

Annual Report

LEGAL RESOURCES CENTRE & LEGAL RESOURCES TRUST

1 APRIL 2005 TO 31 MARCH 2006



LRC

LEGAL RESOURCES CENTRE

SINCE 1979

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NATIONAL DIRECTOR'S MESSAGE

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The Legal Resources centre is an extraordinary organisation. In 2001 the Supreme Court of Appeal (SCA) commented in the Ngxuza judgment: “*The Legal Resources Centre played a central part in co-ordinating these entreaties and in the negotiations that resulted from them.*”

We continue our work to ensure that the Constitution is meaningful in the lives of our clients and millions of South Africans. Our objective is to enable the rights of Africans to be realised and to have disputes settled before the courts under our democratic constitutional dispensation.

During the past year we were constantly reminded of the need to sharpen our focus in response to the challenges that accompany the implementation of democratic rights within the constraints of our limited resources. Yet, a wide range of issues still require certainty in law, and justice in action. Our work cannot be confined to the precedent-setting cases. Not only is the litigious process not this simple, but our understanding of what needs to be tackled is often derived from taking on more limited matters.

Nationally our front-desks interact with the concerns of the poorest and have dealt with thousands of walk-in clients and telephone enquiries. They have referred matters to lawyers within the LRC and to other organisations. Although a number of advice centres are no longer able to function due to a lack of funds, the LRC's visits to many of those that remain continued. We network with paralegals across the country and have hosted paralegal training workshops to increase their ability to enable access to justice for poor people.

Cases litigated on behalf of our clients vary greatly - from Unemployment Insurance Fund appeals where there is clear evidence that the state did not apply its mind when rejecting applications, to cases where there is abuse of power by the police. We continue to deal with clients who face delays in pension payments due to incomplete information being provided to fund administrators or wrong information being provided by family members because there is disagreement about who should get the money. Numerous problems have also been encountered with the payment of benefits to dependants under the Government Employees Pension Fund.

The majority of cases reported on by the paralegals in Gauteng deal with workmen's compensation claims in terms of Compensation for Occupational Injuries and Diseases Act of 1993 (COIDA). Many problems arise out of inconsistencies in the approaches adopted by the offices of the Compensation Commissioner nationally. Claimants need assistance in the application process particularly with regard to the medical evidence, which often requires expert reports. It is current practice that the Fund refers claimants to selected medical practitioners who find in the Commissioner's favour.

In the Abbey Kutumela case, our clients were refused social relief of distress grants and it transpired that the North-West

province did not even administer the scheme, even though law provides it for. There was also no system for discretionary social assistance to assist people in desperate need in terms of regulation 26(3) of the Act. As a result the LRC negotiated with the national team responsible for the guidelines for social relief under regulation 26(3) and drafted key sections. These guidelines were adopted by all provinces in February 2006 and national training is under way.

Regretably, civic organisations nationally often encounter obstacles when wanting to establish care facilities for AIDS orphans and those with other terminal illnesses. Part of the problem is that because these facilities are not registered as Children's Homes or as places of safety in terms of the Child Care Act they are unable to secure funding from the Department of Social Welfare. The matter is further complicated by the need for homes catering for both adults, who are terminally ill, and for children.

In addition to our continued work concerning access to education, the LRC also addresses issues dealing with the health, security and safety of children in and around their schools, and children in detention. We intend returning to court over the failure of the Eastern Cape government to honour the structural interdict in the Zuba decision where the state was ordered to report to both the LRC and the Centre for Child Law on the progress, or lack thereof, that the Department is making in building a reform school in the Eastern Cape. In monitoring this order there is little progress in ensuring that children - who are otherwise confined in prisons - can be sent to reform school.

While our work relating to non-profit organisations has seen welcome changes to taxation pertaining to NPOs in the form of Revenue Laws Amendment Act 31 of 2005, many of our clients are confronted with legal issues as consumers in their dealings with retailers and banks - all of which, in the absence of any safety net, have the potential to cause their shelter, food and family to be removed or placed in even greater insecurity.

Various aspects of the debate around housing and subsidies

continue. In December 2005 in the matter of City of Cape Town v Neville Rudolph & 49 others, Selikowitz J held the city to still be in breach of its constitutional obligations to the community at Valhalla Park - a community in desperate need. He did not order that they take any further steps, but should our clients not find continuing improvement they could revert to court. This judgment has further highlighted the need for government to have a set plan of action in dealing with those in desperate need. The case of the Occupiers of Erf 62 Wynberg, raises concern about the apparent unwillingness of the authorities to negotiate and explore opportunities for rehabilitation and upgrading rather than eviction as the first option in urban regeneration process.

Despite the continuous excellent work done by the Environmental Justice project, much remains to be done in terms of public interest environmental law in South Africa. The LRC is the primary organisation working in this regard, and works in close cooperation with all the active environmental NGOs in the country. During this period the National Environmental Advisory Forum on which the LRC sits undertook a series of further meetings in order to plan its work for the next few years. We participated in the sub-committees dealing with energy and climate change; marine and coastal management; and air pollution and waste.

What is clear is that once again, the LRC and its staff have risen to the challenge by proving the organisation capable of coping with a number of internal changes while simultaneously attending to clients, following up cases, engaging with policy-makers and interacting with civil society. The manner in which we continue our work and ensure that our clients' rights are respected, protected, promoted and fulfilled will go a long way in ensuring that the institutional base of our democracy can prosper.

The first quarter of the financial year under review, saw Vincent Saldanha complete his term as National Director. He handed over to Steve Kahanowitz who served in the position from the beginning of July 2005 until the end of December 2005 when

he was eager to resume his full-time focus on the vital work of his considerable practice in the Cape Town Office of the LRC. The organisation benefited greatly from the dedication and commitment of these two members and continues to be enriched by their insights and professional skills.

Janet Love was welcomed to the post of National Director at the beginning of 2006, the first non-lawyer to be appointed to this position to carry out the associated responsibilities on a full-time basis from the National Office in Johannesburg. In the course of the year, the National Office moved from Braamfontein to join the Johannesburg and Constitutional Litigation Unit offices on Gandhi Square.

The LRC is the most experienced organisation in the country with regard to public interest law and litigation. It has a vital role to play in a profession which struggles to locate itself in a new constitutional dispensation as having transformed. The relationship between judicial independence on the one hand, and effective and timely transformation on the other; the administration of justice and the management of those employed to this end; minimum sentence legislation and the extensive changes to legislation are critical issues that need to

be addressed. Historically our candidate attorney programme made major contributions to the transformation of the legal profession. However, today it is vital to ensure that our work with candidate attorneys grapples with the challenges of the current period.

Ensuring that the poorest and most marginalised are able to access legal advice and support is essential for our democracy and, in this regard, our work with the Legal Aid Board, certain private law firms and others to extend this access is critical.

Going forward, it is also important for us to take stock of our current profile and to ensure that forging alliances with other organs of civil society, developing partnerships with other law clinics that work with similar issues and client communities is undertaken with more conscious effort than before. The need for the LRC to grow in strength and resolve in order to fulfil its mission is clear.

To those who continue to make this job rewarding and possible, many thanks.

Janet Love
National Director
31 March 2006

CHAIRMAN'S MESSAGE

We continue our work to ensure that the constitution is meaningful in the lives of our clients and millions of South Africans.

The challenge of constitutionalism continues to test the quality of our democracy in a variety of ways. For those of us in the LRC it continues to be about our ability to use the law to broadly advance social justice but in particular to give meaning and content to the array of rights that find expression in the Bill of Rights with special regard to the socio-economic context of our country. However the legal successes achieved only translate into meaningful benefits when they positively impact on policy, programs and other interventions.

The work of the LRC highlighted in this annual report continues to demonstrate an acute understanding for both the centrality of constitutionalism and the need for it's practical entrenchment in our unfolding democracy. In taking on the various cases we have litigated in, and in undertaking the often specialized project activities this report speaks to, we have compellingly demonstrated that the law can and does indeed work to effect social change. The work we do does not come without it's challenges – resource constraints, an ability to attract and retain skilled staff, the very contested and political nature of the work we do all require careful management.

We were accordingly pleased when Ms Janet Love accepted an offer to become National Director of the LRC. She has certainly brought new energy, commitment, a sense of stability and decisive leadership to the organisation. Former Chief Justice, Arthur Chaskalson also accepted an invitation to join the Board of the Legal Resources Trust, and we have already benefited from his considerable knowledge of the sector, his enormous stature and his passion for the LRC .

The internalised culture of the LRC is one of frank and robust discussion and critique; and to that end there is a constant desire to ensure the ongoing social relevance of our work. Certainly in a country that still has to overcome some considerable social, economic and human rights challenges the LRC continues to play a pivotal role in ensuring that communities and individuals, who often find themselves beyond the reach and the protection of the law, are able to use the instrumentality of the law to better their lives.

