

WORDS FROM THE CHAIRPERSON

This was a year of contrast in South Africa. On the one hand government organized big celebrations on the completion of ten years of our democracy and freedom. On the other hand land organizations were lamenting the slow pace of land delivery since 1994. Other civil society organizations were lamenting the increase in job losses, growing unemployment and deepening poverty. Despite all these problems, the ANC won the elections with a clear majority in 2004 indicating the confidence that South Africans have in the policies of the ruling party. The government has formulated policies that need to be implemented to bring about transformation and better lives for all. However, not all these policies have yielded positive results. Land reform legislation makes a very good example of this. The land that has been delivered through redistribution and restitution is only 3%. This is a bad performance by any standard. It is not acceptable that black people occupy 16% of the land surface ten years into our democracy. An honest assessment of the situation must be made and honest answers must be provided on the failure by government to reach its original targets`.

In 1994, the RDP document promised the redistribution of 30% of land in five years. The revised target is 30% of agricultural land redistributed by 2015. Poor people on the ground are not worried about all these statistics; they want to see their land restored. It is unfortunate and sad that many elderly people who are frail and sick , and who have placed so much hope on the new government are dying without realizing their wish to return to the land of their birth. Having said that we also realize and appreciate the numerous challenges and obstacles the community and officials of the Commission and Nkuzi confront in a struggle to secure land restoration. During this year I was surprised to learn that on the day the Minister of Agriculture and Land Affairs was addressing an agricultural summit, some land owners were refusing officials from the Commission and Nkuzi entry into a particular farm to conduct loco inspection. This was a clear case of people obstructing the implementation of the law. These land owners know very well that without verifying that black people stayed and lived on the farm there is no way a claim can be settled. I hear that such kind of incidences has multiplied.

The second obstacle is court cases filed by land owners in the Land Claims Court to oppose the validity of land claims in our province. This kind of court action is brought by land owners against claims of historical significance such as the Makgoba and Songozwi. Constitutionally, they have a right to do this. However, they seem to be forgetting that land reform and restitution is part of the transformation agenda and very critical for peace and reconciliation. The land reform framework enables black people to acquire rights they lost during apartheid in a structured and legal manner the alternative is land occupations which are not desirable. Land owners must realize that being a willing seller is the price they should be prepared to pay for peace and stability. It is actually in their best interest to cooperate with the process.

The Commission for Restitution of Land Rights must also do its work diligently, especially if the target set by the state president is to be met, which is to settle all land claims by the end of 2005. This year very few land claims have been settled and our hope was to see the pace of settling land claims increasing tremendously. This clearly shows that there is no way in which the 2005 target set to settle all land claims will be met. We

welcome the increased budget provided to the Commission, and the increased capacity that has been added. However, this must be translated into tangible results on the ground. Nkuzi will also continue to offer support to the Commission to ensure the realization of land delivery.

Tenure legislation such as ESTA is still failing to provide farm workers with tenure security. If the land owner follows all the necessary procedures farm workers still end up evicted. The only solace is the requirement to provide an alternative accommodation under certain circumstances. We are yet to see a legislation that provides secure tenure to farm workers which gives rights to farm workers to stay on the land they occupy without being evicted. We welcome the Communal Land Rights Act (CLRA) that has been passed in parliament to provide tenure security for people who stay in communal areas. The implementation of this legislation is critical in the province such as Limpopo since it has three former Bantustans. We are yet to see whether our people will derive any benefit from this legislation.

It is important for the landless people to organize and articulate their concerns with one voice. It is important for Nkuzi to continue to support these structures of the landless since they counter the power of organized business and agriculture, by reminding government what the masses want to see in land reform policies. These are movements that Nkuzi should continue to support until land and agrarian reform is achieved. The organised groups of landless people should work with Nkuzi on addressing the real needs of the landless people, lobby and advocate for their needs as well as providing alternatives to the current land reform framework.

Nkuzi has been going through the process of transformation which has been finalized in 2004 with the appointment of new staff in management. Lucas Mufamadi, who was the Deputy Director is now the Executive Director of Nkuzi. The other staff appointed into Programme Management positions includes Letago Langa – Legal Services, Marc Wegerif – Policy and Research and Siphwe Ngomane who is on the Farm Dweller Programme. This year we lost quite a few staff members both to the Regional Land Claims Commission and the Department of Land Affairs. Some of you might be getting services from DLA through the former staff of Nkuzi. We appreciate the role that the new management played to keep the organization together, despite all the challenges. We also appreciate the role played by all staff that remained with the organization when it appeared fashionable to join the government.

