

LRC Annual Report

1st of April 2000 - 31st March 2001

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ANNUAL REPORT

The Legal Resources Centre (LRC) is an independent, client-based, non-profit public interest law centre, which uses law as an instrument of justice. It works for the development of a fully democratic society, based on the principle of substantive equality, by providing legal services for the vulnerable and marginalised, including the poor, homeless, and landless people and communities of South Africa who suffer discrimination by reason of race, class, gender, disability or because of social, economic, and historical circumstances. Inspired by our history, the Constitution, and international human rights standards, the LRC, both for itself and in its work, is committed to:

- ?? Ensuring that the principles, rights and responsibilities enshrined in our national Constitution are respected, promoted, and fulfilled;
- ?? Building respect for the rule of law and constitutional democracy;
- ?? Enabling the vulnerable and marginalised to assert and develop their rights;
- ?? Promoting gender and racial equality and opposing all forms of unfair discrimination;
- ?? Contributing to the development of a human rights jurisprudence;
- ?? Contributing to the social and economic transformation of society;

To achieve its aims, the LRC seeks creative solutions by using a range of strategies, including impact litigation, law reform, participation in partnerships and development processes, education, and networking within and outside South Africa.

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GROOTBOOM. The name literally means 'big tree' in Afrikaans. But in South African legal circles - and in fact, well beyond our borders - the name is now associated with a precedent-setting Constitutional Court decision handed down in October, 2000, that gives content, clarity, and meaning to 'the progressive realisation of social and economic rights.' In brief, the Constitutional Court ruled in this matter that the state has a constitutional obligation to devise and implement a programme to meet the basic housing needs of people living in desperately poor, emergency situations.

'Grootboom' is also the short-hand we use to refer to the amici curiae ('friends of the court') brief prepared by the LRC's Constitutional Litigation Unit on behalf of the South African Human Rights Commission and the Community Law Centre. Although the LRC acted on behalf of the amici in this case, our legal team - led by Geoff Budlender - played an important part in putting arguments before the Constitutional Court that were ultimately adopted in the decision. Undoubtedly, the LRC's role in 'Grootboom' was one of our finest hours in court.

'Grootboom' is also the name of a woman, Irene Grootboom. She lived in a squalid informal settlement outside of Cape Town. She was forced to leave her dwelling, and relocate to another piece of land - only to be evicted along with 510 children and 390 other adults. She had no where else to turn - and asked her lawyers to seek a court order compelling the local and provincial governments to provide her children with shelter in terms of the Constitution. Her plea for assistance went all the way to the Constitutional Court. In years to come, 'Grootboom' will occupy an important place in South Africa's fledgling constitutional jurisprudence. The case will be studied by law students, the subject of interpretation by legal academics and jurists, and perhaps the basis for the creation of new social policies addressing the social and economic rights of our people. 'Grootboom' is a watershed moment in our constitutional democracy - and will have a ripple effect for years to come. Its implications have not only been felt in South Africa alone, but it has become of great interest to jurists around the globe.

At the Legal Resources Centre, we are keenly aware that there are real people like Irene Grootboom, her children, and her fellow land-occupiers behind the headline-making court decisions in cases we litigate. Their stories are real. Their suffering and hardship are heart-breaking. Their circumstances are truly desperate. We see these cases at the LRC on a daily basis all across the country. We try never to lose sight of the people involved in the litigation that we undertake in the wider public interest.

Recently, I was struck by an article in the Sunday Independent entitled, 'Who is Irene Grootboom' in which a journalist started hunting for Irene Grootboom, to discover the woman whose name is now synonymous with legal history. The journalist discovered that Grootboom had left the community of Wallacedene, disappointed at the slow pace of the legal process and the government's inability to provide temporary shelter for her and her children. This story touched me very deeply - for it reminded me once again that behind the headlines

and the reported judgements in law journals are real people with real needs and real expectations of a better life.

In this spirit, we decided to try something different with this year's annual report for the Legal Resources Centre and the Legal Resources Trust. Instead of focusing your attention on our casework, our organisation, and our own staff, we decided to shift the focus of this year's annual report to our clients, their issues, and their stories. We commissioned two journalists - writer Roger Friedman and photographer Benny Gool - to travel the length and breadth of our country to uncover the people behind some of the LRC's most important cases of the past year, the period from 1 April 2000 to 31 March 2001. We are grateful to Roger and Benny for taking this month-long odyssey, and through their narratives and pictures, enriching our own understanding of why we exist as a public interest law centre at this moment in time.

In the pages that follow, you will read about **Mildred Mthembu and her daughter, Thambi**, and their attempt to fight challenge the discriminatory provisions of African customary law. You will hear the words of **Benji Frey** as she describes the childhood trauma of being forcibly removed from her home in Franschoek on Christmas Day - and her sweet victory nearly 40 years later as she wins restitution of her land rights. You will listen to the words of 76-year old pensioner, **Gert Domroch**, and his fellow residents of Richtersveld in the far Northern Cape province describe their attempts to win back their land, their minerals, and their dignity through a series of legal battles over their aboriginal rights. In this report, you will also see the cruelty inflicted upon **Henrietta Mqokomiso** and her husband, Stanley, as they watched city officials tear down their home in Alexandra township, ironically in this new era of housing rights.

These stories and clients are only a fraction of the total number seen by the LRC in any given year. But in a way they are exemplary of the social problems facing our young democracy - and the challenges confronting a dynamic public interest law centre like the LRC.

There is one exception to this year's format. We include a piece about an extraordinary human rights lawyer, George Bizos, SC, and his remarkable record in opposing amnesty applications on behalf of the families of victims of human rights violations. His success before the Truth and Reconciliation

Commission's Amnesty Committee over the past five years has been noteworthy that we could not resist telling his story in this year's report.

We hope you enjoy the format of this year's report. But for those of you who want more detail about the actual cases undertaken by the LRC, I can refer to you to several new methods of communication we have adopted a regular monthly newsletter called LRC Briefs which describes in some detail the key cases we undertake. The newsletter is distributed electronically by email. Send us your email address if you would like to subscribe. Secondly we now have a website www.lrc.co.za which contains news, case reports, project descriptions, key judgements and even heads of arguments our lawyers use in cases - in brief everything you might want to know about our legal practice. I hope that you will make use of both the LRC website and LRC BRIEFS to keep informed about what is happening in public law in South Africa.

In closing, I would like to conclude this introduction to the 2000 - 2001 annual report with a quote which Geoff Budlender included in the Grootboom brief before the Constitutional Court.

"We live in a society in which there are great disparities in wealth. Millions of people are living in deplorable conditions and in great poverty. There is a high level of unemployment, inadequate social security, and many do not have access to clean water or to adequate health services. These conditions already existed when the Constitution was adopted and a commitment to address them, and to transform our society into one in which there will be human dignity, freedom, and equality, lies at the heart of our new constitutional order. For as long as these conditions continue to exist that aspiration will have a hollow ring."

[Soobramoney v. Minister of Health, KwaZulu-Natal, 1998 (1) SA 765 (CC) at para 17.]

From Soobramoney to Grootboom, we have indeed come a long way. But as the pages of this report illustrate, there is still much, much more to be done in bringing about the progressive realisation of social and economic rights for all South Africa's people.

Bongani C. Majola
National Director

Wallacedene, Western Cape Province
A landmark case in defining the constitutional right to access housing

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A WATERSHED MOMENT in the struggle against apartheid occurred at Kliptown, near Johannesburg, where the Freedom Charter was adopted at the Congress of the People in 1955. The Freedom Charter succinctly defined what South Africans were struggling for, and one of the provisions was that there should be housing for all.

In 1996, the South African parliament adopted a new Constitution and Bill of Rights. Three parts of the new Constitution address housing rights in particular: Section 26 (1) of the Constitution says everyone has the right to have access to adequate housing; Section 26 (2) commits the State to "take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right"; and Section 28 (1) (c) confers a special right to shelter on children.

These various rights to access housing were largely untested in South Africa's fledgling human rights jurisprudence until the year 2000, when the Constitutional Court handed down what is regarded by many lawyers as the most important judgement to date in South Africa's post-apartheid legal history. In the Grootboom matter, the Court gave substance to 'the progressive realisation of social and economic rights' by ruling that the state was obligated to implement an effective housing plan and to provide emergency shelter to destitute people.

The Grootboom judgement was another one of those watershed moments in the struggle to provide housing to the poor and destitute in South Africa.

At the beginning of 2002, the City of Cape Town unveiled a plan for the development of Wallacedene township, the shanty town near Kraaifontein where Irene Grootboom lived. The development plan was partially in response to the Grootboom judgement, partially in response to very bad flooding in the community during the rainy season of 2001, and partially in the pipeline anyway, city officials admit.

It looks like a living example of the progressive realisation of the right to access adequate housing. The future development of Wallacedene may tell.

Who is Irene Grootboom? She was one of a group of 510 children and 390 adults who, to escape overcrowding and flooding in Wallacedene, moved onto adjacent land earmarked for low-cost housing. When they were forcibly removed, their old places had been occupied subsequently by others, leaving them nowhere else to turn. So, in the middle of the Cape winter, they moved onto a sports field and into a community hall.

In brief, Grootboom and the others then applied for a court order asking the government to provide them with shelter.

"But in all of this legal debate, something very fundamental has shifted subtly in South Africa: the power of desperately poor people to leverage assistance from the state."

And the Cape High Court ordered the appropriate government departments to provide shelter for the applicants, most of whom were children - as well as for their parents. Government appealed the High Court ruling to the Constitutional Court. After application for leave to appeal had been granted, but before argument had been filed by any of the parties, the Human Rights Commission and the Community Law Centre at the University of the Western Cape applied to be admitted as amici curia ('friends of the court') in the case. That application was granted and the amici were permitted to present written and oral arguments. Geoff Budlender of the Legal Resources Centre's Constitutional Litigation Unit submitted written arguments and appeared on behalf of the amici at the Constitutional Court hearing.

In September, 2000, the Constitutional Court ordered the province and local government to provide basic sanitation services in the form of an ablution block including 20 toilets, the installation of 20 taps, and the purchase of R200,000 worth of building equipment to shore up homes on the Wallacedene sports field. In his judgement delivered in October, 2000, on behalf of a unanimous court, Mr Justice Z. Yacoob commended Budlender and the amici for a "detailed, helpful and creative approach to the difficult and sensitive issues involved" in the case.

Effectively ordering that the state's housing policy be re-examined, the Constitutional Court found that the right of access to adequate housing could not be seen in isolation from other socio-economic rights. "The State is obliged to take positive action to meet the needs of those living in extreme conditions of poverty, homelessness or intolerable housing. Their interconnectedness needs to be taken into account in interpreting the socio-economic rights, and, in particular, in determining whether the State has met its obligations in terms of them," Justice Yacoob wrote in the judgement.

Summing up the judgement, Justice Yacoob said the Grootboom case reflected the desperation of hundreds of thousands of people living in deplorable conditions throughout the country. The Constitution obliged the State to act positively to ameliorate these conditions. The judge said Section 26 of the Constitution obliged the State to devise and implement a coherent, co-ordinated programme. The Cape Metropolitan housing programme did not meet these obligations.

"In the light of the conclusions I have reached, it is necessary and appropriate to make a declaratory order. The order requires the State to act to meet the obligation imposed on it by Section 26 (2) of the Constitution. This includes the obligation to devise, fund, implement and supervise measures to provide relief to those in desperate need," he wrote.

The judgement created a benchmark against which all of the government's poverty alleviation measures can be measured, and slammed the lid on the argument that socio-economic rights are not enforceable. It became a tool in the hands of public interest lawyers seeking to use the law as an instrument of social justice. And it changed the debate about social and economic rights - away from discussions about budgetary implications, towards the manner in which government approaches people living in dire circumstances.