The important work we do would not be possible without the support of our various donors both outside and inside South Africa, as well as our partners in the USA and the UK, Southern African Legal Services Foundation and Legal Assistant Trust respectively. The dedication and professionalism of the staff in the LRC under the leadership of the National Director is acknowledged and continues to ensure the profile of the LRC as one of the world's leading public interest litigation organisation. The special contribution made by both Vincent Saldanha and Steve Kahanovitz in their respective periods as National Director is much appreciated. Finally I would like to thank my fellow trustees for their support in the preceding year.

Jody Kollapen
Chairman
Legal Resources Trust

REFUGEES



BASIC HUMAN RIGHTS ARE AT STAKE

In 1996, South Africa became a signatory to the 1951 UN convention on the status of refugees and its 1967 protocol, requiring government to formally recognise and provide protection to all people classified as refugees. The South African Constitution of 1996 and the Refugees Act of 1998 provide for a range of rights for refugees and obligations for the State.

But refugees coming into South Africa face many obstacles, among them the constant threat of deportation, government red tape, and xenophobia. The LRC can only provide assistance on specifically legal issues, and we focus on those that link to basic human rights.

Administrative convenience is not an acceptable excuse

Some facts and figures

New asylum seekers arriving in the first quarter of 2006 – 19,000
 Backlog of asylum seeker permit applications from 1995 to 2005 – 117,000
 Asylum seeker permits granted in 2004 – 1,125
 Recognised asylum seekers to date - 30,000

A FIVE TO TEN YEAR BACKLOG

When refugees arrive in South Africa, most lack any means of support, family, friends or acquaintances, and most are unable to speak any of the South African languages, much less understand the South African legal system. Facing these obstacles already they must apply for an asylum seeker permit, which will allow them to stay in South Africa while their claims for asylum are being considered. On application, refugees receive a temporary permit, which must be renewed every month. This temporary permit is their only protection against deportation and is required for legal employment. According to the Refugee Act, a claim for asylum must be processed within six months, including an appeal if there should be one. But in Cape Town, the Department of Home Affairs' refugee office has a backlog of five to ten years. And that's if you're lucky enough to get your application registered.

COME BACK ANOTHER DAY

De Gaulle Kiliko arrived in South Africa from the DRC in January 2005. In March, with a group of about 30 other refugees, he went to the Cape Town refugee reception office to apply for asylum seeker permits. With no explanation, they were all taken to Pollsmoor Prison. They were detained for several hours before being taken back to the office. Then they were told to come back another day.

Often attempts to submit applications and get temporary

ARTICLE 1A(2) OF THE 1951 CONVENTION DEFINES AS A REFUGEE ANY PERSON WHO...

as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his [or her] nationality and is unable, or owing to such fear, is unwilling to avail him [or her]self of the protection of that country; or who, not having a nationality and being outside the country of his [or her] former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

permits are in vain. Many refugees sleep outside refugee reception offices and begin queuing from before dawn. This has been observed at the offices in Cape Town, Braamfontein and Pretoria, and reported in court. It makes holding down a job nearly impossible and exposes refugees to the risk of being arrested and deported. The offices, when they open, only deal with a certain number of applications per day - first come, first served – and turn the rest of the applicants away.

In addition, many asylum seekers claim that Department of Home Affairs officials send out the message that they are not welcome in South Africa.

A home affairs official said I have nothing to do in South Africa as there wasn't any war in the DRC.

De Gaulle Kiliko

ON BEHALF OF THE ENTIRE REFUGEE COMMUNITY

Through the LRC, Kiliko took the Department of Home Affairs to court. Until then, the persistent problems faced by refugees had largely been dealt with ad hoc and individually, including through various High Court decisions. Now, on behalf of the entire refugee community, our aim was to declare the treatment refugees received at the office in Cape Town unconstitutional and in violation of both national and international law, and thus to compel the office to process applications for asylum seeker permits within a reasonable time.

In court, the Department of Home Affairs did not dispute that refugees sleep outside their Cape Town office. They said they were inundated with applications daily and had developed a huge backlog.

MONITORING THE IMPROVEMENTS

In January 2006 the court found that the policy and practice of the Cape Town refugee reception office was unconstitutional, and the court ordered the Department of Home Affairs to report, by May 2006, on the improvements it would make. Justice van Reenen noted that while the department had been faced with a larger influx of refugees than anticipated, it had failed to address the problem. After two previous High Court challenges, the department had taken only rudimentary remedial steps, some of which appeared to have made things more difficult for refugees.

Administrative convenience is not acceptable as an excuse.

Justice van Reenen

A structured interdict, which requires the subject of the interdict to return to court to report, was seen as the only way to ensure that the department complied with the court's orders.

A FURTHER OBSTACLE

If a refugee is lucky enough to get to the counter, communication with officials is likely to be difficult. As a result names, birth dates, countries of origin and other crucial information is often recorded incorrectly. When the LRC has tried to correct information, we have had little success. The Refugee Act does not specifically provide for this, and so officials do not seem to feel obliged to make the necessary changes.

THE LRC SUPPORTS APPEALS

From January to March 2006 out of the estimated 18,800 asylum seeker applications nationally, 112 were approved, and 1,114 were rejected. Many asylum seekers with valid claims are rejected and denied asylum, and the appeal process is thus very important. The LRC supports these appeals through their candidate attorneys.

GOVERNMENT RESPONDS

The Department of Home Affairs' website says there is a backlog of over 100,000 applications for asylum. In June 2006 it launches its Refugee Backlog Project, which will not only tackle the administrative and logistical problems but includes a public awareness campaign to challenge the well-documented xenophobic attitude among South Africans, including government officials, towards refugees.

WOMEN



THROUGH STRATEGIC LITIGATION, WE HAVE BEEN INSTRUMENTAL IN DEVELOPING A STRONG JURISPRUDENCE OF SUBSTANTIVE GENDER EQUALITY.

The primary objective of the Women's Rights Project is to ensure substantive equality for all women in South Africa through the alleviation of poverty and inequality. The project's creative strategies have proven effective, and include impact litigation, law reform initiatives, participation in development processes, education and networking within and outside South Africa.

FOCUS AREAS:

- Gender-based violence
- Harassment
- Discrimination
- Equality in the workplace
- Customary and religious laws
- Access to land and housing

A rape survivor's right to confidential counselling

Counselling leads to reporting a rape

When 27-year-old S [REDACTED] began counselling for depression with clinical psychologist Prishika Pillay, neither woman gave a thought to the confidentiality of their counselling sessions. Client and psychologist could not have known that a court would order pillay to make her notes and [REDACTED] deepest secrets available to the very man whom she alleged had raped her as a child.

In their first session, [REDACTED] revealed that as a 10-year-old girl she had been raped and sexually abused by the man now married to her sister. After fifteen sessions, she decided to lay a charge, and the state charged Aleck Henry with one count of rape and one count of indecent assault said to have been committed 17 years ago. Pillay presented a formal report to the court, based on her counselling sessions with [REDACTED]

THE ACCUSED'S RIGHT TO INFORMATION

Before the trial could begin, Henry applied to the court to have full access to all Pillay's records of her therapy sessions with [REDACTED]. The motivation was that his legal representatives would not be able to cross-examine [REDACTED] on the contents of Pillay's report without the "working documents" and that they would not be able to instruct experts to consider Pillay's report without the same. In addition, Henry claimed that his constitutional rights to a fair trial would be infringed.

Pillay opposed the application, maintaining that it would be a violation of her ethical duty to her client, as well as a violation of her client's right to privacy and dignity. But the regional magistrate found that Henry had a right to the information to ensure a fair trial. The ruling included the assertion that [REDACTED] had waived her rights of confidentiality and privacy when she decided to lay a charge.

Pillay approached the LRC, and, with the Centre for the Study of Violence and Reconciliation, we took the matter to the High Court, having brought an urgent application to halt the trial itself.

EXACERBATING THE SEVERE UNDERREPORTING OF RAPE

Police statistics indicate that 52,733 rapes were reported in 2003/04. But research shows that there were possibly as many as nine times that number of rapes. The underreporting of rape is due in no small part to various forms of secondary victimisation rape victims are exposed to when they seek redress. Knowing that a counsellor may be obliged to reveal all that is said in counselling sessions will discourage women not only from reporting a rape, but also from seeking the counselling which is essential to recovery and healing. And it violates the essential relationship of trust between a client and a counsellor.

COURTS HAVE A DUTY TO DEVELOP THE COMMON LAW

Careful development of the law of disclosure, particularly where it protects the interests of vulnerable groups, such as rape victims, is crucial to prevent the distortion of the truth-seeking purpose of a trial. In the United States and Canada, confidential information given to psychologists and social workers is privileged. Canada has a two-stage process that achieves a balance between an accused's right to full disclosure and defence with a complainant's right to privacy and equity.

LOST OPPORTUNITY FOR A LANDMARK RULING

It was expected to be a landmark ruling on the rights of rape victims and others to confidentiality in counselling. Counselling professionals were hoping to receive legal sanction for their right to protect the confidences of their clients.

