

LRC
LEGAL RESOURCES CENTRE



ANNUAL
REPORT
2006/7





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Chairman's message

It is with both great pride and humility that we present the work of the Legal Resources Centre in respect of year 2007. Some 13 years into democracy and as the euphoria of a new constitutional state begins to ebb, any rudimentary stocktaking exercise will reveal that despite some significant strides that have been made, deep inequality and crushing poverty still characterises the lives of millions of our people.

A progressive Constitution and a visionary Bill of Rights located within an untransformed society and a largely market driven economy has yielded limited results. In many areas including health, education and to some extent access to justice, the ability to access, claim and enforce rights depends on the resource base of the individual leading to a growing commodification of human rights. It is within such a context that the Legal Resources Centre continues to play a decisive role in using the law to impact on and change the lived reality for many of its clients. This report will take you deep into villages and communities of our nation, share with you the hopes and expectations of our people and hopefully demonstrate how a small, but dedicated group of lawyers and activists can indeed make a difference acting within the parameters of the Constitution.

The cases and issues we have taken up – from land reform to dealing with gender based violence, from the environment to fishing quotas, from the vulnerability of shack dwellers to the effects of mining – have all sought to advance the notion that the law indeed can be used to advance social justice and can make a meaningful difference in the lives of individuals and communities.

The work we are able to do would not be possible without the dedicated and passionate staff who work in the Legal Resources Centre and we wish to thank and acknowledge their vital role under the leadership of the National Director, Janet Love. Thanks also go to the various donors, supporters and friends of the LRC, as well as my fellow trustees on the Legal Resources Trust.

Jody Kollapen

Chairperson

Legal Resources Trust





National Director's message



Over the last year, the LRC has continued with its mission - seeking to use the law to address ongoing socio-economic challenges in overcoming pervasive inequality in South Africa. And, where necessary, to seek to oblige the State to take “reasonable legislative measures, within available resources” to achieve the progressive realisation of the human rights enshrined in the Constitution.

The intention of the Constitution is clearly to enable the transformation of our society and not to maintain the status quo. But access to legal representation in pursuit of rights continues to elude so many in South Africa. In order to give effect to the transformation that the Constitution seeks to bring about, to provide everyone with the right to have any dispute that can be resolved by the application of law decided in “a fair public hearing”, and to fulfill the requirements of many Acts of the democratic parliament that imply or explicitly endorse the need for legal aid in civil matters - access to legal advice in civil matters is essential.

The LRC believes that the Constitutional framework provides a sufficient basis for the realisation of a rights-based programme of social transformation, advocacy and participation. To this end, we seek to hold elected politicians and public officials directly accountable for the performance of their duties and responsibilities. Democratic accountability cannot depend on individual relationships: it needs to be understood as an obligation of elected political leaders and government officials to answer to ordinary citizens for the performance of their duties and responsibilities. The LRC's contributions to social justice continue to be felt through our involvement in litigation and through the collaborative efforts with the State that we have undertaken.

Since its inception the LRC has held the view that “social and economic rights are most effectively enforced by social movements.” People need to know their rights. They need to be provided with the necessary support to assert them. Imparting this knowledge of rights is often a feature of our work with client community structures and associated NGOs. It is also implied in the support we provide to





non-profit organisations and our networking with civil society organizations; and is included in the training of and interactions with paralegals we work with in advice offices.

The right to just administrative action must be reinforced by the fulfillment of the obligations for open, fair, responsive and accountable government. The 'right to know' includes the right of access to information, the right to make disclosures in the public interest and the right to administrative justice. In many of our cases, including those involving structural interdicts, court orders are inadequately implemented or appear to be disregarded. Some members of the judiciary have expressed their dismay at the apparent failure of the State to comply with orders of court, while some members of the legislature, who nonetheless continue to support the flexibility of 'enabling legislation', have complained that structural interdicts encroach on implementation and the development of policy and legislation.

The need for us, together with our clients, to monitor implementation and to be prepared for the potential requirement to follow up such matters has increased. Any failure to comply with court orders significantly undermines faith in the rule of law.

We do not only need the appropriate laws, but we also need committed officials willing and able to carry out the ethos of the Constitution in order to realise our rights. There is a challenge to build the capability of government to deliver. At times, in the absence of capacity within the public service, monitoring

becomes a form of management coordination on behalf of our clients simply to ensure that implementation and the delivery of public services occurs - a means of making State institutions work. The crafting of appropriate remedies may require us to find ways to reflect more on implementation processes.

Chapter Nine institutions often lack the wherewithal to fulfill their mandates. This is significant. Our engagement with and support for Committees of Parliament and those of provincial legislatures need greater emphasis in order to contribute to the establishment of effective oversight institutions that outlast the individuals that constitute them at any given time.

During these twelve months, the need for the LRC to ensure that we curtail spending more than we are able to generate in income through our fundraising efforts, was not without impact. LRC employees had to reckon with a number of cost-cutting measures and tighter financial controls while simultaneously retaining a high standard of service. Our Pretoria Office was closed and our staffing numbers decreased. Yet, the dedication and determination of all staff members carried us through and enabled us to look back on a productive year.

I wish to thank all members of staff for their support and dedication to the LRC's mission. Thanks also to the members of the Legal Resources Trust and the many "friends" of the LRC for their support and on-going contributions.

During the course of this year, the LRC has been involved in a number of cases some of which have gone to court or are on their way, while others are unlikely to involve litigation. We have tackled issues concerning women's rights, housing and local government, land and rural development, children's rights, environmental justice, water, HIV and AIDS, social security, administrative justice and the rule of law. Our work to support non-profit organisations has continued and we have pursued our networks within the region and the continent. In this Annual Report we cover a few examples of the matters dealt with in this period.

My job as National Director is full of challenge and stimulation. Above all, I have the rare privilege of being able to function amidst people who at all times manifest the heart and soul of our Constitution's commitment to transformation.

Janet Love
National Director

Cases in Court 2006/2007

Office	High Court	Supreme Court of Appeal	Constitutional Court	Land Claim	Equality	Labour	Family Court
CLU	19	4	4	2			
Johannesburg	4		1	5			
Grahamstown	2	1					
Durban	21			1	1		
Cape Town	15					2	8
Total	61	5	5	8	1	2	8

Finally farming our land on our terms

For the Algeria community near Clanwilliam in the Western Cape, the process of claiming their land took ten years to finalise. Finally, in 2006, the families who live on this old forestry station became the rightful owners of the mountainous land on which their forebears lived.

