

# NKUZI TIMES

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## NEWS

### **Safety and Security Pay for Wrongful Arrest of Nkuzi Staff**

In October 1999 Shirhami Shirinda of Nkuzi was arrested while trying to attend a meeting with farm owners and farm workers at Tshipise Aventura. He was assaulted and dragged to the police vans although the officers had no warrant for his arrest, no docket showing what he was charged with, and could not explain why he was being arrested. Interestingly the police who were from Masisi were operating outside their area of jurisdiction. Nkuzi always maintained that the arrest was illegal and a deliberate attempt to disrupt Shirhami's work with farm dwellers in the area.

After spending a night in the cells Shirhami appeared in court where he was charged and bail was set. The bail was paid immediately, but the same police still took him back to the police cells at Masisi and refused to release him. The following day they took him to Musina where they opened new charges. The Musina magistrate released Shirhami on a free bail.

Eventually all charges against Shirhami were dismissed. In the meantime Nkuzi initiated a civil claim for damages against the Minister for Safety and Security for wrongful arrest, wrongful detention and assault. Finally five years after the incident the Department of Safety and Security have admitted they were wrong and paid R48,000 in compensation. The amount may not be enormous, but for Shirhami and Nkuzi it is confirmation that the arrest was wrong and some justice has been done after a long fight. The whole case is also a clear illustration of the extent to which police abuse their powers and how difficult, impossible without substantial support, it is for an ordinary person to get any justice.

Marc Wegerif. Nkuzi. Programme Manager: Research and Policy.

### **Four Land Claims Settled in Waterberg**

On the 9<sup>th</sup> 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 will benefit 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.

All these communities were removed from their land under similar circumstances involving white people arriving on the communities land and trying to turn them into labour tenants. The resistance to work for the farmer without pay was met with dispossession of the land and the people's removal to areas demarcated as "native reserves". Nkuzi has been working for some time with three of these communities to ensure that their claims are settled. The restoration of land has finally brought justice to these communities who have been involved in the land struggle for many years.

Gauta Malotane. Nkuzi. Project Officer: Land Reform Implementation Support

### **Farmers Block Land Claims; The President Needs To Help**

In many meetings and conferences representatives of "organised agriculture" assure us and government officials that they are not against land reform, they want to assist to make it work. However in practice the situation is often very different.

Farmers in the Makhado area showed their true colours when they blocked roads to prevent Land Claims Commission staff from entering farms to investigate claims on the 14<sup>th</sup> September. Their action violated the Restitution Act and showed contempt for the Commission, the claimants and the land restitution process. The farmers argued on national radio that they were not consulted and proper procedures had not been followed. This is nonsense, colleagues of mine were in the meeting on the 7<sup>th</sup> September when farmer representatives agreed with the Commission on the dates for farm visits, the minutes of the meeting are available. Someone also deliberately caused confusion by sending out the completely false message that people were attempting to invade land. Now the farmers have asked for another 21 days to discuss their response. What do they need to discuss and what are they hiding on their farms? All the Commission is trying to do is investigate whether claims lodged are valid or not.

Farmers in Magoebaskloof have complained that they were not involved in the investigations before the claims on their land were gazetted. Now farmers in Makhado, who were consulted, are blocking the process and saying there should be no investigation as the claims have not yet been gazetted. These are not isolated cases, in other claims some farmers have simply refused to talk to the Commission, others continue to demand more time to negotiate and talk, and one of the biggest obstacles has become the ridiculously high prices demanded even by land owners who maintain they are not against the claim.

Despite all these obstacles if the Commission makes any mention of expropriation there is uproar from landowners, strongly supported by the media. What about the millions of black South Africans who had their land taken from them with no negotiations and no compensation? Many live in poverty today because of these removals. Do farmers worry about them when they refuse to settle? Refusing to

settle, not because they object to the claims, but because they want another million Rand or two.

The Minister for Land Affairs and the Commission are trying to meet a deadline for the finalisation of all claims by the end of 2005, a near impossible task under the best circumstances, but now in addition to other challenges they face obstructive land owners, they have only a fraction of the budget needed, and they still are not expropriating despite the new powers available.

Mr President you need to assist. I appreciate that you set a deadline to resolve claims, now you need to make sure it can be achieved. It is in the best interest of the agricultural sector and the nation as a whole, not to mention claimants, that land claims are settled expeditiously. I humbly suggest that you: tell the farmers to tow the line or back your Minister in expropriating; give the Commission the resources to do the job; and put in place the structures and substantial resources needed to enable people who receive their land to use it effectively.