I would also like to extend my appreciation to the Board members who assisted me to steer this organization towards the right direction. There were also a few Board members who stepped down from the Board but still remain active members of Nkuzi. I would like to appreciate their contribution and continued support. Finally I would like to say the role played by organizations such as Nkuzi is important in defending and enforcing the rights of the landless. However, Nkuzi together with other organizations must brace themselves for a bigger challenge, which is to ensure that land reform beneficiaries are capacitated to make productive use of the land and defeat poverty and unemployment. 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 Kgomoesawana	Polokwane Gateway International
Joyce Seema	Tlhavhama Training Initiative
Lucas Mufamadi	Executive Director- Nkuzi
Max Rambau	Peoples Dialogue
Oupa Lehulere	Khanya College
Tanya Mungulwa	Business Woman (Dealing with village arts and craft)
Tidimalo Cheune	Youth Commission

ACTIVITY REPORT

1. Introduction

This report covers the period from January 2004 until the end of December 2004. The report aims to give an overview of the work and development of Nkuzi during this year. In October 2003 Nkuzi undertook an annual planning exercise that resulted in the confirmation of five main programme areas that Nkuzi implemented in the year 2004. These are Community Support Programme, Farm Dweller Programme, Policy and Research and Legal Services. The programmes are all supported by Administration and Management which forms a fifth area of work.

Just as the organization was beginning to stabilize, it went through a spate of resignations this year. This was partly as a result of the financial difficulties the organization was confronted with as well as many vacant positions at the Department of Land Affairs and the Regional Land Claims Commission (RLCC) was strengthening its capacity to deliver. Almost all Nkuzi staff members who applied for these positions were employed. Nkuzi lost seven staff members at the same time. This reduced the number of staff employed at Nkuzi to 20 by the end of the year. This excludes 6 volunteers who work in different offices of Nkuzi at the same time.

A large part of the programme work focused on assisting communities that have received land to make productive use of the land. This meant that Nkuzi has to develop a sustainable livelihood strategy, coordinate support that is needed on these farms and provide training on both management and technical capacity with the collaboration of relevant government departments and private companies. Our work with the land claims also increased since we were approached by a number of new communities that were awakened by the deadline which is drawing nearer. The work with land claims included conflict resolution, facilitating understanding of CPA constitution and empowering committees through training to effectively represent the interest of communities in interacting with stakeholders such as the land owners and strategic partners. We also spent time explaining to communities how they could engage with the strategic partners.

The Land Rights Legal Unit continued to provide essential legal services to people who would have otherwise received no legal representation at all. The cases that were entertained by the Legal Unit included evictions, unfair labour practice, human rights abuses and an increasing number of land claims. These cases are referred to the Legal Unit by the Farm Dweller Programme officers who are instrumental in preventing evictions and unfair dismissals on farms. The Policy and Research Unit completed a number of small research projects most of which were collaborations with other institutions. However, most of the time was spent on Area Land Reform Initiative and the national eviction survey study which seeks to establish the impact, nature and extent

of evictions throughout the country. More information is provided in this report on the various programmes and other organizational developments.

2. Community Support Programme

Nkuzi's Community Support Programme provides information advice, community facilitation and support to people in understanding and exercising their land rights and accessing the resources and services that should be available to them for land reform. Nkuzi implements this programme through three sub-programmes: Land Reform Implementation that focuses on land claims and redistribution projects; Community Organizing and Training which focuses on providing support and training to the structures of the landless; and Nkuzi Livelihood Promotion that is assisting people who have received land to engage in effective land use in order to improve their livelihoods.

2.1. Land Reform Implementation

This programme focuses mainly on supporting communities who have lodged land claims or applied for farms through the redistribution programme of the government. This year the focus was more on restitution due to the deadline announced by the President which set 2005 as the cut off date for all claims to be settled. This led to many communities that were not active in the past suddenly realizing very little has happened on their claims over the past few years and demanding action. Many communities were also made aware for the first time after the completion of the validation process that there are other communities that are claiming the same farms as they do. Many of these claims were merged after consultation with other communities. Nkuzi continued to work with the eighteen prioritized projects but responded to request from other communities on issues of strategic interest. Nkuzi was therefore involved mainly in facilitating conflict resolution meetings; facilitate merging of overlapping claims and training the newly formed CPAs to acquire the necessary skills to run the projects. Nkuzi also organized and facilitated meetings between the claimants and the commission and with land owners as well as meetings between land claimants and strategic partners.