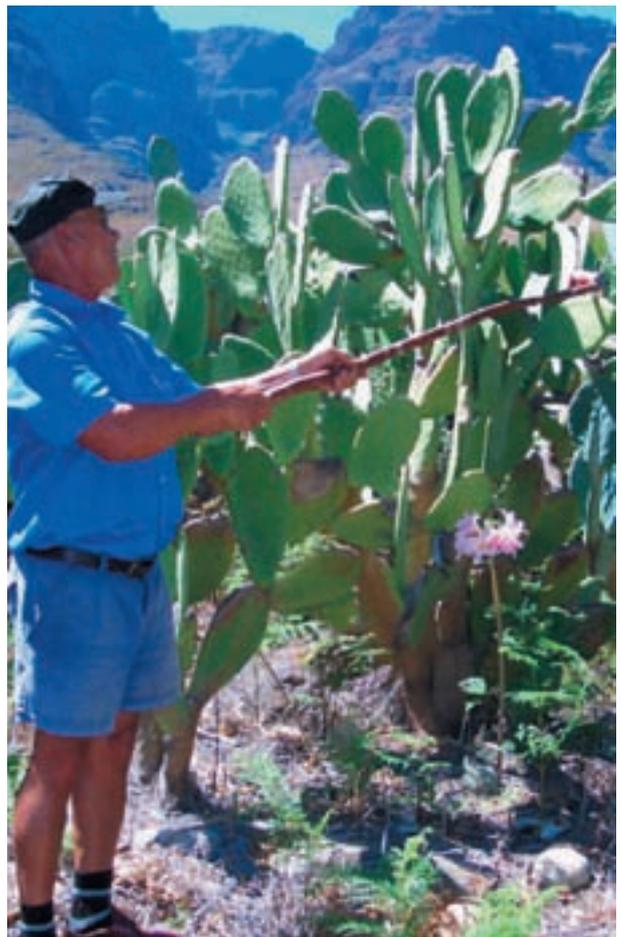
Land Rights of Algeria Community Cemented¹

Recently, the occupants of the old Algeria forestry station in the Cederberg near Clanwilliam in the Western Cape became the rightful owners of the land on which they and their forebears had lived for many years. This transfer of land is hardly news in South Africa. However, the 38 families of Algeria not only received title to 440 ha of land, but also made history as the first group of beneficiaries of a successful land tenure project who had their land tenure rights appropriately “fixed” in the finest detail prior to the transfer.

Mr Petrus Hanekom, chairman of the Algeria Communal Property Association, said that the road they walked to ownership was a difficult one – they even went to toyi-toyi at the Land Affairs offices in Cape Town when things did not seem to be progressing. “We had heated meetings, but now things have been sorted out.”

In March last year residential sites were transferred to families. The garden allotments next to the Rondegat

¹ Article by Amelia Genis published in the Landbouweekblad, 20 December 2006, reprinted here with permission.



The most important question that Algeria poses is why it took ten years to finalise a relatively small and easy case. The experience brings a measure of realism as to what all is involved in land reforms.

Kobus Pienaar – 5 January 2007

River were surveyed and mapped. Terms and conditions for the use of these allotments were formulated and each user received a letter of allocation, together with a map indicating the specific location and extent of the plot, to formally confirm their rights of use. In addition we agreed on the arrangements in terms of which individual CPA (community) members may harvest wild buchu and rooibos tea and share in the profits derived from the sale thereof.

Mr Kobus Pienaar, lawyer at the Legal Resources Centre (LRC) in Cape Town, who assisted the community of Algeria, said that the residents of Algeria wanted to first secure the rights to garden allotments, residential erven and to harvest buchu and rooibos before they did anything else. "Only after these rights were confirmed at an annual general meeting did they indicate to Land Affairs that they were ready to take transfer of the land."

Pienaar expressed his concern about the slow pace of land reform. He explained that they specifically chose to follow the approach undertaken in Algeria to avoid the problems that have emerged in many land reform projects after the handover of land. He expressed the hope that lessons may be learnt. "The most important question that Algeria poses is why it took ten years to finalise a relatively small and easy case. The experience brings a measure of realism as to what all is involved in land reforms."

Mr Jakes Botha, the mayor of the West Coast District Municipality, welcomed Algeria as a new town. He inaugurated the new community hall and also accepted the title deeds for the land on which the hall and streets are located on behalf of the Municipality as the new owner. He promised that the paving of roads would commence this year. It will be a labour intensive project offering accredited training for the residents of Algeria.



Seventeen years of being a good wife isn't enough

For many years Ms Snowy Kambule was a good second wife to the late Mr Burton Baduza. On the 25th May 1985 they affirmed their relationship in a marriage ceremony in terms of customary law, although they failed to register their marriage in terms of the Transkei Marriages Act. In the years that followed Ms Kambule settled in their home in Longview Crescent in Queenstown.

Burton visited often even though he was married to Ms Norah Baduza in a civil ceremony in 1956. During Burton's last visit to Snowy he fell ill and was admitted to hospital where he passed away on the 21st June 2002.

Under customary law, a husband has a duty to maintain his widow upon his death. Burton had failed to leave Snowy any benefit in his will and the executor of Burton's estate took steps to evict Snowy from their home in Queenstown. Norah alleged that Snowy was merely a domestic worker and there was no customary law marriage between Burton and Snowy.

The High Court found in 2004 that a customary law marriage did indeed exist and that Snowy was entitled to stay in her house. Chetty J considered two conflicting decisions in the Transkei as to whether registration under the Transkei Marriage Act is a prerequisite to validity of a customary law marriage and concluded that registration was not essential for validity.

This judgment was however overturned in the Supreme Court of Appeal in 2005 and Snowy was ordered to vacate the house within 12 months on the basis that the house was not registered in her name. The Supreme Court of Appeal did not deal with the question of the existence of a customary law marriage between Snowy and Burton.

Snowy ultimately lost her home, but in March 2006 the LRC represented Snowy in her claim for maintenance as a surviving spouse under the Maintenance of Surviving Spouses Act (No 27 of 1990). The executor and heirs argued that Snowy was not a spouse and therefore there was no duty to maintain her. Their defenses were that she had not complied with any customary law marriage requirements, and that even if she had and could prove that they were in fact married, the failure to register the marriage made it invalid.

In February 2007, the High Court handed down a judgment recognizing that a customary law marriage, even though not registered in terms of the Transkei Marriages Act, was still a valid customary law marriage. The court then referred the case to oral evidence to determine whether or not the necessary customs were observed. The estate subsequently settled the outstanding issues and agreed to pay Snowy a monthly maintenance until her death or remarriage.

This case was an important win for Snowy Kambule who was without income or any means of support. It was also an important case for the LRC in that it shed greater legal clarity on conflicting legal positions, and will help women who are party to unregistered customary law marriages in terms of the Transkei Marriages Act to exercise their rights to legal benefits that flow to a spouse.



A dream comes true in Tafelsig

The community of Tafelsig is finally seeing the worm-infested soil and dust-ridden shacks they called home for many years transformed into a proper housing development with a community centre. A true victory for the community and its various committees run mostly by women.