Marc Wegerif. Nkuzi. Programme Manager: Research and Policy.

## **IN BRIEF**

### **MST Visits Nkuzi**

Comrade Joelson de Oliviera, who is part of the national leadership of MST (Landless Rural Workers Movement) in Brazil, visited Nkuzi at the end of October. He had the chance to go to farms and informal settlements around Gauteng and to visit villages and successful land claimants in Limpopo. He met comrades from the LPM (Landless Peoples Movement) in both provinces.

Joelson is a farmer from a settlement in Bahia Brazil where they grow organic produce for the market. He shared some reflections on his visit: he realised that there is still a long way to go in the land struggle in South Africa, strong mass based movements of the poor and landless are needed to push for real change. "The poor cannot wait for or beg the government" he said and stressed that "people need to occupy and use the land, strong organisation will only be built through struggle".

### **Communists March on Landowners**

On Saturday 6<sup>th</sup> November several thousand people gathered at Church Square in Pretoria under the banner of the South African Communist Party (SACP) to demand land reform. They then marched to the AgriSA (the largest commercial farmers organisation) offices to demand that white landowners cooperate to make land reform work. The march was part of the SACP's red October campaign around land reform that has adopted the LPM's (Landless Peoples Movement) slogan of "Land, Food, Jobs". The SACP were supported in the march by a large number of people from the LPM, the Homeless Peoples Federation and other organisations.

**OPINION****Land Restitution: Realising the Potential to Transform Rural Areas**

I was one of those who argued a few years ago that land restitution, even if effectively implemented, would not fundamentally transform land holding in South Africa. This belief continues to be espoused from various quarters today. It has been assumed that the land under claim, which could fit the criteria of being a valid claim in terms of the Restitution of Land Rights Act, would be a relatively small percentage of the total land. It is also true that Redistribution is the only land reform programme with the stated objective of changing the grossly unequal patterns of land ownership and access in the country. However as rural claims are being further investigated and some large ones edge closer to settlement a different picture is emerging.

Nkuzi has engaged over the last years in a process of identifying and mapping all land claims in the Makhado Municipality. This has been done as part of developing an integrated plan for land reform implementation in the area. It quickly became clear that over 90% of the land in the Municipality is under claim, including all the high value commercial farms that are the basis of the economy of the area. Other claims such as those in Magoebaskloof have abruptly woken people, not least the current land owners, to the fact that returning claimed land is going to amount to a complete transformation of not only land ownership, but the economies of such rural areas. In Limpopo it appears that well over 50% of the land could be under claim, including all land with the best agricultural potential. The situation could be similar in Provinces like Mpumalanga and KwaZulu-Natal.

This situation requires a rethink of our approach to land restitution and its potential importance to the fundamental transformation of rural economies. Unlike the redistribution programme land restitution is not a willing seller and willing buyer programme; there is a far greater possibility through restitution of taking land from owners who are not willing to sell. Even though the government has failed so far to use its' powers of expropriation to settle land claims the very fact of a claim being lodged is pushing farmers, who otherwise had no interest in selling, to the negotiating table.

The land restitution process offers opportunities for transformation and development that we should not miss. Rushing to settle claims in a haphazard manner, in order to meet narrow targets, is not going to be in the interests of claimants if doing so results in people not getting back all of their land and if economic opportunities are destroyed. We need to move beyond dealing with the technicalities of settling individual claims and start thinking in terms of the complete socio-economic restructuring that effective land restitution could drive in many rural areas. Strategies and resources need to be put in place to ensure that the transfer of land to the rightful owners is followed by economic success and real development benefits for the poorest.

Marc Wegerif. Nkuzi. Programme Manager: Research and Policy.

## **Extract from Nkuzi Submission to Parliament**

From the 18<sup>th</sup> to the 20<sup>th</sup> October the Parliamentary Portfolio Committee on Land and Agricultural Affairs held hearings on "the pace of land reform". Nkuzi was one of the organisations that made submissions. Below are a few extracts from the submission that was presented by the Nkuzi Director Lucas Mufamadi.