Despite the deadline which was drawing closer very few claims have been settled in 2004 by the Regional Land Claims Commission (RLCC). There are numerous reasons why the pace of land reform has not improved in our province. Among others the following are some of the reasons why very little has been achieved in 2004, the resistance of land owners to land reform which manifests itself through the farmers attitude of preventing officials from both the Commission and Nkuzi to conduct loco-inspections which are critical to determining the validity of the claim; secondly, the condition that has been put forward especially in high value agricultural land that a strategic partner (experienced farmer or company) should be secured either on a long term lease or rental arrangement with beneficiaries before land can be returned to its rightful owners, or a lease agreement between the beneficiaries of land reform and an experienced farmer or mentor; thirdly, the number of cases that has been filed in the Land Claims Court (LCC) by farmers who are challenging the validity of land claims on their farms. Fourthly, some farmers pretend as if they are willing to sell only to ask

exorbitant prices for the land. This has caused serious delays and led to the settlement of very few claims.

Among the claims that has been settled this year Nkuzi has worked directly with seven land claims, namely, Gumbu now called Vhembe , Mabjaneng, Lebello, Koka Matlou, Rooipan, Marobala O I tsose and Madisha land claims. There was also a partial settlement of Mphakati land claim with only one portion of land settled through cash compensation.

Some of the communities who are facing court cases against land owners have approached Nkuzi Legal Unit to represent them. This includes mainly communities whose claims were not a priority to Nkuzi. In many instances these communities are confronted with land owners who are challenging the validity of their claim or who are unwilling to sell. With these land claims we try to ensure that before the case is taken to court there is an elected CPA that is recognized and that there are no disputes among claimants.

We welcome the increased capacity and the financial resources provided to the RLCC in their budget approved by 2004. However, these resources were provided too late for the realization of the deadline put by the President to settle all land claims by the end of 2005. Despite the increased capacity the Commission has outsourced most of its work to consultants to perform work ranging from, verification and validation, to the establishment of legal entities. The table below gives us a national picture of claims settled since 1994 and the breakdown in terms of rural and urban claims and the cost of land purchases.

Table: Land Restitution claims settled by Province by 2004 September				
Province	Claims	Rural	Urban	Land Costs
Eastern Cape	15 886	276	15610	204 526 881
Free State	1 674	14	1660	16 909 206
Gauteng	11 932	1402	10530	62 537 367
Kwa Zulu Natal	10 551	268	10283	487 986 253
Mpumalanga	1 546	297	1249	377 785 091
North West	2 498	1427	1071	93 992 542
Northern Cape	1 792	19	1773	69 753 602
Limpopo	1 314	18	1296	236 061 308
Western Cape	9 457	999	8458	8 096 187
Total	56 650	4 720	51 930	1 557 648 437

The total number of claims lodged has increased from 68 878 in 2002 to 79 693 in 2004. In Limpopo province the number of claims lodged remains 5 809. Out of this number of claims 1 314 claims have been settled but only 18 of these claims are settled with return of land being rural claims and 1296 claims being urban claims. The number of claims which should be remaining should be 4495 but instead by the end of the year the Commission was talking about only 1 320 rural claims for settlement. The 4495 claims have been consolidated into other claims and others were dismissed.

Case study

Four Land Claims Settled in Waterberg

On the 9th of October 2004 a group of four communities celebrated the return of their land. The celebration was held at Mogalakwena Municipality in the Waterberg District of Limpopo Province and was attended by the Minister for Agriculture and Land Affairs, the Chief Land Claims Commissioner and of course the claimants themselves. In her speech Minister Didiza encouraged community members to seize the opportunity that the return of their land offers and invest in the future productivity of their farms in order to alleviate poverty and unemployment. She also encouraged children to study agriculture after matric and offered government assistance with such studies.

The Lebelo community, comprising 479 households, received 3,600 hectares of land on the farm Blinkwater. The Legata community lost their land on the farm Lusthoff and St. Georges in Mogalakwena district, now the 45 families has benefitted from the restoration of 1,671 hectares of land. Koka Matlou community, which is made up of 250 households, has received 2,955 hectares of land. Lastly the Mabjaneng community, made up of 401 households, shall benefit from 2,084 hectares of land. More than 10,000 hectares of land has been returned to all these communities combined.

We welcome the passing of the Communal Land Rights Act in parliament last year, which seeks to provide security of tenure to the majority of our people living in communal areas. Limpopo is one of the provinces that is most affected by this policy since it has three former Bantustans with over 4,5 million people living in communal land. The Act empowers the Minister of Land Affairs to transfer ownership of communal land to communities, to be held under new order rights, whose contents are not yet defined. The Act has not yet come into effect; we await provincial regulations and the provision of financial resource for the implementation of the Act. Information dissemination workshops were facilitated by Nkuzi in all the districts of the province to explain the contents of the Act.

Community Organizing and Training

Nkuzi continues to support structures of the landless people in Limpopo especially the Landless People's Movement (LPM). At the beginning of each year the LPM hold a provincial council meeting to plan the activities of the year. This was the year of controversy for the LPM structures nationally because of the general elections. The national LPM executive took a decision that they are going to boycott the elections while the Limpopo LPM took an opposing view which sought full participation. There was a clear split in this instance which weakened the LPM nationally.