An inspiring sight met the eye when Vincent Saldanha of the LRC visited the new development at Freedom Park in early November 2007. Twelve hundred Irish men and women with the Niall Mellon Township Trust were building houses in the blazing sun and notorious Cape wind.

This is the final result for a brave community that challenged an application to evict them. The matter had commenced in 1998 when the City of Cape Town sought to evict the Tafelsig community that occupied land in Mitchells Plain on the Cape Flats. When the LRC took on the representation of the community and proposed to the City Council that the dispute be mediated in terms of the Prevention of Illegal Evictions Act (No 19 of 1998), the eviction application was suspended pending the outcome of the mediation process.

Lengthy negotiations over several years culminated in a settlement on the basis that the area was identified as a Presidential Lead Project and therefore earmarked for expedited housing development. The Development Action Group (DAG), a progressive housing NGO, assisted the community in facilitating the development on the basis of the People's Housing Process (PHP), which enables communities to participate in all aspects of the process from identification of appropriate housing structures to actual construction of the houses. The LRC continued to monitor progress through Vincent, also a member of the DAG Board of Directors.

At Freedom Park, scaffolding and flags – of both South Africa and Ireland – tower above the dust and din of the construction site. The housing scheme has mixed architecture – single, semi-detached and double-story units – on a site with a layout that was designed by members of the community themselves. The units are larger than “RDP” houses and each have solar-powered geysers and tiled roofs. In March 2007 approximately 225 residents still remained on the field in Tafelsig, the first beneficiaries of the housing development. There are a further 200 houses to be built which will be allocated to applicants on the Cape Town City Council's waiting list.

Only in the LRC does one have the unique privilege of representing a community for over nine years...with an outcome that fundamentally changes their lives and restores their human dignity.

LRC too, must be credited for the gains made in Freedom Park; your initial intervention enabled the community to secure a foothold in so far as developing the land was concerned. Without this no progress could be achieved, which is why so many others remain in inadequate shelter. It is indeed our combined efforts that have made housing a reality for the 493 families who will live in new Freedom Park houses in April 2008.

Anthea Houston – Executive Director, Development Action Group



From wretched to riches

For over a decade the LRC has been championing the rights of over 4,000 people living in the desert area of the Northern Cape. Years of legal wrangling followed. Finally, by securing their land rights - access to the land and to the resources in the land – the Richtersveld community can support themselves on the land that supported their ancestors.

This indigenous Nama community had a remarkably sophisticated political structure and coherence, under the leadership of the Links dynasty of captains and an elected raad, at the time that the colonial boundary was extended over their land in 1847. But these remote desert and mountain areas did not attract government attention and colonial domination until the discovery of diamonds in the late 1920's. The Richtersveld remained largely untouched by the colonial government and white settlers until the diamond rush. The State swiftly removed the diamond fields from the jurisdiction of the Richtersveld Raad and restricted the community to a smaller reserve area in the mountains.

Over the past 10 years many court battles took place. The main hearing on the restitution matter commenced in the Land Claims Court in September 2000, and in early 2001 the court dismissed the community's claim on the grounds that it can not show a right to restitution or that there had been racially discriminatory dispossession.

The battle continued and culminated in a Constitutional Court ruling in favour of the community when the state and Alexkor asked it to overturn an earlier decision of the Supreme Court of Appeal. In October 2003, the Constitutional Court affirmed that the Richtersveld Community was entitled, in terms of section 2(1) of the Restitution of Land Rights Act (No 22 of 1994), to restitution of the right to ownership of the subject land (including its minerals and precious stones) and to the exclusive beneficial use and occupation thereof.

This meant that the community now had to return to the Land Claims Court for a hearing on the nature and quantum of the restitution and compensation, and finally in late 2007 the court handed down a court order as settlement of the land claim.





Impact

This was the first case in a South African court of law that grappled with the question of aboriginal land title and aboriginal land rights. The LRC demonstrated that the legitimacy of the claims by the Richtersveld Community to land is rooted in the common law concept of aboriginal title, or traditional connections to the land, and that this constituted an additional basis for land law in South Africa. Extensive case law developed in Australia, and to a lesser extent in Canada, was used.

In the Richtersveld case, aboriginal title jurisprudence served to bolster not so much the ultimate validity of the land claim, but the community's legitimate interest in the past, present and future development of their land. The more they lost - the argument went - the more they should receive by way

of restitution and the less weight should be accorded to the economic interests of Alexkor as the mineral rights holder, as it was a company which was formed by the apartheid state to exploit those resources.

To prove a claim to aboriginal title was both difficult and complex. During the 19th century era of colonial expansion, indigenous people had no legally recognized rights or title deeds to the land that they occupied. There are few, if any, existent records proving their claims to the land. Their descendants need to rely on other forms of evidence – oral histories, burial sites and so on – to prove their claim to aboriginal title. Extensive research and documentation were required and a team of social anthropologists and oral historians assisted the LRC, together with a number of experts who gave evidence.

Seeing the sun for the first time

“Now this is our place to look after. It is my dream that we will care for it so well that our children will want to come and farm here and make a living.”



The case of Melkkraal concerns huge efforts by a small community of 27 families to secure their usage and ownership rights to the Melkkraal farm, 1 373 ha of marginal but also valuable rooibos tea producing land. The land was initially inherited by Nicolaas Kotze whose wife and their children were classified “coloured” in terms of the Population Registration Act. The community, mostly descendants of the Kotze family, has continued to live and farm on Melkkraal for the past 70 years. Over the years, Melkkraal was occupied and used by inhabitants and co-owners without legally valid agreements.

Melkkraal is situated near Nieuwoudtville, a 4 hours drive from Cape Town. The community is one of the very few previously disadvantaged groups of people who have managed to retain access to and farm the land productively despite apartheid. Individual community members use the land for residential purposes, vegetable gardening, wheat sowing, rooibos tea cultivation and grazing.

Rooibos tea cultivation

During 2006, twenty Melkkraal rooibos tea allotment holders produced 7 455.64 kg of rooibos tea. Up until a few years ago, the Melkkraal rooibos tea farmers had no access to markets and had to make informal deals with quota holders who paid them R 3 per kilo.

Since 2001, these farmers now form the majority of the membership of the Heiveld Rooibos Tea Cooperative. They can now sell their tea to the cooperative, which then markets it internationally. The farmers’ cooperative and production methods have been certified by Fair Trade, an international organization that certifies that the methods of production and labour practices meet high standards.

As a result of the support and assistance from their cooperative, the Melkkraal farmers have been able to secure R 22 per kilo for their organically produced tea. The twenty allotment farmers stand to collect a gross annual income of R 164 010.00 to be shared according to individual delivery of tea.

