

**NKUZI DEVELOPMENT ASSOCIATION
2010 ANNUAL REPORT**



NKUZI

DEVELOPMENT ASSOCIATION

Chairperson's Report: Ms. Tanya Mungulwa

Current South African Context:

For the very first time the minister of Rural Development and Land reform conceded that his department is bankrupt and sitting on a deficit of R580 million which it owes to farmers who agreed to sell their farms for restitution. These concessions came during the parliamentary debate of Mr. Gugile Nkwinti's department. Majority of these offers to purchase date back to four years ago when recession was not even on the picture. The situation just proves that notion of the inefficiency of government and the lack of a political will to address the land question in South Africa. It is also a vindication for Civil Society's long held view that the market driven land reform is bound to fail.

Beneficiaries of land reform have been set up for failure a case in point is the concession given by the minister of rural development and land reform that they could not provide the R1 billion promised as part of the post settlement support. There are land reform beneficiaries who are still owed grants dating back to eight years ago. The state of affairs is exacerbating poverty by halting productivity on the farms, Gross Domestic Product is affected and as a result the Local Economic Development (LED) of regions is affected. Those families who derived their livelihood from the farming activities are no longer working due to low productivity or no productivity at all.

The dream of realizing food sovereignty continues to be a pipe dream with the reality that small scale and emerging farmers are experiencing in South Africa. Nationally government is not putting lot of resources into agriculture related research as expected, and as a result this makes our competitiveness with other farmers across the globe difficult. There is a need for a home grown solution for problems encountered by the local farmers. If urgent attention is not given to this scenario food security and safety might be at risk.

On the mining front the government of South Africa through the Department of Mineral and Energy has given over twelve thousands new mining licenses. The process was done through the government's Broad Based Black Economic Empowerment (BBBEE) which is exclusive to the politically connected individuals with the ruling African National Congress (ANC). They do not follow the environmental laws of the country hence a lot of environmental injustices experienced by the poor rural communities. A case in point is the mining activities carried out by Coal without proper procedures and furthermore mining close to the international heritage site called Mapungubwe in the Limpopo Province. The mining activities were brought by the communities to the courts since the government is in cohorts with them. The communities successfully secured a court interdict declaring their activities illegal and to desist from them until they have met all the requirements.

The poor people living in rural areas' tenure is still insecure in the light of the constitutional judgment given by the constitutional court concerning the Communal Land Rights Act (CLARA). The Act' intentions were to provide some security to this vulnerable in terms of the laws.

However a challenge was lodged against it as being discriminatory to vulnerable groups such as women, children and the disabled. The Act was declared invalid and unconstitutional by the supreme law of the country.

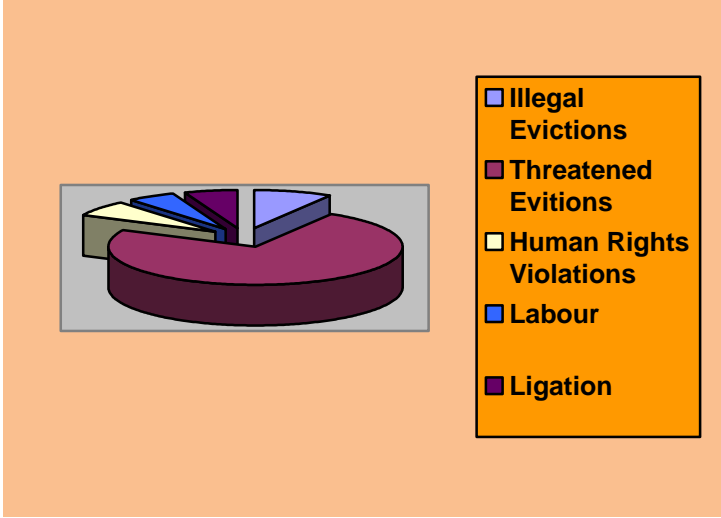
The freedom of speech in South Africa is under threat more especially with the proposed Media Tribunal; which is known from the neighboring country Zimbabwe. Amongst the arguments the ruling ANC is bringing forward is that the media has got an agenda against its leaders. In essence they do not want the public to know about the land injustices going on around them and their cohorts with big business and their tenders. The next target is going to be civil society organizations like Nkuzi and its sister organizations who are working around lobby and advocacy.