Where is the Grootboom community today? And how have they benefited from the decision of the Constitutional Court?

Regrettably, they are still living in squalor on the sports field. Most of the toilets are broken, and many of the taps have run dry. In spite of all this, however, they are not without hope.

In March, 2002, at a meeting in the hall that was once their home, members of the Grootboom community heard Cape Town city officials unveiling a new plan to develop Wallacedene. The officials divulged that they were on the brink of purchasing the 130-hectare Blue Ridge Farm next to Wallacedene for the construction of low-cost housing.

It is envisaged that this 'Green Fields' development will cater for 6,800 households, while another 2,000 erven will be developed in existing Wallacedene. The total cost of the development - including the acquisition of another 13 hectare portion of land for slightly more than R1 million - will be in the region of R244 million. After listening intently to the council presentation, Grootboom community leader Lucky Gwaza expressed sadness that relocating his people would only be undertaken during phase three of the development, which could be five or six years away. They had heard many promises, he said. In particular, he accused municipal authorities of not adhering to the spirit of the Constitutional Court judgement.

"The judge said they must give us permanent toilets and taps. How can they be permanent if they are on a sports field? And they are not kept clean or maintained. We are not very happy. I don't think the municipality wants to help the sports field people because we took them to court," he said.

Slowly very slowly the rights to access housing and other services are being realized for the residents of this impoverished community. Probably too slowly for most. The residents who fled Wallacedene seeking land and shelter have been waiting for two years for assistance. And it looks like it may take a few more years still before a development is constructed to meet their basic needs. But in all of this legal debate, something very fundamental has shifted subtly South Africa the power of desperately poor people to leverage assistance from the state.

And Irene Grootboom? She left the community many months ago. But the legal legacy that bears her name has only started to ripple through housing and development policies of municipalities across the country, potentially benefiting many millions of homeless and destitute people.

Franschoek, Western Cape Province

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A measure of justice for people dispossessed of the country's most expensive real estate.

MIXED MEMORIES:

Nearly 40 years after being forcibly removed from their home in Franschoek on Christmas Day, Benji Paulse and Regina Paulse returned back 'home' for the first time. They sat on a bench in the garden for a moment and shed a few tears. The widows, who were married to brothers, have lived together in the same household for the last 52 years.

THEN 1965

BENJI PAULSE, Aged 69 (mother):

"We and the whites lived among each other. In our street were the Kellys and the Boonzaiers (who were white) and the Fortuins. It was lekker. There was no difference between the people. It was as if all the children were our children. We would bake and all the neighbourhood children used to lick out the bowls together.

"One day, two men came. One's name was Rade-man and the other was Van Tonder. They said they had come to value our house. Although we were the owners of the house, they didn't tell us why they had come.

"Then they came back and said a new law was coming. They said if my mother-in-law died then her children would not be able to inherit the house. They just burst out with it, and we had to accept it. Van Tonder was a huge man, and he looked at you as if he wanted to donner you.

"When they came back a third time, they said we had to move to make way for the whites. They gave us three months to clear out. My mother-in-law, Dina Paulse, had in the meantime died of a broken heart. That was in 1956. Van Tonder said if we were not out within three months he would come back with a front-end loader and scrape us out.

"Then the men stayed away for a long time, only coming back years later to tell us we were to be evicted. We were two families living in our house. But the only alternative accommodation that was available were small council houses which couldn't fit us all in.

"It was a few months before Christmas. My husband asked a white man, Sonny Basson, if he did not know of any empty houses, and he gave us Mr. Joubert's name in the Strand. We drove there one day, arriving home very late at night. We bought a run-down house from him. It didn't have floors and the windows and doors were all broken. We paid £4,500. It was in Le Roux Town, on the edge of Franschoek, now known as Groendal.

"The government gave us just £1,900 for our stone house in Akademie Street. It was on large grounds and had a separate plot with fruit trees on it. That was the price they offered and we had no alternative but to accept it."

BENJI FRAY, Aged 47 (daughter):

"I was 10-years old in 1965 when they removed us. I remember that we had to trek on Christmas. The State accepted no reason why we should not move on Christmas, not even that we couldn't get transport.

"I remember we moved into an old dilapidated house on the main road the day before Christmas. It was a rainy Christmas, but we children enjoyed it. I think our parents tried hard to protect us from the detail of our eviction. On the platteland, people say: 'Grown-up things are grown-up things, and children stay out.'

"I remember our fruit trees were laden with peaches and apricots, but we were not allowed to pick them. It was that fruit that was sustaining the family, it was losing our livelihood. Other people lost their businesses in town.

"We were the first family to be evicted. So we moved into that old house on the main road, but then the National Party local government decided it needed to widen the road. On the one side of the road were vineyards, with houses on the other side. But it was the houses that had to be thrown down. So that became the second round of evictions.

"Today, on that old plot of ours stand three massive houses. Our house has been replaced by a wendy-house type structure. About two years ago our original house on a quarter of the property was on the market for R430,000. The woman said she'd sell it to me if I wanted it."

CONTACT WITH THE LRC 1994

BENJI PAULSE (mother):

"We were at my daughter's house watching the news on television. My son-in-law, Roland, and I often spoke of the hardships of the removals, and there was a news item about a new law which had come in which could help people who had been hurt. It was called Act 22 of 1994, the Restitution of Land Rights. I said to Roland I did not know where to begin. He said: 'Mama, on the campus is the Community Law Centre, and if you are a widow they might do it for free.' He took me there and I told them my whole story and what I'd seen on television. The young woman told me that this whole thing was at a very early stage, but she took my details and promised to contact me.

"Quite a long time afterwards she called me and gave me the name of a person to call. She did not say who this person was, but said I should call a Mr Henk Smith and she gave me his telephone number. She did not say he was at the Legal Resources Centre, but that is where he was. When I called he answered. I asked: 'Is that Mr Henk Smith?' He said it was, but where did I get his number? I said I'd eavesdropped on a conversation about land and his name had come up.

"He took my details and that same week I got a thick letter from him saying what we needed to do. I organised all the people in town, and Henk came out to Franschoek and we had a meeting in our house. He recommended that we claim the land as a group, told us where to get forms and how to fill them in, and said we should drop off all the completed paper work at the LRC."

NOW 2002

BENJI FRAY (daughter)

"We had to use my mom extensively because she was the person who could tell us who stayed in which house, in which street, who had died or moved away. We called ourselves the Franschoek Land Claims Committee originally, which later became the Franschoek Land and Community Restoration Association (FRALCRA).

"The old people did not want to go through another long painful process, they had suffered enough. Our strategy was to say to people that our original land would be too expensive to get back. So we looked at the Port Elizabeth Land Claim Restoration Association model, which pointed to our going for monetary compensation.

"We learned that we should first identify prime areas in town to use as leverage. We said we would accept monetary compensation on condition that we could get a prime site in town where nobody needed to be evicted. The rationale for this was our need to create something that would bring in a sustainable income for the future.

"In the end we settled for R40,000 monetary compensation per erf and five hectares of prime land on the slopes above Franschoek. It is very exclusive property, part of the country club development presently underway. It was part of the commonage, and we struck an agreement with the developers and local authority to secure it. Eventually the development will comprise a golf academy, large hotel and business centre. We must still decide how to develop our portion.

"FRALCRA represents 48 families, or 256 individual claimants, who were removed from the Franschoek central business district. All claimant members of FRALCRA will own shares and share the benefits for the land and business."

"Three of our five hectare were below the 50-year flood mark, making it expensive to develop. So we sold the

three hectares for R 1.2 million. This money will be used to develop the other portion. We now need to decide what to do to bring in sustainable income from the land."

"I know that R40,000 per erf is peanuts, and I know that property in Franschoek is among the most expensive real estate in the world. But this is about more than money."

KRANSPOORT, LIMPOPO PROVINCE

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"I AM ELIAKUM SERUMULA, a retired primary school principal. I was born at Kranspoort, near Louis Trichardt in Limpopo Province, 62 years ago. My mother and father were also born at Kranspoort, and my grandfather is buried there.

"Kranspoort was a Dutch Reformed Church mission station from the early 1900's. Those staying in the mission were called 'Christians', while those outside were called 'heathen'. We were staying in the mission, and we had some people staying at Muse and Patmos nearby. They were free to practise their culture and could be what they liked.

"We did not know any other church than the Dutch Reformed Church. It was the church that controlled the whole of South Africa, even the parliament. Today, I am a United Reform Church elder. It is the same as the Dutch Reform Church, they just changed the name. They say we must now unite with the white people.

"It was not always like that. The church minister at Kranspoort attended church with us. But as soon as he had delivered his sermon, he left to attend church in Louis Trichardt with the whites. He was not a member of our church, and in those times a black person could never enter a church of the white people.

"But we were living quite happily. People attended church, ploughed for themselves, and tended orchards in their yards.

"I remember well when Minister Lukas van der Merwe arrived at Kranspoort in 1947. Our whole school attended Sunday School and we welcomed him and escorted him to the church. We worked with him, but after a while he seemed to change.

"He started by taking the church's oranges, selling them, and keeping the money. He also took some of my grandfather's oranges. He was more like a farmer than a minister. He arrived in an old car, but from then on he bought a new car nearly every year. What made the people even more unhappy was that he said they should pay rent of one pound ten [shillings] to build churches in Messina, Soekmeaar and Louis Trichardt. My grandfather and the elders had been paying 10 shillings a year.

"The community split between those who supported Van der Merwe and those who did not. We called the people who stayed with him the Daza, which was the name of a local witch-doctor. We called ourselves Sefazonke ('we will all die together'). We were still living among each other but continued to fight with the minister and demand that he go.

"The real trouble started in 1953 when Mr. Matseba's mother visited him at the station and passed away. Van der Merwe refused to bury her at the mission because she was a heathen, although we had a graveyard where we kept Christians and heathen separate. The community went to complain to the police, and were told to take the coffin to the minister's home. But they refused, went back to the mission, and buried her.

"1955 is when they started to arrest all the Sefazonke people. They said those who did not attend church must leave. Some were arrested and others ran away. By 1956 there were no adult Sefazonke left at Kranspoort. They were scattered from Messina to Johannesburg. My mother had fled to Pretoria when people started getting arrested.

"Then, in June 1956, he evicted all the children and informed the school principal that if he was still there after midnight he would be arrested. He gave us all transfer letters to other schools. I was 14-years old, in Grade Six. I spent the night looking for mules to transport my sisters to Bochum about 80 or 100 kilometres away. We left at about 2 a.m., my three sisters, two cousins and me in the cart. It was a Friday night. We reached my uncle's place in the afternoon. We just took what we could carry, leaving all the furniture and my parents' possessions behind. My uncle went back later with a truck to fetch what was left.

"We left the Daza behind, there were about 70 of them staying with the minister at Kranspoort. But they did not stay there long. They were evicted in 1964 because of the Group Areas Act. "Wenever gave up hope that one day we would return. In 1975 we organised a reunion for all Kranspoort people, back at the farm over Easter weekend. We spoke to the church council in Louis Trichardt and asked permission to clean the graves each Good Friday. We did that for many years. We established a three-day program: church on Friday, a meeting on Saturday to discuss our return, and Holy Communion on Sunday.

"We went back every year until 1996. When we arrived there in the evening we discovered that the church had sold the farm to a Mr. Goosen, and he chased us away. We had already begun the process of claiming the land, and the church was trying to sell it.

"When we returned to Gauteng, I went to see the Commissioner of Land Affairs and told her the farm had been sold. She called the Deeds Office and was told that the land had not yet been transferred. We all held a meeting on the farm - Goosen was with Dr. Viljoen, the Dutch Reform Church's national economist - where the commissioner told them the land was being claimed and that there should be no further development.