Development concerning property rights

In April 2006, to the farmers’ surprise, a 38% undivided share in the land went for sale on public auction. After difficult, extensive negotiations, intervention by the ANC MEC of Agriculture and Land Reform of the Northern Cape and financial assistance from a charitable trust, the community managed to prevent the outright purchase of



the co-ownership shares on sale by Pierre-Jeanne Gerber, an ANC Member of Parliament.

Under the terms of the deal, Gerber agreed not to outbid the community but in return would take transfer of a 4.7% share for free and the community would become the owner of a 33% share. Ownership of the share would give Gerber, like any other co-owner irrespective of the size of his share, a veto right in relation to any transaction concerning the land.

Gerber then indicated that he would apply to the Minister of Agriculture to permit a subdivision and transfer of a small portion of the land to him in ownership, where after he would be prepared to donate his share back to the community. If Gerber elects not to pursue the sub-division or if the Minister refuses to permit it, Gerber is obliged to sell the share to the community at a “just and equitable” price. The phrase “just and equitable” is defined in the South African Constitution and includes taking into consideration the history of the property’s acquisition and use.

Efforts by the community to secure their rights

During 2005, NGOs working with the community including the LRC, the Surplus People Project (SPP) and the Environmental Monitoring Group (EMG) advised the community to formally establish a property holding entity so that they may take steps to acquire full ownership of their land. In January 2006 the community adopted a Community Association Constitution in terms of the Communal Property Association (CPA)¹ and also adopted a set of residential allotment rules.

The finalised allotment rules contain a register in terms of which each household was given an address, a description

¹ A CPA is a special land reform legal entity, similar to a trust, established in terms of legislation. The constitution of such an entity must comply with a range of provisions to ensure the protection of the rights of the members of that association and the rights of the community.

of the extent of the site and the improvements on it. Each occupying household has received a community-endorsed letter of allocation, a set of residential rules and a diagram depicting the site. The rules cover a range of events, including the circumstances under which the right may be sold, donated, swapped or bequeathed.

The Rooibos tea allotments of individual community members have also been mapped out. With NGO support, the community has generated a draft of the rooibos tea allotment rules and intends to follow the same process for adopting wheat sowing and grazing rights allotment rules.

With the support of the Department of Land Affairs, the community has established their association as a CPA, which is entitled to take transfer of the first 33% share. Mr Abraham Fortuin, chairman of the CPA, said that he felt “like a child who has been born and sees the sun for the first time.”

This small case constitutes an example of showing how appropriately defined and secured rights to land “underpin and secure livelihoods and shelter by reducing households’ vulnerability to shocks, guaranteeing a level of self-provisioning and supplementary incomes from basic foodstuffs and enabling easier access to basic infrastructure, employment markets and financial services.”²

² Julian Quan, “Better Livelihoods for Poor People: The Role of Land Policy” (Department for International Development, August 2003).

Mr. Hendrik Hesselman (70) is the chairman of the Heiveld Co-operation of rooibos tea small farmers to which the people of Melkkraal belong. At the CPA celebration he spoke about how he felt: “Living on a little piece of rented land, I feel like a bird sitting on a branch: if a strong wind blows, I could be gone.”

Between the devil and the deep blue sea

For hundred of years thousands of poor people have been feeding their families from the abundance of the seas. Artisanal and subsistence fishers typically fish close to the shore using labour-intensive traditional methods to harvest fish and shellfish.

South Africa's Constitution is one of the most, if not the most, advanced in the world. Section 27 states that everyone has the right to have access to sufficient food and water. Historically, people in small coastal towns along the southern and western coasts of the Cape have depended on the sea to sustain their communities. For decades the sea had provided food and a measure of dignity to these fishermen.

The winds of change

In South Africa all living resources in the marine environment are managed according to the Marine Living Resources Act (Act 18 of 1998). Its fishing rights scheme made special provision for previously disadvantaged people, but



Subsistence fishers fish to directly feed their families, and artisanal fishers fish to sell or barter most of their catch, also primarily for food. Methods used traditionally are line fishing, treknetting (beach-seine) and pots, traps or hoop-nets.

excluded artisanal fishers as a group. In terms of the Act they need to be commercial fishers and apply for a quota. Most artisanal fishers are poor, functionally illiterate and poorly equipped to become small businessmen. They are scarcely able to write and cannot comply with complex and costly applications procedures.

Since 2001 the State has chosen to establish a limited commercial rights category to cater for artisanal fishers. This still means that those affected must organise themselves into corporations with all the financial and legal requirements. They must also compete with big fishing companies, which use trawling and long lining.



“The fishers are poor, downtrodden and illiterate after years of abuse under the apartheid system typically lacking in alternative skills and accordingly very vulnerable to the erosion of their toeholds on the economy. They fished for the table, and the removal of their rights resulted in a loss of food and food security...The fact that traditional artisanal fishers are not recognised as a group and that their activities, rooted in their history and culture, have been curtailed, means that their social and cultural welfare and rights are under threat and will be destroyed. Entire traditional artisanal fishing communities are under threat and some have permanently lost their way of life.”

Naseegh Jaffer - Director, the Masifundise Development Trust

Kenneth George said, “this is not a lucrative job – sometimes we wait three to five months for harder (mullet) or yellowtail, but we always get something to eat.”

Snoek has for decades been the staple of poor communities and now artisanal fishers cannot get fishing rights to catch snoek even though it is plentiful and not regulated by the State. Entire communities have become impoverished as a result – menfolk turning to poaching and the illegal perlemoen trade out of sheer desperation.

The legal challenge

A group of artisanal fishers, represented by the LRC, challenged the State’s refusal to address their needs as a breach of their constitutional and statutory rights. In a case before the Equality Court they claimed that the Minister of Environmental Affairs and Tourism’s failure to

Anthony Johnston (70), Chairman of the South African Artisanal Fishers Association, believes the spiritual bond with the sea is being broken because privatisation of the ocean has led to over-regulation in favour of an export-driven industry. He argues that trade considerations override moral or ethical policy and if allowed to continue, it will be impossible to sustain the resource.



provide for the fishing right of the artisanal fishers group was discriminatory.

At the same time, in an application to the High Court the group contended that the Minister's failure to provide artisanal fishers access to marine resources, vital to the group to be able to access subsistence and food, is unconstitutional.

In a letter to the Minister of Environmental Affairs and Tourism, the LRC, on behalf of the group of roughly 5000 fishers, demanded that the Minister recognise artisanal fishers as a distinct class of fishers, implement a new scheme for regulating this group which, inter alia, will ensure that they have permanent access to marine resources and re-establish and maintain the Fisheries Transformation Council (as required in the Act).

In a laudable judgment, the Supreme Court of Appeal (SCA) denied the Minister's appeal against a refusal by the

Equality Court to refer the matter to the High Court. The SCA affirmed the Equality Court's jurisdiction to hear the matter and stated that in the absence of misdirection, it was the Equality Court's discretion whether to refer a matter to the High Court.