Director's Report: Fr. Eddie Barnett

Programmes Implementation:

Farm Dweller Programme

DESCRIPTION	1 st REPORT
Illegal Eviction Cases	19
Threatened Evictions	160
Human Rights Violations	15
Labour Related	11



Referrals for Litigation	13
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Indicators	Achievements
Strengthened networking relationships	Strong working relationships have been fostered with Advice and Constituency offices, and I in particular with the SAPS and Local Municipalities.
Implementation by government	2 workshops on the ESTA was done in Kromdraai and Baltimore 45 and 56 participants were reached. The workshop in both areas included member from municipalities
100 farm resident communities have been capacitated around the ESTA and are aware of resource available for secure tenure and settlement options	421 farm dwellers were reached and on their rights to the land they occupy and even more by way the 9 radio talk shows that were conducted with community radio stations.
Decrease of evictions in area of operation	20% of this programme has been dedicated to evictions.
Farmers follow legal route for evictions	60 % of victims were restored through negotiations
Farm dwellers refuse to be illegally evicted	60 % of the cases reported Nkuzi brought farmers to the negotiation table.
Mobilised farming communities take action to improve situation on farms and they demand their rights as and when required to do so.	100 % of the 160 cases reported threatened evictions were avoided because farm dwellers refused to leave the farms.
Cooperative partnership with government	Farm Dwellers were mobilized to participate in the South African Human Rights Commission's and Poverty Hearings.
Farm Dweller women and children are vocal about their rights and decrease of women and child abuse on farms	Farm Dwellers are in deed more focal about their rights and Nkuzi's exposure of women and child abuse on farms, have resulted in a drop of these abuses in it area of operation.

Farm dwellers are properly represented in Court and other related litigation matters

Cases of 4 Farm Dwellers have been prosecuted though not successfully. 4 are significant for us since most of the farm dweller cases ever reach prosecution stage.

CASE STUDIES – NDALA FAMILY

INITIATION ROW GOES TO LAND CLAIMS COURT

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

Visagie, in stating his reasons for objecting to the family hosting the ceremony on his farm (which is in a family trust) said the initiation ceremony was against the Dutch Reformed Church's beliefs and breach of the commandments of the Almighty God. In reaction to this the family stated that they too, were Christians who lived according to the values of the Christian faith. They respected his beliefs in that regard and did not expect him or his family to take part in any of their Ndebele cultural Traditions.Visagie expressed concerns about the hygienic aspects of the ceremony, as well as other safety aspects. He said that for those reasons he could not allow them to practice their tradition on the farm.

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

family. She added the circumcisions were performed at the residence of the chief, and not on the farm. Qualified medical doctors were expected to be in attendance to monitor that the procedure was safe and to ensure there was no risk of genital mutilation.

Once the procedure had performed, the initiates would immediately return to their family homes, where each group will be accompanied by a teacher, who would be in attendance throughout the initiation ceremony. Ndala said that person would ensure the safety, health and security of the initiates, and prevent any other problems. She said the induna, or sub chief, of the area regularly inspected the initiation school and reported back to the chief on any possible problems.

Ndala said it was her duty to ensure that the four initiates had clean blankets and sufficient food. Although they would live in the bush for the three months, they would stay in shelters made of thick grass. She said the family would at all times keep an eye on them to ensure that things ran smoothly. The family was assisted by Nkuzi Development to lodge their case in Rand burg Land Claims Court to seek relief from court as all avenues explored with the landowner have proved to be fruitless. The final day in court judgment was passed our clients won the case in court and the initiation went on as planned.

Court cases & Outcomes

- *Tarlton Occupiers-Settled in court 30 Nov 2010:*
- *Jacob Dlamini - Eviction application dismissed client remain on the farm*
- *Mashiya Qama-Client reinstated*
- *Mzala Occupiers –Matter finalized*

Cases referred to DLA for Legal Assistance

- Walkersville occupiers
- Motaung Family
- Susterfontein Dwellers

Networking

- Freedom of Expression Meeting
- Traditional Courts Bill workshop
- Hivos on Social Movements
- Launch for Lawyers Human Rights
- Sedibeng Task team meeting
- Action Aid Women National conference
- Lauch' of women's unit at Khanya College

- **Challenges & Lessons**

- Funding constraints has led us to minimise our intervention on cases, and refer most of them to DLA, and they haven't been giving us feedback on cases referred, A meeting has been scheduled with DLA officials.(Note the meeting hasn't happened)
- Unfulfilled posts still remain a challenge e.g. Modimolle, Elim and Polokwane
- Unable to reach clients due to limitation of funds
- Networks need more strengthening, a space created to debate relevant legislation e.g. traditional courts bill.