But the state declared that it had not intended calling Pillay as an expert witness for the prosecution, and would only require her to make the required "first report" in a sexual crime. This means that Pillay would be called to prove that [REDACTED] had reported to her that she had been raped and abused, but would not have to give detailed testimony. The judges ruled that the magistrate was mistaken in her understanding of what the state would require – restricted evidence from Pillay – and thus incorrect in her ruling that Pillay make all her documents available, and they set the ruling aside.

The effect of the judgement was to protect one professional's privilege and one rape victim's privacy, but unfortunately did not tackle the issues at the level of constitutional rights and their expression in the law.

Guaranteed confidentiality is the fundamental pivot of rape counselling.

Lisa Vetten, Centre for the Study of Violence and Reconciliation



CHILDREN



CHILDREN ARE THE FOUNDATION ON WHICH A NEW SOUTH AFRICA MUST BUILD ITSELF.

Although a number of important Constitutional Court cases have resulted in an evolving jurisprudence that impacts on the realisation of children's socio-economic rights, there are still many challenges. The State's failure to implement legislation and fulfil its commitments reflect government's broader struggle to give practical effect to the objectives it has set itself. The Children's Rights Project uses the law to compel government to honour its obligations to children. It may litigate on behalf of its clients, but also advocates through various avenues for changes in policy and legislation, works with government in drafting regulations and engages with public servants to improve mechanisms for faster delivery. The project seeks long-term remedies to social inequalities by representing children whose

concerns are symptomatic of the plight of rural and impoverished communities, in particular, throughout South Africa.

FOCUS AREAS:

- Barriers to education
- Birth registration
- Social welfare
- Unregistered refugee children
- Violence and sexual abuse
- Children with disabilities
- Impact of HIV/AIDS

Administrative obstacles to fundamental human rights

Many refugee children arrive in South Africa unaccompanied, having been orphaned or separated from their families on the journey. Others, as in the stories below, may lose their parents in the ordinary course of events once they are established here. In terms of South African law and the constitution, refugees are entitled to social security and assistance, including foster care grants for children.

COMPASSION AND COMMITMENT

Coco Bishogo fled the Democratic Republic of Congo when rebel militia attacked Rwandan troops stationed in her village. For weeks, the rebels went from door to door, looting, raping and killing. When her neighbour was gang raped and the family murdered, Bishogo, then 23 years old, fled with her three younger siblings, all under the age of 14. They arrived in South Africa in July 2002.

Musenge Langa also fled the war in the Congo. In November 2002, she followed her sister to South Africa, who was already living here with her children. When Langa's sister died of TB, not three months after Langa arrived in South Africa, she took the five children into her home. The Children's Court appointed her as foster parent.

Maulu Baangi has taken care of his sister-in-law's three children since she died of stomach cancer in May 2003. He arrived here from the Congo in 1999 and was awarded refugee status in 2003.

All three of these refugees have been granted refugee status. All three have been appointed foster parents by the Children's Court. All three make their meagre livings precariously, mostly as street vendors, and must often rely on charity. None of them was able to access the R570 per month foster care grant which is theirs by right and by law. Why? A technical and bureaucratic problem.

We fostered these children out of a sense of compassion and commitment to our compatriots.

We have been rewarded for our benevolence by being sent from pillar to post. -

Coco Bishogo

A BADLY PROGRAMMED COMPUTER MAKES THE DECISION

The computerised database of the Department of Social Welfare is linked to the national population register of the Department of Home Affairs. Home Affairs contends that only citizens and permanent residents can be entered on the population register. Social Welfare's computer thus rejects applications from refugees for social grants, because their particulars do not appear on its database

A WORRYING SITUATION?

A spokesperson for the Department of Social Welfare told the press that the court order could have serious financial implications, and might encourage immigration.

We don't know how many refugees there are and how many children will be placed in foster care. It is a situation we have been worried about for a while. There is also the other issue – it could provide an additional incentive to foreigners to come to South Africa.

Selwyn Jehoma,

Chief Director of Grant Systems and Administration

In a class action on behalf of the many refugee foster parents in South Africa, the LRC went to the Pretoria High Court to declare certain aspects of the social assistance regulations unconstitutional, and to direct the departments to change their administrative and computer systems so that refugee foster parents can access the grants to which they are entitled. We also sought immediate access to grants for Bishogo, Langa and Baangi – within 10 days of the court’s judgement – and the arrears owed them, which amounted to a combined R66,000, plus interest.

After initially opposing us, the Department of Social Development agreed to a consent order under which they undertook to respond to all our claims. The LRC thus not only won immediate relief for our three clients, but also made sure that other refugee foster parents will be able to access their grants.

Nowhere to go

Katlehong school for the deaf and blind provided specialised teaching for blind and partially blind learners, as well as hostel accommodation. In the last term of 2005, parents were asked to find alternative accommodation for their children.

And then at the end of the year they were called to a meeting where the principal and a representative from the Gauteng Education Department informed them that the school would no longer be catering for visually impaired learners. No alternative arrangements had been made, and when the new academic year began, the learners had nowhere to go.

They had already lost a full term of schooling when the LRC took the matter to the High Court.

In its order the court declared that the schools and the MEC for Education “have unfairly discriminated against the blind and partially blind learners by depriving them of the right to basic education.” The court directed the Gauteng Education Department to immediately either enrol all the learners at Filadelfia Secondary School in Soshanguve, or temporarily enrol them at their previous school, (now called S’nethembe Learning Centre) and provide for their specialised needs there until places in other appropriate schools become available.



LAND



28 YEARS OF EXPERIENCE IN LAND REFORM WORK

The LRC's land reform work benefits from our experience in resisting forced removals since 1978. Since 1994 we have been prosecuting land claims and helping client communities to secure land-based livelihoods in terms of post-apartheid land reform policies.

Our strategy to reduce the vulnerability of the rural poor

- Litigate on behalf of poor and dispossessed individuals and communities to protect and promote their constitutional rights
- Provide legal assistance to form community land-holding and management arrangements
- Provide legal assistance to secure rights to and an equitable share in natural resources and access to related infrastructure and support

- Advocate for related law and policy reform
- Train public interest and human rights lawyers to give them a particular understanding of land reform related issues
- Collaborate with and support civil society to build democracy.

The Land Reform Project has a strong focus on law and policy reform and on collaborating with other stakeholders. Our key (often overlapping) impact litigation categories include community land restoration litigation and negotiation (including some urban restitution cases), restitution (post) settlement, legal assistance on institutional arrangements, tenure and access to resources, and municipal commonage work and redistribution.

THE EXTENT OF LAND RESTITUTION

Apartheid laws reserved 87 per cent of the country's most arable land for whites. By late January 2006, over a million hectares, worth R2,2 billion, had been restored to claimants. Of the 79,696 claims lodged, 68,730 land claims had been settled.

Reduced, then evicted

Between 1860 and 1870 the Gamawela community settled in a beautiful secluded valley near Lydenberg in the Mpumalanga highlands. But in 1877 they lost their customary title when ownership was given to white farmers by the then South African republic. The Gamawela were allowed to stay on the land in exchange for giving the owner three months labour every year.

They reduced these people by saying 'I need labour so you must work for me and then you can retain certain uses of the land.'

Durkje Gilfillan, LRC

Known for their skills as farmers and herbalists, the GaMawela were also rainmakers, and performed their rituals at sacred pools and caves on this land. But in the 1950s they were evicted from their ancestral land when they refused to accept that they would have to double their labour contribution in order to stay on the farm.

By 1958, most of the community were living in Jane Furse, about 60 kilometres away, from where they returned from time to time to perform their rainmaking rituals and to tend their ancestors' graves.

THE LONG JOURNEY HOME BEGINS

in 1998, when the LRC began their efforts to claim the community's land, the GaMawela community then comprised about 200 households from the poorest area of Limpopo province, with an unemployment rate of nearly 69 percent.

We are poor and it is very difficult for us to plough here because the land is very dry. Now we are starving. The St George soil is very rich and we were able to grow crops.

Lazarus Mankge, community member

Their claim to the farm called St George was based on not only the loss of their tenure rights and the impoverishment that the loss of their land and livestock entailed, but also the cultural heritage value of the land for this community.

All our culture and beliefs are embedded in that land. Without it we have not wisdom, said Lazarus Mankge, community member.

This claim is not just about our land. It is about restoring the community's cultural identity and sense of belonging. We have been without a home for almost 50 years.

Mabutswe Mankge, community member

But while government was willing to buy the land from the farmers and restore it to the GaMawela, the owners of the farm refused to negotiate, and the claim proceeded to court.

CHALLENGING A MINING GIANT

In November 2003, the GaMawela found that they were challenging not the farmers, but one of South Africa's mining giants. Anglo Platinum had bought St George, and, like the farmers, was opposing the land claim. The farm lies in the northern section of a multi-billion mining development, situated on one of the richest chrome and platinum deposits in the world. Anglo Platinum controls extensive mineral rights holdings in the area and would retain the mineral rights. But if the GaMawela won their claim, they would, under the new mining laws, hold the surface rights.