Before the trial started, the Equality Court made an order by consent of the parties directing the Minister to grant the fishers an exemption to fish up to an allowed limit with a recreational fishing permit. The court's order also directed the Minister to prepare a process to develop a new framework that would accommodate these fishers' constitutional socio-economic rights.

Treknetting

"A traditional fishing method where schools of fish are encircled with a long net deployed by a rowing boat and then hauled up onto beach by hand... At low effort levels it has low impact and is fairly selective, though it may have a bycatch of rare linefish and sharks. However, the method allows for these to be released alive by responsible fishers."

Know your Seafood? Think Twice...

I went to school until Standard 1. I cannot read or write... I have never applied for a permit or quota of fish, because I cannot afford the application fee and because I could not fill in the application form.

Kenneth George (51), an artisanal fisherman with 6 dependents and LRC client.

A secure future after six years

A small group of farmworkers residing on the farm Groentuin approached the Department of Land Affairs with the intention of buying the farm in terms of the Department's land redistribution project. The eight households had been living on the farm for many years.



Negotiations broke down when the asking price exceeded the market value and the Department of Land Affairs refused to pay the price. The farmer then went ahead and sold Groentuin to Mr Landman - who immediately started farming his newly acquired land and did not offer employment to any of the families on the farm.

The relationships between the community and the landowner deteriorated when Mr Landman started clearing and fencing large areas on which the community's cattle grazed. He also threatened to cut off their access to water and bulldoze their sizeable vegetable gardens.

Mr Landman turned to the Magistrate's Court in an attempt to evict the community. At the same time the LRC lodged a claim to the land in the Land Claims Court to interdict Mr Landman from interfering with the community's land use rights pending finalization of the eviction proceedings or an agreement between the parties. This led to protracted settlement negotiations. Financial compensation was offered, but alternative land proved very difficult to find and the community was not interested in relocating to the nearby Alexandria township. Local neighbours also opposed any proposed permanent settlement on the farm.

Then in 2004, Mr Landman offered to donate some land to the community. After lengthy negotiations the offer was accepted and the application for eviction withdrawn. Finally, in October 2006 the community settled on their own little portion of Groentuin – land that they now own.

Unfortunately, despite this satisfactory ending the Groentuin community will in all likelihood have to return to court to compel the Department of Land Affairs to provide water to the community and to register a legal entity to take transfer of the land.

“Move! We want to redevelop!”

For the three hundred or more residents of 197 Main Street and the San Jose building in central Johannesburg, life is difficult. Crammed into unsuitable accommodation with no electricity or water, it should have come as a relief when the City declared the housing unsafe, unhygienic and wholly inadequate.

But for many this potentially dangerous accommodation is the only option, and a substandard home is better than no home.

The residents opposed their eviction order, arguing that if the City wanted them to leave, they had to provide alternative housing within the area – close enough so that those with jobs could still go to work, those with families could have access to them, and those with children could still send them to school.

In the High Court Jajbhay J agreed with the residents, and ordered the City to halt the evictions until suitable housing in the locality could be provided. The City appealed the judgment to the Supreme Court of Appeal (SCA) and it was then, recognising the importance of the case, that the Committee on Housing Rights & Eviction (COHRE) and the Community Law Centre at the University of the Western Cape joined the matter as *amicus curiae* (friends of the court) with the LRC as their legal representative.

The SCA didn't find in favour of the residents and it held that the City had the power to evict the residents. Harms ADP however ruled that the eviction of occupants triggers a constitutional obligation upon the City to provide at least minimum shelter to those occupants who have no access to alternative housing. This finding marks a significant breakthrough in the recognition of the rights of people who have no choice but to make urban slums their home. The judgment will affect not just the hundreds of residents of these buildings in inner Johannesburg, but millions of the poorest people in South Africa who find themselves in similar circumstances.

The court however found that the residents did not have to be housed within the inner city but within the city's boundaries. The residents obtained leave to appeal to the Constitutional Court, where the LRC continued to act for the amici when the appeal was argued.



We find that the powers of the City to order the vacation of unsafe buildings are not dependent upon its being able to offer alternative housing to the occupants. But we also find that the eviction of occupants triggers a constitutional obligation upon the City to provide at least minimum shelter to those occupants who have no access to alternative housing.

Harms ADP, 26 March 2007



The air that we breathe



Challenges in the Fight for Environmental Justice

Historically South Africa's poor settled on undesirable land near industrial sites, factories, landfills, mines and downwind from incinerators and smoke stacks. In many cases today, both formal and informal settlements exist in areas where pollution far exceeds the standards accepted as safe in the developed world.

Whilst our progressive Constitution guarantees that all citizens have the right to have their health protected, there is no escape from the air that we breathe – air that significantly impacts on the health and well being of vulnerable communities who have no choice but to live in areas with high pollution levels. The children who already face malnutrition, poverty and its related social problems are most seriously affected.

The challenges are diverse and daunting

Air quality challenges are highly diverse and daunting to address. Wind liberated dust from agricultural land and non-rehabilitated mine dumps, and dust resulting from vehicle traveling on unpaved roads form a background of pollutants. Add to the mix vehicle emissions, emissions from industrial processes, domestic fuel burning, emissions from the burning of waste and from mining activities and incinerators in greater or smaller quantities depending on the location.

Densely populated areas on the fringes of industrial centers face emissions from many of these sources and are ill equipped to take steps to prevent the infringement upon their right to “an environment that is not harmful to their health and well being”.

The LRC collaborates with a host of environmental experts to provide free legal and technical assistance to communities in their fight for cleaner air and a fairer distribution of the environmental costs of development.

Vehicle emissions

Exhaust fumes are the source of many detrimental pollutants. Lead and sulphur dioxide have particularly serious effects on health. Children in poorer communities have higher blood levels of lead, resulting in impaired cognitive development and learning difficulties. The risks are compounded by the proven fact that poor nutrition facilitates increased uptake of lead in



the body. Sulphur dioxide affects the respiratory system and is known to exacerbate conditions such as asthma.

The LRC's participation in the negotiations with the Department of Minerals and Energy strengthened the position of civil society in the decision taken to reformulate fuels used in South Africa. This resulted in leaded fuels being phased out and a significant decrease of over 90% in sulphur levels in fuels.

Emissions from large industries

South Africa boasts a strong industrial sector. Whilst good for the economy, heavy industry unfortunately emits pollutants that, if not controlled, have a significant impact on air quality. To exacerbate matters, in the industrial nodes, a cumulative effect results from industrial emissions in combination with other sources of pollutants.