LEGAL UNIT

1. INTRODUCTION

This report covers activities of Legal unit for the year 2010. It contains the sum of activities that were performed with the intention of fulfilling the objectives of the organizations' legal unit. The main objectives are inserted herein in order to clearly define and indicate our successes and failures regarding our efforts to achieve same.

We will also discuss the trends that we discovered exist within the society especially in relation to problems emanating from the ownership, use, possession of land and the protection of the rights inherent therein.

2. CHALLENGES

Due to the weakening of the economy worldwide, most funders have either reduced or discontinued their funding. As a result most NGO's have closed doors some had to downsize. We count ourselves blessed that we are still operational. We have been working on a tight budget during 2010 and we have tried to do the best could with what we had.

In the light of the above:

- a) We could not appoint a field worker to assist the legal unit at the Modimolle office. In order to achieve what we have, the attorney had to work on a tight schedule and double as a field worker throughout 2010.
- b) We did not have a standby legal secretary until the middle of the second semester 2010. The attorney had to in addition to her duties as in (a) above also function as a legal secretary when our own was on leave.
This resulted in unfortunate incidents sometimes when the attorney had to lock the office to either go to court, attend meetings or go out to do field work.

3. OBJECTIVES AND INDICATORS

Objectives

- a) Our objective is to make sure that our services reach the poor and vulnerable people as they are intended for them, particularly those involved in the agricultural sector or reside who in the rural arrears in matters pertaining ownership of land and security of tenure in general.
- b) It is our mission to make sure that our services lead to an increase in the level of awareness amongst our targeted communities amongst other things, the existence of the Legal Unit and the services it renders; to assist and educate people about their human rights which are entrenched in the Constitution of the country
- c) We represent them where it is found that their rights to secure tenure are being violated or infringed upon.
- d) To build a good working relationship between farm workers and owners by ensuring that once the conflicts are resolved the parties would be able to continue with a working relationship for the purpose of development.
- e) To establish good working relationship with Government departments in dealing with social issues affecting farm workers/dwellers and to establish relations with Stakeholders having similar objectives.

Indicators

The indicators of the successes of our programme are in:

- a) Achieving better working relationship amongst those involved in the sector;
- b) Ensuring respect of the law and its tenants, the rights of others by those with power in the sector ;
- c) The increase in the number of those taking active action in protecting themselves against abuse and mistreatment for this will be an indication that the educational aspects of our programme is having positive impact on the lives of the vulnerable . Judgments were in favour of our clients in most cases which were finalized in court
- d) Better working relationship with the Government and other stakeholders.
- e) Increase in the number of cases resolved through negotiations and other dispute resolution mechanisms.

4. ACTIVITIES / DUTIES

- a) Taking new instructions and consult with both new and old clients.
- b) Assist Clients in completing CCMA referrals forms.
- c) Advice Clients on Legal matters.
- d) Liaise with other Attorneys.
- e) Draft Letters and legal documents.
- f) Represent Clients in a Court of Law (Magistrate Court and Land Claims Court).
- g) Attend relevant seminars and workshops to empower ourselves
- h) Serve as an attorney/ panelist on the Legal Services panel of the Department of Rural Development and Land Reform

- i) Serve as an attorney for the Sisonke Masilwe Indlala organization, under the umbrella of the Joining hunger against hunger network, a hunger alleviation programme established and funded by the Presbyterian Church.

