participating in Limpopo is also meant to ensure that there is adequate support from the stakeholders on post settlement support to communities that have received to ensure that there is no decline in agricultural productivity and local economic development. These communities have been assisted to produce on the land and their produce range from vegetable production, fruit tree production, poultry, cattle and goat farming. Almost all of them are selling their produce to the local market but only a few to the international market depending on the scale of their production

Dealing with Post Settlement Challenges-Case of Mmarobala

The Marobala-o-Itsose Community lodged a land claim with the Regional Land Claims Commission in 1996. After a long and tedious process five farms were restored back to the community in 2003 and two farms remain for processing. The land was transferred formally into the CPA in 2004, the extent of the land restored amount to approximately 9000ha to 600 families.

After land was transferred and celebrations conducted the community was charged with the responsibility of managing the affairs of the Communal Property Association. The committee started drifting away from the membership by taking decisions without consultations e.g. training opportunity were given to non beneficiaries; list of beneficiaries were expanded to include individuals who are not beneficiaries and authentic beneficiaries were deliberately excluded. Deals were made with companies and individuals without involvement of community. This state of affairs led to discontent and mistrust amongst beneficiaries. The community started challenging the committee's decisions for example bringing their own cattle on the farm refusing to pay any levy, and demarcating plots for themselves.

The committee was ultimately divided into two with members who were dissatisfied with the previous committee forming another CPA and thereby creating two centres of power. The broke away group started representing the views of the community at large and presenting them to the RLCC. On numerous occasions communicating their frustrations to the Commission but no intervention came forth. The RLCC insisted that the recognized committee was the initial one and could only address their concerns if they com through that committee.

Nkuzi Development Association was approached as a last resort. Nkuzi participated in the activities of both groups with a view to win their confidence. A process of resolving the conflict was outlined and presented to the RLCC, and at first an agreement could not be reached on the matter. A number of meetings were held some chaired by the Commission and others chaired by Nkuzi. When Nkuzi took

over the chairing the Commission had given up on finding a mediated solution. Nkuzi continued to empower members to follow their constitution in dealing with disputes resolution. The two groups were not communicating directly with each other; they used lawyers to do so and in the process waste a lot of resources.

In one general meeting a motion was passed to call a Special Meeting in line with the constitution of the CPA. It was in this special meeting that a motion of no confidence was passed in the CPA executive. This meant the two committees were disbanded. The constitution was also amended to deal with issues of benefits and allocation of resources. The new committee was elected to replace the old one. We hope the new CPA committee will work together in harmony for the farms to benefit everybody in this community.

This year we have seen some communities that we have supported receive equipments and supplies through the Comprehensive Agricultural Support Programme (CASP). However, the different understanding of how CASP should be implemented from one official of the Department of Agriculture to another leaves community members confused. Nkuzi believes that CASP is providing very little support since more support is required for beneficiaries of land reform to turn their farms into farming enterprises rather than projects. CASP should not discriminate between restitution beneficiaries and redistribution beneficiaries. More resources should be provided to farmers through CASP, the budget that is currently available for this purpose is minimal, considering the fact that these farmers are going to compete in the global market against highly subsidized produce from Europe and elsewhere.



Picture by: Lucas

Some farms to be restored to Makgoba community

6. Farm Dweller Programme



Sphiwe Ngomane: Programme Manager for Farm Dweller Programme

This programme was put under test as increased number of cases of threatened eviction and unfair labour practice were reported to Nkuzi. This we attribute to the Eviction Survey study carried out by Nkuzi indicating that massive evictions took place between 1994 and year 2004. This has been a very busy year for this programme in the sense that our intervention rate increased tremendously, while at the same time the project officers responsible for this programme needed to respond to the media and provide statistics to the government. The project officers in this programme enjoyed a lot of media attention and have been hosted in different radio stations and have appeared on television. The newspaper journalist have also engaged the organizations tremendously with some discovering a case and reporting it to Nkuzi with the intention of making follow ups.