"In June 1999, we were at the Land Claims Court in Pietersburg. I represented our people, and our lawyers were from the Legal Resources Centre. The land claims people had introduced us to the LRC, and they did all the negotiating with the church and the farmer.

"I told the court the names of all the people who lived at Kranspoort, and we went there for an inspection in loco. The church's Dr. Malan was there to show the court the boundaries, but he arrived after we left so we disagreed over boundaries and that's when I showed them every boundary there.

"Before 1994, when we held meetings with the Dutch Reformed Church in Pretoria to tell them we wanted our land back, they said we could not go back because it was a white area.

"But the Land Claims Court forced them to give us back our land. The Church was forced by the Restitution Act. The Court told the government to take Kranspoort and give it back to us, and the church was powerless to stop them.

"We are about 150 families who are part of the claim. I am the chairperson of the Communal Property Association (CPA), and we have already started planting orchards, tomatoes and mangoes. There are no more divisions between the Daza and Sefazonke, we are together again. We are together on the CPA executive.

"The people want to return to the land. Those who are without money will be helped by the government to build homes. We are going to launch projects there, and are busy with a business plan to plant orchards and generate tourism. We've spoken to witch-doctors about planting herbs, and we have joined the Soutpansberg Conservancy. We have agreed to accommodate some of the visiting scientists who work there.

"The original church will probably be converted into a museum and we are ready to re-open the school. Van der Merwe passed away many years ago in Durban. We heard he was injured at sea.

Just before he died he asked for the Kranspoort people, but we were not there any more. I think he wanted to ask forgiveness. His wife came to court and supported everything we said. She said her husband had been very cruel.

"There are other people who are not with us who led the struggle to get back our land. Mr Philip Moshokoa was in charge of the community, but he passed away. He was the first man who helped us organize this. After that Mr Tebe Lebogo, the Speaker of Lebowa Government, took over. He tried to get Kranspoort to fall under Lebowa, but he, too, passed away. Then I took over as the strong organizer. Now that we are ready to celebrate our return [in March 2002] I am truly satisfied. I harbour no grudges and resentments and I am ready to forgive the people who did this to us.

"You know, I love that place. It is where I was born. It has taken us more than 40 years of fighting, but we are going back."

NTSHALIPE JOHANNES MONYAI - Kranspoort CPA executive

VOSLOORUS TOWNSHIP, GAUTENG PROVINCE

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THIS IS A STORY of a child whose father left for work one day and never came home, the real life tale of a little girl who could not inherit the property of her biological father - simply because she was not born a little boy.

It is also the story of a seven-year legal battle that extended from a tiny house in Vosloorus on the East Rand and reached to the the Supreme Court of Appeal in Bloemfontein. In this case, the story does not have either a happy ending or an uplifting court verdict. In the matter of Mthembu, the Supreme Court of Appeal ruled that there were no grounds for interfering with the African customary law practices which prevent women, girls, and illegitimate children from inheriting property.

The decision was a crushing blow for the rights of millions of women and girls living under African customary law. And it was a particularly stinging defeat for one family in particular. This is their story - and the story of countless others left impoverished, destitute, and vulnerable as a result of a patriarchal legal system still practiced in South Africa.

Tebalo Watson Letsela, a talented marathon runner who did clerical work at a gold mine in Brakpan, had been living with Mildred Hlezphi Mthembu for three years when Thembi (meaning 'hope') was born in 1988. Their home in Vosloorus was registered in his name.

In accordance with African custom and traditions, Tebalo had been paying 'lobola' instalments to Mildred's family. He had not finished paying off the agreed amount, however, when he was murdered in political violence on the East Rand in 1993. The lobola payments were not completed, and therefore, the customary marriage not finalised.

So, technically - although they were living as husband and wife, although their union had been agreed to by their families, and although they were family members of his medical aid scheme - they were not married in terms of African customary law. And their offspring, Thembi, therefore, was born out of wedlock.

At the time of his death, Tebalo left no will leaving clear instructions about the dissolution of his property - namely, the house in Vosloorus. Without a will, Tebalo's father laid claim to the modest four-roomed house as his own in terms of African customary law and the exclusion of women and illegitimate children from intestate succession. The principle of primogeniture is applied, the practice being that only a male who is related to the deceased through a male, can qualify as intestate heir.

"As soon as they heard their son had passed away, my in-laws came to mourn with me - then they didn't want to go," is how Mthembu recalls the start of what was to become a drawn out family battle.

"They said I wasn't properly married, and that I didn't have a signed marriage certificate. They said Thembi was an illegitimate child and that she's a girl. If she was a boy she could inherit something. They said they were taking the house and simply refused to leave. They knew that if they threw me out they were also throwing out their grand-daughter, but they didn't care. They said I must just leave."

For seven years after the death of Tebalo, Mildred and Thembi lived in the house with parents-in-law and sisters-in-law, the two factions eating out of separate pots, waiting for justice. "We stayed together, but in two separate parts of the house. It was a small house, with a small kitchen, small bedroom, main bedroom and lounge."

Although the conflict drained Mthembu, she never lost hope that justice would prevail in the end. She briefed an attorney, but didn't have much money and the attorney suggested she approach the Legal Resources Centre.

The Mthembu case wound its way through the system to the Supreme Court of Appeal. There, Jeremy Gauntlett SC and Matthew Chaskalson, instructed by the LRC, attempted to persuade the bench it should overrule that part of customary law that prevents women and illegitimate children from inheriting, on the grounds that it was inconsistent with public policy. They argued that the customary law excluding African women from intestate succession was unconstitutional, in that African women did not enjoy equality before the law and were being unfairly discriminated against. Here it was - the classic case testing the discriminatory aspects of customary law against the equality provisions of the new Constitution.

But the problem with the constitutional argument was that Letsela had been murdered eight months before the signing of South Africa's interim Constitution. So the lawyers in this case were asking the judges to apply the Constitution retrospectively, a request described by one of the judges as a "pretty revolutionary idea". In the end, it was on this point that the Mthembu case unraveled.

In June 2000, five Appeal Court judges pronounced on the matter. They could find no proof that the lobola payments had been completed, or that Mthembu and Letsela were married in terms of customary law - and, as a result, Thembi was excluded from inheriting her deceased father's property because she was for all intents and purposes illegitimate in terms of customary law.

In a newspaper article describing the disappointing decision, The Sunday Times said the most striking feature of the judgement was that it contained "not one word indicating awareness of the urgency of Thembi's plight, and that of the many other females in her position".

Charles Pillai of the LRCs Pretoria office said the Appeal Court had "ducked the real issues" by finding that the Constitution could not be applied retrospectively. "We're now looking for a another suitable case to take the issue back to court," he says.

Not that this will necessarily help Mildred or Thembi Mthembu. "I left my possessions behind when I left that house," Mildred Mthembu says. "They said that because they had won they got to keep everything, the stove, the television, the bedroom suite... The system is wrong. In our custom you don't just rush things.

"There are certain things you must do, being together, before you get the marriage certificate."

"They said Thembi was an illegitimate child and that she's a girl. If she was a boy she could inherit something. They said they were taking the house and simply refused to leave. They knew that if they threw me out they were also throwing out their grand-daughter, but they didn't care."

If there is a silver lining to this tragic story, it is that 18 months after the Appeal Court judgement, Mildred Mthembu and her daughter are well on the way to putting the past behind them.

They now have a place of their own. It's a small place and the R 450 monthly rent is not insignificant. But it's a roof over their heads. Mildred is a working now as a cashier at a fast - food shop in Alberton, and she can afford the rent.

Thembi is now 14, in Grade Eight and doing pretty well at school. She wants to be a social worker one day.

"It was bad, I grew very thin," she says. "Only now am I beginning to think that I am moving on."

ALEXANDRA, GAUTENG PROVINCE -

The struggle against apartheid may be over, but the bulldozers still loom large for those facing evictions

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ALEXANDRA TOWNSHIP in Johannesburg has been a hotbed of bulldozer and front-end loader activity since the 1960's.

In the old days, 'native administration' officials choreographed forced removals with complete disregard for the consequences of their actions.

These days, metropolitan council officials have a new Constitution to contend with which ensures that people are not unfairly or arbitrarily evicted from their homes without a court order. There are complicated

procedures to follow - and poor people threatened with eviction require skilled legal assistance to ensure that their rights are protected in this new legal environment.

Under the new Constitution, bulldozers cannot destroy shacks and dwellings in Alexandra with impunity anymore. But that does not mean that the threat of eviction has disappeared entirely from Alexandra and other urban townships across the country. As local government officials attempt to construct new houses, schools, and clinics on limited plots of land, they are forced to remove people living in shacks to make way for new these new developments. Frequently, it is the poor who are pushed out in the interests of progress and development.

Since the days of apartheid, the Legal Resources Centre has been involved in a plethora of cases to defend the rights of Alexandra residents. Today, that work continues as the LRC seeks to extend constitutional protections against arbitrary eviction to the township's residents. From Alexandra to Pritchard Street, there is a steady stream of work for the lawyers, paralegals and candidate attorneys of the LRC's Johannesburg regional office.

Philemon Matshitela is a civic leader and amateur historian who lives in Alexandra township. He is the vice chairperson of the South African National Civics Organisation (SANCO) in Alexandra. Philemon maps out the complexity of social problems facing the township - since its creation as a labour reserve for black labourers, to the defiance campaign of the 1950's, the struggle against apartheid in the 1980's, and the election of a new democratic government which promised the people houses and land.

"The first people to access land in Alex did so in 1905," he says. Alexandra was originally a farm owned by a Mr. Papenfuss. When the farm failed he began selling off small portions to people in the area, who built homes for themselves wherever they liked.

"It just grew from there," Matshitela says. The sub-text of his story is the resilience of the oppressed Alexandra people. He speaks with pride of the Azikhwela ('we don't ride buses') boycott in the 1940s; of the leading roles of civic leader Moses Mayekiso and ANC stalwart Alfred Nzo in community resistance; and of the community's most famous former resident of them all, Nelson Mandela.

By the middle of the 20th century, Alexandra had become a catchment area for work-seekers pouring into Johannesburg from the rural areas. It was the first port of call, so to speak. Thousands of newcomers initially settled with relatives or friends in Alexandra before seeking permanent accommodation elsewhere.

"As Johannesburg's white suburbs expanded, the government realised it had to do something. So it came up with several methods to control Alex. The first approach was that Alex was too close to the suburbs so all the people had to go," Matshitela says.

"In the 1960's, they began removing people to Tembisa and Soweto, using the Group Areas Act. Although people resisted, many were moved."

In the late 1960's a new strategy emerged, to turn the area into a hostel city for migrant labourers only. By 1972 there were a women's hostel and two men's hostels.

Forced removals and the bulldozing of houses had become part of the landscape. The Alexandra Action Committee managed to stop the building of more hostels, but couldn't stop Coloured residents from being removed to Rubber Ridge, Indians being forced to Lenasia, and Chinese to the suburbs.

In the 1970's and 1980's factories mushroomed around the perimeter of the township, supposedly to employ local labour. According to Matshitela, the real reason for the factories was to create a buffer zone between rich white suburbs and the poor black town-ships. Few Alexandra residents found employment there. Then, what residents call their 'Berlin Wall' was installed, a major arterial road with high concrete barriers to divide the township from the new industrial hub.

It was around this time that government began putting in infrastructure, initially meant to support a population of about 60,000. There were already thousands more living there. As the campaign to make the country ungovernable peaked in the 1980's, and people erected more and more dwellings, the infrastructure collapsed. They called it 'Dark City'. Today there are more than a million people in Alexandra, in an area of 1.4 square miles.

