

REPORT OF THE SELECT COMMITTEE ON PUBLIC PARTICIPATION, PETITIONS AND MEMBERS' LEGISLATIVE PROPOSAL ON THE 2017 WORKERS PARLIAMENT

1. INTRODUCTION

The Constitution of the Republic of South Africa empowers the Mpumalanga Provincial Legislature with the responsibility, in terms of section 118(1), to facilitate public involvement in legislative and other processes of the Legislature and its committees. It further directs the Legislature to conduct its business, its sittings and committees in public.

As part of the mechanism, the Rules and Orders of the Mpumalanga Provincial Legislature establishes and empower the Select Committee on Public Participation, Petitions and Members' Legislative Proposals (the Committee) to facilitate Workers' Parliament which provide a platform for discussing critical issues with workers in the Province.

The Committee tables this report, in terms of Rule 118 of the Rules and Orders, to give full account on the subsequent hosting of the 2017 Workers Parliament at Tomahawk Farm, Nkomazi Local Municipality on 19 May 2017 and recommend for its adoption.

2. THEME

The Mpumalanga Provincial Legislature had approved the Workers Parliament to be guided under the theme "Celebrating 20 years of the Constitution and establishment of NCOP; 2017 the year of public accountability"

2 OBJECTIVES

As part of strengthening the oversight role of the Legislature, the strategic objectives of the project are inter alia:

- To educate and share the information with farm workers

- Facilitate a direct oversight exercise involving all the role players' i.e. the Legislature, Executive and the targeted beneficiaries in one Sectoral Parliament.
- Provide space for positive engagement on economic matters of our Province.
- Create an opportunity for farm workers to engage with the Mpumalanga Provincial Legislature on issues affecting them.

3. Thematic Area

The Sectoral Parliament focused on the following thematic area:

- The rights of workers in the 20 years of our Constitution.

4. Method of Work

The Cross-Functional Task Team was established and assigned a function to work on the hosting of the Workers' Parliament including the conceptualization on the event.

The mobilisation was targeting the attendance of six hundred (600) participants from Ehlanzeni district of the Province. The 600 participants were distributed proportionally to include farm workers and outside stakeholders.

4.1 STAKEHOLDERS

The following stakeholders attended the event and made sterling contributions to the success of the parliament.

- COSATU
- FEDUSA
- NEHAWU
- SACTWU

- Department of Economic Development
- Department of Labour
- Department of Home Affairs

5 ADDRESSES

5.1. WELCOMING ADDRESS: CLR T KHOZA, EXECUTIVE MAYOR OF NKOMAZI LOCAL MUNICIPALITY

Executive Mayor welcomed delegates and everyone who attended the Workers Parliament. She expressed gratitude to Hon BT Shongwe, the Speaker of Mpumalanga Provincial Legislature, for affording the opportunity to host the event to the people of Nkomazi Municipality, especially farmworkers.

In her address she made it clear that the event was not for campaigning for any political party but representing the government. She asserted the fact that the Government of Mpumalanga under the leadership of Hon Premier DD Mabuza is “a government of the people, for the people, by the people”.

5.2. OPENING ADDRESS MR SPD SKHOSANA, MPL: CHAIRPERSON OF COMMITTEES

Hon SPD Skhosana Ka Mahlangu presented opening remarks on behalf of the Speaker Hon BT Shongwe

He welcomed all participants to Workers Parliament, on behalf of the 5th Mpumalanga Provincial Legislature. He reiterated the fact that the Legislature is guided by the Constitution of the Republic of South Africa and in fulfilling its core mandate of Oversight, Law-Making and to facilitate Public Involvement, and further acknowledged the Select Committee on Public Participation, Petitions and Members Legislative Proposals for successfully coordinating this Sectoral Parliament. He passed words of gratitude to the owners of Tomahawk Farm for allowing the Legislature to convene the event in their property and releasing the workers to participate.

He asserted, "This Workers Parliament is also convened following the international Workers Day on 1 May 2017, where the world celebrates, commemorates and pays respect to the struggles, sacrifices and achievements of workers. In South Africa workers organized under the banner of progressive trade unions and came out in their numbers calling for the creation of the decent work, the defence of existing jobs and the expansion of the comprehensive social security net to the working class.

In so doing workers sought to defend and reclaim their rights, hard won over many years of struggle. The call of Workers Unity found resonance across the length and breadth of the country. Workers understood that the task ahead requires all progressive forces to close ranks and struggle to meet the objectives of a better life for all".

The theme "celebrating 20 years of the Constitution and 20 years since the inception of the NCOP: 2017 the year of effective oversight and Public Accountability", allows the Parliament to make reflections, ask pertinent questions and provide solutions to the challenges farmworkers in particular and workers in general still face.

