

We Died Under Apartheid And Now We Are Dying Under a Democratic Government.



The Case Of The Addo Children

October 2015

FOREWORD

Khanyisa Education and Development Trust has started a process of documenting rural struggles that are coordinated and waged by Makukhanye.

These struggles are documented in a form of case studies. As such, this booklet is a series in a documentation of such struggles. This booklet is about Makukhanye struggle for preventing the further death of children and people in the Kwanomathamsanqa in Addo. This is after 15 children and adults died as the result of being drowned (in the case of children) and dumped (in the case of the adults) in an unprotected canal in Addo.

We are documenting these struggles for two main reasons: For Makukhanye members to share their struggles with the rest of other progressive organisations and individuals, and, for Makukhanye activists to be able to draw necessary lessons in their continued struggle for a just society.

INTRODUCTION

A central feature of the struggle for freedom in South Africa, a struggle in which millions of people participated and sacrificed for, was the right to dignity and life for black people - rights the apartheid government never respected.

During the struggle there was a broad understanding that in order to achieve this, the apartheid and colonial structures and systems whose existence depended on advancing the white supremacist ideology were to be transformed or dismantled.

The post-apartheid system of governance in which communities elect their own public representatives to manage the state at various levels including local government, was theoretically premised on the notion that people's representatives would not behave like apartheid representatives.

Sadly, the death of 15 innocent children and adults from Kwanomathamsanqa in Addo and from other communities (which we have not documented) in the Sundays River Valley Municipality in the Eastern Cape Province as a result of being drowned or dumped in unprotected canals, has proved the fallacy of this belief.

To date our research has found that communities are facing very serious problems. These include:

- The unnecessary or preventable deaths of innocent children which started under apartheid (in 1984) and continues 21 years into democracy;
- The Irrigation Boards, institutions created under apartheid to advance the white supremacist agenda, have not been transformed under a democratic regime;
- Community representatives (Ward

Councillors) refuse to be accountable to communities who elected them in the first place;

Likewise, paid public servants refuse to be accountable to citizens who pay their salaries;

The vision and missions of public institutions that are supposed to guide the work of elected and appointed public officials remain empty statements and slogans that are not backed by action.

Constitutionally protected provisions like the rights to life; the right to a safe environment that is not harmful to the health or well-being of citizens remain paper rights that cannot protect black children from poor communities in Addo;

And, lastly, the much publicised, massively resourced, state-driven, nation-wide campaign 16 Days of Activism for No Violence against Women and Children, a campaign that has been sustained for 16 years since its inception on the 25 November 1999, has failed dismally to protect the children of Kwanomathamsanqa in Addo.

This research poses hard questions. Most notably there are questions about:

1. The need for a rethink in order to develop effective models of accountable governance and consequential management.
2. The effectiveness of state-led transformation processes as well as the effectiveness and relevance of the state-driven, highly publicised and hugely funded No Violence against Women and Children campaign.
3. How to make the constitution work for marginalised communities especially those who are in rural communities



such as Kwanomathamsanga in Addo.

4. And, lastly, but most importantly, what value do we place on human life.

BACKGROUND

The Socio-Economic Context

The Sundays River Valley is located 80 kilometres from Port Elizabeth in the Eastern Cape. According to Statistics South Africa (2011), the Sundays River Valley municipality has a population of 54 504. The agency counted 59,2% of the population that has access to flush and chemical toilets and 80% has access to electricity.

Education levels are low with 9% of the population having no schooling and a further 32% have either experienced some or completed primary education.

The main economic activity in the Sundays River Valley Municipality is commercial agriculture, and in particular the production of citrus for the export market.

The municipality produces 65% of all citrus production in the province. It is estimated that 25% of South Africa's navel oranges and 50% of the country's lemons are produced in the Sundays River Valley.

Commercial agriculture draws labour from the rest of the province and from Southern Africa (Zimbabwe and Lesotho).

19,8% of the 20 075 people who constitute the eligible workforce in the municipality is unemployed. However, while the employment created on the citrus farms is not insignificant much of this work is seasonal (between 3 and 6 months) and characterised by low wage and poor working conditions.