Some of the fiercest battles in the apartheid struggle were fought on the streets of Alexandra. When government declared a state of emergency in 1986, residents famously took on the security forces in what became known as the 'Six-Day War'.

"We buried 13 children in Alexandra, and many comrades disappeared until this day. After they had arrested the leadership and removed people they regarded as trouble-some, they built a few flats and houses. But the houses were too expensive so they did not address the problem.

"In 1989 the comrades were released and the Alexandra Civic Organisation was formed. We started to engage the apartheid government in discussions, telling them that we refused to recognise their local authorities, and of the 'Alexandra Accord' which stated how the system should change.

"We were about to announce details of the Accord when the apartheid government sent Inkatha in to destabilise the community. It was 1991. We called a general meeting for a Sunday, and Inkatha came in on the Saturday.

They occupied the Madala Hostel given to them by the government. Soon the whole Reef was engulfed in violence.

"Alexandra was very excited about the 1994 elections. About 95% of the community voted for the ANC, and expectations were very high. People expected changes to the rate of unemployment, they expected the housing crisis to ease, the upgrading of services and reduced levels of crime.

In fact, very little has happened to satisfy those expectations. We have seen some houses and some

infrastructure, but not nearly enough."

Matshitela accuses government of adopting a piecemeal approach: " They removed people at the Jukskei River, arguing they'd be affected by floods and cholera. We supported that, but asked where the people should go. They said there was no land available. We say there is land available, but it's all in private hands.

"They sent people in red overalls to dup the people in the veld at Diepsloot, in Braamfisherville, in Soweto.

We rejected that approach very strongly.

"Now they want to remove the people living around the school-yard. They want to expand the school-yard, and we agree. But the people were there before the school, so where should they go? To Braamfisherville and Diepsloot?

We don't agree It's too far from their workplaces and their children's schools.

"We need structure in the township of all stake holders. We need to tell the government to give us more land.

And we need temporary accommodation to facilitate the development process not shacks."

ALEXANDRA, GAUTENG PROVINCE

Stepping back in time, a forced removal of a familiar kind.

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STANLEY LANGA AND HENRIETTA MQOKOMISO were from the same small town in the Eastern Cape, re-united in the city of opportunity, Johannesburg. He was a bus driver. She was a domestic worker.

Together, they set up a family in Alexandra township, and found a stand on which to build a house. The piece of land apparently belonged to someone Stanley knew at the bus company. And this is where they decided to build their nest.

They commenced building in 1989, starting with a single room in which in the entire family lived. Over time, as they saved more money, Stanley and Henrietta added more rooms on to the cement-block house, bit by bit. After more than 10 years of saving and building, the house had the works: tiled bathroom with inside toilet, kitchen with linoleum floor, dining room, main bedroom, children's bedroom, electricity and telephone.

The house also had a bedroom suite, lounge-suite, fully-equipped kitchen and television.

When it was finished, Henrietta and Stanley were proud of the house they had built, and the fact that they had paid for it themselves.

Then the City of Johannesburg knocked it down.

Henrietta Nonkosis Mqokomiso, 49, a domestic worker in Johannesburg for most of her adult life, arrived home from work one day in June, 2001, to find a yellow cross painted on an outside wall.

She did not know that the City of Johannesburg had applied to the High Court for an order to evict "occupants of land adjoining the Jukskei River between Roosevelt Street and Vasco de Gama Street", and "to demolish all structures". Nor did Henrietta know that the court had granted the order.

Henrietta and her husband did not register any building plans with the municipality. They did not obtain official authorisation to build a house. They did not register their home at any deeds office. But the building which they had laboured so long and so hard for was indeed their home. It never crossed their minds that it was illegal.

They had heard the council intended moving shacks alongside the Jukskei, but this did not bother them as their home was not a shack, and it was some distance from the river.

A week after discovering the yellow cross on her house, she arrived home to find a notice telling her to stay home the next day because she was going to be removed and her home demolished. The family had no money to buy boxes because it was the middle of the month, so they stuffed their possessions into garbage bags. And they spent most of the night moving furniture to her sister's place on the East Rand.

It was the kind of callous government action you expected in Alexandra township during the apartheid era; it was not the kind of bureaucratic cruelty you would expect from a democratic government guided by a progressive constitution.

"Early on the morning of 20 June 2001, the men came to remove us. I do not know who they were. I have been told they work for a company which was hired by the council. They are known as Wozani, which means 'come here',"

Mqokomiso says. "I asked them where they were taking me, and they said Diepsloot. I begged them not to take me there. I told them I had children at school in Alexandra, and asked to be taken to Extension Seven for the children's sake. Diepsloot is about 30 kilometres away.

"But they packed my possessions on their truck and said they'd give me material to build a shack. They took me there and gave me a small piece of land. They left me standing there with all my possessions. There was no water, no toilet - it was terrible."

They lived there a few days, hating it. Then liberal politician Helen Suzman read about their plight, visited them in Diepsloot, and introduced them to Geoff Budlender at the Legal Resources Centre's Constitutional Litigation Unit.

With her beloved Stanley Langa's health failing in Diepsloot, Mqokomiso's employer agreed to loan them an apartment in the city where they could live temporarily until they were given a house. And Budlender launched a High Court application on their behalf, seeking to overturn the order which led to their losing their home, and to compel the City of Johannesburg to rebuild their home or provide them with equivalent accommodation elsewhere in the neighbourhood.

To the LRC, it was inconceivable that a government obliged by the Constitution to provide access to housing should be in the business of tearing down people's homes, and then relocating them to a township 30 kilometres away from schools, work, and their neighbours.

With the threat of litigation looming, the City of Johannesburg eventually made a settlement offer, backing down on Diepsloot and offering to provide alternative accommodation in Alexandra. Mqokomiso accepted the offer.

As recently as March 2002, Henrietta and Stanley were still living in the flat temporarily while they waited for the city to install water and electricity at the new, very modest house in Far East, Alexandra. The replacement house is only 36 square metres, unplastered on the inside, unpainted, with concrete floor, one room and a toilet. But at least Henrietta and Stanley are the legal owners of the house this time.

ALEXANDRA, GAUTENG PROVINCE **Resettlement of flood victims provokes Constitutional Court case**

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TWO YEARS after watching their dwellings and worldly possessions disappear down the swollen Jukskei River in Alexandra, most of the victims of the flood of February, 2000, continue to live in a 'transit camp' on the edge of the township under the constant threat of eviction.

They were supposed to have moved to a temporary settlement in the grounds of Leeukop Prison - no less than the Constitutional Court asserted their right to do so. But this potential relief was persistently blocked by residents of the upmarket suburb of Kyalami, north of Johannesburg, who feared the new settlement would adversely affect their property values, their health and the environment.

Since they were evacuated in February, 2000, the flood victims have been living at the Marlboro Transit Camp - also called the Taiwan Buddhist Compassion Relief (TzuChi) Village. Despite the name, the camp is a barren piece of land dotted with 70 tin structures, each 12 square metres in extent. There's one tap for each 10 or so 'houses', many of which are shared by two families. About the only pleasant aspect of living in this transit camp is the view of luxurious Sandton across the N1 highway.

The camp is not occupied by flood victims alone. There are also about 100 people evicted from Johannesburg flat-land, who have been 'in transit' since 1997, among others. The flood victims, who established a committee led by Mphedziseni Mukwevho to represent them, are clients of the Legal Resources Centre.

"I lost everything in the flood [of February, 2000]. I was like a newly delivered baby when I came here with nothing but the wet clothes on my back," Mukwevho says.

"The [provincial] government promised us that when we moved from here we would go into proper houses. [Gauteng] Premier [Sam] Shilowa announced this publicly, but there are no houses for us. They'll have to explain to the court why they haven't built the houses, because this is what they said they would do.

"They tried to get us to move to shacks in Diepsloot. But you couldn't even fit a three-quarter bed inside. And the people there said they didn't want us. It was terrible, and very far away. We couldn't agree to that. We should do better."

The Leeukop settlement in Kyalami was meant to have relieved the plight of the flood victims, albeit temporarily. The structures built there are more than double the size of those at the Marlboro camp, and there is more than adequate provision of water and sanitation.

But those in provincial government seeking a solution to the plight of the flood victims did not anticipate the reaction of Kyalami residents. A few months after the floods, the Kyalami Ridge Environmental Association, describing itself in court papers as a residents association, obtained a court order from the Pretoria High Court blocking the resettlement of flood victims to the prison grounds, close to their community.

The Department of Public Works appealed, and in May, 2001, the Constitutional Court found the decision to establish the camp did not infringe on the property, health or environmental rights of residents of the area.

The Constitutional Court found that the provincial government, as owner of the Leeukop prison land, had the same rights as other landowners, provided it complied with laws binding on it and acted within the framework of the Constitution.

On the face of it - following the Court's 2000 ruling in the Grootboom matter that destitute shanty-dwellers in Wallacedene near Cape Town should be provided with emergency shelter by government - this was a second landmark judgement for both the homeless and the state housing policy.

But translating hard-won rights into improved conditions on the ground is not always speedily accomplished. The Kyalami residents were not ready to give up their fight, and in October, 2001, the matter was back in the High Court.

This time the Kyalami residents challenged, not the decision to establish the settlement, but the manner in which the project was being implemented. They accused government of being 'vague and evasive' on future plans for the Leeukop settlement. They alleged that building regulations were being ignored, and asked the

court to order government to cease construction urgently.

The Legal Resources Centre responded on behalf of its clients, the flood victims, with a counter application seeking to compel government to provide alternative housing for the residents of Marlboro Transit Camp.

"The [provincial] government promised us that when moved from here we would go into proper houses.[Gauteng] Premier [Sam] Shilowa announced this publicly, but there are no houses for us. They'll have to explain to the court why they haven't built the houses, because this is what they said they would do."

In the meantime, the LRC's Budlender says, it appears that government and the Kyalami residents have reached an out of court agreement that the planned settlement would not go ahead there as planned.

"We don't mind where houses are built, whether at Kyalami or elsewhere. All we are saying is that government must provide adequate housing," the LRC's Geoff Budlender says.

The residents of Marlboro Transit Camp continue to wait. And two years after the floods left several hundred people homeless, the temporary structures erected on the grounds of Leeukop prison remain vacant, home to no one.

POST SCRIPT 1: In February, 2002, 16 of the flood victim families were persuaded to move from the Marlboro camp to new houses in Bramfisherville near Dobsonville, Soweto.

POST SCRIPT 2: In March, 2002, Mukwevho says about 12 families had been left behind because there were not enough houses. He was very concerned about the fate of these people as he had heard they faced another eviction attempt the next day.

MORAVIAN MISSION STATIONS IN THE WESTERN AND EASTERN CAPE [Back to top PROVINCES](#)

THE WORDS, 'MISSION STATION', conjure up a panoply of images and emotions in South Africa.

Admittedly, missionaries and colonial expansionism went hand in hand. But many top South Africans were educated by missionaries at these remote outposts when race laws denied black people decent education elsewhere.

True, residents of some mission stations experienced extreme brutality. But others lived very cocooned existences in these Christian enclaves, sheltered from the worst of the systemic racist oppression.

Brutalised or cocooned, one of the by-products of the mission station system was that it presented another way to alienate indigenous populations from their land.

For more than two centuries in South Africa, Christian churches took ownership of the land, or held the land in trust, and in most instances still continue to control the land today.

At mission stations across the country, people who have been living on a particular piece of land for generations still cannot own it. Many residents are the descendants of freed slaves who were given pieces of land to occupy and to work, but were never given title deed to the land, which remains vested with the mission stations. This is the predicament presently facing people living on land owned by the Moravian Church, for instance, with its six large mission stations in the Western and Eastern Cape.

