**Report of the Portfolio Committee on Agriculture, Land Reform and Rural Development on an Oversight visit to Gwatyu Farms in the Eastern Cape Province from 31 January To 04 February 2022, dated 22 March 2022**

The Portfolio Committee on Agriculture, Land Reform and Rural Development, having undertaken an oversight visit to Gwatyu in the Eastern Cape Province, from 31 January to 04 February 2022, reports as follows:

1. **Introduction**

This report accounts for the oversight visit conducted by the Portfolio Committee on Agriculture, Land Reform and Rural Development (the Committee) at Gwatyu, which is located at Enoch Mgijima Local Municipality in the Chris Hani District of the Eastern Cape Province. The oversight activities of the Committee took cue from section 55(2) of the Constitution which states that “The National Assembly must provide for mechanism - (a) to ensure that all executive organs of the state in the national sphere of government are accountable to it; and (b) to maintain oversight of - (i) the exercise of national executive authority, including the implementation of legislation; and (ii) any organ of state”. From these provisions, it is quite clear that the Executive is obliged to account on its actions. Oversight visits, therefore, constitute a myriad of mechanisms available to the Committee for exercising its constitutional mandate as discussed above.

* 1. *Terms of reference for the oversight visit*

In terms of Section 43(3) and 55(2) of the Constitution as stated above, the Portfolio Committee, as an extension of the National Assembly, holds the Executive accountable through a range of oversight mechanisms. These sections empower the Committee to scrutinise and oversee Executive action as well as ensuring accountability of all executive organs of state. On the basis of these provisions, the Committee and its predecessor of the 5th Parliament, the former Portfolio Committee on Rural Development and Land Reform, have had engagements with the Department of Agriculture, Land Reform and Rural Development (formerly Department of Rural Development and Land Reform) with regard to land tenure disputes as well as competing ‘claims’ to land at Gwatyu. The Committee has been seized with the matter of Gwatyu since 2019 and, having observed a negligible progress towards resolving the impasse, resolved to conduct an oversight visit to Gwatyu for reasons outlined below.

The overarching aim of the visit, in addition to enforcing accountability of the Executive, was to ensure that the state land release project of the Department of Agriculture, Land Reform and Rural Development (the Department) contributes to acceleration of the redistribution of land to the landless poor and enhance security of tenure for farmers and/or households occupying the state land.

Specifically, the Committee focused on the following:

* Monitoring processes that the Department has been facilitating to resolve the Gwatyu land impasse;
* Assessing the effects of government interventions as agreed in meetings of the Portfolio Committee on 9 February and 7 December 2021;
* Interacting with the affected parties in order to understand their complaints as well as perspectives on how their concerns can be resolved;
* Engaging with various stakeholders, including government departments, community members and traditional leaders in order to gain insights into the underlying causes of tensions and contestations as well as exploring possible solutions; and
* Soliciting bottom up solutions from stakeholders and role players with an intention to develop recommendations for the Minister of Agriculture, Land Reform and Rural Development on possible interventions that could be made to resolve the Gwatyu matter and secure tenure rights for deserving households and/or community members.
  1. *Description of the Portfolio Committee approach to the oversight visit*

The anchor of the oversight visit, as can be deduced from the specific objectives, is twofold; i.e. overseeing Executive action and fostering accountability; and gathering facts about the ongoing competing claims to land at Gwatyu. The Committee planned a series of meetings and transect walk which was cancelled due to rain. The three main players that the Committee sought to engage with are:

* The Department of Agriculture, Land Reform and Rural Development and its Eastern Cape Shared Service Centre (i.e. its Provincial Land Reform Office). The Department has been in the forefront of facilitating conflict resolution and attempting to put in place measures to secure rights of land rights holders.
* Land rights holders, mainly the former farmworkers who for over three decades lived on the farms, who have attempted to register a Communal Property Association (CPA) as advised by the Department. However, at the time of the visit, the CPA had not been registered.
* The AmaTshatshu Traditional Council, a recognised traditional council that has historical connections to Gwatyu and have suffered displacement from, and dispossession of, Gwatyu through racially-based policies of colonial and apartheid governments. The traditional council seeks redress of the dispossession by restoration of the land to the rightful owners, i.e. the AmaTshatshu.
* Black farmers, commonly referred to as lessees, who have been given leases by the former Transkei government and continued to use the land since 1982. These farmers have expressed their legal rights to the land in terms of those contracts or leases albeit that the leases have lapsed and farmers were not paying any lease fees.