The provincial structure of the LPM in Limpopo submitted a memorandum to the Premier of the Province listing all the key issues they are facing in the province such as the slow pace of land reform and little delivery especially in Limpopo Province. The Premier referred the memorandum to the Regional Land Claims Commission (RLCC) for response. A meeting was held with the RLCC where the following issues were discussed amongst others: validation and gazetting of land claims, missing files, settlement of all

claims that are gazetted. A new provincial executive committee was elected in August 2004. The outgoing committee handed over their documents to the incoming committee after the elections. The elections were facilitated by the Independent Electoral Commission Official.

The non participation of two regions during the elections indicated that there were problems that need to be addressed at regional level. The newly elected leadership undertook to visit all the regions and re launch the committees where they have disbanded. This was also coupled with the political education workshops for the general LPM membership in the region. Some of the members of the LPM from the regions and other PEC members also attended the Khanya winter school on political education.

The members of the land claiming community attended training around role of strategic partnership and land restitution. The CPA review was also conducted to review the leadership of the communities that have lodged land claims. Many of the regional leadership of the LPM also attended information dissemination workshops on the Communal Land Rights Act.

2.2 Sustainable Livelihoods Promotion

One of the central roles that Nkuzi is increasingly playing is to facilitate the productive use of the land to enable communities that acquire land through restitution and redistribution to generate income and create sustainable livelihoods. This is the only way the acquisition of land will be beneficial to the landless through addressing the question of unemployment and poverty. Nkuzi continued to support Communal Property Associations (CPA's) that have received land through restitution and redistribution in Makhado Municipality. These are Mavungeni, Manavhela, Munzhedzi and Ximange. In Capricorn district we have Mmaboi, Makotopong, Dikgolo CPA and in Mokopane we have Bophelo ke Semphekgo CPA. All these land reform beneficiaries are engaged in productive farming on a small scale at different levels. The community dynamics and the infrastructure they acquired with the land determine the rate of success in each farm. All these communities have received land but are still awaiting development grants from the RLCC. Nkuzi has mobilized support for members of these communities to produce on the farm while they are also gaining new agricultural skills rather than sitting at home and waiting for the release of development grants.

All these CPAs and the project leaders selected have received training and skills development offered by consultants hired by Nkuzi. The training offered includes: Leadership, Financial Management, record keeping, conflict resolution. Other training includes technical agricultural skills training such as broiler production, crop production and fruit tree production. Almost all these CPAs except for Makotopong, were busy producing different farm items such as chickens, vegetables and garlic. Almost all the chicken projects no longer need external operating finance since they have already started to make profits. We are working towards ensuring that the other projects that

have been initiated in different CPAs ranging from horticulture to piggery, also begin to make the required profits.

There are challenges that these CPAs are confronted with, namely, internal conflicts within the leadership, distribution of benefits to all the beneficiaries and the tension between active and non active members. The definition of individual versus group rights to the land and the allocation of income generated from the land emerged as a bigger challenge. It was realized that post settlement discussion must take place before land claims are settled. This should happen in order to take care of these challenges in the formulation of a CPA. At the moment we are reviewing the CPAs in order to accommodate individual and group rights. More needs to happen to ensure that the CPA documents and the development plans reflect the needs of beneficiaries. Continuous refresher training is needed until beneficiaries get used to working within the confines of the CPA structure.

Manavhela in Business

The Manavhela community received their land in 2002 and the CPA immediately identified four farming activities in which they wanted to be involved. This was on top of the nature resort which forms part of the settlement package. In two successive community meetings project participants were selected. This included people who are working and managing the nature reserve. The land they received had basic infrastructure in the form of six chicken houses, a piggery and a cold room. The community received assistance from Nkuzi to start farming and they chose to start with broiler production. Nkuzi bought the community 300 one day old chicks, feeds, vaccines, sawdust, lanterns, paraffin and firewood. They were also taken through broiler production training. Production of chickens started at 300 production cycle, in two months time it grew to 3 productions cycles with 1200 chickens on average, and in six months time the production cycle grew to 4800 per month. Now they are filling all the houses with chickens to such an extent that they don't know how to expand. All the people who are working for the project are currently getting a monthly payment at the end of each month. Due to lack of additional houses for expansion the Piggery has also been turned into a Poultry house. The nature reserve is also doing quite well under the management of the beneficiaries. This case study gives us hope that it is possible for land reform beneficiaries to earn a livelihood and eliminate poverty through acquisition of land.

3. Farm Dweller Programme

The main objective of this project is to secure farm dwellers existing tenure rights and facilitate long term tenure security. While other people were celebrating the ten years of democracy, farm workers are still toiling on farms without secure tenure and rights. This year was no different to other years since the number of cases we dealt with continued to grow.