The LRC assists communities to participate in environmental impact assessment processes for the expansion and development of large industries and to demand reductions in excessive emission from polluting industries. The LRC has assisted clients in negotiating a 60% reduction in sulphur dioxide from all the oil refineries countrywide and continues to assist clients to engage with the most significant industrial emitters of pollutants in the Vaal Triangle, the first area to be given high priority status by the State for its seriously deteriorated air quality.

Legacy of mining

The growth of the South African economy benefited significantly from the gold mining industry. Sadly it left in its wake a trail of environmental damage. Quality of life in communities in the larger Johannesburg area is seriously affected by dust from mine tailings dams. The LRC assists



a number of communities to litigate against the responsible mining companies and relevant authorities, demanding rehabilitation of the mine dumps and dams.

A legacy of abandoned asbestos mines is responsible for the suffering, ill health and premature death of many previous employees and members of communities living close to the unrehabilitated mines. Asbestos fibre is one of the most dangerous substances known. If inhaled it may cause diseases such as asbestosis and mesothelioma, a painful and fatal cancer of the lungs. The LRC litigated on behalf of a village community in the North West Province, subsequently negotiating the cleaning up of asbestos fibres polluting the village and its surrounds.

Waste management practices

Emissions from burning medical, municipal and hazardous waste are some of the most toxic pollutants created. Often, the combustion process and the chemical reactions resulting from it are misunderstood by proponents of burn technology. The LRC works with technical experts who provide community clients and environmental groups with a thorough analysis of the technologies proposed for the burning of waste and an interpretation of the most up-to-date internationally reviewed science relating to the topic. In this way civil society supports the authorities in the decision making process by providing relevant and useful information in support of opposition to the burning of waste, and in most instances a far less harmful technology is adopted.

Law reform

Expert advocacy around a wide range of legal issues in the law reform processes over the last ten years by the LRC has resulted in laws that better reflect the concerns of poor communities and better protect health. These include interventions around waste and air quality management, environmental impact assessments, access to information, the control of hazardous substances such as asbestos, air pollutant emissions, and the regulation of vehicle emissions and fuels.

Priority areas

In terms of the recently promulgated National Environmental Management: Air Quality Act, areas with significantly deteriorated air quality may be declared Priority Areas in terms of the act. For these areas the National Air Quality Officer must develop and implement an air quality management plan that will improve the air quality in accordance with the constitutional imperative that the environment must not be harmful to the health and well being of South Africans.

The LRC provided communities in the Vaal Triangle with legal support to ensure that this area was declared the first priority area in terms of the new legislation. Ambient levels of various pollutants routinely exceed the legal standard in this densely populated, industrial area. The LRC now assists the client communities to participate in the process of development and implementation of the air quality management plan.

An intern's story

My name is Emma van Leusden and I graduated from Osgoode Hall Law School in Toronto, Canada in 2005. After being called to the Bar in Toronto in 2006, I embarked on my six-month internship with the LRC in Grahamstown from September 2006 until March 2007, which was funded by the Canadian Department of Foreign Affairs and administered by the Canadian Bar Association. This was my first professional experience as a fully qualified lawyer.

During my internship, I developed a great professional and personal relationship with my fellow colleagues at the Legal Resources Centre. We work well as a team on a professional level as well as friends in a casual setting. The LRC has made every effort to integrate me into the office and the community, which has made my internship a once-in-a-lifetime unforgettable experience. Outside of work, I have also developed great relationships with the community of Grahamstown. In my opinion, community integration is crucial for any intern to feel established and able to live and work efficiently in a foreign country for six months.

I have enjoyed the work in which I was involved with at the LRC. Every effort at my involvement in most files was made by my supervisor, which has familiarized me with a wide range of issues (i.e. social justice work, land claims, right to education, right to housing) and type of work (i.e. memoranda, letters of demand, funding proposals, reports and drafting affidavits).

The work at the LRC is very "hands-on" and I have been able to see considerable progress in some files at the office, despite my being here for only six months. Furthermore, my work as an intern at the LRC has greatly enhanced my skills as a lawyer and has made me grow professionally and personally. On a personal level, I find that I have become a more mature and self-confident lawyer. On a professional level, I have noticed that my research, organization, and administrative skills have improved greatly. The experiences I have had in the office also boosted confidence in my ability to be self-sufficient and resourceful. I feel like I have evolved into a competent and skilled attorney who has a lot to offer any legal community. I also feel that I have made a positive contribution to the Legal Resources Centre and will have a great deal to contribute to the legal community in Canada upon my return.

This internship has been the most valuable and memorable experience in my journey to becoming a human rights lawyer. It has bolstered my knowledge of law generally, a foreign legal system and my self-confidence as a lawyer. In addition to this, it has provided me with the opportunity to travel to another country, immerse myself in a unique culture, and grow significantly in my career and professional life. In addition to working at the LRC, working and living abroad generally for six months has been a great learning experience. I have met many professional and personal contacts with whom I shall maintain contact with after my internship ends.



When is rape, rape?

When a 9-year old victim told someone about what had happened to her, she could have had no idea of the far-reaching consequences that her case would have.

For a long time rape has been acknowledged as one of the most serious of crimes in South Africa. However, the law in relation to rape has failed to keep up with the changing face of this heinous crime in present day South Africa.

The case of Fanual Masiya provided the courts with an opportunity to consider the common law definition of rape. The definition provided that the crime of rape is committed when a male has unlawful and intentional sexual intercourse with a female without her consent. The accused, Masiya, claimed that only anal penetration had taken place, which in law amounted to a lesser crime of indecent assault. Although the facts of the defence were found to be true, the magistrate convicted the accused of rape, holding that the definition was archaic and discriminatory against all males who were penetrated anally without consent. The magistrate further held that the discrimination was illogical, unjust and irrational and negated the constitutional values of dignity, equality and freedom.

This view is supported by the government in the form of the Sexual Offences Bill of 2003, but while the bill has not been enacted, an injustice would be done to the victims of non-consensual anal penetration.

On sentencing the accused the High Court agreed with the magistrate about the shortcomings of the law and declared that the common law ought to be developed and that the defendant should be convicted of rape.

The LRC's involvement of this case began when the accused appealed the sentence to the Constitutional Court, where the LRC represented the Centre for Applied Legal Studies and Tshwaranang Legal Advocacy Centre as *amicus curiae* (friend of the court). The LRC submitted that the definition as it stood prior to the magistrate's ruling was inconsistent with constitutional values, and that it should be developed to include anal and vaginal penetration.

Nobody doubted that the laws as they stood were unfair. Nobody questioned that rape is an act of violence rather than sexual desire, that the trauma suffered is one of humiliation as well as physical brutality, and that anal penetration is equally as violent and humiliating as vaginal rape. What the Court questioned however was whether the definition was inconsistent with the Constitution and whether it should be developed.