In view of the contested claims to ownership, access and control of Gwatyu, the Committee adopted the following approach to the oversight:

* The oversight visit must create an opportunity for amicable and speedy resolution of the impasse. At all times the Committee endeavoured to ensure that there was conducive environment for conflict resolution and land development.
* The meetings were a platform for all those affected and involved in Gwatyu to present their perspectives with regard to the causes of the tensions and how they thought the existing impasse at the time of the visit could be resolved.
* The committee resolved to be impartial and objective; further endeavour to listen to all sides of the story and observe what was happening at Gwatyu without prejudice.
* Further, it would require that the members of the delegation are impartial and objective in their engagement in this matter. To do so, the delegation must at all times be guided by applicable legislation and policies; mainly the Restitution of Land Rights Act (Act 22 of 1994), the Traditional Leadership and Governance Framework Act (Act 23 of 2009) Interim Protection of Informal Land Rights Act (Act 31 of 1996) and State Land Disposal Act (Act 48 of 1961) together with the State Land Lease and Disposal Policy.
  1. *The delegation and attendance by the Executive*

The delegation to Gwatyu composed of the National Assembly’s Members of the Portfolio Committee on Agriculture, Land Reform and Rural Development accompanied by the Members of the Eastern Cape Provincial Legislature’s Portfolio Committee on Rural Development and Agrarian Reform as listed in Table 1 and Table 2 below. The delegation was supported by a team of parliamentary committee support officials responsible for committee secretarial duties, content support and advice, research, interpreters, protection services, communication services and logistics.

The Committee also welcomed the presence of Members of the Executive as shown in Table 3. The Executive was accompanied by officials from the National Department of Agriculture, Land Reform and Rural Development, the Ministry of Agriculture, Land Reform and Rural Development, the Eastern Cape Provincial Department of Rural Development and Agrarian Reform, the Provincial Department of Cooperative Governance and Traditional Affairs (COGTA), and Officials from both Chris Hani District Municipality and Enoch Mgijima Local Municipality.

Table 1: Delegation (Members of the Portfolio Committee)

|  |  |
| --- | --- |
| Members of the Portfolio Committee | |
| Name | **Political Party** |
| MP Mandela, Nkosi ZMD (Chairperson/Leader of the delegation | African National Congress |
| MP Capa, Mr N |
| MP Tlhape, Ms MME |
| MP Mahlatsi, Ms KD |
| MP Tshwete, Ms B |
| MP Mbabama, Ms TM | Democratic Alliance |
| MP Masipa, Mr N (Alternate member) |
| MP Breedt, Ms T | Freedom Front Plus |

Table 2: Members of the Eastern Cape Provincial Legislature in attendance

|  |  |
| --- | --- |
| Members of the EC Provincial Legislature | Political Party |
| MPL Bese, Dr DF (Chairperson of the Portfolio Committee on Rural Development and Agrarian Reform) | African National Congress |
| MPL Dlelanga, Mr M |

Table 3: Members of the Executive in attendance

|  |  |  |
| --- | --- | --- |
| Name | Designation | Department |
| Mr Mcebisi Skwatsha | Deputy Minister | Department of Agriculture Land Reform and Rural Development |
| Mrs Zoleka Capa | Deputy Minister |
| Mrs Nonkqubela Pieters | Member of the Executive Council (MEC) | Eastern Cape Department of Rural Development and Agrarian Reform |

1. **Context: Complexities of land tenure at Gwatyu**

Gwatyu farms, located at Enoch Mgijima Local Municipal area within the Chris Hani District in the Eastern Cape Province, consists of 91 properties. Three of those properties, including a school, are registered in the name of the Department of Public Works. On the farms, as highlighted above, one finds the AmaTshatshu traditional council, a community of former farmworkers left by white commercial farmers as will be discussed in this report, and lessees of farms who had lease agreements with the former Transkei government but has since 1998 stopped paying leases. All these groups claim rights to the land in terms of the existing laws of the country as discussed below. The contestations were elevated by a group of approximately 2 000 former farmworkers from Gwatyu protesting outside the East London offices of the Department of Rural Development and Land Reform in April 2019.  Their demands included provision of security of tenure through transfer of Gwatyu farms, about 44 000 ha in what was commonly known as Western Thembuland, to them as a group. Their demand for land reignited a longstanding contestation of land rights between a community of former farm dwellers and the AmaTshatshu Traditional Council that believed the land historically belonged to AmaTshatshu and should be under the control of AmaTshatshu.