A huge percentage of people (38,7%) who live in the municipality have no income at

all and 20,2% of the population survive on an income of between R1 and R4800 per annum, an income that is clearly inadequate especially in the light of regular increases in the price of basic needs such as electricity, transport and food. By contrast, a tiny minority (1,6%) of the population has an income of R153 801 to R307 601 and R2 457 601 or more. This extreme inequality heightens frustration, fuels dissatisfaction and breeds social tension.

In this context, the Sundays River Valley Municipality's IDP (2015/2016) boldly declares that:

“[The] Sundays River Valley Municipality is a transformed and integrated Municipality, which subscribes to the principles of Developmental Local Government which also provides for a sustainable quality of life, a safe and healthy environment for all our communities, especially the poor and rural communities”.

The same document defines the vision and mission of the municipality as being: *“To provide a responsible and accountable leadership”.*

However, as the case study below illustrates all these noble sentiments as well as the municipality's motto, *‘Siyaphambili’* (we are moving forward) do not mean much to the impoverished families who have lost their children, other family members, or friends

equality, the right to dignity and the right to life. In Section 24(a) the right to an environment that is not harmful to health or well-being is guaranteed while the rights of children, one of the most vulnerable sectors of the population, are protected in section 28 of the Bill of Rights.

Despite all of this as well as the massive state-driven 16 Days of Activism for No Violence against Women and Children campaign which for the last 16 years has been dutifully launched on the 25th of November of each year and backed by state resources and machinery (including national parliament), poor and marginalised woman and children are afforded little protection in practice.

The History of South Africa's Irrigation System

The irrigation system, which incorporates the Addo canal, forms an integral part of the commercial agricultural production system.

In South Africa, the reason for the establishment of an irrigation system is connected historically to two integrally linked factors: the attempts of British colonialists to develop capitalist agriculture in South Africa, and to consolidate their hegemony by expanding colonial settlement.

The popularity of ostrich feathers abroad provided the incentive for capitalist agriculture based on the production of this profitable commodity for the export market. Once introduced, ostrich farming expanded rapidly.

Reports show that trade in ostrich feathers led to the increase in ostrich production from 22 000 in 1875 to 260 000 in 1899 and 726 000 in 1911 (Wessel Visser, 2013). However the expansion of ostrich farming

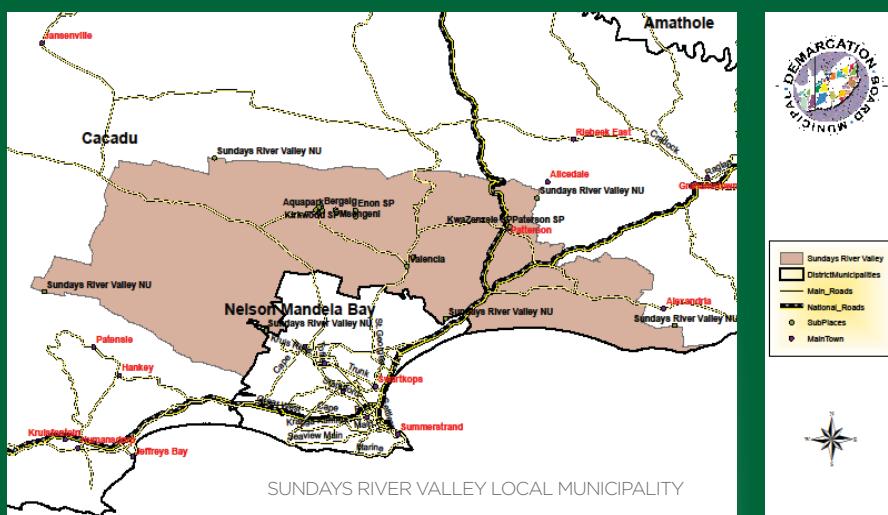


Figure 1: Map of the Sundays River Valley Municipality

The Legislative Framework

The South African constitution, often lauded as the most progressive in the world, extends rights and thus offers constitutional protection to all its citizens on matters ranging from water and the environment, to housing, and sexual orientation. Chapter 2 or as it is more commonly known, the Bill of Rights guarantees rights such as the right to



Figure 2: Irrigated commercial farms along the Sundays River

required increased fodder production which, in turn, required a continuous supply of water.