The programme was implemented in a uniform manner both in Limpopo and Gauteng through making farm dwellers aware of their tenure and socio-economic rights build their capacity to exercise such rights and improve their access to secure land and relationship with the land owners. However, in the far north we have dealt with a number of cases which involve illegal Zimbabweans who are working on South African Farms. We have worked with different international organizations such as the Human Rights Watch to raise the plight of illegal immigrants on farms. Illegal Zimbabweans live in very bad squalor conditions on farms. Despite the publication of Nkuzi eviction study and the resolutions taken at the land summit to put a moratorium on evictions, there seem to be an increase in the number threatened eviction cases reported, brutal exploitative working conditions, unfair dismissals and labour practice as well as an increase in prevention of farm dwellers to access basic services such as water or constructive eviction.

During this year Nkuzi has intervened on **328** cases of threatened eviction, **184** cases of unfair labour practice, and **32** cases of human rights violation or constructive eviction. The actual evictions mainly legal were 8 and most of this have not yet been concluded since we are challenging them in court. Many people who are threatened with evictions are former employees to previous land owners, who find themselves in the mercy of the new landowners who are trying to evict them. Many of these cases were brought to our attention through collaborating with Advice offices, Parliamentary Constituency offices, individual rural councilors and rural municipal managers and mayors.

There has been no implementation of long term tenure security as provided for by ESTA to ensure secure tenure for farm workers. Farm dwellers whose tenure rights should be secured in terms of ESTA are not benefiting due to lack of implementation. There is a growing trend of advice by the DLA officials for farm workers to apply for land through LRAD. About two farm dweller families have received secure tenure through purchase of the farm using LRAD.

Most of the cases are settled out of court through negotiations since it is the most sustainable way to restore relations between land owners and farm dwellers. In few cases both in Gauteng and Limpopo we have been able to restore the rights of farm dwellers by directly approaching the Land Claims Court through our Legal Unit and the RLT attorneys and managed to get rulings in favor of farm dwellers. The CCMA also helps in resolving labour problems of farm dwellers

before they reach a stage where they might be evicted. The cases that we refer to the CCMA include unfair labour practice, unfair dismissal and retrenchment.



Picture by: Shirhami
The living conditions of farm workers, interviewed by one of our visitors

The table below illustrates the type of cases and the number of cases that Nkuzi dealt with in 2006.

TYPE OF CASES	NUMBER OF CASES
Threatened Eviction	328
Evictions	8
Labour Dispute	184
Violation of Human Rights	32
On / Off site settlement	2
Civil Claims	2
TOTAL	556

Nkuzi has also assisted communities to access graves of their relatives on farms as well as farm dwellers to bury on farm. The Farm Dweller Programme staff has also been involved in the gathering of information for the National eviction survey study and in information dissemination in the current year.

About 6 information dissemination workshops dealing with the rights of farm workers were run for the farm dwellers. There is always a continued need for convening information dissemination workshops particularly to cover relevant applicable legislation like the Extension of Security of Tenure Act, Land reform Labour Tenants Act and the minimum wage, sectoral determination for the agricultural sector. All these workshops are run with the involvement of the Department of Land Affairs and the Department of Labour officials and in other instances CCMA commissioners. During this year there has been active involvement of municipal officials and politicians such as the mayor and councilors. Apart from workshops there has been campaigns run to demand the implementation of the moratorium on evictions and other national land summit resolutions.

In addition to these workshops we collaborated with PPASA to disseminate information on HIV/AIDS, and more than ten workshops were held for different stakeholders on farms. This involved prevention, education and training, and care for the sick on farms. The rights education

also included rights of people who are affected and infected by HIV/AIDS. The programme was mainly active in two municipalities in Limpopo, which is Modimolle and Musina Municipality. In Gauteng the programme was active in Mogale city, Sedibeng and Mofeng districts. It is clear that there is a need for this project to be rolled out in all other municipalities.