The community believes that the mining company is trying to pre-empt the provisions of the government's new mining policies by blocking the restoration of the land.

Durkje Gilfillan, LRC

OPPORTUNITIES FOR THE FUTURE

In May 2004, just as the claim was going to court, Anglo Platinum dropped their opposition to it. The court validated the claim, giving the GaMawela nine months to organise themselves into a property association and formulate an economically feasible business plan. Using the land for irrigation farming and tourism, it offers the community the chance to support themselves and overcome generations of landlessness and poverty. And there are also opportunities for mining ventures.

If they are going to be mining the land, it makes sense to see how we can benefit.

Tiny Mankge, community member

Anglo Platinum was given 21 days to provide the community with information on its current and future mining plans for the land, and the community expected to be discussing an equity partnership. But Anglo Platinum claimed that mining was not viable for the near future, because the strong rand had led to downscaling of its expansion plans in the district. And further, that an equity partnership should not be taken for granted were mining to get underway.

CLASH OF INTERESTS

After the validation of their land claim, the GaMawela started preparing the required business plan. While this was in progress, Anglo Platinum had applied for and been granted a mining licence. The GaMawela say that Anglo Platinum undertook not to mine the valley at least for the next ten years. Their business plan included eco-tourism and agriculture, and environmental experts warned that these would be severely compromised by Anglo Platinum's mining plans. The GaMawela blamed Department of Land Affairs officials for facilitating Anglo Platinum's plans instead of theirs. According to the Land Restitution Act, claimants have a right to interdict any development which negatively affects their claim.

In October 2004, the GaMawela made a submission to Parliament's portfolio committee on the progress of land reform, complaining about the granting of the mining licence and asking government to make it compulsory for mining houses to report on their efforts to support land reform. They also asked for an explanation from the Department of Minerals and Energy's Mpumalanga office and the Mpumalanga land claims commissioner about why they granted the mining licence.

At the end of March 2006, the LRC and the GaMawela was preparing to return to court for the final battle between the community and the mining giant.

A PARTIAL VICTORY

In December 1997, the Land Claims Court ordered that one portion of Farmerfield be restored to the community's Farmerfield Communal Property Trust. This was the first land claim in the Eastern Cape province where the court returned land to people who were not only dispossessed but forcibly removed from serviced and viable agricultural land. It was also one of the first South African land claims to be resolved through expropriation.

However the community was claiming another portion of the land, which the court ordered in November 1998 was to be restored to them within a reasonable time. The court also ordered that the community be resettled within five years, and that housing be provided for them.

THREE YEARS LATER

By September 2001 the second portion of land had still not been transferred, and the trustees of the Farmerfield Communal Property Trust, the LRC and the regional land claims commissioner set up a project steering committee to finalise the claim. The LRC decided to get involved beyond its usual scope of work, because there seemed to be no one capable of dealing with the various issues delaying the process. The Makana municipality and the Isandla Institute, [an urban development research and advocacy organisation], later also joined the committee.

The second portion of land, a portion of the farm Klipheuvell, was finally restored during the latter half of 2005 – after 7 years. During this delay the LRC continued its capacity-building support and assisted the trust to convene its first AGM and elect new trustees. We assisted Isandla to draft a participation agreement and participated in the related workshop. The LRC's Grahamstown office also assisted with service agreements between the community and the municipality.

PROVIDING CAPACITY-BUILDING SUPPORT

This case required the LRC's input beyond providing legal expertise. From September 2001, we helped to move the stalled process along by tackling the following.

- The community was loosely structured and we had to help with establishing exactly who should be allowed to resettle at Farmersfield.
- We had to help and encourage the community to work together more closely.
- The trustees lacked the most basic infrastructure to enable them to perform their duties, and did not have help from civil society organisations.
- The state and the farm owner could not agree on the price.

TEN YEARS LATER

Bulk water services were finally installed by the Cacadu District Municipality and the Makana Local Municipality built 56 houses in the first restitution rural housing project in the Eastern Cape. There are plans to establish community facilities such as a sports field, clinic, crèche and police station. The community became the first claimants to occupy a land restitution housing project by the Department of Land Affairs.

Have you ever seen a fish that has been taken out of the water for a while, and then put back? It becomes very happy and swims through so fast. That's how we feel.

Khululekile Martin, 74-year-old community member

Ten years to finalise a land claim

Everyone concerned was inexperienced in those days. In February 1996, when the land claims process in South Africa was in its infancy, the LRC's Grahamstown office launched a claim on behalf of the Farmerfield community.

Victims of the consolidation of the Ciskei homelands and the whitening of rural South Africa, the community was removed from their land on the Farmerfield Mission Station near Grahamstown in 1962 where the community had been farming since 1838, they were taken to Mimosa

Park near King William's Town, in the Eastern Cape province. Mimosa was a barren stretch of veld with no services and no houses. Some people built themselves shacks; others ended up in the townships in and around Port Elizabeth, Grahamstown, and King William's Town.

NON-PROFIT ORGANISATIONS



Helping NPOs find their feet

The project fills a well-defined gap by providing a dedicated legal service to the non-profit sector while giving vital input into the legal framework governing organised civil society. It strengthens the capacity of the sector through providing training in non-profit law and practice, and making available various information modules.

WELCOME CHANGES TO THE INCOME TAX ACT

The LRC contributed to the amendments in the Income Tax Laws and the Revenue Laws Amendment Act 31 of 2005 which came into operation in February 2006.

The crucial change for the NPO sector has been the increase of the trading limitation threshold from an amount of R25 000 to R50 000. More importantly, public benefit organisations that trade in excess of the limitation no longer face losing their tax exemption. Any trading in excess of the limitation is now simply deemed taxable. NPOs can now engage in financial sustainability activities without the danger of losing their tax-exempt status.

YEARS OF RESEARCH, ADVOCACY AND LITIGATION

The main rule is therefore that PBOs are prohibited from carrying on business or trading activities. It is, however, accepted that in certain circumstances the trading activities are so closely linked to conducting the PBAs, that they cannot be regarded as being in competition with the tax paying entities.

Interpretation Note 24, March 2004 – South African Receiver of Revenue

A MISREPRESENTATION OF THE LAW

The Phillipi Trust specialises in training counsellors and providing counselling services to people living with HIV/AIDS. The trust applied for tax exemption, but their application was unsuccessful. The LRC assisted them with a second application

which was still denied – the South African Revenue Services (SARS) claimed that the trust was making a profit. The LRC examined all the facts and concluded that the Tax Exemption Unit misinterpreted the trading limitation provisions in the Income Tax Act.

The LRC brought it to the attention of the Receiver who gracefully accepted our interpretation and granted the Phillipi Trust tax exemption. Despite SARS's attempts to clarify the issue of trading limitations, the interpretation remained the biggest source of contention and confusion.

COLLABORATION AND CONFLICT

The Etafeni Trust had difficulty with governance issues. When the trust approached the LRC it was on its third set of trustees. Unsound decision-making was the direct result of trustees not understanding their duties and obligations.

The Etafeni Trust Play School in Nyanga and Lifeline Western Cape collaborated and established the Etafeni Trust to provide support to women and children directly affected by HIV/AIDS. The trust comprises women trustees from each group – an arrangement which led to some conflict. Despite different ideas and goals creating division amongst the trustees, funding continued to flow in for this worthy cause.

While the LRC would not mediate the conflict, it tackled the governance issues. Workshops were held to consult with trustees – focusing on their expectations and duties and obligations. We further assisted with registering new trustees with the Master.

ENVIRONMENTAL JUSTICE



The Environmental Justice Project's objective is to equip civil society to take part in environmental governance in South Africa. By providing legal representation and technical support to environmental organisations and marginalised communities, the LRC protects the environmental rights enshrined in the Constitution. The project addresses the unfair and discriminatory distribution of adverse environmental impacts on poor and vulnerable communities and aims to enhance environmental decision-making.

Our work includes representing clients in environmental impact assessment processes, litigation, and law reform and advocacy.

Our focus areas have included the protection of air quality, responsible waste management, rehabilitation of degraded mining areas, promoting sustainable energy and the prevention of environmental disasters, and we are extending our work to the protection of water resources.

A victory for public health and the environment

Until January 2006, South Africa was one of the few remaining places on earth where leaded petrol was sold. And South African diesel was among the most polluting in the world.

UNFAIR AND DISCRIMINATORY IMPACT OF VEHICLE EMISSIONS

Poor children are most at risk from the neurotoxins in lead. The absorption of lead in the body is enhanced by poor nutrition and leads to brain damage and reduced mental development. Studies have shown that children in informal settlements have average blood lead levels above the benchmark level for intervention. Adults exposed to lead will suffer from hypertension. In addition, the excessively high levels of TB in South Africa contribute to poor communities' vulnerability to the impacts of fuel emissions.

The ultimate reforms to South Africa fuels - at a cost of R12 billion - owe much to the Legal Resources Centre's Environmental Justice Project, which represented the Environmental Justice Networking Forum over many years advocating for fuel standards which would protect public health and the environment.