The British colonial administrators encouraged the expansion of British settlement to act as buffer against Afrikaner resistance, and as part of a broader strategy of British domination. In line with this aim, more than 2000 British soldiers were settled on farms¹ after the end of the South African war (1899-1902).

The establishment of the Cape Sundays River Settlements Company in Kirkwood in 1913 by Sir Percy Fitzpatrick should also be understood in this context. Sir Percy Fitzpatrick who was greatly influenced by the ideas of Cecil John Rhodes was key to the establishment of an irrigation system². The irrigation of land was an integral part of the settlement strategy as it was a way

1 A citrus farming scheme, the Milner Settlement of White River in Mpumalanga Province is often stated as a typical example of the settlement of former British soldiers.

2 The enterprise failed due to lack of capital, drought, floods, insufficient depth of technical information, mismanagement and a shortage of engineering expertise. It was bailed out with state support. Sir John Fitzpatrick is buried in Kirkwood, the administrative town of the municipality where the study is located.

of making land use more attractive and of increasing production levels. This process was facilitated by the Land Settlement Act whose purpose was to regulate the settlement of white farmers on state owned land, and enable the state to purchase further land for such purposes (Kirsten, et al, 2007).

Under colonial rule, the irrigation Act (Act 8 of 1877) is viewed as the beginning of modern irrigation in South Africa.

The Act facilitated the establishment and operations of irrigation districts and irrigation boards and further defined a host of financial powers and duties ranging from the raising of loan to the fixing of interest rates and loans.

These measures formed part of a broader strategy of state intervention that started under colonial rule and continued under an apartheid government with the sole purpose of ensuring the survival and "success" of white commercial agriculture.

According to Kirsten, between 1910 and 1935, a total of 87 Acts were passed to facilitate state support for white farmers (*ibid*).

Lower Sundays River Water User Association

Annual Financial Statements for the year ended 30 June 2015

GENERAL INFORMATION

Country of incorporation and domicile

South Africa

Nature of business and principal activities

Managing the irrigation water supply and channels in the Sundays River Valley

Management committee

W.P. Hudson (Chairman)
P. van der Vyver (Vice-Chairman)
P.F. Swanepoel
A.T. Fitzpatrick
I.N. Mzamo
B.S. Ndyenga
M.V. Mjeku
D. Joubert
S.J. Joubert

J.H.H. du Plessis

P.O. Box 10
1 Belmont Road
Sunland

Chief executive officer

Postal address

Figure 3: Excerpt from minutes of the water Users Association Management Committee

The Lower Sundays River Water User Association

The Sundays River Irrigation Board³ was established by an Act of Parliament in 1917 as part of state support package aimed at ensuring the survival and "success" of commercial agriculture in South Africa.

Other state support initiatives included the issuing of loans and a take-over of the assets and liabilities of private firms that were then vested in an enlarged Irrigation Board in 1934.

In post 1994, as part of the transformation of the water sector, Chapter 8 of the National Water Act of 1998 makes provision for the establishment of water users associations.

These associations were meant to contribute to the transformation of water management structure like the irrigation board and the water control boards.

3 Earlier attempts to establish irrigation entities were started by James Somers Kirkwood who established the Sundays River Land and Irrigation Company in 1883. Other attempts included the establishment of the Addo Land and Irrigation Company in the early 1900s and the Cleverland Estate in 1912.

As a result of this Act, the then Sundays River Irrigation Board which was controlled by white commercial farmers was "transformed" into the Lower Sundays River Water User Association (LSRWUA).

However, outside of the nominal change, few changes have taken place in the Lower Sundays River Valley Users Association whose constitution states that, "*the founding members of the association are the present elected members of the Sundays River Irrigation Board*".