The Constitution lays a legal foundation for recognition of land rights of, and redress for, those that were unjustly dispossessed and/or displaced from their own land by the colonial and successive apartheid governments. In Section 25(5) – (7), the Constitution enjoins the state to foster conditions which enable citizens to gain equitable access to land, to ensure that those with insecure land tenure are entitled either to tenure which is legally secure or to comparable redress; and those dispossessed of property after 19 June 1913 are entitled either to restitution of that property or to equitable redress. Under these sections, Parliament is under an obligation to pass legislation to ensure the realisation of these rights. What about the role of institutions of traditional leadership in as far as land ownership, access and control is concerned?

Chapter 11 of the Constitution recognises the institution, status and roles of traditional leadership. Whilst the Constitution is silent on the roles and powers of traditional leadership institution, it provides for a national legislation which will address these silences. The government of the Eastern Cape reinstated the AmaTshatshu traditional council, an attempt at acknowledgement of the status of the AmaTshatshu Traditional Council and redress of the dispossession as well as loss of their status under the apartheid regime. On the basis of their historical connections to Gwatyu and the desire for a full redress of the dispossession, the AmaTshatshu demonstrated determination to ensure that their original land is transferred back to the AmaTshatshu people under the control of the AmaTshatshu Traditional Council.

Flowing from the Constitution, different sections of Gwatyu community are asserting their rights over land on the basis of different pieces of legislation and policies which can be summarised below:

1. *Restitution of Land Rights Act (Act 22 of 1994):* Processes for restoration of ownership of land are governed in terms of the Restitution Act which quite clearly sets out parameters for lodgement of land claims, that there must be evidence of land rights lost after 19 June 1913 and that such loss of rights must be as a result of racially-based policies and/or practices. The AmaTshatshu Traditional Council had attempted to pursue restoration of the claim through the restitution process.
2. *Interim Protection of Informal Land Rights Act (Act 31 of 1996):* The former farm workers at Gwatyu have, as outlined above, been on the land for decades. They have acquired informal land rights as per IPILRA. Informal rights to land include beneficial occupation of land for a continuous period of not less than five years prior to 31 December 1997.
3. *Traditional Leadership and Governance Framework Act (Act 41 of 2003):* AmaTshatshu Traditional Council, recognised by the Eastern Cape in line with the TLGFA and the Eastern Cape Traditional Leadership and Governance Act, (Act 1 of 2017), sees itself as responsible traditional authority for administering the affairs of the traditional community of Gwatyu, including administration of land, in accordance with customs and traditions of Gwatyu.

The different groups have a basis for their claims to stronger land rights at Gwatyu. On one hand there are those whose stronger rights can be attributed to them or their forefathers being historical owners of the land prior to the dispossession by colonialist and apartheid governments and thus feel that they are entitled to redress of the loss of their land, on the other hand one finds a group that have worked under white farmers and continued to farm in their own right after the departure of white farmers when the farms were transferred to the former Transkei government. They thus have accumulated beneficial occupation/informal land rights that are recognised in law.

The oversight visit follows what appeared to be a stalemate in the attempts by the Department of Agriculture, Land Reform and Rural Development to unlock the bottlenecks so that rights can be confirmed and secured and ultimately result in productive use of the land. All the meetings and engagements sought to explore mechanisms for resolution of the disputes and/or fostering conditions that were conducive for intervention by government to resolve the disputes.

1. Summary of proceedings of meetings with the Portfolio Committee

This section summarises the main issues arising from engagements and meetings of the Committee and stakeholders at Gwatyu. The intended transect walk of the members of the Portfolio Committee at Gwatyu farms, as per the programme of the oversight visit, was cancelled due to rain. The Committee had intended to conduct a walkabout of Gwatyu in order to understand the challenges about service delivery, infrastructure damage and vandalisation of properties. In addition, it sought to make observations about land use patterns as well as observations about production and who they found on some of the properties. Insights in this report are therefore from the presentations and discussions with the Department, stakeholders and community members.