7. Policy and Research Programme

Programme Manager for Policy and Research : Marc Wegerif



The Nkuzi policy and research programme has continued with a range of land related research projects, and engaged the various land reform policy debates in public forums, the media and in bilateral engagements with government and civil society organizations. Nkuzi provides inputs and critiques based on its experience and research has offered possible solutions through making practical recommendations and taking forward alternative approaches such as the Area Land Reform Initiative (ALRI) and the joint Rural Legal Trust, Legal Aid Board and DLA pilot project on provision of legal services to farm dwellers.

The Policy and Research programme experienced a serious loss last year due to the loss of both staff members in this programme. However, two contract researchers were still available to carry out the remaining activities. We shall recruit new staff members who will start work in the following year. The delay in the replacement of the two staff members was necessitated by the lack of adequate core funding that leaves the programme dependent on short term project funding.

Our biggest research project this year was the impact of HIV/Aids on land reform and land based livelihoods that are being run nationally by the Human Sciences Research Council (HSRC). Nkuzi was responsible for Limpopo Province. There were activities undertaken to disseminate the findings of the National Eviction Survey to other stakeholders including government. The book was sent out to all the Universities and Libraries. Copies of the photo book were printed and sold to individuals and organizations. A proposal has been drafted to do follow up work on the results of the Eviction Survey especially in lobbying and advocacy.

Nkuzi continued to pilot the ALRI pilot in the Makhado Municipal Area including the promotion of the approach and work with local groups, in particular landless people, the municipality and women. Nkuzi's successful advocacy around this approach was confirmed by the extent to which the Department seems to have adopted it. There have been talks in 2006 of the Department of Land Affairs embarking on area based approach to land reform. We shall review and engage with the policy when it comes out. A workshop was held in March this year in conjunction with the Natural Resource Institute in Pretoria to look at lessons that could be drawn from their territorial approach and area based approach to land and agrarian reform. This workshop was attended by all the major stakeholders including government officials. A manual has been developed on Area Land Reform Initiative (ALRI). This manual shall be bound and distributes as required.

The collaboration that Nkuzi has with the Programme for Land and Agrarian Studies on a study of the impact of land redistribution on poverty and livelihoods continued into the year 2006. Other possible areas of collaboration have been identified.

Policy interventions involved making inputs and doing media work related to the implementation of the National Land Summit resolutions, engaging effectively in the design of a farm housing policy by the Department of Housing, regular commentary in the media and policy forums and responding on a lot of activities related to evictions from farms using the eviction survey as a key input.

8. LEGAL SERVICES



Programme Manager for Legal Unit: Mr. Letago Langa

Nkuzi Land Rights Legal Unit is one of the programmes of the organization which offers legal services to landless and indigent people including people who live on farms and communal areas in Limpopo, Mpumalanga and Gauteng Province. Nkuzi Law Clinic is an integral machinery of the said programme and the overriding objective of the organization has always been to avail our target groups' accessibility to justice in order to enable them to assert their land rights. The organization still maintains two offices at Polokwane with two attorneys and Modimolle with an attorney and para-legal respectively. The co-ordination and integration of work by various programmes of the organization is illustrated by overlapping of activities to some extent. For example a field worker from Farm Dweller Programme will in most cases have direct contact with clients of the clinic and once a dispute is not resolved it is then formally referred to Land Rights Legal Unit where an attorney of the clinic contextualize the case sometimes by going to the field with the field worker before the case is taken. The Unit is presently handling about 195 cases. The table below illustrates the type of cases in the registrar of our clinic:

Type of cases	Number
Security of Tenure	96
Labour cases	65
Human Rights & Damages	14
Land Claims	20
Criminal/Maintainance/Pension cases	0
TOTAL	195

The Unit successfully finalized about 112 cases in 2006 and about 116 new cases were taken during the said year. About 74 cases were finalized through negotiations. Most of the cases which are finalized through negotiations are labour and security of tenure cases.