The Constitutional Court found the common law definition was not unconstitutional insofar as it criminalized conduct that was clearly morally and socially unacceptable. The definition did however need to be adapted as it fell short of the spirit, purport and objects of the Bill of Rights. The Court found that non-consensual anal penetration of women and young girls constituted a form of violence against them equal in intensity and impact to non-consensual vaginal penetration. The Court further held that the development of the common law definition was applicable only to conduct after the date of the judgment, as a retrospective extension of the definition would offend the principle of legality. Disappointingly the Court found that the facts did not require them to consider the extension of the definition to include non-consensual male anal penetration.

While the LRC welcomes the development of the definition to protect women and girls against all indignity and violation, it is profoundly disappointing that men and boys are not equally protected, especially as there is a bill before Parliament that would give all people equal protection against non-consensual penile penetration of the anus or vagina.

To my mind the problem is not about males and females; it is about altering our understanding of why rape is prohibited. There are two elements to this: first that rape is about dignity and power and second, that anal rape is equivalent to vaginal rape.

Chief Justice Langa, 10th May 2007

Hamba kahle, sis Pinky



Nonlanhla, affectionately known to friends and clients as Pinky, was born in Western Native Township, now known as Westbury on the outskirts of Johannesburg to Siphon and Esther Nyembezi. Esther was a teacher and Siphon practiced as a doctor in Sophiatown, a vibrant, colourful community. Remembering her childhood, Pinky recalls that her mother used to buy from a wholesaler whose gate bore a sign that read: "Trespassers will be prostituted!"

The family moved to Soweto in 1957 when Siphon became increasingly aware that blacks were being moved out of the area. Pinky, one of three children, attended Orlando High School and later Inkamana High School in KwaZulu Natal. She studied law at the University of Zululand while her two brothers continued their studies in Liberia, as teacher and doctor respectively.

Pinky met her husband, Siphon Madlala at university and married him in 1970, settling down in Soweto. They have five children.

In June 1979 she joined the LRC as administrator at the Hoek Street Clinic. When the LRC closed the clinic down in 1984, she became co-ordinator of the LRC's Advice Office Programme – a position which she was very successful in. As one of the first members of the Legal Resources Centre and with a passionate commitment to the plight of the poor, she dealt with UIF issues, labour law, credit agreements, house mortgages and bonds, disability grants, psychiatric welfare, civil claims, maintenance, workmen's compensation, identity documents, unfair dismissals, and family and marital disputes. Pinky also served as a judge at the Consumer Court.

Pinky displayed absolute passion for her work. She was a warm compassionate person with a great sense of humour and a source of great comfort to many of her colleagues. Her wisdom, caring and friendship are valued by numerous candidate attorneys who have passed through the doors of the LRC before moving on to pursue their careers in the legal field.

Pinky's dedication has made a critical difference in the lives of thousands of LRC clients.

Sis Pinky died at the age of 59 on the 16th May 2007.

Legal Resources Centre

Annual financial statements

for the year ended 31 March 2007



The Executive Committee's 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).

NB – What follows is an abridged version of the audited financial statements. A full copy is available from the LRC National Office or from the LRC's website at www.lrc.org.za

Report of the independent auditors

to the Executive Committee of the Legal Resources Centre

Report on the financial statements

We have audited the accompanying financial statements of the Legal Resources Centre, which comprise, the balance sheet as at 31 March 2007, and the income statement, statement of changes in equity for the year then ended, and a summary of significant accounting policies and other explanatory notes set out on pages 3 to 14.

Executive committee's responsibility for the financial statements

The executive committee is responsible for the preparation and the fair presentation of these financial statements in accordance with their accounting policies. This responsibility includes : designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. These standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risk of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Unqualified opinion

In our opinion, these financial statements fairly present, in all material respects, the financial position of the Legal Resources Centre as at 31 March 2007, and of its financial performance for the year then ended in accordance with its accounting policies.

Emphasis of matter

As is explained in note 2 to the financial statements, the Centre needs ongoing donor support if it is to continue operations. These financial statements have been prepared on the basis of accounting practices applicable to a going concern which assumes that the Centre will generate sufficient funds by way of grants from Legal Resources Trust to continue funding its activities in the ensuring year. Accordingly they do not include any adjustments, relating to the recoverability and classification of assets or to the amounts and classification of liabilities, that would be necessary if the Centre were unable to continue as a going concern.



Douglas & Velcich

Chartered Accountants (S.A.)

Registered Accountants and Auditors

Johannesburg

10 October 2007

Balance sheet

at 31 March 2007

	2007	2006
	R	R
Assets		
Non current assets	683,553	752,652
Tangible assets	683,553	752,652
Current assets	1,551,843	1,620,953
Trade and other receivables	851,143	430,543
Accrued cost recovery income	–	556,922
Cash and cash equivalents	8,271	157,968
Client trust bank accounts	692,429	475,520
Total assets	2,235,396	2,373,605
Reserves and liabilities		
Reserves	–	–
Accumulated funds	–	–
Current liabilities	2,235,396	2,373,605
Trade and other payables	607,655	484,935
Provision for leave pay	721,221	821,022
Client trust funds	692,429	475,520
Advance - Legal Resources Trust	214,091	592,128
Total reserves and liabilities	2,235,396	2,373,605

Income statement

for the year ended 31 March 2007

	2007	2006
	R	R
Income	26,889,899	27,099,261
Cost recovery	3,770,112	3,743,983
Distribution from Legal Resources Trust	21,656,237	22,835,255
Fundraising events	378,642	–
Sundry income	995,129	490,325
Interest received	25,254	13,621
Gain on disposal of equipment	64,525	16,077
Operating expenditure	26,889,899	27,099,261
Salaries	15,788,788	16,427,538
Employee costs	15,788,788	16,427,538
Office expenses	5,731,474	5,999,906
Administration and management fees	68,765	74,057
Auditor's remuneration		
Current year audit fees	–	164,987
Other services	5,850	–
Bank charges	42,211	38,640
Books and periodicals	433,316	438,355
Cleaning	54,586	82,663
Computer expenses	425,367	390,362
Consulting and professional fees	12,407	272,163
Depreciation	264,118	274,826
General expenses	221,810	112,138
Insurance	118,988	167,862
Lease rentals on operating lease	1,663,355	1,406,430
Motor vehicle expenses	70,397	63,558
Postage and freight	103,943	92,953
Printing and stationery	320,304	293,960
Recruitment	23,824	17,876
Repairs and maintenance	147,691	147,916
Temporary staff	62,011	108,054
Telephone and fax	574,122	679,851
Travel - local	1,118,409	1,173,255
Project expenses	5,369,637	4,671,817
Counsel and court fees	2,909,525	2,300,841
Expert fees	1,973,066	2,076,784
Publications	405,478	121,130
Research	14,730	81,585
Workshop costs	66,838	91,477
Result for the year	–	–

Notes to the financial statements

for the year ended 31 March 2007

Significant accounting policies

1. Presentation of annual financial statements

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 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 organisation;
- and
- the cost of the item can be measured reliably.