Currently, only 3 of the association's 9 committee members are black (see figure 3) and only white workers are employed in an administration capacity. The role of black workers is confined to the cleaning of the canal and some work in the dam⁴.

The staff and management of the LSRWUA as well as most of the white commercial farmers who are serviced by the association

4 A written request followed by a phone call for further information in relation to the total number of employees broken down into groups or race as well as for information on the relationship between emerging farmers and LSRWUA was ignored.

are dismissive of the concerns and issues facing black communities and black life in general.

For example, the LSRWUAs response to the death of children in the Addo canal has been to blame the victims for stealing the fencing and for not looking after their children (see their written response).

In one stakeholder forum meeting, attended by commercial farmers, ward councillors and local municipality representatives, Khanyisa and Makukhanye, supported by the local ward councillor, proposed the erection of children's facilities like a park and swimming pool as part of a strategy to discourage children from playing and swimming in the canal.

That request was roundly rejected by commercial farmers who claimed that there are facilities at a local school and a stadium which children could use.

However, the facilities referred to are areas restricted to use during school hours or in the case of the stadium reserved for adults. Secondly, there is not a single swimming pool or children's play facility in Kwanomathamsanqa or any other black settlement in Addo.

Thus, we can only deduce that these commercial farmers hold the view that black children do not deserve a recreational facility near their homes.

In response to enquiries about transformation in the Lower Sundays River Water Users Association, a senior official in the Department of Water Affairs and Sanitation sent back a single but revealing:

"The Department is attending to the water user association through the review of legislation".

Research Method

In compiling this report, Khanyisa has used desk top research for background information and interviews with the affected parties for the data collection.

Makukhanye⁵ members who reside in the area helped to identify and interview the individuals and households that have been directly affected by the unprotected canal. Lastly, Khanyisa used correspondence between the parties to either confirm or garner additional information.

The Problem: Innocent Children Are Dying

The irrigation system consists of various components which include the conveyance and distribution of water for irrigation. The canal structures are required for the control and measurement of water flow.

The Water Users Association is responsible for the management and maintenance of the water canals, many of which pass through residential areas in the Sundays River Valley municipality.

These canals are often not closed off to the public, a fact that officials of the Water Users Association attributes to the theft of fencing by members of the communities⁶.

The unprotected canals are a source of enormous pain for many families in localities across the Sundays River Valley that have

⁵ Makukhanye defines itself as a social movement constituted by a collective of marginalised small-scale farmers, farm dwellers and farm workers and community groups that fights to advance the interests of its members.

⁶ Members of the communities attest to this and point out that many properties are fenced with fencing that has been stolen from the canal.



Figure 4: Children swimming in an unprotected canal adjacent to Langboss, an informal settlement in Addo



Figure 5: Canal in Kwanomathamsanqa in Addo where 15 children died *

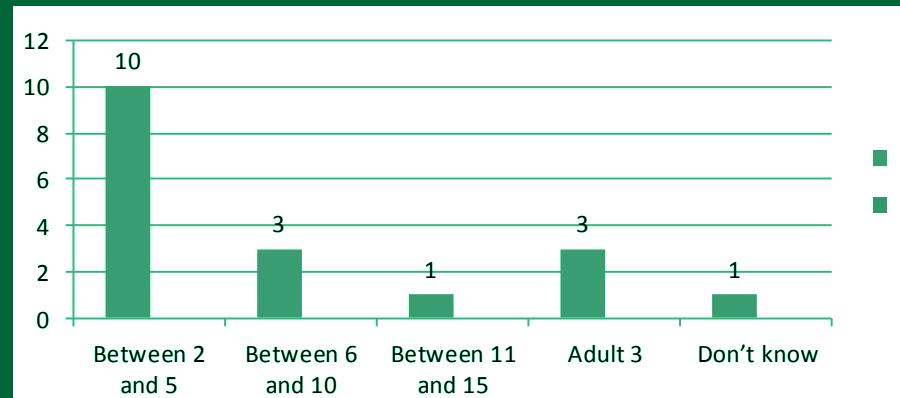


Figure 6: Ages of those who died in the canal



Figure 7: Period and number of people who died in Canal Kwanomathamsanqa in Addo

* Scores and scores of children can be found swimming in the canal on any hot day of the year.