During this year, Nkuzi has intervened on 188 cases of threatened evictions, 134 cases of unfair labour practice, and 63 cases of human rights violations. There were about seven cases of actual evictions which were entertained by the Farm Dweller Programme. From these statistics alone one can see that a lot of our people are still leaving in fear of land owners in the farms since there are too many threats to evict them. The good thing is that through Nkuzi intervention many of the evictions are prevented before they happen. Many cases of evictions that are reported in our office start as a labour dispute, which result in evictions if it's left unresolved. Most of these cases were brought to our attention by Advice offices, Parliamentary constituency offices, individual rural councilors and rural municipal managers. These cases are illustrated in the table below.

Type of cases	Number of cases
Threatened Eviction	188
Evictions	7
Labour disputes	134
Violations of Human Rights	63
Legal representation	1
On/off site settlement (section 4)	8
Compensation/Alternative accommodation	1
Criminal Cases and Civil claims	2
Other	2
Total	406

Most of these cases are settled out of court through negotiations. In certain instances a mere call to a land owner explaining the rights of farm workers contained in the Act suffices to settle the case. In other instances we have to apply for a court interdict to prevent an illegal eviction or engage in too many meetings trying to negotiate with the farmers. Many people who find themselves victims of illegal evictions are elderly people since they can no longer work on the farm. We also help these elderly people who stay on farms to access old age pensions and young single mothers to access child support grants.

The cases that are normally resolved through the CCMA are those that involve unfair labour practices. Our Attorneys continuously represent our clients at the CCMA particularly in Limpopo. Nkuzi has been getting good awards at CCMA either monetary or reinstatement at work and sometimes both. Sometimes a reinstatement award is not a preferred option for farm workers because of the bad relationship with the land owner. Many of the cases that we ultimately refer to court involve illegal evictions since in many

instances the land owners are not prepared to entertain those cases as a result of the relationship which is irreparably damaged.

This year it is quite amazing that we did not deal with any case concerning burial rights. This might be an indication that farmers are now allowing families to access their farms to tend the relatives' graves. The gross human rights violation cases involve land owners who cut off access to water on their farms, deny children access to education by forcing them to work and refuse the sick the rights to visit clinics. Joint interventions are made with Labour inspectors to monitor compliance with the Sectoral Determination that defines a minimum wage and working conditions on farms. Many of these interventions have yielded positive results since the wages of farm workers immediately improved after the interventions.

About 14 information dissemination workshops were run for the farm dwellers, though there is a need for more workshops regarding the minimum wage for farm workers, and other relevant legislation, i.e. Labour relations Act (LRA) and Basic Conditions of Employment Act (BCEA), Extension of Security of Tenure Act (ESTA), and the Sectoral Determination for farm and domestic workers. The Department of Labour, Local councilors and CCMA were involved in most of the workshops run especially in Limpopo Province.

Water at Last for Pensioners

It has been a 3-year battle to restore the water supply to the Mabhena family in Witfontein, Gauteng. Maria Mabhena (now 85 years old) and her daughter Emily (61) have lived on the farm for more than 45 years and are therefore recognized as legitimate occupiers with certain rights in terms of ESTA. The problem started in January 2001 when Mr. Swanepoel, a new land owner, decided to fence them in and cut off their water supply.

The two women fought back by barricading the road with dead wood logs and threatened to kill the owner with muti if he came near their yard. The farmer then called the police alleging that the two women were throwing stones at him. His case was not entertained since it was proven false. On intervening I took a statement from the occupiers and held several meetings with the land owner. Indeed the owner had fenced the mabhena's in to such an extent that they could not move in and out. The matter was referred to the Nkuzi Legal Team in Polokwane, who referred it to the Legal Resources Centre (LRC) in Pretoria for proximity.

After I made numerous follow ups and wrote to enquire about progress on the case, summons were eventually served, but the owner did not respond. The case was taken over by a different attorney from the LRC, who immediately filed a notice of appearance to defend the matter and made request for a default judgment against the owner. The application was dismissed as the Magistrate said it did not have a clear breakdown of costs. An application was then made for the restoration of rights. This time the magistrate granted the order in favour of our clients. Mr. Swanepoel was ordered to reinstall the pipes for the water supply. Eventually on the 17th August 2004 the Mabhena's had running water again.

4. Policy and Research Programme

The Policy and Research Programme has continued a number of existing research projects and developed new initiatives to situate Nkuzi centrally within agrarian reform policy debates. The Manager and Tshililo Manenzhe (who is responsible for ALRI and assists in other research projects) are the full time staff working on this Programme, they bring in other Nkuzi staff and outside researchers to assist as required on particular projects.