5. BRIEF ANALYSIS OF TRENDS AND KEY LESSONS LEARNED FROM THE PROVISION OF LEGAL SERVICES DURING THE REPORTING PERIOD.

- a) Re activation of old cases in a particularly unfortunate occurrence. Some cases, for which rights were declared in court, arise again once the party whose rights were declared passes away and the descendants are now faced with the same situation as their late parents.
- b) The weakness of ESTA in ensuring that once tenure is secured on a permanent basis is a disappointing feature of the legislation.
- c) It is necessary to ensure that whatever redress that is given, applies to the descendant as well, especially if they are unable to fend for themselves. It cannot be acceptable to continuously have closed cases creeping up from the blocks, years after they were settled because then the victory achieved was a hollow one.
- d) Extension of our services to other section of the province where our services are currently not available at all is imperative
- e) There has been a huge rise in cases of threatened and actual evictions, denial of burial rights and access to graves. It has come to light that the farm owners deny people access to graves and the right to bury on farms in fear of losing their farms to land claims. Graves are also used in evidence to prove land claims. In cases where people are denied access to graves we have noticed a growing trend where the farm owner would demand an exhumation in order to have the graves relocated elsewhere.
- f) Farm owners evict or threaten to evict farm dwellers in order to neutralize the situation of ending up with long term occupiers or having to relocate farm dwellers at the farm owner's own expense. It has come to light also that their main objective is to do away with farm dwellers. They would rather

have a situation where farm workers travel daily to the farms from off farm settlements, that way there will no longer be claims for rights on farms.

- g) The legislations administered by the Department of Rural Development and Land Reform (ESTA, CLaRA etc) are currently under review by south African law reform commission. A discussion paper was circulated and comments by the public were invited. The closing date for submission of the comments was the 30th November 2010. We have made our own submission on ESTA and we hope that the process will yield better result.

6. NETWORKING

- a) The Legal Unit is one of the stakeholders of Land Forums at Lephallale, Thabazimbi, Mabatlane and Mapela.
- b) We have established a good working relationship with:
- The mayor of Modimolle local municipality
 - The Chief Legal adviser of Eskom, Megawatt Park
 - The legal advisor of Land Tenure services, Pretoria
 - Probono.org (an organization with a panel of attorneys and advocates who offer their services to the indigent for free)
 - Legal resource center, Johannesburg
 - The legal aid board, Modimolle and Polokwane
 - The Department of Labour, the Labour centres at Modimolle, Lephallale and Polokwane and the SASSA
 - The field workers of the Department of Agriculture, Thabazimbi
 - An attorney in Cleveland Ohio in the USA, who is a member of the lawyers without borders, to assist us with research on Land law reform. He has done similar work in the Caprivi region, Namibia.

7. WORKSHOPS, SEMINARS AND EVENTS

Due to our financial situation we were unable to conduct enough workshops even though the need is high. We had to select carefully depending on the circumstances of the communities.

During the reporting period we have done the following:

- a) 13th April 2010 we conducted a workshop for the Ga-pila community at The Chuene Resort, Polokwane. We informed them about the Communal property Act and the Trust property Act, the difference between the two Acts and how to establish a Communal property Association.
- b) 18th April 2010 we attended a meeting of Bapedi ba Sekhukhune with their respective Kgoshis and Bakgomana with the intention to establish and register a trust. The trust is

established with the view to secure title deeds to more than 100 Bapedi bought and released farms which title deeds are in the custody of the Minister of Land Affairs. We were nominated as one of the trustees.