Figure 9: The Letter from the Department Water Affairs and Sanitation

lost children, family members or friends.⁷ The canals have become sites of recreation for children who drown whilst swimming or playing nearby, whilst at the same time serving as convenient dumping sites for the bodies of adults who have been victims of crime such as rape, robbery and murder.

Of a total of 18 deaths between 1984 and 2015 that can be directly attributed to the non-closure of the Kwanomathamsaqua Canal, 15 are children.

As has been mentioned before, the 3 adults found in the canal were dumped there after being raped or robbed.

As figure 6 illustrates, the vast majority of these children (10) are very young (between the ages of 2 and 5 years), while a much smaller number of deaths have occurred amongst older children and adults.

Many of the children died after falling into the canal while playing next to it or watching others swim. It is clear that the lack of recreational amenities for children in the area has greatly contributed to their presence at the canal.

As indicated above, the Kwanomathamsaqua Canal deaths started years ago, during apartheid rule and have continued unabated twenty-one years into our democracy.

It is also worth noting that as recently as 2014 four people lost their lives in the unprotected canal.

⁷ Members of communities from the localities of Dunbrody, Enon/Bersheba, Moses Mabhida and Aqua Park have all shared experiences related to the deaths of children and adults that can be linked to the unprotected canals. Some of the cases are as recent as the last quarter of 2015.

Responses: Community Mobilisation: Enclose The Canal – Protect Our Children

Upon hearing about these deaths, Makukhanye, a rural social movement operating in the area, started mobilising the community in an effort to pressurize authorities to enclose the canal in Kwanomathamsaqua in Addo⁸ so as to prevent further unnecessary deaths.

In deliberations around the planning and execution of the campaign, the Makukhanye women argued strongly that as the bearers and primary nurturers and care-givers of children, they are more greatly affected by their loss. It is on this basis that the Makukhanye women felt they should take the leadership in the campaign for the proper enclosure of the canal.

Secondly, the fact that the first action was planned and undertaken in August, the month that is demarcated as women's month on the South African calendar also influenced the decision for the women to assume the role of leadership in this campaign.⁹

The community mobilisation entailed a picket on 27 August 2015 in front of the offices of local municipality in Kirkwood

⁸ The community mobilisation went beyond the area of Addo to include communities from surrounding areas of the Sundays River Valley municipality that included Enon/Bersheba, Dunbrody, Moses Mabhida, and Paterson. Makukhanye has also won the support of communities in, Uitenhage and Thornhill. These are all areas in which Makukhanye operates.

⁹ Among other things, women's leadership of the campaign meant that all deliberations about the campaign had to take into account the views of women. It further led to women playing the leadership role in the task teams that were set up to organise the campaign. Women led the media and community mobilisation task teams as well as the team that was set up to prepare, read and present the memoranda.

where Makukhanye members handed over a memorandum to the Mayor.

Later a memorandum was also handed over to the management of the Lower Sundays River Valley Users

Association at their premises in Sunland. After both the municipality and the water users association showed little interest in dealing with the matter, a protest march was organised in September 2015.

In addition to a memorandum of demands a petition was also submitted to the Department of Social Development which, after repeated engagement, failed to provide counselling services to the families of those who had lost their lives.¹⁰

A petition was also submitted to the Provincial department of Water Affairs and Sanitation which initially showed some willingness to resolve the matter but has since disengaged. A key demand in all documents submitted was the proper enclosure of the canal.