Research Projects

The **Area Land Reform Initiative** (ALRI) began the second phase and contract period at the beginning of 2004. This phase built on the draft integrated land reform plan for the Makhado Municipal area through promoting the plan with key stakeholders and putting more effort into community capacity building. An evaluation by external consultants was also completed. A key event in the promotion of ALRI was the Makhado land conference held at the end of August and attended by more than a hundred representatives of local stakeholders. There were also delegates from national and provincial organizations and a few international guests. The conference was addressed by amongst others the Minister for Agriculture and Land Affairs and the MEC for Agriculture in Limpopo. The conference endorsed the project and agreed that it should be taken forward with the Municipality playing a leading role.

While promoting a more holistic approach to land reform the ALRI project has not shied away from involvement in specific ongoing land reform issues in the Makhado area. Amongst other activities Nkuzi has supported land claimants in negotiations on the settlement of their claims especially in Luvuvhu, run workshops on the strategic partnership concept for the operation of commercial farms being claimed, worked closely with the livelihood project of Nkuzi, and assisted where there have been clashes between land owners and existing occupiers.

The **National Eviction Survey** was initiated by Nkuzi to establish the extent, impact and nature of evictions from farms across South Africa. The study design and implementation is being done in partnership with a company called Social Surveys who are carrying out most of the fieldwork. The methodology was piloted in the first half of 2004 and a pilot report has been produced. By the end of the year approximately half the field research had been carried out in 67 communities across South Africa. The research, publication of a book, a national conference and other information dissemination activities will be completed by the end of 2005. Consultative work and promotion of the project has involved several meetings of the reference group that includes people from DLA, Treasury, NLC, RLT, AGRISA, FHR, SAHRC and the HSRC. Bilateral briefings have also been held with other stakeholders.

A research report on the **implementation of LRAD** in Limpopo was completed and will be published by PLAAS. Most of the field research for this study was carried out in 2003.

Nkuzi has been carrying out research on the **impact of HIV/Aids on land reform and land-based livelihoods** in three sites in Limpopo. This project is being coordinated by the HSRC with field work carried out by other partners in the Eastern Cape and Kwa-Zulu Natal. A research team has been put together involving two contract researchers and three community field researchers. Fieldwork began in November and will be completed in February 2005. An **overview of land issues in Mopani District** was compiled for the Kellogg Foundations during June and July.

Nkuzi is part of a collaborative research project with PLAAS and the Institute of Development Studies (IDS) at the University of East Sussex in the United Kingdom that aims to assess the **impact of land redistribution on livelihoods**. The project will look at land redistribution projects, including restitution claims where land has been returned, in Limpopo and Masvingo (Zimbabwe) Provinces. Nkuzi wrote an overview of land reform issues in Limpopo for the first phase of the project and organized and participated in a planning session to design the next phase of the study. The continuation of the project depends on acquiring further funding.

Nkuzi is involved in another collaborative study with the Natural Resource Institute in London and the HSRC to look at **Territorial Approaches to Land Reform**. Nkuzi will be documenting the experiences of implementing land reform on a territorial basis in the Nzhelele area of Makhado Municipality. The project incorporates similar studies in the Elliot area of the Eastern Cape and three sites in Brazil.

Policy Interventions

Nkuzi engaged with the **SAHRC Economic and Social Rights Report on Land** making inputs during consultations on the drafts and sending written inputs to the SAHRC. A critical analysis and article on the final report were written. The article was published in a national newspaper.

A submission was made to the Commission on **Foreign Land Ownership**. Assistance was provided in preparing a submission on the **pace of land reform** that was presented by the Nkuzi Executive Director to the Parliamentary Portfolio Committee on Agriculture and Land Affairs.

Nkuzi has driven, through the Programme Manager: Policy and Research who chairs the RLT, a pilot project to integrate the **provision of legal services for farm dwellers** into the Legal Aid Board (**LAB**) justice centres. Proposals and a draft contract have been drawn up after extensive discussions within the RLT and with the LAB, DLA and Department of Justice. The project aims to incorporate existing RLT legal teams into justice centres.

An **election monitoring** project was implemented to assess the level of participation of farm dwellers in the national elections and if any constraints exist to their participation. It became clear that there are still obstacles to full participation of farm dwellers in election processes and all political parties are failing them as a constituency through not reaching out to farms and having no relevant messages for farm dwellers in their campaigns.

The most important land related legislative development in 2004 was the passing of the **Communal Land Rights Act (CLRA)** by parliament and its signing into law by the President, although the date when it will come into effect has not yet been determined. Nkuzi has engaged with this new law at a number of levels: internally developing a programme to engage with the CLRA; engaging in DLA consultations on regulations and implementation plans for the Act; discussing strategies for responding to the Act with other civil society structures nationally and provincially; and running information and training sessions for community organizations, NGOs, and Municipal officials at a district and provincial level in Limpopo.