More than a decade ago, in 1990, the Moravian Church signed the interdenominational Rustenberg Declaration, which committed South African churches to a restitution process, beginning with land reform. Co-incidentally, that was the same year in which the Legal Resources Centre first immersed itself in the affairs of inhabitants of Moravian mission stations. In 1990, the Mfengu people, who had been evicted from land south of the Clarkson Mission Station in the Eastern Cape, began to engage the church about returning to obtain a foot-hold in the area.

The Mfengu, a disparate group initially comprising about 2,000 people, arrived in the Tsitsikamma in the late 1830's after moving south to escape the colonial frontier wars of dispossession. The Mfengu were granted land by Governor Stockenström in return for services rendered to the British government in the border war of 1834, and also to create a buffer zone of loyal subjects near the colonial border. The creation of Clarkson Mission Station from 1838 made the settlement permanent.

Many years later, inhabitants of the mission station later split, with those who were Afrikaans-speaking staying within the station boundary and those who were Xhosa-speaking occupying farm land south of the station. This land was held in trust for the Mfengu by the Civil Commissioner of Uitenhage, until being vested in the South African Native Trust in the mid-1900s.

The story of the dispossession of the Mfengu is harsh, even by South African standards.

In May, 1975, both Houses of Parliament passed a resolution 'approving the withdrawal of the Mfengu'. And when, in September, 1977, they had not yet moved, the Mfengu were effectively banished from the area by State President B. J. Vorster. They were ordered not only to leave, but never to return again.

A few nights later, in spite of community resistance and court applications, the Mfengu were forcibly removed to Keiskammahoek in the Ciskei, some 420 kilometres away. Later, the land was sold to white farmers in

1982, with a crucial clause in the contracts preventing its re-sale for 10 years.

The Legal Resources Centre helped get the land back. Desperate to return to the land before the first white owners could re-sell it, Mfengu petitions to the government, United Nations, the church - even the Broederbond - had failed to advance their cause.

They approached the LRC for assistance in 1990. Among the first tasks were the compilation of an overview of all correspondence between the Mfengu and the Moravian Church; and officially informing the church of their intention to return to settle on land being held by the Church to establish a foothold and bridgehead in the area. The church permitted 50 families to return.

In 1994, just prior to the first democratic election, the Mfengu lands were returned to them following civil litigation. It was the first case in South Africa's history where white-owned land was transferred to black claimants, pre-dating the Land Restitution Act enacted by the new government later that year.

The Mfengu decided to establish a residential settlement at Clarkson, which gave rise to the erection of about 450 new homes for the returnees. Ironically, though, the Mfengu still do not own the land on which they built their township, because the church synod has yet to decide how best to proceed with the next step in the land reform process - transferring the land to the people.

This is the heart of the problem. Unless the residents own the land, they are unable to qualify for government housing subsidies. And unless the Moravian mission stations begin to transfer land to inhabitants living on church land in the Eastern and Western Cape, they will be unable to obtain these housing grants. In a word, according to LRC attorney Kobus Pienaar, land reform at Moravian mission stations across the country is 'jammed.'

"It is jammed in exactly the same way as the land being held in trust by the Minister of Land Affairs is jammed," he says, referring to the situation of millions of people on reserve and tribal lands who are unable to qualify for housing subsidies in terms of government land reform.

It does not seem that the Moravian Church lacks the political will to effect change, but that there is uncertainty as to how to balance group rights and the rights of individuals.

In 1996, in a process facilitated by the LRC, the Moravian Church became the first church to enter into a land accord with the Minister of Land Affairs, committing itself to land reform, including tenure reform at mission stations. Then, in 1999, it became the first church to prepare a comprehensive audit of all land holdings and histories of acquisitions.

At its Synod in 2001, the Moravian Church resolved that occupants could take ownership of land, which prompted an ongoing flurry of consultative meetings at mission stations to establish the will of the people.

And a Moravian Church land reform steering committee has been established, which includes representatives of the Department of Land Affairs and LRC.

At Goedverwacht Moravian Mission Station, for instance, located near Piketberg in the Western Cape, residents await the day they will take transfer of the land with baited breath. In the not so distant past, people were only allowed to stay there as long as they were members of the church.

Henry Burrows is a leading member of the Goedverwacht community who serves on the land reform steering committee. "We do have security of tenure now, under the new Constitution. The country's Constitution is higher than the Church's. The Church can't just kick us off the land, but we don't have property rights. You can stay here but you don't have the right to own land.

"To be a resident you must come from here and you must be a Moravian. If you want to sell your house, you can only do so to a member of the church. And of course you can't sell the land."

The Moravian Church has about 100 congregations, mostly in urban areas, but owns more than 60 portions of rural South Africa, encompassing more than 57,000 hectares of land. How the Moravians deal with the question of land reform - with the assistance of the LRC - could point the way to other land-owning churches in South Africa seeking just and equitable methods to secure the land tenure of mission station residents.

RICHTERSVELD, NORTHERN CAPE PROVINCE -

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THE RICHTERSVELD is perhaps the most inhospitable region of South Africa. Very dry, very mountainous, very picturesque - it looks a little like Afghanistan.

It is here - a place rich in diamonds though the people are dirt poor - that a community is in the throes of a unique land claim which may yet signal the beginning of a new jurisprudence on aboriginal land rights in the Southern African region.

Aboriginal title - or native title as it is also called - is a right in land vesting in a community that occupied the land at the time of colonisation.

South Africa's land restitution process is presently rooted in a piece of legislation called the Restitution of Land Rights Act of 1994. Under the Act, a restitution claim is only valid if dispossession occurred after 1913 or as a result of racially-discriminatory policies.

The Richtersveld community, guided by the Legal Resources Centre, is attempting to show that the legitimacy of their land claim stems from the common law concept of aboriginal title, and traditional connection to the land. Using case law developed in Australia and Canada, they are trying to demonstrate that there are alternative bases for land law in South Africa.

Bordered by the Atlantic Ocean and the Garib (which used to be called the Orange) River in the extreme north-west of South Africa, the people of the Richtersveld are scattered between four little villages: **Kuboes** (site of an old mission station), **Eksteen-fontein**, **Lekkersing** and **Sanddrift**, each with its own distinctive character.

Collectively, about 3,200 Richtersveld people are claiming rights over a chunk of land stretching 90 kilometres down the coast from Alexander Bay at the river mouth, and extending about 35 kilometres inland. They also want mineral rights on land presently owned by Alexkor Limited, the diamond mine the state wants to sell under its privatisation of state assets program. Presently, rights to mineral wealth are vested in the state, and not in citizens, communities, or corporations.

The Richtersveld land claim has been slugged out in two arenas, the Cape High Court (papers were lodged in December 1997) and the Land Claims Court (papers lodged in December 1998).

In his decision delivered March 22, 2001, Mr Justice Antonie Gildenhuys of the Land Claims Court found against the Richtersveld people's claim for land on several grounds - one of which was that the Land Claims Court could not determine the common law, and thus acknowledge the aboriginal claim to land.

But, with the High Court matter and other appeals still pending, the Richtersveld people took heart from the judge's comments: "I regret that the limited jurisdiction of this Court makes it impossible for me to decide on the issue of the realisation of indigenous title, which was fully canvassed before this Court, and which will have to be canvassed again in another court," he said.

The strange thing about this land is that until recently, in historical terms, its people were left to live in peace. The area was of no particular interest to the colonial authorities until the discovery of diamonds in the early 20th century.

It is common cause that the area was occupied by semi-nomadic pastoralist Khoi people for more than 150 years, and their Nama descendents still live there today. There were subsequent infusions of other cultures, with the arrival of white settlers (trek boere), missionaries, and Basters (people of mixed race) in the 19th century.

The community seems to have lived lives quite unregulated by colonial authorities, with no grant of ownership or ticket of occupation being issued. During the era of colonial expansion in the Cape Colony during the 19th century, indigenous people had no legally-recognised rights or title deeds to the land which they occupied.

In 1847 the British Colonial Government extended the boundaries of the Cape Colony to include the Richtersveld. The colonial government simply assumed ownership of the entire Little Namaqualand. It also made laws under which Crown land could be disposed of, including land occupied by people considered to have insufficient civilisation to own the land themselves.

In 1890, Second Assistant Surveyor-General Mr. S. Melville estimated the land used by the Richtersveld people to be about 690,000 morgen in extent. He recommended that this be reduced to 450,000 morgen, but his recommendation was ignored.

The Colonial Government followed the practice of issuing 'Tickets of Occupation' which would allow indigenous people whose ownership claims were not recognised, to remain on the land. But no ticket was ever issued in respect of the Richtersveld.

Then, at the beginning of the 20th century, this was one of few communities to survive virtually unscathed the land dispossession authorised in the Native Land Act of 1912. It was not until diamonds were discovered in Port Nolloth that the community began to lose its grip on the land. The government began dishing out licenses for diggings - and things began to fall apart for the local people.

In 1930 the Minister of Lands issued a certificate of reservation for the Richtersveld Reserve. The land was to be held by the Minister for the use of people living there. In 1957, a fence was put up on the western boundary of the reserve, cutting off access for their herds to the diamond-rich coastal strip.

They fenced off the land, and allowed the plunder of mineral wealth from their ancestral land, but they could not excise the people's hopes and dreams to return one day.

"We've formed a Communal Property Association to receive the land back from the government and Alexkor," Willem Louw, secretary of the association, says in an interview in Sanddrift in 2002.

"Through integrated planning development we don't see ourselves as being isolated from other communities in the area such as at Port Nolloth. We don't see ourselves dishing out the revenue from our mineral rights to individual claimants, but we do envisage building schools, houses and infrastructure, and creating jobs.

People are living in sub-standard conditions and we'd like to give them a better life in an organised way."

Fellow CPA executive member Gert De Wet agrees. "We are busy establishing agricultural projects. And we have established a company of which all Richtersvelders are members. It is called the Richtersveld Development Company, it is 100% community - owned, every adult claimant in the community is a shareholder and will receive 200 shares.

"We are also busy with tourist routes and facilities. Tourism has been identified as the most important economic activity after agriculture," he says.

In terms of the ongoing legal process, the LRC has applied for leave to appeal the case to the Supreme Court of Appeal. The Court has granted leave to appeal, and the case will be heard in 2002. The last word on the remarkable land restitution claim of the Richtersveld people has yet to be heard.

"The strange thing about this land is that until recently, in historical terms, its people were left to live in peace. The area was of no particular interest to the colonial authorities until the discovery of diamonds in the early 20th century."

PAFURI REGION, KRUGER NATIONAL PARK, LIMPOPO PROVINCE -

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THE KRUGER NATIONAL PARK is South Africa's flagship game reserve and one of the country's premier tourist attractions. Bigger than Israel, it straddles the length of Mozambique between the great Limpopo in the north and Crocodile rivers in the south. It was not always so large.

Many groups of indigenous people once lived on the land now occupied by the Kruger Park and reserved exclusively for wild animals. Over a period of 100 years, the park's boundaries steadily expanded as indigenous communities were turfed out to make way for the game reserve. The local people were pushed off the land to make way for tourists, conservationists, and wild animals. Parks took precedence over people. Although the park was founded in 1898 by an icon in Afrikaner mythology, Paul Kruger, president of the Transvaal Republic, the tradition of expelling black people from the land continued well into the 20th century. As late as 1969, for instance, the government sanctioned the forced removal of the Makuleke people from 20,000 hectares of land in the Pafuri region, along the strategic border of Zimbabwe, Mozambique and South Africa. Following the forced removal of the Makuleke at gunpoint from their ancestral land, the sum total of the Kruger National Park comprised 19,000 square kilometres of pristine bushveld across 35 distinct vegetation zones.