* 1. Meeting with King Dalimvula Matanzima of the Abathembu Royal House

On the first day of the oversight visit, the delegation met with King Dalimvula Matanzima, Chief Ngangomhlaba Matanzima and other members of the royal family. The purpose of the meeting was for the Committee to receive a briefing about the historical context to the Gwatyu land disputes, i.e. from dispossession and displacement of AmaTshatshu to the transfer of Gwatyu to the former Transkei government. The Committee was particularly interested to understand perspectives of some of those who served in the Transkei government and had first-hand information about the transfer of farms to the then Transkei.

The King reported that Gwatyu belongs to AmaTshatshu, with the Tshatshu Chief, Maphasa’s kraal situated in the area. About 100 years ago the land was taken by the white people and was developed into white commercial farms. During that time white farmers brought with them farmworkers who lived on the land. To date, there are two to three generations of farmworkers, many of whom were born at Gwatyu.

During the time of King Daliwonga Matanzima, the former Transkei government assisted the AmaTshatshu to claim their land back from Pretoria (i.e. South African government). After successful negotiations with Pretoria, the land was handed back to them under the control of Sobantu Gungubele’s chieftaincy. However, except for Oathay, all the land was to be kept as commercial farms. For Oathay, a settlement was developed to cater for people that sought to move out of farming area into formal settlement. Those properties that were kept as commercial farms were leased out to emerging black farmers in the former Transkei.

With the departure of white farmers, some of the former farmworkers that had been employed by the previous white land owners continued living on the farms when ownership was transferred whereas some moved to Oathay. Those that remained continued to farm, focusing particularly on livestock production. It was also reported that there were many people from other areas who have since moved to occupy the land and the people of Gwatyu have reported their frustration at such intrusion or invasion of their land. As observed during the meeting with community members, relationships between the former farmworkers who have remained on the land or their descendants and the lessees vary; and so is the relationship with the AmaTshatshu Traditional Council. In essence some of the former farmworkers do not recognise the traditional council.

The Portfolio Committee was informed that, after the white farmers had left and the Transkei government took over ownership of land, there were arrangements put in place to ensure that those lessees/farmers who were using the land productively should be assisted to purchase their respective farms. However, the democratic government that came into power in 1994 did not follow through with the plans. Instead, government appointed Judge Heath to conduct investigation on the administration of the leases, i.e. the tenure status of the farms. The concern was that some of the lease agreements had not been properly registered and administered and some lessees were not honouring commitments. In other cases, lease payments have not been made and there were cases of sub-letting of farms, something that was not allowed under the terms of the lease agreements. It was reported that Judge Heath instructed some of the farmers to vacate the farms. Since 1998, due to the process that Judge Heath was facilitating, farmers stopped making payments and some vacated the farms. The result was that some of the farms were neglected and whilst others were vandalised. There was no system for management of leases under the new dispensation.

To sum up the discussion, the Royal House reported that the matter of Gwatyu needed to be resolved without delay. The land, according to their knowledge of history, belongs to the AmaTshatshu people, and there were four groups of people residing in the area at the time of reporting i.e. AmaTshatshu Traditional Council, the lessees, people born in Gwatyu and worked for white people in farms, and people that came from different areas or squatters. One of the groups, the former farmworkers that had organised themselves as a Community Property Association (CPA) does not recognise the AmaTshatshu Traditional Council or the Chieftaincy. Of great concern to the King and the Qamata chieftaincy was that the people of Gwatyu had no access to basic services as Government was not providing services.

* 1. Briefing by government departments and civil society organisations

Following the meeting with King Dalimvula Matanzima and the Royal House, the Portfolio Committee met the Department of Agriculture, Land Reform and Rural Development accompanied by the Provincial Land Reform Office or the Provincial Shared Services Centre (PSSC), the Commission on Restitution of Land Rights accompanied by the Eastern Cape Regional Land Claims Commissioner’s Office, the Eastern Cape Department of Cooperative Governance and Traditional Affairs (COGTA), District and Local Municipality. From the civil society organisations, the Legal Resources Centre, representing a group of former farmworkers, also attended the meeting.

* + 1. Department of Agriculture, Land Reform and Rural Development

One behalf of the Department, Mrs Pheliwe Mntukathandwa (Director for Tenure Reform), presented a brief background and status report about Gwatyu. The presentation included the basis for competing ‘claims’ to land by the former farmworkers (who refer to themselves as a CPA) and the AmaTshatshu Traditional Council in the main.