- c) 22-23rd April 2010 we attended a safety and security summit conducted by the Limpopo Provincial Government, at Bolivia lodge, Polokwane
- d) On the 25th April 2010 we conducted a workshop for the farm dweller community of Luipershoek farm, in Mpumalanga. The workshop was on their rights and duties as farm dwellers and the relocation process as provided for in ESTA.
- e) On the 11-13th May 2010 we conducted a workshop for the Joining hands against hunger partners on the provisions of CLaRA, the Court application in the North Gauteng High Court seeking an order declaring CLaRA unconstitutional, the appeal application in the constitutional court and the effect of its final judgment declaring CLaRA unconstitutional
- f) On the 27-29th July 2010 we attended a Sisonke Masilwe Indlala (SMI) core team meeting held in George
- g) On the 21st August 2010 we attended a women's month celebration at Boschdraai farm, Vaalwater on invitation by the Mayor of Modimolle Municipality. On that day we also workshoped women and the youth about their rights both as women and farm dwellers.
- h) On the 27-28th September 2010 we attended a best practice workshop at the CCMA, Polokwane on how to best use the CCMA.
- i) On the 6-9th October 2010 we attended a Sisonke Masilwe Indlala (SMI) core team meeting held in Bloemfontein
- j) Another workshop was the one presented by the Freedom of Expression Institute on the right to freedom of expression which was held on the 13th and 14th of October 2010 in Polokwane
- k) On the 14th October 2010 we attended a round table discussion with the Action Aid Campaign, LAMOSA and other stakeholders on issues of access to land and natural resources at St Marco lodge, Polokwane
- l) On the 1-2nd December 2010 we attended a partnership meeting of the Rural Legal Trust in Johannesburg.
- m) We have also been involved in discussion sessions in which issues affecting those in the farming sector and the rural areas were deliberated upon in an attempt resolve such issues for the benefit of the targeted communities. Such sessions included the Provincial and National imbizos hosted by the department of Agriculture, with the theme, towards improving the lives of the farm dwellers/workers, those in forestry and fisheries. During the

organizational phase of the summit, our organization was tasked with preparing a list of delegates from amongst the farm workers and farm dwellers..

The provincial summit was held on the 14th -15th of April 2010 at the Forever resort in Bela-Bela. For this event we organized approximately forty-five delegate representing the districts of Waterberg, Capricorn and Vhembe in equal proportions to attend the summit

The national summit was held on the 29th – 31st of July 2010 at Somerset West in the Western Cape. In this event we were tasked with bringing six (6) from the districts. Our delegates in this case were from the Waterberg and Vhembe districts.

Case Survey

<u>Type of cases</u>	<u>Number</u>
Eviction	97
<u>Access to Graves</u>	27
<u>Burial Rights</u>	12
<u>Access to Grazing</u>	7
<u>Access to water</u>	4
<u>Land Claims: Restitution & Redistribution</u>	5
<u>Labour</u>	95
<u>Criminal/Civil/Maintenance/Pension/other cases</u>	9
<u>Threatened evictions</u>	271
<u>Relocations</u>	2
<u>Demarcation of stands</u>	1
<u>TOTAL Cases only</u>	530
<u>Clients advised only</u>	497
<u>Grand Total:</u>	1,027

8. CASE STUDY

TEMOKGOLO CO-OPERATIVE VS CHIEF M.R.MAMABOLO AND 2 OTHERS

We represent Temokgolo in this matter in a battle to protect their informal land rights, against the traditional authority in whose land the rights are based.

In the year 2000, the co-operative was given a small farm called Kleinfontein 1006 L, to occupy and use for development purposes. This permission was given by the chief and his tribal council. In between 2008 and 2010, the chief and his council in their wisdom, saw it necessary to evict Temokgolo from that piece of land. We can only assume that these events were precipitated by their sudden realization of the potential value of

the piece of land in question. In their efforts to evict Temokgolo from the land, they sent a group of men to enter the farm, destroy the structures erected by Temokgolo and confiscated equipment held on the farm.

We have made an application to interdict the chief from further harassing Temokgolo and also to stop them from handing over the farm to their preferred developers. We also plan to proceed to lodge a claim for damages for all the destruction committed by the chief and those sent by them.

The issues in question are the informal land rights of Temokgolo as the land falls within the boundaries of the tribal authority. Temokgolo's rights are protected under the **INTERIM PROTECTION OF INFORMAL LAND RIGHTS ACT NO 31 OF 1996** as extended.

One of the issues that is raised in this case is the rate at which traditional authorities are acting in a manner that contravenes the law, particularly when they are dealing with land that falls within their boundaries. The Temokgolo case will be before court on the 10th of December 2010.

CONCLUSION

It should be clear from the beginning that we are not exactly satisfied with the total performance of the office. We believe that a lot more good for the benefit of the vulnerable could have been achieved given the availability of resources and more commitment to achieving even more excellence with regard to the work that we are supposed to be involved in.

We believe that more should be done in regards to increasing awareness of rights amongst the vulnerable, the processes available for their protection and enforcement and that more emphasis should be put in educating our targeted communities on what is due to them by law and the responsibilities that go along with those rights.