For nearly 30 years virtually the only black people entering the park were guards, servants and labourers. White game rangers in khaki, with firearms, ran the show; Kruger became a conservation buffer zone between white supremacist South Africa and its neighbours, Mozambique and Zimbabwe. People were no longer able to move freely in the parklands as before - they were confined to their cars because of the wild animals.

The Kruger Park became a successful world-class tourist destination. The people whose land was taken in order to create the park, however, were removed to rural ghettos in homelands called Venda, Gazankulu, and Lebowa. The Makuleke community found itself in Venda - one of the quasi-independent Bantustan republics created by the apartheid regime - outside the park's western boundary in three villages called Makuleke, Makahlule, and Mabiligwe. About 9,200 people live there today.

It is no coincidence that the symbol of the Makuleke people is the African hyena - an animal noted for its silent, effective nocturnal hunting tactics - because the community has worked quietly over the past eight years to secure its rights to the land taken away from them more than a generation ago.

In 1998, the park's centenary year, the Makuleke community celebrated the return of their land, known as the Pafuri region. It was the first time in South African history that an indigenous community succeeded in winning the restitution of their land rights to national park land. Since then, others have followed suit in different parts of the country. But Makuleke was the first - and as a result, observers have watched the post-restitution process in this case with keen interest.

The restitution settlement came about after four years of negotiations between the community (represented by attorney Moray Hathorn of the Legal Resources Centre), the South African National Parks, and three government departments. On behalf of its clients, the Makuleke people, the LRC helped negotiate a settlement agreement acceptable to all parties.

The agreement was formalised by the Land Claims Court in 1998, and approved by a vote of Parliament the following year.

In terms of the settlement, the Makuleke community agreed not occupy the park land for residential or agricultural purposes, but decided to co-manage the land jointly with South African National Parks and use the land for commercial activities. It was really a win-win situation: the conservation area remained intact and the people's rights were restored. Although the community will continue to live and farm on the land outside of the park to which they were removed, they can derive economic benefits from their ancestral land inside the park through game concessions, lodge leases, tourism, and training opportunities in park management. Today, three years after Parliament and the courts approved this settlement package, there are signs that this unprecedented land restitution deal actually might improve the lives of the Makuleke people - and in the process, write a new chapter in the history of this contested corner of the country.

At the heart of the community's organisation is its Communal Property Association, a legal mechanism created with the assistance of the LRC to receive and manage the Pafuri land jointly with park authorities. The CPA - a blend of democratic civic structure and traditional chiefly authority - is led by the hereditary chief of the Makuleke, Mugakula Pahlela Jutas. Its constitution bridges the divide between traditional and new democratic authority.

CPA executive member Livingstone Mashangu Maluleke, the headmaster of Boxahuku Primary School in Mabiligwe, said the CPA had proven successful because the community had not been shy to lean on friends and experts, such as lawyers from the LRC, for advice and assistance.

"We were fortunate in that we did not have to pay our friends directly, though sometimes they received funds from their donor agencies overseas. We had some general capacity, but not in running a CPA. Our people are generally uneducated; more than 50% of the people are functionally illiterate.

"At first it was difficult for people to participate because they did not understand what was happening. But through the interaction of the CPA and Friends of Makuleke, we reached a point where they could participate effectively.

"From 1998 until now, community participation has been very high. We have been able to reach important

decisions, such as hunting in the park, and then implement and manage those decisions. We have managed to overcome conflicts within the CPA without the need for outside assistance. And we have been able to initiate development projects."

He believes that one of the reasons for the CPA's success is the unity of the Makuleke people.

"We shared very harsh experiences and suffered together for many years. We were mishandled by those in authority - for example the chieftainship was removed when the people were dumped within another tribal authority in 1969. But all of this brought the people closer together as a united community."

But has life improved? "Life has not improved yet," Maluleke responds. "But all our plans are now in place. At the beginning of the project we said jobs would be created within the park, and sites would be developed to bring money back to the community to develop itself. The plans are there, building is underway, and the people are satisfied."

"The first tourist lodge is being built in the park with funding raised from private partners. After five years, ownership of the lodge will revert to the community, which by then would have gained five-years' experience in the tourist accommodation industry. There are plans for three lodges, three tent camps, and a museum and cultural village at the chief's place outside the park. We have also received funds and started training students in conservation, business management and as field rangers."

What remains to be done? "For people to work hard, to exert themselves, to acquire as much knowledge as possible, to see to it that they achieve their rights. Not everyone will be able to benefit materially from the land. In the building stage, not everyone can be employed, and once construction is complete everyone cannot be employed, either. But the pride of owning the land will always be there. Before the land claim the people's pride had been undermined, particularly the elderly people who were born in the park. We believe a person's pride is tied into the place where he or she was born, where the graves of their ancestors are, in the special places where they grew up."

"What we need to do next is establish a trust to manage the revenue from the projects we have created. But before we establish a trust we need to learn from our friends how trusts work, what we need to do, who should be involved, etc. Income flowing into the trust can be used to uplift the entire community. For example, malaria is a critical issue in this region, but we lack health facilities. So perhaps the community can build its own clinic. Everyone will benefit from such a facility."

Maluleke's elder brother, Gibson, is deputy chairperson of the CPA and a member of the tribal council. He guides his visitors around the cultural village which is almost complete. The village, outside the park at the chief's place, contains a memorial wall, an amphitheatre, places for the display of arts and craft, and tourist accommodation. Money for the development was obtained from the Department of Public Works.

He also points out the old tribal office, renovated with the help of Goldfields and the Endangered Wildlife Trust and now used as a study centre for conservation and business management students.

"We attracted those sponsors after the land claim was launched. When they learned we wanted our land back for conservation purposes with commercial uses, they came in to help us train the youth," he says.

Accompanied by the chief, Maluleke travels into a restricted part of the Kruger Park to a spot marked by an ancient and gigantic baobab, where the tribal council used to meet before the forced removal took place. "We are at 10 Downing Street, Makuleke," the tour leader announces as the car pulls up beneath the tree's canopy of branches. He points out the word, M-A-K-U-L-E-K-E, carved into the base of the trunk. Some of the letters have been gouged away, perhaps by a foraging elephant.

Makuleke says although the community lacked formal conservation expertise, conservation was in their blood. "The land is a major asset which cannot be invented. It is the wealth for our grandchildren and great grandchildren."

The chief sits at the base of the baobab, where his father used to sit, and his father before him used to sit. Soon, the chief's kraal will be re-established there, and a second cultural village.

The chief recalls the forced removal at gunpoint from this sacred spot. "As I am speaking to you, I can tell you that the memory is still very much alive," he says.

"We were threatened with death by soldiers with guns. They forced us to set fire to our own homesteads. I was also put onto a truck with my mother and siblings." His father, the chief of the tribe, had recently passed away. "There was no respect for the chief's family. It was do or die. Some of our belongings fell off the truck, but the truck did not stop."

"It was a kind of war. It was not a matter of hating the white man but what the government was doing. Can you imagine? They said to get us onto the trucks they'd have to shoot a few of us first. They were few and we were many, but they intended to shoot."

On Christmas Day, 2001, the traditional leader of the Makuleke and his family returned to Pafuri, made a fire under the shade of the ancestral baobab tree, and cooked some food. At one level, it was a small gesture of dignity restored, at another it was the start of a new tradition. Perhaps a sign that this well-organised community is on the brink of a second life.

GEORGE BIZOS SC, CONSTITUTIONAL LITIGATION UNIT

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THE TRUTH AND RECONCILIATION COMMISSION was a bitter chalice for those who believed apartheid-era killers should be held accountable in a court of law for their crimes. There was, however, something

which over time perhaps made the process more palatable for survivors and their families: the George Bizos factor.

Just when it seemed that every security policeman, torturer, or assassin who had bothered to apply for amnesty might be successful, up stepped advocate George Bizos SC and his Legal Resources Centre team to bring some balance to the amnesty proceedings.

On behalf of the families of some of the most high-profile victims of apartheid-era excesses, Bizos and his team successfully opposed nearly every single amnesty application lodged by a perpetrator of gross human rights violations in at least 12 key cases. In doing so, they breathed life into the process by showing that the Amnesty Committee of the Truth and Reconciliation Commission was not just an elaborate rubber stamp for a general amnesty for everyone who applied.

Applicants needed to satisfy the Amnesty Committee that they complied with the legal requirements - namely, that they had made full disclosure of all the facts in their application, that their acts were politically motivated, and that the offences for which they sought amnesty were proportionate to their political objectives. It was the job of Bizos and his team to press the applicants on each of these points during amnesty hearings.

The LRC team's record in these proceedings over the last five years was second to none. Of all the cases they tackled, only notorious former spy master and self-confessed killer Craig Williamson was granted amnesty.

And even Williamson is still not in the clear. Bizos has taken the decision to grant amnesty to him and his henchman, Roger Raven, on review to the Cape High Court. The two men were granted amnesty for their roles in the letter-bomb killings of Ruth First, Jeanette Schoon, her daughter, Katryn, and for conspiracy to murder Marius Schoon. First, killed in Mozambique in 1982, was an academic and a member of the South African Communist Party who was married to Joe Slovo. Jeanette and Marius Schoon were members of the ANC living in exile in Botswana. Katryn was six-years old at the time of her death. The case to review the amnesty decision will be heard in court in 2002.

Ironically, Bizos' involvement in the amnesty process predates the establishment of the TRC itself. When South Africans of all political hues sat down to negotiate a democratic dispensation in the early 1990's, he was there as a member of the African National Congress' legal and constitutional committee.

The parties battled to reach common ground between the National Party's insistence on a blanket amnesty, and the ANC's insistence on a legal process for perpetrators of apartheid crimes. The eventual compromise was a clause inserted in the epilogue of the interim Constitution which led to the creation of the TRC.

Later, after the country had voted for the first time, Minister of Justice Dullah Omar was not entirely satisfied with the legislation drafted to comply with that clause in the epilogue. It was to Bizos that Omar turned.

"With due respect to the parliamentary draughts-men at that time, they did not have much experience in drafting human rights-friendly legislation. My colleague here at the LRC [Judge] Mohamed Navsa and I recommended some fundamental changes [to the Bill] to avoid challenges that it was not constitutional," Bizos recalls.

"Perhaps more importantly, we were asked to draft a suitable definition of 'an act or omission constituting an offence committed with a political objective'. We drafted Section 20 of the Act, which dealt with how the amnesty committee would decide whether to give amnesty or not to particular applicants."

It was almost by default that Bizos and the LRC were later to interact with the TRC's Amnesty Committee. Cases in which the LRC had been involved during the apartheid era resurfaced at the commission, one of the first major ones being that of the disappearance and murder of the Cradock Four. Advocate Arthur Chaskalson - who is now Chief Justice in South Africa - handled the first inquest on behalf of the four widows, Navsa and Bizos handled the second inquest.

"Those widows had kept in very close contact since the day on 27 June 1985 that Matthew Goniwe's car was found burned out at Blue Water Bay. From that very morning our Grahamstown office was in contact with the widows.

"It was an LRC case. When the widows indicated they wished to oppose the amnesty applications of their husbands' killers, there wasn't any discussion whether this was an appropriate case for the LRC to continue. And as a result of doing the Cradock case, people started knocking on our door to represent them."

?? Former security policemen Eric Taylor, Gerhardus Lotz, Nicholas Janse van Rensburg, Johan van Zyl, Hermanus du Plessis and Harold Snyman were refused amnesty for their parts in the killing of Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauli

The case of Steve Biko, the black consciousness leader killed in detention in 1977, was taken on a different basis: "We took it over because I was involved in the Biko inquest in 1977, and the LRC felt it would take the case on, and I would appear in court with Patrick Mtshaulana and Miriam Wheeldon. We also took it on because we had my personal copy of the record, I knew the case, and we thought it was within the LRC's stated mission."