THE IMPACT OF DIRTY DIESEL

The LRC's involvement was precipitated by a decision to convert South Africa's minibus taxi industry to diesel driven vehicles. This would have resulted in a massive increase in diesel consumption. The LRC threatened legal action to compel the Department of Minerals and Energy to mandate health protective controls on fuels. Supporting studies conducted by the LRC in 2000 demonstrated that continued uncontrolled consumption of dirty diesel would be likely to result in the transgression of health standards in Cape Town and probably other urban areas within five years.

The upshot of this intervention was that the LRC, representing the Environmental Justice Networking Forum, was invited to participate, with government and industry, in a technical committee to work out appropriate standards for South Africa's fuels. This work over the years provided the first model for reaching consensus between civil society, government and industry on setting environmental standards for industry.

YEARS OF RESEARCH, ADVOCACY AND LITIGATION

Since our work on vehicle emissions began, the LRC has:

- Drafted terms of reference for studies on the health effects of benzene, lead and sulphur in petrol and diesel
- Brought in international expertise to draft terms of reference for a cost-benefit analysis of phasing down sulphur in diesel
- Commissioned an update to the Western Cape brown haze study and used it to calculate the adverse health effects caused by high levels of diesel nationally
- Participated in the Dakar conference on phasing out lead in petrol
- Advocated for the phasing out of lead in petrol
- Threatened legal action against the motor industry to compel them to install catalytic converters on all new vehicles
- Attended discussions in Dakar on the World Bank initiative for clean air in Africa
- Attended multi-stakeholder meetings on fuel reform
- Made submissions and attended meetings on vehicle emissions policy

A VICTORY FOR PUBLIC HEALTH, AND ESPECIALLY POOR CHILDREN

After many years of negotiating, the State introduced European Union standards in January 2006, together with the phasing out of leaded fuels and the introduction of mandatory emission control devices on vehicles.

The health costs of failing to improve our diesel over the next five years will be in the region of at least R2 billion, if not much more.

Angela Andrews, LRC

SOME MEASURABLE ACHIEVEMENTS

- 2003: diesel emissions improve by 50%
- 2005: sulphur content of unleaded petrol reduced by 50% to enable fitting of catalytic converters on vehicles
- 2006: diesel emissions improve by 95%
- 2006: phasing out of leaded petrol

EDUCATING THE PUBLIC

The LRC participated in the Department of Minerals and Energy's public education committee, aimed at informing the public about the changes to fuels to ensure a smooth transition. We successfully mobilised the other participants to make information available sooner than planned.



FINANCIALS

LEGAL RESOURCES CENTRE NPO REGISTRATION NUMBER 023-004-NPO
ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2006

Approval of the Financial Statements

The National Director, after consultation with the Executive Committee, is responsible for monitoring the preparation and integrity of the financial statements and related information 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 Legal Resources Centre. The financial statements are based on appropriate stated accounting policies consistently applied, except where otherwise stated, and supported by reasonable and prudent judgements and estimates.

The National Director and Executive Committee are satisfied that the Legal Resources Centre will continue as a going concern in the year ahead. For this reason, the financial statements have been prepared on a going concern basis.

The Legal Resources Centre is registered as a non-profit organisation in terms of the Non-profit Organisations Act No. 71 of 1997 (NPO No. 0023-004 NPO); and the Legal Resources Centre has also been approved by the Commissioner of the South African Revenue Services (SARS) as a tax-exempt Public Benefit Organisation for purposes of Section 10(1) (cN) as read with Section 30; and has been further approved by the Commissioner for the purposes of Section 18A of the Income Tax Act (PBO reference number 930003292).

The financial statements for the year ended 31 March 2006 set out on pages 3 to 13 were approved by the Executive Committee on 8 September 2006 and signed by the National Director.

Report of the Independent Auditors

To the members LEGAL RESOURCE CENTRE NPO REGISTRATION NUMBER 023-004-NPO

We have audited the financial statements of Legal Resources Centre set out on pages 2 to 13 for the year ended 31 March 2006. These financial statements are the responsibility of the executive committee, while our responsibility is to express an opinion on these financial statements based on our audit.

Scope

We conducted our audit in accordance with International Standards on Auditing which 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. An audit also includes assessing the accounting principles used, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

Audit opinion

In our opinion these financial statements fairly present, in all material respects, the financial position of the organisation at 31 March 2006 and the results of its operations and cash flows for the year then ended in accordance with its accounting policies.

Douglas & Velcich

Chartered Accountants (SA) Registered Accountants and Auditors, Johannesburg, 8 September 2006

Balance Sheet

at 31 March 2006

	Note	2006 R	2005 R
Assets			
Non current assets			
Tangible assets	2	752,652	942,885
Current assets			
Trade and other receivables	3	430,543	411,567
Accrued income - cost recovery		556,922	-
Cash and cash equivalents	4	157,968	322,978
Client trust funds		475,520	281,053
Total assets		2,373,605	1,968,483
Liabilities			
Current liabilities			
Trade and other payables	5	484,935	787,743
Provisions	6	821,022	753,438
Client trust funds		475,520	281,053
Advance - Legal Resources Trust		592,128	136,249
Total reserves and liabilities		2,373,605	1,958,483

Income Statement

for the year ended 31 March 2006

	2006 R	2005 R
Income		
Cost recovery	3,743,983	2,594,424
Distribution from Legal Resources Trust	22,835,255	24,244,500
Fundraising events	-	299,910
Publications	-	23,533
Sundry income	490,325	321,358
Interest received	13,621	9,804
Gain on disposal of equipment	16,077	-
	27,099,261	27,493,529
Operating Expenditure		
Salaries	16,427,538	17,861,400
Employee costs	16,427,538	17,861,400
Office expenses		
Administration and management fees	74,057	83,392
Auditor's remuneration	164,987	297,060
Bank charges	38,640	36,108
Books and periodicals	438,355	431,034
Cleaning	82,663	-
Computer expenses	387,416	462,603
Consulting and professional fees	272,163	395,170
Depreciation	274,826	313,076
General expenses	112,138	470,123
Insurance	167,862	202,610
Lease rentals on operating lease	1,406,430	1,540,526
Motor vehicle expenses	63,558	61,671
Postage	92,953	83,578
Printing and stationery	293,960	255,159
Recruitment	17,876	21,666
Repairs and maintenance	147,916	134,716
Software expenses	2,946	28,749
Temporary staff	108,054	96,786
Telephone and fax	679,851	679,012
Travel-local	1,173,255	1,324,322
	4,671,817	3,903,027
Project expenses		
Counsel and court fees	2,300,841	2,518,427
Expert fees	2,076,784	1,282,004
Publications	121,130	-
Research	81,585	15,799
Workshop costs	91,477	86,797
	-	(1,188,259)
Deficit for the year	-	(1,188,259)

Statement of Changes in Reserves

for the year ended 31 March 2006

	Unexpended income	Total
	R	R
Balance at 1 April 2004	1,324,506	1,324,506
Deficit for the year	(1,188,259)	(1,188,259)
Adjustment to reflect change in basis of accounting	(136,247)	(136,247)
Balance at 31 March 2005	-	-
Surplus for the year	-	-
Balance at 31 March 2006	-	-

Cash Flow Statement

for the year ended 31 March 2006

	Note	2006 R	2005 R
Cash flows from operating activities			
Cash utilised in operations	7	(565,995)	(482,436)
Interest received		13,621	9,804
Net cash outflow from operating activities		(552,374)	(472,632)
Cash flows utilised in investing activities		(68,516)	(47,614)
Acquisition of tangible assets	2	(118,516)	(47,614)
Sale of tangible assets		50,000	-
Cash flows from financing activities		455,879	136,249
Advanced by Legal Resources Trust		455,879	136,249
Net decrease in cash resources		(165,011)	(383,997)
Cash and cash equivalents at beginning of year		322,978	706,975
Cash and cash equivalents at end of year	4	157,968	322,978

Notes to the Financial Statements

for the year ended 31 March 2006

Accounting Policies

1. Presentation of Annual Financial Statements

The annual financial statements have been prepared in accordance with statements of generally accepted accounting practice. The annual financial statements have been prepared on the historical cost basis, except in the case of land and buildings and financial instruments, and incorporate the principal accounting policies set out below.

1.1 Significant Judgments

In preparing the annual financial statements, management is required to make estimates and assumptions that affect the amounts represented in the annual financial statements and related disclosures. Use of available information and the application of judgment is inherent in the formation of estimates. Actual results in the future could differ from these estimates which may be material to the annual financial statements. Significant judgments include;

Provisions

Provisions were raised and management determined an estimate based on the information available. Additional disclosure of these estimates of provisions is included in note 6.

1.2 Tangible Assets

The cost of an item of tangible assets is recognised as an asset when:

- it is probable that future economic benefits associated with the item will flow to the company; and
- the cost of the item can be measured reliably.