This could be achieved with the introduction of more workshops that will focus the education and training, to ensure that the people are no longer taken advantage of by the powerful. The office should also be capacitated to be able to increase its scope of operating area within the provincial borders. As it is, despite the significance of our work, we are limited in our field of operations, in that there is still a large section of the province that we do not access and emphasis should be put on efforts to ensure that this goal is achieved. This will ensure our relevance to the communities within that rely on our services within the province.

LUIPERSHOEK COMMUNITY (ROOSSENEKAL) / ESKOM

Around 2007 Eskom bought the farm Luipershoek which is located next to Roosenekal, Mpumalanga, in order to build a hydro power station on the farm.

On the farm there are about fifteen (15) households of Labour tenants. Eskom was faced with a huge task of relocating the fifteen (15) households of Labour tenants (hereinafter referred to as the Luipershoek community "or "the Community ")

Lengthy and difficult negotiations were held between the community of Luipershoek duly represented by Nkuzi, the Mayor of Elias Motswaledi Municipality and Eskom.

The community of Luipershoek was using a small portion of land next to a river that runs through the farm dividing the farm almost in half. That land was allocated to them by the previous farm owner for residence, grazing and small patches of vegetable gardens. They live in dilapidated houses some of them being shacks and mud houses

Nkuzi is facilitating development of the land allocated by Eskom to the community for relocation. We are almost at the final stages of the process.

Eskom agreed and has allocated 1200 hectares of land on the farm Luipershoek to the community. This land is situated across the river on the one half of the farm divided by the river. The hydro plant will be on the other half of the farm across the river from the communal land.

To date Eskom has at their own expense:-

1. Engaged the Department of Land Affairs and the Department of Agriculture. The Departments surveyed and fumigated the land where necessary. They will also give the community training where necessary.
2. Built thirteen (13) houses for the community. These are face brick houses ranging from three to five bedrooms, each house are fitted with its own water tank with a 5000l capacity, concrete tile roof, ceiling, fascia board and gutters. Further, each house has a biological toilet, full plumbing including geyser, fully electrical with prepaid meter and inside bathroom. Two (2) families have opted for money instead of a house so they can relocate elsewhere.
3. Erected two (2) manual borehole pumps.
4. Two 2 windmill water reservoirs each fitted with four water tanks, each tank with 5000 liters capacity to ensure water supply at all times.
5. Donated 1200 hectares of land to the community and Eskom will register the land and give the community a title deed in the name of the community.
6. Engaged the services of DWAF (Department of Water Affairs and forestry) so that the community can receive training on how to fell/cut trees, how to prevent fire breaks in dry seasons, how to care for vegetation and environment.
7. Eskom plans to erect individual fences around the houses each one with its own gate, once the families move in.
8. Eskom has set aside funds roughly estimated at R 400 000-00 (four hundred thousand rand) to finance training by specialists and a support group from the

university of Pretoria. Training is for teaching the community how to work the land for their own benefit so they can self sustain

9. Eskom has given us an undertaking that the community will be given first preference in terms of skills development training and employment at the hydro power plant
10. Eskom has repaired all boundary fencing of the land and has erected a gate with access to the main road R555 for use by the community.
11. Eskom shall fence off or relocated the existing graveyards affected by the construction of the hydro power plant. Families will have the right to visit the graveyard, (whether fenced off or relocated). Costs associated with relocation of the graves will be covered by Eskom
12. Eskom will further fund the removal of household contents and livestock to the new location

Currently, we are arranging a date of relocation of the community to the new location

Argument continues in Court.

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**Land Reform Implementation Programme:**

**Restituion**

Nkuzi focused on nine communities:

1. Nyavana (260 Beneficiaries)
2. Magunela (158 Beneficiaries)
3. Mashashe (172 Beneficiaries)
4. Lehutjio (353 Beneficiaries)
5. Ratombo (340 Beneficiaries)
6. Molekwa (195 Beneficiaries)
7. Mamukiyani (287 Beneficiaries)
8. Muamandi (231 Beneficiaries)
9. Bokisi (210 Beneficiaries)



| Indicators                                                                                  | Achievements                                                                                                                                             |
|---------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Communities are informed about the process of their claim                                   | Briefing sessions were conducted together with Regional I Commission officials to update the communities about the developments on their various claims. |
| Communities take action about their dissatisfaction on the process of settling their claims | Communities are engaging amongst themselves about public demonstration plans                                                                             |
| Stronger and more democratic institutions                                                   | Decisions and procedures in these communities are taken on consensus basis                                                                               |
| Bring the warring factions together within the Communal Property Association (CPA)          | The Committee and the membership at large are working together towards the common goal                                                                   |