?? Harold Snyman, Daantjie Siebert, Ruben Marx, Gideon Niewoudt and Johan Beneke were denied

amnesty for their roles in Biko's death

Bizos took leave from the LRC to represent the family of South African Communist Party leader Chris Hani, who was assassinated by right-wingers in 1993.

"I asked for unpaid leave to do the case. He was a member of both the ANC and SACP, and it is the policy of the LRC not to act for political parties which have resources."

?? Clive Derby-Lewis and Janusz Walus were denied amnesty for murdering Hani

Not all the cases were so high profile. The LRC took on about a dozen in all, and Bizos did not appear in all of them.

He believes that among the most important amnesty applications opposed by the LRC were those of the hit squad operatives who plotted to kill Dullah Omar and journalist Gavin Evans, and blew up the Early Learning Centre in Athlone. The operatives were members of the notorious Civil Cooperation Bureau, or CCB, a secretive arm of the former South African Defense Force.

?? Carl Botha, Leon Andre Maree, Wouter Jacobus Basson, Abram Van Zyl, Daniel du Toit Burger, Pieter Johan Verster, Edward Webb and Ferdinand Barnard were denied amnesty. According to Bizos, there are prosecutions now pending against Webb and Verster

"This was a very important case because it was the only CCB case. For the rest, the military's conspiracy of silence prevailed. A very small number of soldiers applied for amnesty in comparison to police, because the conspiracy of silence was broken in the police."

Bizos bristles when it comes to dispelling "stories that I had the inside track". "The reason for our successes was the selection process we used. We did not take on cases where we were satisfied that the amnesty applicants fell within the provisions of the Act. Our successes are also due to our resources, because we are funded, and because we have the back-up of highly motivated, dedicated and intelligent colleagues. They have been very special."

Now that it is nearly over, and he's had some time to reflect on the process he helped to mould, Bizos pronounces himself relatively satisfied with the TRC's contribution to South Africa's political settlement.

"Justice and amnesty may be sisters or cousins but they're certainly not the same thing. It may well be that the people immediately involved have a legitimate complaint that justice was not done where amnesty was granted - and I have sympathy for that.

"But we had no option. It was the last thing that had to be negotiated in December 1983, before the interim Constitution could be enacted by the tricameral parliament. We would not have had the tricameral parliament. We would not have had the settlement unless this and other compromises were made. If we didn't have a settlement, we would have had a bloody civil war and racial division. What injustices to how many would have occurred?

"So, if we don't talk of individual justice but of political justice, I think we can say it served its purpose. The trial - and amnesty applications were a form of trial - is one of the ways in which blood feuds, come to an end, historically."

FUNDRAISING REPORT

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ISANDLA ZIYAGEZANA. 'Hands wash each other', goes the Zulu saying. One hand cannot wash itself. The right hand needs the left, and the left hand needs the right. Working together, in other words, they can get the job done. Working separately they cannot.

In this idiomatic expression lies the essence of the LRC's partnerships with friends, benefactors, and donors in South Africa and abroad.

With donations and grants from many different sources the world over, the LRC can provide the skilled legal services that help people - like the ones highlighted in this annual report - overcome legal obstacles that can prevent them from enjoying basic human rights under South Africa's new constitutional democracy.

Partnership with our donors and benefactors allows the LRC to carry out its mission. One hand helping the other. And that partnership helps bring about meaningful changes in the lives of poor and vulnerable people. Isandla ziyagezana. Without one there would not be the other.

During the financial year starting 1 April 2000 and ending 31 March 2001, the LRC has been strengthened by renewed partnerships with donors and benefactors in many different parts of the world. Income from domestic and foreign donors this year has increased by 31.3%, reaching a total of R20,559,696. This means that donations income alone covered approximately 95% of the operating expenses of the LRC, which totalled R21,969,991 during this fiscal year. Over the past 12 months, the LRC raised R10 million for the 2000-2001 fiscal year, and an additional R16.5 million for the future. In total, the LRC garnered nearly R26.5

million in new pledges and grants.

During the past 12 months, several key institutional donors made new commitments to sustain the LRC's work.

- ?? Danced - the Danish Environment and Development Cooperation Agency - has signed an agreement worth R13.5 million to support the LRC's Environmental Justice Project over the next five years.
- n The British government's Department for Inter-national Development (DFID) has pledged an amount of R2 million to help the LRC fight farm- worker evictions and strengthen security of land tenure arrangements as part of our land reform work.
- ?? The Ford Foundation, one of the founding donors of the LRC, has generously given us R2.8 million to support several different projects over the next two years - namely, the Equality Project, the Administrative Justice Project, the Environmental Justice Project, and the Land Restitution Project.
- ?? Two donors - the Charles Stewart Mott Foundation and the Atlantic Philanthropies - have teamed up to support the LRC's Non-Profit Organisations Legal Services Project, which aims to strengthen the capacity of civil society organisations. Together, these two donors have pledged R1.5 million over a two-year period.
- ?? The Gatsby Charitable Foundation has committed to supporting the LRC's land reform work for another three years with a grant of nearly R4.5 million.
- ?? The Rhodes Trust in partnership with the United Kingdom-based Legal Assistance Trust has agreed to support the Candidate Attorneys Programme with a two-year grant of R500,000.
- ?? Comic Relief in partnership with the Legal Assistance Trust has pledged R1.5 million from its Africa Grants Programme to the LRC's work in cities and towns.

These are encouraging signs that our major partners are willing to commit substantial new resources towards sustaining the important work of the LRC well into the future. Their generosity is gratefully acknowledged. Isandla ziyagezana.

There have been new developments in local fund-raising, too. This year, the LRC marked its 21st anniversary, for instance, with a special fundraising banquet in Johannesburg with the Governor of the Reserve Bank, Tito Mboweni, as the featured guest speaker. More than 370 people attended the event, more than R250,000 was raised in ticket sales, and more importantly, the local support base for the LRC was strengthened. The fundraising banquet was a key indicator of the dynamic partnerships that the LRC enjoys with local business and the legal profession in our own country.

As the LRC enters the new fiscal year 2001-2002, the organisation enjoys a better financial position than it did last year - with donor commitments of approximately R22 million towards an operating budget of R26.5 million. This will keep the LRC going for at least another year.

But to sustain the LRC will require the helping hands of many different donors and benefactors who share a renewed resolve to tackle through the use of the law the social and economic challenges facing post-apartheid South Africa.

One hand cannot do it alone.

Donations income by country

Several donors - including Katholische Zentralstelle

Rank	Country	Amount	%
1	United Kingdom	8,577,063	41%
2	Canada	4,895,976	23%
3	USA	2,213,331	11%
4	South Africa	1,693,260	8%
5	Germany	1,177,327	6%
6	Denmark	850,093	4%
7	Luxemburg	658,500	3%
8	Sweden	479,826	2%

8	Sweden	479,826	2%
9	Belgium	160,000	1%
10	Switzerland	100,000	0%
11	European Union	79,124	0%
12	Netherlands	23,038	0%
13	Finland	20,000	0%
14	Norway	20,000	0%
15	Namibia	5,000	0%
16	France	1,966	0%
	Total	20,954,504	

ABRIDGED AUDITED FINANCIAL STATEMENTS FOR LEGAL RESOURCES TRUST [Back to top](#)
AND LEGAL RESOURCES CENTRE

The trustees are responsible for monitoring the preparation and the integrity of the annual financial statements and related information included in the annual report.

The financial statements are prepared in accordance with the stated accounting policies and incorporate responsible disclosure in line with the accounting philosophy of the Trust. The financial statements are based on appropriate stated accounting policies consistently applied and supported by reasonable and prudent judgements and estimates.

The trustees believe that the Trust will be a going concern in the year ahead. For this reason they continue to adopt the going concern basis in preparing the annual financial statements.

We have audited the annual financial statements of Legal Resources Trust set out on pages 3 to 14 for the year ended 31 March 2001. These financial statements are the responsibility of the trustees. Our responsibility is to express an opinion on these financial statements based on our audit.

Scope We conducted our audit in accordance with Statements of South African Auditing Standards. Those standards require that we plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatement. An audit includes:

- ?? examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements,
- ?? assessing the accounting principles used and significant estimates made by management, and
- ?? evaluating the overall financial statement presentation.

We believe that our audit provides a reasonable basis for our opinion.

Emphasis of matter In common with similar organisations, it is not feasible for the trust to institute accounting controls over collections from donations prior to initial entry of the collections in the accounting records.

Accordingly, it was impractical for us to extend our examination beyond the receipts actually recorded.

Audit opinion In our opinion, the financial statements fairly present, in all material respects, the financial position of the Trust at 31 March 2001 and the results of its operations and cash flows for the year then ended in accordance with South African Statements of Generally Accepted Accounting Practice.

The financial statements are prepared on the historical cost basis, except for the revaluation of land and buildings. The financial statements incorporate the following principal accounting policies, which are consistent with those adopted in the previous financial year.

Donations are brought to account as and when received and banked.

Land and buildings are stated at valuation, and are revalued by sworn appraisers at least once every three years using the open market value basis in continuation of existing use for land and buildings.

Any surplus on valuation, in excess of net book value, is transferred to a revaluation reserve. Surpluses on revaluation are recognised as income to the extent that they reverse revaluation decreases of the same assets recognised as expenses in previous periods. Deficits on revaluation are charged directly against the non-distributable reserve only to the extent that the decreases does not exceed the amount held in the non-distributable reserve in respect of that same asset. Other deficits are recognised as expenses.

Depreciation is not provided on land or on buildings.

Investments in listed equities are stated at cost and the carrying value is only written down where, in the opinion of the trustees, there is a permanent impairment in value.

Dividends are deemed to accrue to the Trust on the last date of registration in respect of the dividends declared. Net realized gains or losses on equity investments, are accounted for in the income statement.

	2001	2000
	R	R
Assets		
Non-current assets		
Land and buildings	521 675	434 815
Investments	18 338 513	17 972 176
Current assets		
Bank balances	4 403 242	2 731 141
Total assets	23 263 430	21 138 132
Equity and liabilities		
Capital and reserves	21 879 519	19 958 002
Trust capital	250	250
Revaluation reserve	373 786	286926
Special endowment reserves	2 684 578	3 174 044
Distributable reserve -	-	
Capital reserve -	-	
General reserve	18 820 905	14 170 992
Current liabilities		
Accounts payable	1 383 911	1 180 130
Total equity and liabilities	23 263 430	21 138 132

Income statement

for the year ended 31 March 2001

	2001	2000
	R	R
Income		
Gross current collections		
Donations	20 559 696	15 649 913
- overseas donations	19 585 456	14 824 232
- local donations	974 240	825 681
Dividends received	57 682	197 618
Interest received	1 214 382	1 506 595
Profit on disposal of investments	2 051 860	211 520
Administration cost recoveries	-	110 095
Total income	23 883 620	17 675 741
Expenditure		
Auditors remuneration	185 000	145 000
Accounting fees	-	100 000
Audit fees		
- current year	95 000	45 000
- underprovision in previous year	90 000	-
Interest paid	-	3 224
Bank charges	5 953	2 479
Consultancy fees	53 147	62 148
Investment management fee	162 161	184 151
Travelling expenses	28 349	20 220
Other	2 279	3 635
Total expenditure	(436 889)	(420 857)
Surplus before transfer to Legal Resources Centre	23 446 731	17 254 884
Transfer to Legal Resources Centre	(21 612 074)	(18 439 639)

Surplus/(Deficit) for the year

1 834 657

(1 184 755)