The Water Users Association's Response

Of the four authorities that was engaged i.e. the Department of Water Affairs and Sanitation, the Sundays River Valley Municipality, the Lower Sundays River Water Users Association, and the Department of Social Development (for counselling and

¹⁰ The Department of Social Development was engaged at all levels. After numerous attempts to get the Kirkwood office to provide counselling failed, the matter was referred to the Director of the District office and the office of the MEC in Bisho. They both initially showed a willingness to intervene but soon lost interest. To date, no counselling has been provided. A day before the protest march in September 2015, several of the families who lost their loved ones were visited by officials from SRVM municipality who openly admitted that their visit was influenced by the upcoming protest march.

support), only the water users association has provided an extensive, if conservative, response to our memorandum¹¹.

Makukhanye's Response to the Water Users Association

The bottom-up processes of community mobilising, organising and mass action culminated in a joint meeting between Makukhanye representatives from the areas of Paterson, Addo, Bersheba, Uitenhage and Thornhill in Port Elizabeth on October 6, 2015. Here, participants developed a response to the letter from the Water Users Association. This response is quoted in full. After carefully consideration of your response/s and well thought out comments and views from representatives, the meeting resolved on the following:

1. We have noted the fact that the Sundays River Irrigation Board otherwise referring to itself as a Lower Sundays River Water User Association (LSRWUA) has not directly responded to the organisation, i.e. Makukhanye despite the fact that the memorandum was directly submitted by Makukhanye to LSRWUA management/officials (and received by them) at the premises of the association. The management of LSRWUA has to be harassed telephonically and through email to provide written response to the memorandum. This behaviour is condemned in the strongest possible terms as it shows utter disrespect to communities in general and specifically rubs salt to the wounds of those who
2. The communities noted the insensitive and heartless approach in which the management of LSRWUA continues to handle this matter as evidenced by blaming the communities for being responsible for stealing the fence, the non-cooperation of other stakeholders, lack of funds, etc. We do not believe that LSRWUA would have adopted the same stance should the matter have affected white communities or children of LSRWUA management. It is our view that the insensitivity and heartlessness the LSRWUA has adopted on this matter reflects the view that black life does not matter. We insist that black and poor lives matter!
3. We have noted the blame game played by LSRWUA as displayed in the correspondence i.e. the non-responsiveness of the municipality and blaming communities for not looking after their children and stealing the fence. We are not interested in playing the blame game. We wonder if any of those victims stole the fence or if this amount to collective punishment and, again rubs salt to the wound.
4. "What to do to prevent future drowning of people?" your statement reads.
- 4.1. We do not share the view that "all parties concerned would like to prevent any future drowning" as your second statement reads. Your insistence on using the same old methods of erecting

a fence proves our point that LSRWUA is not interested in preventing any future drowning.

4.2. Whilst we agree and are prepared to tell communities not to remove the fence, this has been done several times and has not stopped the practice and thus it is not a lasting/sustainable solution. We thus reject the purported solution as a false solution

4.3. We reject the purported notion of "no funds" as it appears in several instances under the section "what to do to prevent future drowning of people" as an attempt to make excuses. LSRWUA audited financial statement (AFS) 2014/2015 shows a surplus of R2,807 100.00 and 2013/2014 AFS showed surplus of R1,235,953.00 and interest of R863 904.00 on investment. We can go on and on to disprove your notion of purported poverty and put in your face how many millions are in your bank.

4.4. Our proposal. The lasting solution to death of innocent children and adults is installation of steel grid as a cover to the canal. It will be extremely difficult to remove the steel grid. Still grid is installed in areas around Kirkwood and is effective. LRSWUA can afford it we proved it!

4.5. The meeting scheduled for the 20 October 2015 in our view is to discuss your false solutions.

Finally, we will continue to explore ways and means to ensure that proper and lasting solutions are found and that includes ensuring that those who are responsible for death of tens of people including innocent children are properly held accountable.

**Siyabonga Moedikwe,
Makukhanye Chairperson**

The Response of the Sundays River Valley Municipality

The Mayor of the Sundays River Valley had to be reminded repeatedly before he took the trouble to respond to the petition which he personally accepted. Perhaps it is no accident that his response was received after the matter was referred to the Human Rights Commission. Whatever the case is his response as printed below showed even more disdain for the needs of the community. Consequently, Makukhanye saw no value in responding to this correspondence, except through continued mass action. At this stage two observations can be made in relation to the mayor's response.