### **2.1 Develop a Vision for the Outcome of Land Reform**

It is important to have a vision, if possible a common vision amongst all key stakeholders, of how we envisage rural areas post land reform. There is currently no clarity on what kind of rural areas, rural economies and rural settlements we want to create. The percentage of land planned for transfer does not tell us the kind of society we are building in rural areas. The strategic plan for agriculture was developed with only certain organised landowners being consulted and it defines no vision beyond aiming for a profitable agricultural sector. This cannot be called a vision, will never have support outside the tiny number of farm owners, and fails to address the issues of millions of rural dwellers who live in poverty.

It has become clear that delivery of land at pace and scale will best be implemented with the contribution of as wide a range of stakeholders as possible. Such a vision will give all stakeholders something to collaborate in creating and give purpose to land reforms. It will become clearer what different government departments need to contribute and inform the design of implementation systems.

If we expect to get the cooperation of current landowners and continue to benefit from the skills and experience that some of them have there will have to be a place for the "white commercial farmers" in this vision.

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### **2.3 More Effective Land Acquisition**

The state remains a poor buyer of land, slow in finalising deals and often paying too much for inappropriate land. Part of the problem is the willing buyer willing seller approach that allows landowners to dictate, which land becomes available for redistribution. In land claim settlements expropriation has still not been used making even the restoration of land to the rightful owners' dependent, in practice, on a willing seller.

It is often said that there is much land on the market, the state must just buy. What this does not address is whether the land being sold is the most appropriate. This approach will also tend to leave the best land in the hands of the current owners as the best will be the last to be sold. The 30% to be redistributed must not be only the land that white owners feel is superfluous to their needs.

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We suggest the proactive identification of land needs (This would include mapping existing land claims and also assessing other needs such as for farm dwellers and

other marginalised groups that have often not been able to articulate a clear demand) and the proactive purchase of land to meet these needs. Where owners are not willing to sell expropriation needs to be used.

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#### **2.4 Secure Farm Dwellers Rights With Legislation and Proactive Programmes.**

The millions of farm dwellers in the country<sup>1</sup> remain amongst the poorest and most vulnerable in the South African society. They are still subject to evictions and other human rights abuses as confirmed through numerous reports, including those produced annually by the South African Human Rights Commission (SAHRC) and the SAHRC "Inquiry into Human Rights Violations in farming Communities released in August 2003. The work of Nkuzi puts us in touch with this reality on a daily basis. For farm dwellers the pace of land reform has been extremely slow. There are few labour tenant claims settled, only a handful of ESTA section 4 settlements, and few farm dwellers benefit from redistribution or restitution. In some cases redistribution and restitution projects have even undermined the rights of farm dwellers.

The DLA must amend legislation to strengthen the rights of occupiers, specifically to create a class of non-evictable occupiers. There are farm dwellers who are of such an age and have spent so long on farms that there can be no moral justification for taking their homes and means of production. At the very least there should be absolutely no eviction without an equivalent alternative land being provided.

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We further recommend that the DLA needs to be proactive in going out to create viable settlements for farm dwellers in commercial farming areas. It is not good enough to wait for an eviction to happen or expect that farm dwellers will be able to initiate such projects themselves. Any settlements must give farm dwellers independent secure homes and opportunities for their own production, thus breaking the relationship of dependency that characterises farmer worker relations at present.

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#### **2.5 Business Skills Required in the CRLR and DLA**

We recommend that the DLA and even more importantly at this time the Commission for the Restitution of Land Rights (CRLR) have available high level business and economic skills. In the settlement of land claims the CRLR, through its Regional Land Claims Commissions (RLCCs) is setting up business ventures and business deals, in some cases for assets and operations running into the hundreds of millions. This is all being done with virtually no skills to assess the potential of these businesses and to set up appropriate and viable entities and partnerships.

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<sup>1</sup> According to the 2001 census there are 2,897,383 black people living on farms. Some commentators have estimated there to be even more.

There are also no skills being utilised to address questions around the impact of land reforms on the broader economy.

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### **2.10 CLRA Implementation: What are the plans?**

Much debate took place in this committee around the Communal Land Rights Act (CLRA). We do not wish to go over that again here, but we should not forget this critical piece of legislation that could have a profound affect on the lives of around 15 million rural people. For now we would like to ask you a few simply questions that we believe are of importance to millions of people. Where are the regulations and the implementation plans for the CLRA? How much money has been made available for implementation? When will CLRA come into affect?