She informed the Committee that Gwatyu farms comprise 77 farms with 95 land parcels or portions out of which 6 belong to the Department of Public Works and Transnet and a further 3 portions are privately owned (i.e. they have been transferred in title to private individuals). The State farms were acquired by the South African Development Trust (SADT) from white owners for consolidation into the former Transkei Homeland between 1975 to 1979. Prior to acquisition by SADT, they were commercially farmed by white farmers. As discussed above, these farms were borne out of a long history of displacement and dispossession of original owners of Gwatyu. As will be shown below, the AmaTshatshu have claimed original ownership of the land under discussion.

Whilst the history of the land contestations at Gwatyu dates back to the late 1990s, the presentation started the discussion on Gwatyu in 2014 when a group of individuals from Gwatyu community approached the Department requesting disposal of land and provision of development support funding. Community members were advised by the Department to register a CPA and which they subsequently submitted an application for registration of a CPA. In 2015, the former Department of Rural Development and Land Reform and the leadership of the Gwatyu Committee in the forefront of processes to register the Gwatyu CPA agreed to undertake a property verification exercise (land audit) to determine the existing land rights and land use on Gwatyu farms. The land audit agreed to was undertaken in collaboration with the Eastern Cape Department of Roads and Public Works and the Provincial Department of Rural Development and Agrarian Reform. The land audit was completed in 2015 and the report was shared with the Gwatyu Committee.

In 2016, the Gwatyu Committee put pressure on the Department to register the Gwatyu CPA. The Department, however, was of the view that the land rights enquiry was required in order to determine various land rights, in most cases overlapping, that exist in Gwatyu. Due to the differences of view about the approach, there have been a number of protest actions by some community members including occupation of the Ministry offices in Cape Town during the 2016 Budget Vote. The key demand was that government must register the Gwatyu CPA and transfer land to occupiers so that the former farmworkers have secure tenure and can use the land productively to fight poverty and hunger.

In 2017, the Department conducted the land rights enquiry which could not be finalised as a result of lack of cooperation from the members of Gwatyu Committee. The land rights enquiry was resuscitated in August 2020. It was agreed that each affected party must appoint representative to form part of the land rights enquiry team which was to visit farms in Gwatyu. The Gwatyu Committee also appointed their own representatives which unfortunately were later withdrawn by the Chairperson of the Gwatyu Committee. The land rights report confirmed the following categories of land rights holders in Gwatyu farms:

* Former farm workers left by previous white commercial farmers before 1976;
* The lessees of the former Transkei government (1976-1994);
* Former farm workers of the former Transkei government lessees;
* People given permission by Traditional Authority (AmaTshatshu Traditional Council) or residents of Gwatyu; and
* Some residents of Oathay settlements who claim to still have rights in Gwatyu.

In terms of the land rights enquiry report consultation processes, the farms were grouped into clusters for ease of discussion by community members. However, the first meeting arranged for the presentation of the report was disrupted. The Department sought an intervention by the South African Police Services (SAPS) in order to ensure safety of government officials and community members participating in the meetings. The disruption was caused by the Gwatyu Committee which questioned the presence of AmaTshatshu Traditional Council representatives at the meeting. The matter was further pursued by the Legal Resources Centre (LRC) on behalf of the Gwatyu Committee.

The Deputy Minister of Agriculture, Land Reform and Rural Development, Mr Mcebisi Skhwatsha, informed the delegation that in many instances the Department was hindered to do their work, i.e. gathering data and confirming findings with households, by threats of violence and intimidation of officials by some of the members of the community.

* + 1. Commission on Restitution of Land Rights

Ms Nomfundo Ntloko-Gobodo, the Chief Land Claim Commissioner, reported that the land claim lodged by AmaTshatshu on Gwatyu was researched by the Commission and was found to be invalid and dismissed. The land claim did not meet Section 2 requirements of the Restitution of Land Rights Act, No 22 of 1994. The key issue was that the dispossession took place prior to 19 June 1913.

* + 1. Legal Resources Centre (LRC)

Ms Wilmien Wicomb of the Legal Resources Centre informed the Portfolio Committee that she was the legal representative for a group of former farmworkers who (themselves, their parents or grandparents) have lived at Gwatyu for many years. Whilst there were those that came to Gwatyu with white farmers, many of the current members of the group were born at Gwatyu and have nowhere else to call home. These people have waited for over 25 years for the right to security of tenure and to date there has been no resolution to their plight of landlessness and tenure insecurity, hence there is a mistrust of the Department. She further emphasised that the community members that she represented have beneficial occupation rights on the land in terms of the Interim Protection of Informal Land Rights Act (Act 31 of 1996).