Nkuzi had continued to inter-act with the following communities on an adhoc basis:

| Name of the claim | District   | Beneficiaries |
|-------------------|------------|---------------|
| Solingen 86 LS    | Capricorn  | 333           |
| Bellevue 74 LT    | Vhembe     | 192           |
| Caledon 547 LR    | Waterberg  | 112           |
| Hugomond 118 LS   | Capricorn  | 315           |
| Bakgaga ba Maupa  | Mopani     | 241           |
| Mashilane         | Sekhukhune | 263           |
| De Gracht 72 MR   | Vhembe     | 97            |
| Musingadi         | Vhembe     | 391           |
| Vergelegen 819 KS | Sekhukhune | 227           |

|                 |           |     |
|-----------------|-----------|-----|
| New Pietersburg | Capricorn | 53  |
| Lekalakala      | Waterberg | 33  |
| Makgoba         | Mopani    | 398 |
| Molele          | Capricorn | 284 |
| Phago           | Waterberg | 196 |

Most of the land claims are at the negotiation stage of restitution. Three of them ( Mashashe, and Vergelegen) are on the verge of settlement and the Commission on Restitution of Land Rights claims that the slow pace of finalizing the claims is due to budgetary constraints. Finally an attorney has been appointed by the Regional Claims Commission (RLCC) to draft the settlement agreement for Popela community after a long waiting. The number of unresolved claims below has not changed to date:

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

**(Source: Land Claims Commission, October 2009)**

### **MONYEKI –MAKGAI LAND CLAIM**

The Monyeki -Makgai family have lived for generations on the farm known as portion 9 of new Belgium 608, in the Vaalwater area, Waterberg district, Limpopo Province. Joel Monyeki and his wife Mmanoko are both about eighty years old and have lived on the farm all their lives. They bore and brought their up children and grandchildren on the farm.

They have parents and grandparents buried on the farm. In 1994, Mr. Carozzo and his brother, Giovanni, bought the farm for the purpose of setting up a game farm known as indabushee game lodge. In the past, several other families also lived on the farm, but they were forced to leave in the 1960s. From thereon, it was clear that he does not require black families in his farm.

In September 2002 the land claims court gave an order for the eviction of the whole Monyeki family with no alternative land or compensation provided. In November 2002 the Land Claims Court refused Monyeki leave to appeal against the eviction order. It appears from the Court order that the only grounds for eviction is that Monyeki had more than the allowed number of cattle grazing on the farm in 1997, which cattle were impounded and sold. The Court even made the finding that Monyeki damaged the relationship with the owner by reporting the taking of his cattle and damage to property to the police.

The land Claims Court ordered Monyeki to leave the farm by the 15<sup>th</sup> December 2002. The order further stipulated that should he fail to leave by the 15<sup>th</sup> December 2002 then the sheriff of the Court is authorized to evict him on or after the 04<sup>th</sup> January 2003. In the meantime, apart from the eviction which was looming, the sheriff visited the Monyeki's to attach the cattle they had. It was indicated to Monyeki that there is a cost order against him in respect of amongst others postponements of the main case. The amount he had to pay for cost was R 25 000.00 rand, Mr.

Monyeki saw that the world has turned upside down for him. There was a cost order against him and his few remaining cattle were attached. The amount needed was R 25 000-00. Mr. Monyeki then approached the Vaalwater municipality for any assistance, fortunately he was assisted to transport his belongings from the farm before the sheriff could evict him and the municipality offered him two temporary RDP houses at Vaalwater Township.