He questioned whether the Constitution of our country is supporting day-to-day life and experience of the farmworkers.

He assured the session, "the Constitution is able to transform the colonial type labour regime in the farms, which subjected our people to work like slaves, and earning little remuneration, poor working conditions, abuse of human rights. This platform allows us to realize the strategic objectives of the Parliament which is to educate, share information and experiences with workers and facilitate direct oversight over this sector and to provide space for constructive engagement on the Economy of our Province in responding to the triple challenges of **Poverty, Unemployment and Inequality** which remains the stubborn legacy of colonial regime.

South Africa still lives in a highly divided society, where the quality of life is determined by the associations to the means of production. We still live in a society divided by race where a racialized power structure still defines the experience of our people. Our society is still characterized by the logic of patriarchy, where women are still viewed as

the subordinate with incidence of the gender based violence. The brutal killing of young women continues to make headlines in our communities and in our country. This situation is untenable it remains our urgent task to find lasting solution to these challenges. The government of Mpumalanga is looking forward to change the life of the people of the Province". In conclusion he invited delegates to engage robustly in presenting solutions that the government must embrace.

5.3 KEYNOTE ADDRESS BY SE KHOLWANE, MPL: MEC FOR FINANCE, ECONOMIC DEVELOPMENT AND TOURISM

MEC S.E Kholwane reinforced the importance of farm workers in the food security since everything the nation eats comes from their hands.

He argued that this country is built from the sweat of the working class; buildings, roads, street light, trees and flowers that adorn our Province are there because of the workers. He pleaded for respect by government, society and the farm owners to be accorded to the working class as they are the drivers of our economy. The MEC envisioned a South Africa where all South Africans, Black and White live and work as equals, where the socio-economic benefits accrue to all people irrespective of the colour of one's skin.

He asserted, "The thrust of the freedom charter was economic emancipation of all people of South Africa. The Constitution of the Republic of South Africa, which borrows its fundamental principle from this carefully constructed people's mandate, asserts that **THERE SHALL BE WORK AND SECURITY.**

While the government has made many commendable strides in legislation and the fundamental calls for a fair basic condition of employment within the state, there are still many challenges in the private and informal sectors of the economy. The report of the Commission of enquiry into the Socio Economic condition of farm dwellers states that existing labour legislation provides sufficient support and protection for the rights of both employers and employees in the agricultural sector.

The report however confirm the sad tale that has become synonymous with the tactics of the opponent of the workers struggle. It states that compliance with labours laws vary from farm-to-farm with some employers complying while others deny their employees the basic labour rights including the rights of belonging to a union of their choice.

The Provincial Government is following up on the issues raised by the commission with a view of responding comprehensively to the recommendation of improving the economic situation of the farm workers, support emerging farmers and develop innovative partnerships between role players and increase value adding in the agricultural sector within Mpumalanga”.

6. MESSAGES OF SUPPORT

6.1. FARM OWNERS

On behalf of farm owners Mr S Busher expressed respect to the Constitution of the Republic and assured the session that they comply with the law.

He articulated their policies as relates health and safety of farm workers first. He then alerted the session to the impact of the drought we are facing as farmers and the economy of the country, as a result of which they could not give their workers increase for last financial year.

Mr S Busher expressed their appreciation and the support they receive from Mpumalanga Government.

6.2. FEDUSA

No one from FEDUSA attended Workers Parliament.

6.3. COSATU

Mr David Mokoena, Acting Provincial Secretary of COSATU, thanked the Speaker for creating the opportunity for all workers around the Province of Mpumalanga to engage on different issues that affect their daily lives. He expressed dissatisfaction over the failure to provide progress reports on implementation of resolutions of previous sessions

which makes it difficult for them to appreciate the good work that the government has done. He implored the Legislature to avail responses from Departments to relevant stakeholders after the report to the house.

He drew attention of the parliament to the following matters that still need attention:

- Farm workers must be compensated as regulated in labour law, the Department of Labour must enforce compliance.
- All farmworkers have the rights to join unions of their choice and organizational rights.
- uMhaba Farm doesn't permit their workers to join a trade union. The Premier DD Mabuza, Deputy President, Portfolio committee on Agriculture and COSATU tried to have meeting with uMhaba Farm but the owners declined referring all requests to their Attorneys.
- COSATU demands that dismissed workers, of uMhaba, be reinstated to their work and compensated what is due to them for all those months that they were not paid.
- The abolition and disbandment of labour brokers.
- The fast tracking of land redistribution as more than eighty percent (80%) of land is still in the hands of minorities.
- There are job losses in the Province which is a serious concern to the working class.