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

Depreciation is provided on all tangible assets to write down the cost of the assets, net of residual value, by equal instalments over their estimated useful lives, which are 5 years in the case of vehicles and IT equipment, and 10 years for office furniture and equipment.

1.2 Financial instruments

Financial instruments, which include receivables and bank and cash balances are initially measured at cost, and adjusted at year end to fair value by means of an impairment charge through profit and loss.

1.3 Revenue

The distribution from the Legal Resources Trust is voted by its trustees each year, and adjusted for accounting purposes by the amount by which total income of the Legal Resources Centre exceeds its expenditure. Such a surplus is accounted for as an advance.

Cost recovery, interest and fundraising income are accounted for on the accrual basis while donations and other income are accounted for as and when received.

2. Related parties

	2007	2006
	R	R
Related party relationships		
Legal Resources Trust		
The trust has an oversight and fiduciary responsibility and is responsible for the appointment of the National Director and certain senior staff members.		
Related party transactions		
Distribution from related party		
Legal Resources Trust	21,656,237	22,835,255

Legal Resources Trust

Annual financial statements

for the year ended 31 March 2007



Report of the independent auditors

to the Trustees of the Legal Resources Trust

Legal Resources Trust

PBO reference number 93002175

Report on the financial statements

We have audited the accompanying financial statements of the Legal Resource Trust, which comprise, the balance sheet as at 31 March 2007, and the income statement, statement of changes in equity for the year then ended, and a summary of significant accounting policies and other explanatory notes set out on pages 3 to 14.

Trustees' responsibility for the financial statements

The trustees are responsible for the preparation and the fair presentation of these financial statements in accordance with their accounting policies. This responsibility includes : designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. These standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risk of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Unqualified opinion

in our opinion, these financial statements fairly present, in all material respects, the financial position of the Legal Resources Trust as at 31 March 2007, and of its financial performance 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

10 October 2007

Legal Resources Trust

Trustees' report for the year ended 31 March 2007

The trustees have pleasure in presenting their report on the activities of the Trust for the year ended 31 March 2007.

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*)

Janet Love (*Ex-officio member*)

Arthur Chaskalson

Sibongile Mkhabela

Derric Reid

Dunstan Mlambo

Franklin Sonn

Harvey Dale

Lee Bozalek

Lex Mpati

Michael Katz

Mohamed Navsa

Raisaka Masebelanga

Richard Rosenthal

Thandi Orleyn

Yusuf Ebrahim

Balance sheet

as at 31 March 2007

	2007	2006
	R	R
Assets	28,601,371	28,994,793
Non-current assets	27,253,152	26,730,808
Tangible assets	1,328,000	595,717
Investments	25,925,152	26,135,091
Current assets	1,348,219	2,263,985
Accrued grant income	587,662	1,639,019
Prepaid distribution - Legal Resources Centre	214,091	592,128
Cash and cash equivalents	546,466	32,838
Total assets	28,601,371	28,994,793
Reserves and liabilities	28,601,371	28,994,793
Equity and reserves	25,663,477	27,162,222
Initial trust capital	250	250
Revaluation reserve	10,187,686	6,065,667
Endowment reserve	239,598	534,373
General reserve	15,235,943	20,561,932
Current liabilities	2,937,894	1,832,571
Deferred grant income	2,886,844	1,742,571
Accounts payable	51,050	90,000
Total reserves and liabilities	28,601,371	28,994,793

Income statement

for the year ended 31 March 2007

	2007	2006
	R	R
Income	17,009,184	17,066,126
Grants and donations	14,881,001	15,181,767
Dividend revenue	377,721	296,977
Interest received	983,877	1,227,840
Gains on disposal of investments	766,585	359,542
Expenditure	129,923	325,468
Management fees	161,044	119,292
Audit fees	-	90,000
Bank charges	46,083	14,404
Exchange loss	-	81,077
Depreciation and impairment	(77,204)	20,695
Net income for the year	16,879,261	16,740,658
Distribution to Legal Resources Centre	21,656,237	22,835,255
Deficit for the year	(4,776,976)	(6,094,597)
Transfer (to)/from reserves	(549,013)	2,120,912
Balance at beginning of year	20,561,932	24,535,617
Balance at end of year	15,235,943	20,561,932

Notes to the financial statements

for the year ended 31 March 2007

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.

1.2 Financial instruments

Financial instruments comprise investments, accrued income and expenditure, and bank balances

1.2.1 Initial recognition

Financial instruments are recognised initially at cost, which includes transaction costs. Subsequent to initial recognition these instruments are measured at fair value which, in the case of investments is market value, and other assets at cost less any impairment.

1.2.2 Gains and losses

Gains on realisation of investments are recognised in profit and loss while adjustments to market value are taken to the revaluation reserve.

A gain or loss on a financial asset or financial liability through impairment or adjustment to fair value is recognised in profit or loss.

1.3 Revenue

Income comprises designated grants and undesignated donations, investment income and non-operating income.

Designated grants are brought to account on the accrual basis in the period to which they relate, while undesignated donations and other income are brought to account as and when received and banked.

Dividends are recognised, in profit or loss, when the trust's right to receive payment has been established.

Legal Resources Trust donors

	R
Foreign funders	13,315,598
The Atlantic Philanthropies	3,959,743
Banyan Tree	247,313
British High Commission	689,526
Comic Relief	1,300,245
CS Mott Foundation	577,393
DANCED / Danida – Environmental Justice Project	4,267
Evangelische Entwicklungsdienst	841,817
Farm Africa	125,248
Embassy of Finland	794,750
The Ford Foundation	795,862
ICJ – Sweden	1,511,643
Gatsby Charitable Foundation – received	211,687
Open Society Foundation for Southern Africa	938,142
Rockefeller Brothers – deferred in 2006	250,228
Save the Children – Sweden	440,125
Sigrid Rausing Trust	627,609
Local funders	1,565,403
Adams family	250
Anonymous	16,518
H J Barker	68,962
Adv L J Bozalek	1,500
P T French	41,221
Foundation for Human Rights	715,000
Goldfields Foundation	75,000
Illovo Sugar	1,500
Justice J C Kriegler	540
Menzi Kunene	2,400
Legal Aid Board	465,712
I Manley	5,600
Mones Michaels Trust	40,000
Dr N H Motlana	18,000
Adv A J Nelson	1,200
P C Pauw	600
Pick 'n Pay	5,000
Pillay family	700
B P Rabinowitz	600
Frank Robb Charitable Trust	100,000
M S Stegman	600
K and J Strauss	4,500
	14,881,001

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Thandiwe Ngebengane

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