Costs include costs incurred initially to acquire or construct an item of tangible assets and costs incurred subsequently to add to, replace part of, or service it. If a replacement cost is recognised in the carrying amount of an item of tangible assets, the carrying amount of the replaced part is derecognised.

Tangible assets are carried at cost less accumulated depreciation and any impairment losses.

Depreciation is provided on all tangible assets other than freehold land, to write down the cost, less residual value, by equal instalments over their useful lives as follows:

Item	Useful life
Furniture and fixtures	10%
Motor vehicles	20%
Office equipment	10%
IT equipment	20%
Leasehold improvements	10%
Library and other	10%

The depreciation charge for each period is recognised in profit or loss, unless it is included in the carrying amount of another asset.

The gain or loss arising from the derecognising of an item of tangible assets is included in profit or loss when the item is derecognised. The gain or loss arising from the derecognising of an item of tangible asset is determined as the difference between the net disposal proceeds, if any, and the carrying amount of the item.

1.3 Financial Instruments

1.3.1 Initial recognition

The company classifies financial instruments, or their component parts, on initial recognition as a financial asset, a financial liability or an equity instrument in accordance with the substance of the contractual arrangement.

Financial assets and financial liabilities are recognised on the company's balance sheet when the company becomes party to the contractual provisions of the instrument.

Financial assets and liabilities are recognised initially at fair value. In the case of financial assets or liabilities not classified as at fair value through profit and loss, transaction costs that are directly attributable to the acquisition or issue of the financial instrument are added to the fair value.

A regular way purchase or sale of financial assets is recognised and derecognised, as applicable, using trade date accounting.

An asset that is subsequently measured at cost or amortised cost is recognised initially at its fair value on the trade date.

Any change in the fair value of the asset to be received during the period between the trade date and the settlement date is not recognised for assets carried at cost or amortised cost, other than impairment losses.

Assets carried at fair value: the change in fair value shall be recognised in profit or loss or in equity, as appropriate.

1.3.2 Subsequent measurement

After initial recognition, financial assets are measured as follows:

- loans and receivables and held-to-maturity investments are measured at amortised cost using the effective interest method;
- investments in equity instruments that do not have a quoted market price in an active market and whose fair value cannot be reliably measured, are measured at cost;
- other financial assets, including derivatives, at fair value, without any deduction for transaction costs which may incur on sale or other disposal.

After initial recognition financial liabilities are measured as follows:

financial liabilities, including derivatives that are liabilities, are measured at fair value through profit and loss. other financial liabilities are measured at amortised cost using the effective interest method.

1.3.3 Gains and losses

A gain or loss arising from a change in a financial asset or financial liability is recognised as follows:

- A gain or loss on a financial asset or financial liability classified as at fair value through profit or loss is recognised in profit or loss.
- A gain or loss on an available-for-sale financial asset is recognised directly in equity, through the statement of changes in equity, until the financial asset is derecognised, at which time the cumulative gain or loss previously recognised in equity is recognised in profit or loss.
- Financial assets and financial liabilities carried at amortised cost: a gain or loss is recognised in profit or loss when the financial asset or financial liability is derecognised or impaired, and through the amortisation process.

1.4 Trade and other Receivables

Trade and other receivables originated by the enterprise are treated as loans or receivables, and are carried at fair value, net of any impairment.

1.5 Cash and Cash Equivalents

Cash equivalents are short term, highly liquid investments that are readily convertible to known amounts of cash and are subject to insignificant risk in change in value.

Cash and cash equivalents are measured at fair value.

1.6 Provisions and Contingencies

Provisions are recognised when:

- the company has a present obligation as a result of a past event;
- it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation; and
- a reliable estimate can be made of the obligation.

The amount of a provision is the present value of the expenditure expected to be required to settle the obligation.

Contingent assets and contingent liabilities are not recognised.

1.7 Trade and other Payables

Trade and other payables are measured at fair value.

1.8 Revenue

Cost recovery and distributions from the Legal Resources Trust are accounted for on the accrual basis. Donations, interest, fundraising and other income are accounted for as and when received.

2. Tangible Assets

	Furniture and fixtures	Motor vehicles	Office equipment	IT equipment	Leasehold improvements	Computer software	Library and other	Total
28/3/2006	R	R	R	R	R	R	R	R
Net book value - 1 April 2005	126,221	269,857	321,615	216,596	6,967	-	1,639	942,885
Cost	933,361	946,165	976,194	2,996,106	83,892	-	3,319	5,939,037
Accumulated depreciation	(807,140)	(676,308)	(654,579)	(2,779,510)	(76,935)	-	(1,680)	4,996,152
Additions during the year, at cost	-	-	8,320	74,414	-	35,782	-	118,516
Disposals during the year	-	(33,923)	-	-	-	-	-	(33,923)
Cost	-	(33,923)	-	-	-	-	-	(33,923)
Accumulated depreciation	-	-	-	-	-	-	-	-
Depreciation for the year	(38,838)	(82,065)	(71,516)	(70,347)	(6,957)	(4,771)	(332)	(274,826)
Net book value - 31 March 2006	87,383	153,869	258,419	220,663	-	31,011	1,307	752,652
Cost	933,361	912,242	984,514	3,070,520	83,892	35,782	3,319	6,023,630
Accumulated depreciation	(845,978)	(758,373)	(726,095)	(2,849,857)	(83,892)	(4,771)	(2,012)	(5,270,978)

	Furniture and fixtures	Motor vehicles	Office equipment	IT equipment	Leasehold improvements	Computer software	Library and other	Total
31/3/2005								
Net book value - 1 April 2004	168,684	386,432	378,434	257,479	15,346	-	1,971	1,208,346
Cost	924,030	946,165	965,146	2,968,871	83,892	-	3,319	5,891,423
Accumulated depreciation	(755,346)	(559,733)	(586,712)	(2,711,392)	(68,546)	-	(1,348)	(4,683,077)
Additions during the year, at cost	9,331	-	11,048	27,235	-	-	-	47,614
Depreciation for the year	(51,794)	(116,575)	(67,867)	(68,118)	(8,389)	-	(332)	(313,075)
Net book value - 31 March 2005	126,221	269,857	321,615	216,596	6,957	-	1,639	942,885
Cost	933,361	946,165	976,194	2,996,106	83,892	-	3,319	5,939,037
Accumulated depreciation	(807,140)	(676,308)	(654,579)	(2,779,510)	(76,935)	-	(1,680)	(4,996,152)

2006
R

2005
R

3. Trade and other Receivables

VAT recoverable	312,132	359,358
Consultancy fee recoverable	60,000	-
Staff loans	58,411	52,207
	430,543	411,565

4. Cash and Cash Equivalents

Cash and cash equivalents consist of		
Bank balances	-	281,076
Short-term deposits	416,699	41,902
Bank overdrafts net of bank balances	(258,730)	-
	157,968	322,978

The organisation has no overdraft facilities. The overdrafts reflected are the result of cheques issued and not yet cashed.

5. Trade and other Payables

Audit fee accrual	90,000	203,600
Other accruals	394,935	584,143
	484,935	787,743

6. Provisions

	Opening balance	Additions	Utilised during the year	Total
	R	R	R	R
Leave pay provision	753,438	67,584	-	821,022
	753,438	67,584	-	821,022

Reconciliation of deficit to cash utilised in operations:

	2006 R	2005 R
Surplus/(deficit) for the year	-	(1,88,259)
Adjusted for :		
Adjustment re change in basis of accounting	-	(136,247)
Depreciation	274,826	313,076
Profit on sale of assets	(16,077)	-
Interest received	(13,621)	(9,804)
Movements in provisions	67,584	-
Accrued income	(556,922)	-
Operating surplus/(deficit) before working capital changes	(244,210)	(1,021,234)
Working capital changes	(321,785)	538,798
Decrease in accounts receivable	(18,976)	133,742
Client trust funds	(194,467)	(281,053)
(Decrease) increase in accounts payable	(302,808)	405,056
Client trust funds	194,466	281,054
Cash utilised in operating activities	(565,995)	(482,436)

8. Commitments

Operating leases - as lessee

Minimum lease payments due

within one year	825,926	669,004
in second to fifth year inclusive	2,428,836	2,717,775
	3,254,762	3,386,779

Operating lease payments represent rentals payable by the company for certain of its office properties. Leases are negotiated for an average term of three years. No contingent rent is payable.

9. Related parties

Related party relationships

Legal Resources Trust

The trust has an oversight and fiduciary responsibility, which includes the administration and provision of funding. It is also responsible for the appointment of the National Director and certain senior staff members.

Related party transactions

Distribution from related party Legal Resources Trust	22,835,255	24,244,500
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10. Prior Year Adjustment

The organisation has changed the basis on which it accounts for monies received from the Legal Resources Trust. In the past, these were accounted for on the cash basis, but with effect from the current year, the amount by which the receipts from the Trust exceed the organisation's total expenditure is excluded from income and reflected in the balance sheet as an advance by the Trust.