A restitution case of Popela Community featured prominently during this period. The case went through several stages and was heard by various divisions of court from Land Claims Court to Supreme Court of Appeal and it will later be heard by Constitutional Court. The case involves a claim which was dismissed by the Land Claims Court on the ground that the community is not a community as defined in the Act and that they were not dispossessed as a result of racially discriminatory laws. We appealed the decision to the Supreme Court of Appeal and in a move which left us almost speechless the Supreme Court of Appeal endorsed the decision of the Land Claims Court. The Supreme Court of Appeal argued that there is no causal link between

discriminatory laws and the present case where the farmer changed from labor tenancy to wage earning system for profitability. We wait with keen anticipation what the Constitutional Court's judgment will be.



Picture: Shirhami

Successful negotiation of burial rights for Seleise family, the land was ultimately bought for the family.

*April Kotsedi, our client's battle against the church NH Kerk Van Suid Afrika. A church is a well known place of worship and one seldom imagine a scenario where a person can be assaulted in a church building or yard or a church applying to court for an eviction as shall be shown when this discussion unfolds. April's family of a wife, three children and grandchildren resided on land owned by the church. According to information at our disposal and presented to court the family resided on the farm for a period of over ten years after he was brought to the said land by one church council member **Mr Sampie Joubert**. Our client also worked on the said land. It was when one **Mr Daniel Van Vuuren** took over that problems started.*

*Our client was severely beaten by a "man of God", **Mr Daniel Van Vuuren** after some differences which occurred in the course of employment of our client. After thoroughly beating our client, this staunch churchgoer, then dismissed our client. The police did not take our client's case seriously although our client laid charges of assault. As if that is not enough the church then applied to court for eviction of our client and his family from the land. Some allegations presented before court were among others that our client on numerous occasions organized parties amidst a high blurr of music punctuated by noise and fights while his guest treat themselves to alcohol. The church deliberately tried to ward off the requirement of alternative accommodation. Our attorney made a persuasive argument before court that in terms of the relevant legislation an alternative accommodation has to be provided for.*

Although the court made a finding that the relationship between the church and our client is irretrievably broken down it also made an order that the church must buy our client a site and build him and his family a four roomed house. The court further made an order that our client will remain on land until the said house is built.

9. Management and Institutional Development

This year Nkuzi did not manage to employ any new staff members even though we lost three staff members through resignations. The staff members we lost include Marc Wegerif in Research and Policy Unit, Tshililo Manenzhe in the same unit and Ntokozo Nzimande in the Farm Dweller Programme. By the end of 2006 we had 19 full time staff members and six volunteers. We are working on improving the environment in which we operate, to be more stable and less volatile. Our volatility comes mainly as a result of cash flow problems since staff members feel volatile during that period.

Nkuzi holds an annual operational planning meeting each year. This year we had an operational planning event held at Eagles' Nest lodge facilitated by Tlhavhama Training Initiative. The objectives and outputs of the organization were confirmed. Some of the programme objectives changed and other projects were consolidated or added. The annual plan helps guide implementation of Nkuzi's programmes.

10. Staff Training

Two staff members attended a training workshop organized by the Community Development Resource Association (CDRA) on the Facilitator Development Programme. Two other staff members attended the Monitoring and Evaluation workshop organized by Olive OD and Training. Training on mediation was organized and attended by two staff members facilitated by the Commission for Conciliation, Mediation and Arbitration (CCMA). The CCMA training offer insight into the processes of mediation and negotiations to our project officers. One manager has attended a training course in Fundraising offered by the fundraising institute of South Africa.

Our Polokwane Administrator attended training offered by Papillon on Meeting Coordination and Minute Taking. This has improved the capturing of minutes of the Board meetings and other workshops of Nkuzi significantly. She also attended a course offered by Damelin the Fundamentals of Microsoft Office. The Office Bookkeeper has also been trained in Advanced Quickbooks to ensure that she has above average knowledge in our accounting software.

The Project Manager for ALRI participated in the annual local government conference that was held in Durban focusing on accelerated service delivery. Among other issues, intergovernmental relations was a critical issue that was debated because it affected service delivery in that municipalities are not yet able to play the envisaged coordination role. This is particularly the case for land reform as municipalities do not consider it to be their mandate.