The **Nkuzi Times** has been launched as an electronic newsletter and is also being placed on the Nkuzi web site. Four issues have been produced in 2004 covering stories from the work of Nkuzi and opinion pieces on current land debates. Nkuzi Times is sent to a small, but significant group of people in the sector and has already received much positive response.

The Programme has had regular dealings with the **media**, from arranging visits of journalists to land reform projects to doing radio and television interviews. A number of articles have been written and published in national newspapers.

5. Legal Services

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 and work on farms in Limpopo, Mpumalanga and Gauteng Province. Nkuzi Law Clinic is an integral part of the programme responsible for legal representation of clients in court and other forums. This is done in order to ensure that our target groups have access to justice and are enabled to assert their land and related rights. The co-ordination and integration of work with other Nkuzi programmes is illustrated by overlapping of activities to some extent. Project officers who are working for the farm dweller programme or other programmes will refer a case which needs legal intervention or a claim to the law clinic for intervention. Sometimes the attorneys join the project officers on field trips to get first hand experience of the nature of the case that has been referred.

The Unit is presently handling about 267 cases. The table below illustrates the type of cases in the registrar of our clinic:

Type of cases	Number
Security of Tenure	126
Labor cases	88
Human Rights & Damages	37
Land Claims	15
Criminal/Maintenance/Pension cases	1

TOTAL

267

The Unit successfully finalized about 72 cases in 2004 and about 94 new cases were taken during the said year. About 68 cases were finalized through negotiations. Most of the cases which are finalized through negotiations are labour and security of tenure cases. The highest number of cases referred to the unit is the security of tenure cases (the type of cases included are threatened evictions, evictions, constructive evictions). This demonstrates that farm dwellers tenure security is always under threat. For the first time the legal unit is handling more than ten land claim cases. We envisage the increase in these type of cases caused by the resistance of farmers to land reform who oppose the validity of the land claims in court.

The Communal Land Rights Act was eventually passed by parliament and signed by the President, what remains outstanding for it to come into effect is a clear implementation plan and resources. The Act obviously has far reaching repercussions to communal land ownership. This poses a fresh challenge to Nkuzi as most of our target groups are directly affected by the said legislation and are oblivious to the impact it may have on their tenure rights. The Legal unit participated in the design of the information dissemination workshops Nkuzi carried out towards the end of the year.

One case of a widow known as Selina Mabasa who lives in a communal area is still pending in court at the time of this report. The widow was evicted through a protection order. The case demonstrate gross abuse of powers by our lower courts (magistrate courts) in that there is a difference between **protection orders** and **eviction orders** and the two are regulated by two different pieces of legislation. The decision which will be taken in this court will determine the extent to which tenure rights of women are protected. It is unfortunate that this case is being heard before the implementation of the CLRA since it was going to be a good test case on the effectiveness of CLRA to protect people's tenure rights in communal area.

The **Modderklip case** involves the attempted eviction of 40,000 people from a farm in Gauteng and legal argument about the obligation of the state to assist the owner with this eviction, in order to protect property rights, and to assist the occupiers with housing, in order to protect their land and housing rights. Nkuzi joined the case as amicus curiae ('friend of the court') due to the potential significance of precedents that may come from the case. During the year the case was heard in the Supreme Court of Appeal (SCA) and later on further appeal in the Constitutional Court (CC), Nkuzi was represented in both courts. A very positive judgment was obtained from the SCA; judgment is still awaited from the CC.

SALOME MABITWA

Salome Mabitwa is the land occupier born at Morgenson farm near a place commonly known as Bela Bela. Our client's parents died and were buried on the farm. The landowner Mr Posthumus gave notice to our client to leave the farm on or before the 13th November 2004. Our client who lived the rest of her life on the farm and who did not have anywhere to go was unable to comply with said notice. The landowner Mr Posthumus broke down her house's doors and loaded all her belongings and dumped her on the roadside near the farm. Salome contacted our office on the 1st December 2004 and when our attorney intervened her belongings were still on the roadside. An urgent application was made and the Court granted an interim order interdicting the landowner from illegally evicting our client and affording the landowner an opportunity to appear before court on the 26th January 2005 and argue his case. A court granted a final order in favor of our client.