FINANCIALS

LEGAL RESOURCES TRUST (Pretoria Master's no. 8263)

NPO REGISTRATION NUMBER 029-336-NPO

ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2006

Report of the Independent Auditors

To The Trustees

LEGAL RESOURCES TRUST NPO REGISTRATION

NUMBER 029-336 NPO

We have audited the financial statements of Legal Resources Trust as set out on pages 2 to 13 for the year ended 31 March 2006. These financial statements are the responsibility of the trustees while our responsibility is to express an opinion on these financial statements based on our audit.

Scope

We conducted our audit in accordance with International Standards on Auditing which 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. An audit also includes assessing the accounting principles used, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

Audit opinion

In our opinion, these financial statements fairly present, in all material respects, the financial position of the trust at 31 March 2006, and the results of its operations and cash flows for the year then ended, in accordance with its accounting policies.

**Douglas & Velcich Chartered Accountants (S.A.)
Registered Accountants and Auditors, Johannesburg,
8 September 2006**

Trustees Report

for the year ended 31 March 2006

The trustees have pleasure in presenting their report on the activities of the Trust for the year ended 31 March 2006.

Nature of Activities

The Legal Resources Trust has an oversight and fiduciary responsibility for the Legal Resources Centre so as to enable the Legal Resources Centre to provide free legal services in the public interest to poor and vulnerable South Africans.

Financial Results

The results for the year under review are set out in the attached financial statements.

Statement of Responsibility

The trustees are responsible for the maintenance of adequate accounting records and the preparation and integrity of the financial statements and related information. The auditors are responsible to report on the fair presentation of the financial statements.

The trustees are also responsible for the trust's systems of internal control. These are designed to provide reasonable, but not absolute assurance as to the reliability of the financial statements, and to adequately safeguard, verify and maintain

accountability of assets, and to prevent and detect misstatement and loss. Nothing has come to the attention of the trustees to indicate that any material breakdown in the functioning of these controls, procedures and systems has occurred during the year under review.

The financial statements have been prepared on the going concern basis, since the trustees have every reason to believe that the trust has adequate resources in place to continue in operation for the foreseeable future.

Trustees

Jody Kollapen (Chairman)	Lee Bozalek
Janet Love (Ex-officio member)	Lex Mpati
Arthur Chaskalson	Michael Katz
Sibongile Mkhabela	Mohamed Navsa
Derric Reid	Raisaka Masebelanga
Dunstan Miambo	Richard Rosenthal
Franklin Sonn	Thandi Orleyn
Harvey Dale	Yusuf Ebrahim

Balance Sheet

as at 31 March 2006

	Note	2006 R	2005 R
Assets		28,994,793	30,828,376
Non - Current assets		26,730,808	27,155,799
Tangible assets	2	595,717	475,191
Investments	3	26,135,091	26,680,608
Current assets		2,263,985	3,672,577
Accrued grant income		1,639,019	896,995
Prepaid distribution - Legal Resources Centre		592,128	136,247
Cash and cash equivalents	4	32,838	2,639,335
TOTAL ASSETS		28,994,793	30,828,376
Reserves and Liabilities		28,994,793	30,828,376
Equity and reserves		27,162,222	29,202,391
Initial trust capital	5	250	250
Revaluation reserve	7	6,065,667	3,629,006
Endowment reserve	8	534,373	1,037,518
General reserve		20,561,932	24,535,617
Current liabilities		1,832,571	1,625,985
Deferred grant income		1,742,571	1 467,985
Accounts payable		90,000	158,000
TOTAL RESERVES AND LIABILITIES		28,994,793	30,828,376

Income Statement

for the year ended 31 March 2006

	2006 R	2005 R
Income	17,066,126	17,554,606
Grants and donations	15,181,767	15,709,362
Dividend revenue	296,977	331,038
Interest received	1,227,840	1,514,206
Gains on disposal of investments	359,542	-
Expenditure	325,468	108,307
Management fees	119,292	(81,767)
Audit fees	90,000	134,159
- current year	90,000	133,000
- prior year overprovision	-	(23,841)
- other services	-	25,000
Bank charges	14,404	41,487
Exchange loss	81,077	-
Depreciation and impairment	20,695	14,428
Net income for the year	16,740,658	17,446,299
Distribution to Legal Resources Centre	22,835,255	24,108,253
As previously disclosed		24,244,500
Prior year adjustment (Note 14)		(136,247)
Deficit for the year	(6,094,597)	(6,661,954)

Statement of Changes in Reserves

as at 31 March 2006

	Initial Trust Capital	Revaluation Reserve	Endowment Reserve	General Reserve
	R	R	R	R
Balance at 1 April 2004	250	2,468,608	1,521,973	29,501,616
Transfer to endowment reserve	-	-	920,503	(920,503)
Transfer from endowment reserve	-	-	(1,404,958)	1,404,958
Deficit for the year	-	-	-	(6,661,954)
Adjustment of depreciation on revalued buildings	-	(11,500)	-	11,500
Revaluation of investment	-	2,371,898	-	-
Transfer on realisation of profits on investments	-	(1,200,000)	-	1,200,000
Balance at 31 March 2005	250	3,629,006	1,037,518	24,535,617
Transfer to endowment reserve	-	-	770,583	(770,583)
Transfer to general reserve	-	-	(1,273,728)	1,273,728
Deficit for the year	-	-	-	(6,094,597)
Adjustment of depreciation on revalued buildings	-	(17,767)	-	17,767
Revaluation of investments	-	3,913,207	-	-
Transfer on realisation of profits on investments	-	(1,600,000)	-	1,600,000
Revaluation of land and buildings	-	141,221	-	-
Balance at 31 March 2006	250	6,065,667	534,373	20,561,932

Notes to the Annual Financial Statements

for the year ended 31 March 2006

Accounting Policies

1. Presentation of Annual Financial Statements

The annual financial statements have been prepared on the historical cost basis, except for land and buildings carried at revalued amounts and investments carried at fair value. The annual financial statements incorporate the following principal accounting policies, which are consistent with those adopted in the previous financial year.

1.1 Tangible Assets

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 revaluation reserve only to the extent that the decreases do not exceed the amount held in the revaluation reserve in respect of that same asset. Other deficits are recognised as expenses.

Depreciation is not provided on land. Depreciation is provided on buildings at 4% per annum.

1.2 Financial Instruments

1.2.1 Initial recognition

Financial instruments are recognised initially at cost, which includes transaction costs. Subsequent to initial recognition these instruments are measured as set out below.

1.2.2 Subsequent measurement

After initial recognition, financial assets are measured as follows:

- loans and receivables and held-to-maturity investments are measured at amortised cost using the effective interest method;
- investments in equity instruments that do not have a quoted market price in an active market and whose fair value cannot be reliably measured, are measured at cost;
- other financial assets, including derivatives, at fair value, without any deduction for transaction costs which may incur on sale or other disposal.

After initial recognition financial liabilities are measured as follows:

- financial liabilities, including derivatives that are liabilities, are measured at fair value through profit and loss
- other financial liabilities are measured at amortised cost using the effective interest method.

1.2.3 Gains and losses

A gain or loss arising from a change in a financial asset or financial liability is recognised as follows:

- A gain or loss on a financial asset or financial liability classified as at fair value through profit or loss is recognised in profit or loss.
- A gain or loss on an available-for-sale financial asset is recognised directly in equity, through the statement of changes in equity, until the financial asset is derecognised, at which time the cumulative gain or loss previously recognised in equity

Cash Flow Statement

for the year ended 31 March 2006

	Note	2006 R	2005 R
Cash Flows from Operating Activities			
Cash utilised in operations	9	(8,830,288)	(8,163,635)
Interest received		17,255	63,563
Dividends received		16,536	11,112
Net cash outflow from operating activities		(8,796,497)	(8,088,960)
Cash Flows from Investing Activities			
Cash flows utilised in financing activities		6,190,000	8,000,000
Managed funds redeemed		6,190,000	8,000,000
Net (decrease) in cash resources		(2,606,497)	(88,960)
Cash and cash equivalents at beginning of year		2,639,335	2,728,295
Cash and cash equivalents at end of year		32,838	2,639,335

is recognised in profit or loss.

- Financial assets and financial liabilities carried at amortised cost: a gain or loss is recognised in profit or loss when the financial asset or financial liability is derecognised or impaired, and through the amortisation process.

1.3 Cash and Cash Equivalents

Cash equivalents are short term, highly liquid investments that are readily convertible to known amounts of cash and are subject to insignificant risk in change in value.

Cash and cash equivalents are measured at fair value.

1.4 Revenue

- Income comprises designated grants and undesignated donations, investment income and non-operating income.
- Designated grants are brought to account in the period to which they relate while undesignated donations and other income is brought to account as and when received and banked. This is a change from the previously applied policy, in terms of which, designated grants were brought to account as and when received.
- Dividends are recognised, in profit or loss, when the trust's right to receive payment has been established.