11. Monitoring and Evaluation

Nkuzi provides a space for staff to reflect and learn from each other through the quarterly staff planning meetings, changed from bi-monthly meetings. This also provides an opportunity to review the annual plans and prioritize activities that need to be done on a short term basis. New staff has an opportunity to understand the approach of the organization through practically experiencing the running of the quarterly planning meetings. Time is also allocated for the staff forum to engage the management on a number of issues that directly affects them and make inputs to help the organization grow. The plans for the previous quarter are reviewed during this meeting which also provides an opportunity to monitor progress. This year an impact evaluation was commissioned and terms of reference were developed. One company has been appointed to do the evaluation. They will start with their duties next year.

12. Sustainability Factors

The work of Nkuzi is supported by a range of funders, mostly overseas based. We have continued to maintain all our foreign based donors during a very difficult period. We have also managed to secure financial support from local donors this year such as the National Lotteries Board (NLB) and the National Development Agency (NDA). The NDA has seriously let the projects funded by them down through failing to release funds according to the contracts.



Picture by Lucas: A growing squatter settlement of people evicted from farms in Phagameng, Modimolle

Nkuzi continues to generate own income through doing work for the government, universities, and other non profit organizations. Through this income we are able to cover some of the expenses that are not covered by donors.

Nkuzi has always spent all the funds received on programmes that have to deliver to the poor and landless rather than save the money in reserves. The delivery on programmes has created a reputation that has enabled the organization to grow and attract further funding. The negative side is that the organization has no reserves and therefore operates from one project or programme to the next depending on the availability of funding. This makes it difficult to attract and keep high caliber staff.

Given the above Nkuzi is confident that with the continued support of key funders it will be able to sustain and improve the current programmes. However, there are challenges such as the changing focus by some of our main foreign donors, which means we have to adjust our programmes to stay relevant or loose the donor completely. There have been changes in reporting requirements and some donors have shifted their focus from South Africa to other countries. All these increase the urgency for Nkuzi to look for alternative sources of funding or income.

13. Networking

The Executive Director of Nkuzi is currently serving in the governing structures of the following institutions, the National Land Committee (NLC), a final closure of the organization will be declared soon, just waiting for finalization of few reports. He has resigned from the South African Netherlands Partnership on Alternatives Development (SANPAD). The Director still actively engages with the land reform process including serving in the steering committee of the Alliance of Land and Agrarian Reform Movements (ALARM).

The emergence of a network that could replace the National Land Committee (NLC) did not happen as anticipated. We hope this might happen in the near future since at the moment there

is a vacuum that is felt mainly because civil society organizations should be lobbying and advocating for the implementation of the land summit resolutions. The former affiliates of the NLC remain committed to national networking and keep each other informed of developments.

South African NGO Coalition (SANGOCO) continues to function but is seriously weak at the moment, and only heard of them when there are big international events. However, SANGOCO continues to comment on national issues affecting NGOs in the country. However, its ability to mobilize NGOs and CBOs in the country is seriously compromised by lack of staff and resources.

11. Acknowledgements

Nkuzi would like to thank financial contributions from donor organizations and individuals both local and international. The following are the donors who supported our work in 2006:

- Horizont3000 (Austrian Development Agency),
- Foundation for Human Rights,
- Christian Aid,
- Rural Legal Trust,
- US Embassy,
- Ford Foundation,
- National Development Agency,
- National Lottery Distribution Trust Fund ,
- Human Sciences Research Council (HSRC),
- PLAAS of the University of Western Cape
- Natural Resource Institute, Greenwich University,
- Centre for Rural Legal Studies (CLRS) and
- Association for Rural Advancement (AFRA).

We also thank all the land claimants, landless people, farm dwellers and others who have shown confidence in Nkuzi by coming to us for assistance. We will continue to try and provide quality services and make important interventions in order to realize far reaching agrarian reform in South Africa.