9. Donations	2001
9.1 Foreign Donations	R
Belgian Administration for Development	
Co-operation (BADC)	159 602
Charles Stewart Mott Foundation	654 670
Canadian Bar Association in partnership with the Canadian International Development Agency	4 895 975
Legal Assistance Trust in partnership with Comic Relief	1 082 423
Danish Co-Operation for Environmental and Development (DANCED)	814 009
Royal Danish Embassy	20 000
Delegation of American Lawyers	2 038
European Union Fund for Conferences, Workshops & Cultural Initiatives	339 652
Evangelische Zentrastelle für Entwicklungshilfe E.V. (EZE)	1 177 327
Embassy of Finland	20 000
Ford Foundation	1 437 188
Foundation for Human Rights	60 930
Gatsby Charitable Foundation	1 710 932
International Commission for Jurists (Swedish Section) in partnership with Swedish International Development Agency	479 826
Intern Sarah	3 144
Legal Assistance Trust on behalf of the Atlantic Philanthropies	5 773 025
Grand Duchy of Luxemburg	658 500
Mellemfolkellight Samvirke	30 000
Royal Norwegian Embassy	19 738
Royal Netherlands Embassy	23 038
South African Legal Services and Legal Education Project (SALSLEP), Inc.	121 473
Swiss Agency for Development Cooperation	100 000
Yves Laurin	1 966

Total **19 585 456**

9. Donations	2001
9.1 Local Donations	R
African Oxygen Ltd	1 000
Attorneys Fidelity Fund	200 000
Bell Dewar and Hall Inc.	1 000
Bracher, P	1 000
Burger SC, SF	2 000
Chan Tung	1 250
Cheadle Thompson Haysom	5 000
Cilliers, Charl	2 000
Cliffe Dekker Fuller Moore	2 500
Community Association for Restitution of Land	1 500
Crawford, RM	1 000
EG Woods Will Trust	8 000
Eric Samson Foundation	1 000
Felix Schneier Foundation	10 000
First Rand Foundation	55 000
Foshini Services	3 500
Foundation for Human Rights	30 000
General Council of the Bar	10 000
Hofmeyr Herbstein Gihwala Cluver & Walker Inc	1 000
Hollard Insurance	5 000
Ilovo Sugar Ltd.	1 200
Isreal South African Foundation	5 000
Johnnic Holdings	10 000
M I F A Deposit Ex Windhoek	5 000
Mones Michaels Trust	10 000
Motlana, D. NH	12 000
Munich Reinsurance Co of SA	2 000
Nelson, AJ	1 200
Open Society Foundation	375 000
Pauw, P.	1 100
Robb, Frank C. Charitable Trust	50 000
Rubinstein Gerald	1 800
Seligson SC, M	1 500
Shell S.A (Proprietary) Limited	30 000
Spoor & Fisher	3 300
Standard Bank Foundation	60 000
Strauss, Kurt & Joey Foundation	12 000
Surplus People's Project	19 500
Unilever S A (Proprietary) Limited	10 000
United International Pictures	2 000
Van Heerden, Hon Mr Justice HJO	1 000
Waterberg Hlakanang Technical School	7 500
	11 390

Total	974 240
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Names of donors who donated less than R1 000

Barker, HJ; Bearmen, Nathan Foundation; Clicks Organisation; Credit Guarantee Insurance Corp of Africa Ltd; Druker & Associates, KG; Fagan, Hon Mr Justice JJ; Fluxman Rabinowitz Raphaely Weiner Inc.; Gagnon, Pierre; Goldblatt, MR; Gordimer, NS; Graaf, Z; Howie, Hon Mr Justice CT; Kangra Foundation; Kriegler, Hon Mr Justice JC; Melouney, LA; Moodley, A; Moolla, AM Charity Trust; Myro Charitable Trust; Rabinowitz, B; Rynheath Trust; Southwood, Hon

The Executive Committee's approval of the Annual Financial Statements

The members are responsible for monitoring the preparation and the integrity of the annual financial statements and related information included in the annual report.

The financial statements are prepared in accordance with the stated accounting policies and incorporate responsible disclosure in line with the accounting philosophy of the Centre. The financial statements are based on appropriate stated accounting policies consistently applied and supported by reasonable and prudent judgements and estimates.

The members believe that the Centre will be a going concern in the year ahead. For this reason we continue to adopt the going concern basis in preparing the annual financial statements.

NB - Please note that what follows is an abridged version of the audited financial statement of the Legal Resources Centre. An unabridged version is available upon request by contacting the LRC National Office.

Report of the independent auditors

To the Members of Legal Resources Centre

We have audited the annual financial statements of Legal Resources Centre set out on pages 3 to 9 for the year ended 31 March 2001. These financial statements are the responsibility of the Executive Committee. Our responsibility is to express an opinion on these financial statements based on our audit.

Scope

We conducted our audit in accordance with Statements of South African Auditing Standards. Those standards require that we plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatement. An audit includes:

- o examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements,
- o assessing the accounting principles used and significant estimates made by management, and
- o evaluating the overall financial statement presentation.

We believe that our audit provides a reasonable basis for our opinion.

Audit opinion

In our opinion, the financial statements fairly present, in all material respects, the financial position of the Centre at 31 March 2001 and the results of its operations and cash flows for the year then ended in accordance with South African Statements of Generally Accepted Accounting Practice.

KPMG Inc.

Registered Accountants and Auditors

The financial statements are prepared on the historical cost basis. The financial statements incorporate the following principal accounting policy, which is consistent with that adopted in the previous financial year.

Non-current assets

Non-current assets are stated at historical cost less accumulated depreciation, and accumulated impairment losses.

Depreciation is provided on the straight line basis, over the estimated useful lives of non-current assets. The annual rates used for this purpose are -

Furniture	10%
Leasehold improvements	10%
Motor vehicles	20%
Office equipment	10%
Computer equipment	20%

Per H van Heerden
Partner
30 September 2001

Balance sheet

	2001	2000
Assets	R	R
Non-current assets		
Furniture, equipment and motor	1 486 258	1 751 239
Current assets	2 790 104	3 809 296
Accounts receivable	1 409 510	1 472 772
Client trust funds	454 127	1 982 427
Bank balances	926 467	354 097
Total assets	4 276 362	5 560 535
Equity and liabilities		
Reserves		
Accumulated funds	1 028 380	980 572
Asset replacement reserve	1 500 000	1 500 000
	2 528 380	2 480 572
Current liabilities	1 747 982	3 079 963
Accounts payable	1 224 142	1 077 794
Client trust funds	454 127	1 982 427
Bank overdraft	69 713	19 742
Total equity and liabilities	4 276 362	5 560 535

Detailed income statement

	2001	2000
	R	R
Income		
Funds provided by the Legal		18 439 639
Interest received	21 612 074	49 717
Functions income	15 170	1 080
Publication income	204 992	19 047
Cost recoveries	1 446	309 742
	184 117	
Total income	23 017 799	18 819 225
Expenditure		
Staff costs		
Salaries		
- professional staff	8 496 174	6 540 422
- other staff	5 367 502	5 413 113
- contributions	1 257 847	2 058 406
- recruitment cost	23 889	-
Transport and office expenditure		
- subsistence and travel	1 097 988	846 032
- telephone and postage	596 024	557 622

- telephone and postage	596 024	557 622	
- printing and stationery	320 285	230 759	
- book and periodicals	258 016	282 384	
- insurance	127 989	120 959	
- maintenance	90 543	110 814	
- publication	161 033	87 650	
- fund raising	8 306	66 277	
- motor vehicle expenses	52 469	60 559	
Rent, water and electricity	975 700	954 507	
Food and cleaning	75 822	87 300	
Professional and special services			
- auditor's remuneration			
Audit fees	104 996	191 643	
- current year	55 000	80 352	
- underprovision in prior year	49 996	111 291	
- bank charges	10 820	10 285	
- other professional services	2 376 625	1 828 672	
Sundries			
- depreciation	505 658	517 407	
- loss on sale of non-current assets	3 323	63 371	
- lease charges for office equipment	21 367	10 513	
- general expenses	37 615	28 698	
Total expenditure		21 969 991	20 067 393
Surplus/(deficit) for the year		47 808	(1 248 168)
Abnormal income - VAT recovered		-	1 419 548
Accumulated funds			
For the year		47 808	171 380
At beginning of year		980 572	809 192
At end of year		1 028 380	980 572

Patrons

Charles Cilliers, Sir Sydney Kentridge QC, David Sampson, Justice Jan Steyn, Justice John Trengove Most Reverend Desmond M. Tutu Archbishop Emeritus

Trustees

Richard Rosenthal (Acting Chairperson), Lee Bozalek, Justice Yusuf Ebrahim, Gadija Kahn, Lady Felicia Kentridge, Jody Kollapen, Bongani Majola (ex officio), Norman Moabi, Justice Lex Mpati, Justice Mahomed Navsa, Derric Reid, Justice Basil Wunsh

LRC partners abroad

Southern African Legal Services and Legal Education

Project, Inc. (SALSLEP),
C/O Wilmer Cutler Pickering, 2445 M Street NW
Washington, DC 20037-1420
Telephone 1-202-663-6280, Fax 1-202-663-6363

Legal Assistance Trust (LAT)

PO Box 104, East Grinstead, West Sussex RH19 4YB, United Kingdom
Telephone 44 1342 410 595, Fax 44 1342 313 030
E-mail jill@latforsa.softnet.co.uk

Canadian Bar Association

Suite 902, 50 O'Connor Street, Ottawa, Ontario K1M 1N8, Canada
Telephone 1 613 237 2925, Fax 1 613 237 0185
Website: <http://www.cba.org>

The Legal Resources Centre celebrated its 21st anniversary with a banquet in Sandton, Johannesburg on 19 March 2001. Tickets were sold for R1,000 each or R10,00 per table. We gratefully acknowledge the generous support of the following who purchased tickets to this fundraising event:

- o Barlows
- o Bham, Azar
- o Biggs, Fran
- o Board of Executors
- o Bozalek, Lee
- o British American Tobacco
- o Budlender, Geoff
- o Butterworths
- o Canadian Bar Association
- o Cape of Good Hope Bank
- o Cassim, Nazeer
- o Chaskalson, Justice Arthur and Loraine
- o Cliffe Dekker Fuller Moore
- o David Dison & Norval
- o Embassy of Finland
- o Eskom
- o Freund, Alec
- o Ford Foundation
- o Geach, Carveth
- o General Council of the Bar
- o Goldstone, Justice Richard
- o Guthrie, Jean
- o Hodes, Max
- o Hokans, James
- o Investec
- o Johannesburg Bar Council
- o Joubert, Althus
- o JP Morgan
- o Kentridge, Sir Sydney W.
- o Lamb Lebo Aif (Green & Macrae Pty Ltd.)
- o Laurin, Yves
- o Loxton, Chris
- o Marcus, Gilbert
- o Meer, Judge Shehnaz
- o Moabi, Norman
- o Mokhobo, Khomo
- o Mokoka, Lepule Bogoshi
- o Mondi Forests
- o Moosa Moosa (Avalon Group (Pty) Ltd)
- o Mpofu, Dali
- o Myburgh, John
- o NBC
- o Nedcor
- o New Africa Investments Limited (Prosper Africa Limited)
- o Nthai, Seth
- o Oakley-Smith Terry
- o Orleyn, Thandi
- o Patel, Essop

- o Pretoria Society of Advocates
- o Price Waterhouse Coopers
- o Reid, Derric
- o Rosenthal Richard
- o Sachs, Justice Albie
- o Sappi
- o Standard Bank
- o Thebe Financial Services
- o Tip, Karel
- o Tobacco Institute of SA
- o Transnet
- o Tucker, Bob
- o van der Linde Willem
- o Webber Wentzel Bowens
- o Werksmans