Around 1997, Mr. Monyeki lodged a restitution claim with the RLCC Limpopo the claim was advertised on the 03<sup>rd</sup> January 2003 since then the Monyeki land claim was in court to date. In December 2010 just as the court was about to finalize this matter a competing claim against the entire estate of new Belgium and some surrounding farms was lodged by the Mapela tribe. Their position is that they are claiming the whole land as a tribe except the piece claimed by Monyeki as Monyeki is part of the Mapela tribe. The main question before court at this stage is whether to award Monyeki the land they claimed exclusively and then deal with the claim of Mapela separately or grant the Mapela claim which shall include the land claimed by Monyeki as in essence the Monyeki's are the subjects of the Mapela tribe

### **Sustainable Livelihoods Programme:**

The division of the land reform programme into restitution and redistribution components has created a conception split between redress of past injustice (restitution) and economic equity (redistribution). This is an artificial divide: Although restitution responds to clear cut cases of dispossession, redistribution also has an important element of redress to it – after all, for centuries the land belonged to, and its use was managed by the indigenous people of Africa before Colonialism and Apartheid arrived on the scene. It thus makes sense that productive use of land is a legitimate element of policy for restitution and redistribution.

Productive use of land is not simply a matter of transferring land, but needs support that to date remains largely inadequate and more than often inappropriate. Over the last five years Nkuzi has implemented a programme to provide land use and livelihood support that have received land. This has helped to ensure that there are some successful projects happening on land acquired. Nkuzi has decided to share its experience and expertise with the Dikgolo (redistribution project) with 42 households, Madisha (restitution)

with 46 households, Glen Cowie (redistribution) with 34 households and the Munzhedzi (restitution project) with 19 households in this project period.

### Summary on Progress

| Objectives (unchanged)                                                                                                | Progress                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Support sustainable livelihood projects within communities that build on peoples existing experience and aspirations  | Dikgolo, Munzhedzi, Glen Cowie and Madisha are still the major beneficiaries of this project and engaging in stock farming, piggery, broiler production, dairy, carpentry, vegetable and crop production. Communities are also buying items from each other as part of building a long term relationship                                                                                                                                                                                                                                                                                                                                                                                                                |
| Build the skill and capacity of the Nkuzi Project Officers involved and the beneficiary communities and small farmers | <p>A programme manager for this programme has attended the course at the University of Pretoria for 20 days to learn about managing land reform projects.</p> <p>34 beneficiaries were trained by Limpopo Business Services Agency about cooperative management. The project members (20) were also introduced to marketing and basic book keeping.</p> <p>10 carpentry beneficiaries were put for mentorship for a period of six months under a leadership of a successful entrepreneur to learn the ins and outs of the business.</p> <p>48 beneficiaries were trained in organic farming as part of building consciousness about the environmental threat that exist due to GMOs and other commercial practices.</p> |

## Policy and Research Programme

| <b>Indicators</b>                                                                               | <b>Achievements</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ALRI manual                                                                                     | We have engaged the Capricorn District Municipality about the contents and in principle we have agreed that a Memorandum of Understanding will be signed so that all the five municipalities under Capricorn will implement ALRI with Nkuzi' assistance                                                                                                                                                                                                                 |
| Alternative policies and learning documented and presented to government                        | The small research project on the state of children on farms has provided a platform for the organization to start interact with other role players who have got an interest working with children. We are currently designing campaign to raise awareness about the importance of registering children with home affairs for the purposes of getting identity documents when older. We are discussing with home affairs to provide a mobile service for these purposes |
| Communities employing actions and strategies that brings about meaningful change in their lives | Through the Makhado Land Reform Forum communities are actively involved in the IDP processes and land reform is a top priority on the Municipality' agenda.                                                                                                                                                                                                                                                                                                             |

We are currently in negotiations with the University of Limpopo to do a study to look at the impact of development agencies in the communities and to what extent is that impact. You will be updated with further developments in this regard.

| <b>Indicators</b>                                                                                                                   | <b>Achievements</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Raise awareness about gender issues with role players.</p><br><br><br><br><br><br><br><br><br><br><p>Women's day celebration</p> | <p>We had round table discussions with women from the South African Police Services (SAPS), labour, religious leaders, Independent Electoral Commission (IEC), local clinic, and South African Social Security Agency (SASSA). A decision was taken to have a women' day celebration on the 9<sup>th</sup> August 2010 on a farm targeting five farms.</p><br><br><p>A women's day celebration was held at Boschdry farm at Vaalwater with an attendance of over 500 farm workers and dwellers.</p> |