2. Presentation of Annual Financial Statements

	2006	2006	2006	2005	2005	2005
	Cost	Accumulated Depreciation	Carrying Value	Cost	Accumulated Depreciation	Carrying Value
	R	R	R	R	R	R
Land	188,100	-	188,100	171,000	-	171,000
Buildings	484,821	(77,204)	407,617	360,700	(56,509)	304,191
Total	672,921	(77,204)	595,717	531,700	(56,509)	475,191

	Opening Balance	Revaluation	Depreciation	Total
2006	171,000	17,100	-	188,100
Land	304,191	124,121	(20,695)	407,617
Buildings	475,191	141,221	(20,695)	595,717
2005				
Land	171,000	-	-	171,000
Buildings	318,619	-	(14,428)	304,191
	489,619	-	(14,428)	475,191

The land and buildings comprises Erf 3614, Grahamstown, Division of Albany, measuring 760 square metres in extent. The land and buildings were independently valued on 5 August 2005 by Digby and Francis, a member of the institute of South Africa, on the basis of open market values for existing use. Land was revalued at R188,100, while the buildings were valued at R484,821. The land and buildings were originally donated to the entity on 28 March 1988.

3. Investments

Listed shares	517,156	433,087
Legal Resources Trust Endowment Fund	14,554,545	15,453,399
Legal Resources Trust Swiss Account	11,063,390	10,794,122
	26,135,091	26,680,608

The fair values of the financial assets were determined as follows:

The fair values of listed or quoted investments, as well as of the managed portfolio are based on quoted market prices.

Fair values are determined annually at balance sheet date.

4. Cash and Cash Equivalents

	2006	2005
	R	R
Bank balances	32,838	2,639,335
	32,838	2,639,335

5. Trust Fund

Initial trust capital	250	250
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6. Trade and Other Payables

Accruals	-	158,000
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7. Revaluation Reserve

This reserve arises from:

Revaluation land and buildings	462,467	339,013
Revaluation of investments	5,603,200	3,289,993
Cumulative revaluation transfers	8,403,200	4,489,993
Less : transferred back on redemption	(2,800,000)	(1,200,000)
	6,065,667	3,629,006

8. Endowment Reserve

SDC Endowment Reserve (a)	294,775	797,920
FNK fellowship programme (b)	239,598	239,598
	534,373	1,037,618

a.) Reserve arising from the donation of funds by the Swiss Agency for Development and Co-operation of CHF 1,600,000 (R5,031,446), to be utilised for charitable and educational programmes of the Trust. Funds from this reserve have been available for the Trust's purposes at 10% of the original donation per annum from 1 November 1996 to 31 October 2006. This portion plus any income earned on the investment is transferred annually from the endowment reserve to the general reserve. The transfer in the current year totals R1,273,728 (2004 - R1,404,958).

b.) Reserve arising from the donations for the FNK Fellowship programme to support the fellowship/candidate attorney programme. Funds are available at the discretion of the trustees.

9. Cash Generated/(Utilised) by Operations

	2006 R	2005 R
Deficit for the year	(6,094,597)	(6,661,954)
Adjusted for:		
Depreciation and impairment	20,695	14,428
Gains on disposal of managed investments	(359,542)	-
Dividends received and accrued	(296,977)	(331,038)
Interest received and accrued	(1,227,840)	(1,514,206)
Management fees accrued 1 (recovered) on investments	119,292	(81,767)
Deferral of grant income	274,586	1,467,985
Accrual of grant income	(742,024)	(896,995)
Operating deficit before working capital changes	(8,306,407)	(8,003,547)
Working capital changes	(523,881)	(160,088)
Pre funding of Legal Resources Centre	(455,881)	(136,247)
Trade and other payables	(68,000)	(23,841)
Cash utilised in operations	(8,830,288)	(8,163,635)
	22,835,255	24,108,253

10. Related Parties

Related party relationships

Legal Resources Centre Beneficiary

11. Financial Instruments

11.1 Fair values

The fair values of all financial instruments are substantially identical to carrying amounts reflected in the balance sheet.

11.2 Interest rate risk

The Legal Resources Trust has minimum exposure to interest rate risk and therefore no formal policies have been established to regulate this.

11.3 Credit risk

The trust's credit risk is attributable to accounts receivable, accrued income and liquid funds. The credit risk on liquid funds is limited because the counter party is a bank with credit rating assigned by international credit-rating agencies. The trust has no significant concentration of credit risk.

11.4 Currency risk

The Trust is exposed to currency risk to the extent that foreign currency donations are received by the Trust and held for the benefit of the Legal Resources Centre.

11.5 Liquidity risk

The trust manages liquidity risk by monitoring forecast cash flows and ensuring that adequate cash reserves are maintained to meet immediate obligations.

12. Capital Fund

The Southern African Legal Services Foundation

The Southern African Legal Services Foundation (SALS), previously named the Southern African Legal Services and Legal Education Project Inc., a charitable organisation organised and registered in the United States, raises and invests funds for the principal purpose of supporting the programmes of the Legal Resources Centre by managing a portfolio out of which such programmes may in whole or in part be financed. SALS accepts and holds contributions made to it. Such funds will only be made available to the Legal Resources Trust when requested and at the discretion of the board of SALS. At 31 March 2006, SALS held total funds amounting to USD 3,055,437 (2005: USD 2,633,256).

The Legal Assistance Trust

The Legal Assistance Trust (LAT) was established in London as a registered charitable trust in 1985. Its main objective is to provide for the relief of poverty through fundraising for legal services to poor people in countries outside the United Kingdom; to promote research into the laws of foreign systems as they affect poor people; and to publish the results of the research.

The Legal Resources Centre is the preferred beneficiary of the Legal Assistance Trust and the two organisations collaborate in promoting the achievement of their shared goals.

The Legal Assistance Trust supports the Legal Resources Centre by raising funds for it, publishing its works, and by networking. Monies raised by the Legal Assistance Trust for certain specific projects of the Legal Resources Centre at 31 March 2006 amounted to GBP 200,783 (2005: 168,530)

13. Taxation

The Legal Resources Trust has been duly approved as a Public Benefit Organisation exempt from tax in terms of section 10(1)(cN) as read with section 30 of the Income Tax Act; and it has also been approved for purposes of section 18A of the Act (PBO reference number 93002175)

14. Prior Year Adjustments

14.1 The trust has changed the basis on which it accounts for distributions to the Legal Resources Centre.

In the past, these were accounted for as and when paid, but with effect from the current year, the amount by which the receipts from the trust exceed the Legal Resources Centre's total expenditure for the year is excluded from the distribution and accounted for as an advance to the Centre.

14.2 The trust has also changed the basis on which it accounts for designated grants.

Previously, these were accounted for as and when received; they are now brought to account in the period to which they relate. Accordingly, deferred grant income represents grants received in advance of the period for which they were received, while accrued grant income comprises grants awarded for the current year, but received after year end.

Donor List

Adv G I Hulley	Atlantic Philanthropies	Australian High Commission
BADC	Banyan Tree	C S Mott
Claude Leon Foundation	Comic Relief	Danish Embassy
David Potter Foundation (LAT)	Discovery Health	Dr N H Motlana
EED	Embassy of Finland	FARM Africa
Felicia Kentridge Fellowship	Felix Schneider	First Rand Foundation
Ford Foundation	Foundation for Human Rights	Frank Robb Charitable Trust
General Council of the Bar	Goldfields	ICJ Sweden
Investec	National Lotteries Distribution Trust Fund	Open Society Foundation
Rhodes Trust	Rockefeller Brothers Fund	Save the Children Sweden
UIA Charitable Foundation	Urgent Action Fund	

Note: Donations in excess of R5000 listed

LRC Directors and Staff

D R Abraham	P Hloshana	A Mayet	N Rangata
A Andrews	P Howell	N Mjenxane	A Reed
M Bashele	F Ismail	N Mkhize	D Reid
A Billy	C Josephs	A Mngoma	B Rollnick
G Bizos	S Kahanovitz	C Mogorosi	S Samuel
M Bopape	C Kekana	O Mokoka	V Saldanha
M Carolissen	W Kerfoot	J Mokwebo	S Sephton
M Chetty	E Khoza	A Moodley	F Shaick
Z Dada	M Khumalo	T R Mosikili	I Sigwili
N Davids	N Kosi	C Mote	M Skosana
S Dhever	N Liphosa	S Mthembu	H Smith
A Dodson	J Love (National Director)	B Mtshali	A Spies
L du Plessis	N Mabena	E Nicol	N Somandi
N de Villiers	N Mackenzie	N Njikelana	L Stone
N Fakir	M Madlala	B Ntombela	N Swartz
C Fortuin	M Mahlophe	L Ntshabele	C Verloren van Themaat
C Fullarton	T Maneli	L Phakathi	E Wardle
Z Galiel	A Maseti	J Pienaar	R Williams
T Gebengana	D Mashiloane	F Pikinini	I Wlotzka
D Gilfillan	B Matshabane	S Pillay	S Zimbaye
N Gobodo	M Matshaya	R Poswa	
N Hans	S Mathews	R Purshtam	

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LRC

LEGAL RESOURCES CENTRE

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