7. MATTERS RAISED BY PARTICIPANTS

The farm workers' lived experiences and the plenary raised issues in the work place affecting the sector as including the following:

- Workers complain that they only receive protective uniform once per year.
- They don't have proper protective clothing to protect them from metals

- The houses that they live in are not in good condition thus when it rains their belongings get wet.
- They don't have clean potable water to drink.
- When workers get sick or injured while on duty, they are not allowed to call an ambulance instead employers use their cars to ferry them to hospital and deduct fuel money from their salaries without any agreement.
- Workers are not paid sick leave or compensated for occupational injuries even when they have doctors certificate. Some workers died of occupational diseases without any compensation to next of kin.
- Employers do not pay for consultations or hospital fees even in cases of occupational injuries.
- No reports are written in case of injuries at work and some workers were fired for joining unions at Umbhaba.
- Employers signed an agreement of eight hours per day yet expect farm workers to work nine hours. No over time is paid.
- On Saturdays they are supposed to work until 12:00 noon, but they are forced to work until 15h00 without overtime.
- Employers reduce accumulated years of services of employees unilaterally and unlawfully
- There is no Provident Fund for the sector.
- Workers are also emotionally abused by employers, called names and always accused of teaching new workers ill-discipline and disrespect.
- Drivers are not given rest days after travelling a long distance (Nelspruit to Durban) and they don't get allowance money to buy food and to pay for accommodation, they sleep in the truck.
- The farmers hire illegal immigrants because South Africans like money and illegal immigrants don't complain about meagre payments.

8. POLICY INPUTS

8.1. Department of labour

The Department of Labour made an input to the session and explained that all South African employees have the rights to the following:

- Employees do not have to work on public holiday unless it's by mutual agreement. In that event they qualify to be paid double the hourly rate for work done on any public holiday that falls on a working day.
- It is the responsibility of the employer to regulate the working hours of employees.
- Employees are entitled to have annual leave, and the employer cannot deduct annual leave when the employees are on maternity leave.
- When employees are on approved annual leave and sick leave they qualify to be paid like they were at work.
- All occupational injuries are reportable regardless of size, nature and period of the occurrence.
- All workers have a right to be treated fairly and equally for all equal work.
- All farm workers must be paid a minimum of R3000 per month, R138, 32 per day or R15, 39c per hour.
- Employers contribute one percent (1%) for Unemployment Insurance Fund (UIF).

The Department of Labour encouraged workers that have challenges of compliance to these standards to report these to their labour centres.

8.2. Department Of Home Affairs

The Department made an input to the effect that:

- All foreigners that work in South Africa must have a valid Work Permit, not a thirty days' Vacation Permit.
- All workers who have problems with their documents must contact their embassy for assistance.
- Children of foreign nationals with South Africans qualify for citizenship of our country. On application for such citizenship, they must prove that one of the

parent is South African and both parent must go for DNA tests to prove biological parenthood.

9. FINDINGS OF THE COMMITTEE

After thorough deliberations, the Committee made the following findings:

- Some employers continue to violate the right of the farm workers and they don't comply with the labour laws.
- Labour Inspectors communicate with the employers alone when doing inspections thus neglect validating their findings with workers on site.
- It appears that some inspectors accept bribes from the employers thus wilfully ignore reporting wrong things they find during inspections.
- Some children from the farms after finishing matric, they don't get bursaries from employers or government instead they are recruited to work in the farm.
- Some employers hire illegal immigrants to exploit them by paying meagre wages and providing them with very poor working conditions.
- Some farm workers don't have birth certificates and identity documents (ID), a situation making it difficult for them to get social grants.

RECOMMENDATIONS

In light of the validated findings above, the Committee recommends that:

- The Department of Labour must conduct compliance inspections in every farm, at least once a year. The inspection must include a sample of workers to validate records.
- The Department of Labour must enforce labour laws and apply disciplinary measures on employers who don't comply.
- The Department of Labour should intensify the systems of monitoring and compliance

- The Department of Labour must regulate the number of immigrants that may be employed per farm to counter the joblessness of local workers.
- Department of Home Affairs must make visit farms and assist with application for birth certificates and identity documents (ID).

CONCLUSION

On behalf of the Select Committee, the chairperson wishes to thank all the Honourable Members of the Legislature, and all role players who contributed in the preparations towards the successful hosting of the 2017 Workers Parliament.

This Committee report on the 2017 Workers' Parliament is hereby tabled to the House with a request to adopt it with the recommendations for implementation by the respective Departments. A progress report must be tabled to the Committee by no later than 30 October 2017.



HON JL NGHONDZWENI
CHAIRPERSON: SELECT COMMITTEE ON
PUBLIC PARTICIPATION, PETITIONS AND MEMBERS'
LEGISLATIVE PROPOSALS

06-09-2017
DATE