Firstly, the mayor has steadfastly refused to provide the kind of leadership expected from elected representatives of the community. Instead he seems to take his cue from the unelected and generally conservative commercial farming community. Secondly, in general the letter reflects a very cold attitude to the dire situation facing people within his constituency. This calls into question how seriously the municipality takes its motto, "Siyaphambili", and its vision of a "responsible and accountable leadership".

Further Action by Makukhanye

As part of a broader strategy to continue the fight for the enclosure of the canal, Makukhanye has sought the intervention of the Human Rights Commission (HRC). The HRC is in the process of inspecting the canal and facilitating a more acceptable resolution of the problem. Makukhanye has also elicited the support of the media in an effort to place the issue on the public agenda.

After covering the protest march, the SABC has indicated that it intended to pursue the issue by producing follow up stories of the victims.

With the support of Khanyisa, Makukhanye is also in the process of engaging various human rights lawyers with a view to exploring legal avenues for holding accountable those who have allowed this situation to happen. As the year closed, communities were being consulted on the next steps to take the campaign forward. The outcomes of these discussions will form the basis of a new strategy for 2016.

THE STRUGGLE CONTINUES!

Thus, despite the risks and the deaths of scores of their playmates, the children of Kwanomthamsanqa in Addo continue to swim and play in this unsafe environment.

Elected public representatives such as the Mayor of the SRVM who purport to be guided by progressive principles and slogans like 'responsible and accountable leadership' and 'Siyaphambili' are in fact turning a blind eye to the problems of communities.

CONCLUSION

A lack of recreational facilities and other amenities in impoverished communities in the Sundays River Valley are one of indicators of inequality. In the absence of alternatives, children create play areas in dangerous places like the canal.



Sundays River Valley

Municipality
Masipala
Municipaliteit

Ons verw. / Our ref:
Isalathiso sethu:
U verw. / Your ref mat 4256
Isalathiso sakho:

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13 October 2015

TO WHOM IT MAY CONCERN

Thank you once more for your interest in the development of Sundays River Valley. It will be better to respond to you in the form of a meeting in order to dwell more on what the municipality is doing and responsibilities.

But never let your grievances in their order as listed

- The canal issue : Council is dealt with by the Department of Water and Sanitation, LSRWUA and the Municipality. Your organisation was invited by the letter dated 01 October 2015 from LSRWUA – **Meeting still pending**.
- Families affected, let us not create expectations but rather get a solution on the matter.
- Safe Environment, Council will urge you to participate in the Community Structures that also deals with Safety and Security to advise government.
- All communities participate in the IDP and Budget process.
- Water and Sanitation , it is only Paterson with buckets which we are eradicating, currently contractor is on site. Water, one has to prove if its not clean, because all our water from the taps are purified.

Yours for Democracy

Cllr Z. Lose
Mayor

Rig alle korrespondensie aan die Municipale Bestuurder • Address all correspondence to the Municipal Manager
Needa uthumela yonke imbalelwano ku Mphathi kaMasipala

Figure 10: The Letter from the Sundays River Valley Municipality

They are ignoring fundamental tenets of our world-renown constitution on which our entire governance system is based.

Clearly the right to life or to a safe environment has no meaning when it comes to the children of the poor in communities like Kwanomthamsanqa particularly if they are located in rural areas, far from public scrutiny. It is in this context that we question the effectiveness of state-driven campaigns like '16 Days of Activism'.

Perhaps the resources would be better spent protecting children in communities such as Kwanomthamsanqa.



Khanyisa Education and Development Trust

Khanyisa Education and Development Trust seeks to build institutions of the poor to address poverty and underdevelopment through building capacity of local leadership and community structures to understand their socio-economic and political rights, by identifying natural resources and lobby and campaign for policies that deepen social transformation.

KHANYISA EDUCATIONAL AND DEVELOPMENT TRUST

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