12. Treasurer's Report

This is our way of accounting to all stakeholders and it is critical for the statements to be presented to this AGM so that all of you will be informed of the financial status of Nkuzi. As the Director has already indicated Nkuzi solicit funds from different donors to perform its activities. Each donor expects Nkuzi to spend its funds according to the approved budget. Funds that have been provided to Nkuzi should be completely on activities budgeted for or else Nkuzi will have to return the funds back to the donor. Nkuzi has long realized the importance of investing some funds for sustainability purposes, but we know fully well that the donors' funds cannot be touched. We have generated income through subcontracting and doing work for other organisations. The income we generated through contract work is reflected in the audit. However, we could not secure enough funds to invest and establish a reserve fund since more funds were needed to cover our operational costs. We shall however continue to strive towards the establishment of a reserve fund since it will help the organization to be sustainable. This year there has been a reduction of donors who invested money into Nkuzi's work. This has been explained in the Directors report. I would like to take this opportunity to thank all the donors who invested their funds into Nkuzi, I am hopeful that through the work of Nkuzi you are beginning to see the return on that investment. This has gone a long way into assisting the poor and landless people to acquire land and lead a life of dignity on farms and in other rural settings. I will explain a few things contained in the audited statements.

I would firstly like to draw your attention to the balance sheet which reflects assets as well as cash and cash equivalent of the organization. The balance sheet comprises of the assets in possession of the Organization at the end of the year. Cash and cash equivalents reflect the balances as reflected in the organizational bank accounts.

The second item that I would like to explain is the equity and liability which comprises of the surplus or deficit incurred by the end of the year. We had incurred an accumulated loss or deficit of 51%. This was mainly caused by donors who did not honor their contractual obligations and donors whose contracts came to an end in the year 2005. We were still renegotiating new contracts with the donors. The total liability compared to the previous year has been reduced tremendously. Accounts payable is composed of creditors, PAYE, UIF and we also make provisions for the thirteenth cheque at the end of the year. The money which was owed to SARS has been reduced and shall be paid of this year.

The Income Statement reflects the total amount of money received from donors and income generated through contracts. It is noted that our income for the year ended 31 December 2006 decreased by 34,9% compared with the previous year. This has occurred as a result of donors not honoring their contractual obligations and making payments late. We also only managed to secure one new donor last year and lost some funding due to the resignation of senior staff members who were responsible for certain contract projects.

The expenditure comprises of expenses incurred during the year. In line with the decrease in the income secured, the expenditure incurred by Nkuzi on projects went down by 43,9% compared to the year 2005. We however still spent more money than we received due to late payments from donors and failure to honor contracts by some donors. We shall monitor the expenditure against the budget very closely in future.

We have only attached 6 pages of an audited statement composed of 30 pages if you need the detailed audit please request it from our office.

Hudson Kgomoeswana
Treasurer

Picture by Lucas, Vasco Mabunda on the phone standing next to the Lephalale Municipal councilor, Ms Mojela, Sitting is Mr. Chisale and his brother at their homestead.



NKUZI DEVELOPMENT ASSOCIATION
(ASSOCIATION INCORPORATED UNDER SECTION 21)
BALANCE SHEET
at 31 December 2006

	Note	2006 R	2005 R
Assets			
Non-current assets			
Fixed assets	2	224	210
Current assets			
Cash and cash equivalents		66,181	906,451
Total assets		<u>66,405</u>	<u>906,661</u>
Equity and liabilities			
Capital and reserves			
Accumulated loss		(337,861)	195,319
Current liabilities		404,266	711,342
Accounts payable		289,088	621,856
Provisions		115,178	89,486
Total equity and liabilities		<u>66,405</u>	<u>906,661</u>



NKUZU DEVELOPMENT ASSOCIATION
(ASSOCIATION INCORPORATED UNDER SECTION 21)
INCOME STATEMENT
for the year ended 31 December 2006

	2006 R	2005 R
Income	4,229,870	6,499,012
Grants received	4,187,978	6,270,405
Sundry income	39,344	124,033
Interest received	2,548	20,167
Donations received	-	4,500
Profit on disposal of fixed assets	-	79,907
Total income	<u>4,229,870</u>	<u>6,499,012</u>
Expenditure (Refer to page 9)	<u>4,763,050</u>	<u>6,851,130</u>
Surplus/(Deficit)	<u>(533,180)</u>	<u>(352,118)</u>