6. Management and Institutional Development

Nkuzi has gone through internal transformation with new members of the management appointed. Lucas Mufamadi who was the Deputy Director at Nkuzi has now been appointed the Executive Director, Marc Wegerif who was the Executive Director is now the Programme Manager: Policy and Research. The other members of the management are Letago Langa, Programme Manager-Legal Services and Sipiwe Ngomane Programme Manager: Farm Dweller Programme. The organizational structure of the organization has changed with the management composed of the Executive Director and five Programme Managers. There are still two vacancies in the management for Land Reform Implementation and Admin and Finance. The new Programme Managers are given more responsibilities since they are also supposed to raise funds and maintain donor relations.

The Programme Managers supervise staff underneath them. We have also designed a new performance management system which required that we review the job descriptions and the employment contracts of all staff. The job descriptions for all staff have been formulated and we need to incorporate that into new contracts. Once the contracts are finalized the new review system will be fully functional. The performance reviews will be carried out twice a year.

Nkuzi holds an annual operational planning meeting each year. This year we had a successful event held at Aventura Swadini facilitated by Anne Harper from Olive OD and Training. The objectives and outputs of the organisation were revisited. Some of the programme objectives changed and other projects were consolidated. This made us realise that we need to have a strategic planning session to review the vision and the mission of the organisation in line with the changing environment. The annual plan helps guide implementation of Nkuzi's programmes.

7. Staff Training

One staff member attended a development facilitation workshop facilitated by Thlavhama Training Initiative.

Another staff member attended a project management training facilitated by Thlavhama Training Initiative. This is a course which is run through modules, one of the modules have already been completed.

An Organizational Development consultant was hired to run a Log Frame training workshop for all staff during the annual planning meeting. The facilitation of the annual planning meeting by the consultant also helped to expose mainly our new staff members to the planning processes. It also gave Nkuzi staff an opportunity to strengthen their relations and enhance the team building spirit.

One staff member attended the review of the Leadership training workshop designed and facilitated by Sedibeng Centre for Training Excellence.

8. Monitoring and Evaluation

Nkuzi provides a space for staff to reflect and learn from each other through the Bi-monthly planning 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 practical experiencing the running of the bi-monthly 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 month are reviewed during this meeting which also provides an opportunity to monitor progress.

Nkuzi is planning to conduct a three year impact assessment early next year, provided funds are secured to do so. This will help the organization to conduct a strategic planning session informed by the impact assessment. The assessment will include the reviews of the vision, mission, objectives and programmes since the last one conducted was in 2001.

9. 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).

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 current financial constraints faced by some of our key foreign donors, the strength of the Rand and the changing donor environment where South Africa is categorized as a middle income country not worthy of donor funding. All these increase the urgency for Nkuzi to look for alternative sources of funding.

10. Networking

The Executive Director of Nkuzi is currently serving in the governing structures of the following institutions, the National Land Committee (NLC), the South African Netherlands Partnership on Alternatives Development (SANPAD), the Development Facilitation and Training institute (DevfTI) of the University of the North. The Programme Manager for Policy and Research on the other hand is still the Chairperson of the Rural Legal Trust (RLT).

The networking opportunities available within the National Land Committee may yield more results in the near future. The new vision of the NLC is quite inspiring and has the potential to forge unity among its affiliate members. There have been difficulties with the implementation of the recommendations made by the transformation task team which poses a big threat to the NLC. At the same time a number of key staff members resigned leaving serious capacity problems. Funding shortages also added to the challenges the NLC leadership has to contend with, since it became difficult to raise sufficient resources to replace the staff that left the organization.

The civil society sector seems to be confronting big challenges with big network organizations such as the National Land Committee and SANGOCO beginning to experience financial difficulties and confronting a challenge of redefining their role in the current political dispensation. The funding environment for the land sector was quite difficult this year.

11. Acknowledgements

Nkuzi would like to thank all donors and individuals who have supported her work during the year 2004. In particular we would like to note our appreciation of the financial support received from HorisonT3000 (Austrian Development Corporation), Ford Foundation, Foundation for Human Rights, Christian Aid, Atlantic Philanthropies, the Rural Legal Trust, Bread for the World, National Development Agency, National Lottery Distribution Trust Fund and the Open Society Foundation during this difficult period.

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. Abbreviations

AGRISA	- Agriculture 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
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 Organisation Coalition
SAHRC	- South African Human Rights Commission
Treasury	- Department of Finance

Nkuzi Staff End 2004

1. Furumele Thembani
2. Khumalo Ntokozo
3. Kwindi David
4. Langa Letago
5. Letsoalo Jerida
6. Mabunda Vasco
7. Makhubela Getrude
8. Maluleke Themba
9. Malumbete Nandu
10. Manenzhe Tshililo
11. Mohale Shirley
12. Molope Sipho
13. Mufamadi Lucas
14. Ngobeni Patricia
15. Ngomane Sipiwe
16. Shirinda Shirhami
17. Shivambu Joe
18. Tlakula Jay
19. Tshishonga Leah
20. Wegerif Marc