**NKUZI DEVELOPMENT ASSOCIATION
(ASSOCIATION INCORPORATED UNDER SECTION 21)
INCOME STATEMENT
for the year ended 31 December 2006**

	2006 R	2005 R
Expenditure	4,763,050	6,851,130
Accommodation and perdiems	36,165	59,676
Auditors' remuneration	47,564	50,552
Bank charges	39,026	33,535
Capital purchases	25,744	64,547
Communication	365,006	357,936
Consulting fees	389,919	902,807
Evaluation	-	50,000
Eviction survey - Publications	-	140,003
Gifts	-	120
Insurance	56,561	91,271
Interest	-	189
Library, books and subscriptions	13,494	15,642
Litigation	10,097	45,486
Marketing land reform planning	6,000	10,840
Medical reports	-	8,125
Office costs, Admin and management support	429,686	487,863
Other expenses	-	615
Planning meetings	10,797	34,806
Project costs	7,791	107,685
Repairs and maintenance	2,706	7,531
Salaries	2,776,082	3,055,504
Security	3,601	3,167
Settlement payments	-	500
Staff training	53,824	82,358
Start-up costs	8,720	80,629
Training	-	30,991
Transport	418,515	644,038
Workshop and conferences	61,752	484,714



**NKUZI DEVELOPMENT ASSOCIATION
(ASSOCIATION INCORPORATED UNDER SECTION 21)
STATEMENT OF CHANGES IN EQUITY
for the year ended 31 December 2006**

	Accumulated loss R
Balance at 01 January 2005	547,437
Net loss for the year	<u>(352,118)</u>
Balance at 01 January 2006	195,319
Net loss for the year	<u>(533,180)</u>
Balance at 31 December 2006	<u><u>(337,861)</u></u>



12. Abbreviations

AGRISA	- Agricultural Union of South Africa
CCMA	- Commission for Conciliation Mediation and Arbitration
CRLR	- Commission for the Restitution of Land Rights
CLRB	- Communal Land Rights Bill
CPA	- Communal Property Association
CLRA	- Communal Land Rights Act
DFID	- Department for International Development
DLA	- Department of Land Affairs
FHR	- Foundation for Human Rights
HSRC	- Human Sciences Research Council
IDS	- Institute for Development Studies
LAB	- Legal Aid Board
LPM	- Landless Peoples Movement
LRAD	- Land Redistribution for Agricultural Development
MEC	- Member of Executive Council (Provincial equivalent of a government minister)
NLC	- National Land Committee
NRI	- Natural Resource Institute
PLAAS	- Programme for Land and Agrarian Studies
RLCC	- Regional Land Claims Commission (regional structure of the CRLR)
RLT	- Rural Legal Trust
SANGOCO	- South African Non Government Organization Coalition
SAHRC	- South African Human Rights Commission
Treasury	- Department of Finance

Nkuzi Permanent Staff, End 2006

1. Mafemo Shirley	Bookkeeper
2. Letsoalo Jerida	Programme Administrator
3. Langa Letago	Prorogramme Manager
4. Mufamadi Lucas	Executive Director
5. Ngomae Siphiwe	Programme Manager
6. Moloto Emmanuel	Attorney
7. Malumbete Nandu	Attorney
8. Malongete Tsakane	Office Administrator
9. Molohe Sipho	Attorney
10. Moshaba Morongwa	Office Administrator
11. Makhubela Getrude	Office Administrator
12. Kwindi David	Project Officer
13. Shirinda Shirhami	Candidate Attorney
14. Shivambu Joe	Project Officer
15. Mabunda Vasco	Project Officer
16. Talane Phillemon	Project officer
17. Malemela Frans	Accountant
18. Mamatho Mpfariseni	Contract Researcher
19. Moime Tshepiso	Legal Secretary



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