Some of the matters she raised were as follows:

* The registration of a CPA does not give them rights they do not currently have (informal land rights/beneficial occupation rights of Gwatyu). The CPA was a legal instrument to hold and manage property communally.
* The 2016 Inter-ministerial Task Team: The Minutes shows land enquiry will be done and CPA will be registered by August 2016. That has not happened and there has been change in the manner in which Gwatyu matter is being dealt with.
* Since 2018, they encountered AmaTshatshu involvement which was not the question before. They wanted to understand their rights as beneficial occupation rights and the status of traditional leadership. The Department has not come forward to clarify the rights of the AmaTshatshu Traditional Council.

According to the Legal Resources Centre, it was not out of disrespect that the beneficial occupiers of Gwatyu have walked out of the processes. However, it was because there were no responses to the questions they posed to the Department and breakdown of trust with the Department. The very same questions were being posed to the Portfolio Committee during the oversight visit.

* + 1. Meeting with AmaTshatshu Traditional Council

The Secretary of Tshatshu Royal Council, Prince Xhanti Madolo reported that AmaTshatshu have been at the centre of the struggle against colonialism and apartheid. Their forefathers suffered in defence of their land. He detailed a comprehensive history of the AmaTshatshu and their historical jurisdictional authority over land. According to them there is sufficient history to demonstrate that they are the rightful owners of Gwatyu. The following was highlighted to the Committee:

* There was no intention on the part of the AmaTshatshu to acquire any title deed over the land in the name of their chief or any other individual in the royal family.
* They recommend that the land should be transferred to a legal entity such as a Trust which will be managed by Trustees under the oversight of a Senior Traditional Leader in liaison with the Traditional Council.
* They do not wish to see people of Gwatyu being removed or displaced from their homes. They acknowledge that many of the people were born on the land and have nowhere else to call home.
* The place of the Traditional Council, as a registered Council under a recognised Traditional Leader by the COGTA, should be respected.

While issuing of title deeds to individuals may seem politically correct, AmaTshatshu are cautious that this may have a negative effect on traditional leadership. There is also no intention to reject anyone from the land in Western Thembuland; to the contrary, people are encouraged to settle on the land and utilise it to provide for the nation.

AmaTshatshu Traditional Council urged the Portfolio Committee to consider revision of the Restitution of Land Rights Act (Act 22 of 1994) in so far as the 1913 cut-off date is concerned because the AmaTshatshu people cannot claim their land under restitution. It closes them out, yet they are the rightful owners of the land.

* + 1. Meeting with affected stakeholders and members of Gwatyu community

Having met the institutions of traditional leadership, government departments and legal representatives of Gwatyu Committee for beneficial occupation rights holders, the Committee proceeded to meet a range of affected parties and stakeholders such as farmers’ associations, lessees, business representatives, CPA committee, and general members of Gwatyu community.

Representatives of Gwatyu Committee, referring to themselves as leadership of the CPA, raised concerns that Parliamentary Committee should have met them prior to the public meeting to understand their concerns. They alleged that the meeting was not properly arranged as they needed 14 days’ notice prior to the meeting. The Chairperson, having assured them that they will be given ample opportunity to present their case as a structure. However, some of the representatives of the CPA walked out in protest. The Portfolio Committee proceeded with the meeting and allowed other stakeholders/organisations and individual community members to make presentations to the Committee as planned. Their submissions to the Committee can be summarised as follows:

1. **Mr Victor Mxolisi Dyakophi**, the Chairperson of the Gwatyu Emerging Farmers Association, submitted that there were only 12 farmers provided with electricity across the entire Gwatyu. The rest of farmers have no electricity, and were experiencing numerous challenges with regards to efficient and productive use of land. The emerging farmers were in need of tractors for ploughing, repair of windmills, shearing sheds, breeding facilities for cattle, sheep, poultry and pigs.
2. **Mr Aaron Tanana Feni,** adescendent of the Moshoeshoe’s Royal Family, requestedtherestoration of the Chieftaincy of the late Ntate Moshoeshoe and to be recognised as one of Inkosi yohlanga lwesizwe samaMfene under Moshoeshoe’s House in the area of Gwatyu. He further called for the adjustment of the land of Gwatyu. He promised to submit to the Committee documents to corroborate his claims regarding Moshoeshoe’s chieftaincy.
3. **Mr Zithulele Forest Feni,** a member of the Business Organisation in Thembani, informed the delegation that the area of Thembani is a residential area and needed to be developed further for the benefit of Gwatyu community. He also informed the delegation that Thembani was gazetted as a location which was gazetted as a residential area. He was concerned that there were no services and that farmers and business community did not receive support. He was concerned about lack of access to productive land and loss of land to invaders. He therefore, wanted to return to his ancestral home at Gwatyu.
4. **Mr Xola Bhekevu,** representing Gwatyu Farmers Association, appealed for the assistance in the development of farming in Gwatyu. For example, he mentioned that farmers require water, fencing, feed for the cattle and road infrastructure.
5. **Mr T Feni,** from Oathay/Thembani, expressed concerns relating to the absence of government services to assist people of Gwatyu. He highlighted the following infrastructure and services that were lacking: access roads, shearing shed, dams, playing grounds for youth, clean drinking water for households, RDP houses, tables and chairs for the community hall, clinic that operates 24 hours a day, a library, additional grades at the school, fixing of the Bilatye bridge and mobile police station.
6. **Mrs Nyitana,** a sheep farmer and part of the co-operative for Oathay shearing shed at Gwatyu, addressed the Committee as part of the organised farmer group called Gwatyu Emerging Farmers Association. She emphasised a need for proper agricultural support for the development of Gwatyu and improvement of the socio-economic conditions of Gwatyu community. She mentioned that the co-op currently has a weighing and pressing equipment. However, their only requirement was a shearing shed that will serve all the qualifying farmers and Gwatyu, including Oathay. She asked government to assist them.
7. **Mr Masixole Matanzima** emphasised the significance the involvement of youth in agriculture. He informed the delegation that he had resigned from his employment from the Army and took over his grandfather/fathers farm that is situated in Gwatyu. He is doing very well on his farm; the only challenge is that there is lack of service delivery in the area. Amongst others, the community want provision of electricity and government to address the challenges of stock theft, unemployment, lack of education facilities.
8. **Mr Mbulelo Rasmeni**, a community member, informed the delegation that there is lack of service delivery in Gwatyu and that the people of Gwatyu are divided and are being used by people who want to enrich themselves at the benefit of the people of Gwatyu. He requested that government must intervene to address the challenges of the people of Gwatyu.
9. **Mr M Zingxondo,** community member told the delegation that the Gwatyu community are in need of roads, water, electricity, high school.
10. **Mr Siyabonga Bhoyi** from **Enoch Mgijima Wool Growers Association** mentioned that as an association they are in need of dipping tanks and their own ram breeding station. He demonstrated that he had tried to speak to local municipality and other stakeholders about the idea, yet there was not breakthrough. He had hoped that the Portfolio Committee and the Minister would make an intervention to assist the farmers.
11. **Ms Busi Mdeyide**, pleaded with the delegation to be assisted with job opportunities and/or land to farm as the youth in Gwatyu. She mentioned that due to electricity challenge in Gwatyu the youth in the area are not advanced in technology as the rest of the country. She also raised a concern regarding the lack of fencing of the farms which results in many accidents (and death of innocent people) that happen around the N2 road are as a result of stray animals.
12. Concluding session with government departments to cart the way forward with regard to service delivery and resolution of the tensions at Gwatyu

On the last day of the oversight visit the delegation met with the different departments, stakeholders and municipalities to recap on the findings of the oversight visit, the stakeholders’ responses to the challenges and proposals for a way forward.

* 1. The Department of Agriculture Land Reform and Rural Development

1. The Department to submit a comprehensive plan responding to the questions of service delivery raised at the public meeting as well as meetings with traditional leaders.
2. Facilitate engagements with the COGTA to address the questions of the status of land under the AmaTshatshu Traditional Council. Specifically, clarify what land was made available for control by the AmaTshatshu Traditional Council.
3. Engagement with the group referring to itself as a CPA (or beneficial occupiers) with regard to their concerns in order to facilitate and conclude land rights enquiry. In doing so, engage with people with legitimate rights at Gwatyu and isolate those that may have been coopted to derail the process of confirming the rights of legitimate members of Gwatyu Community.
   1. The Eastern Cape Department of Cooperative Governance and Traditional Leadership
4. The Department to submit confirmation of the status of the AmaTshatshu Traditional Council as well as the records of their administrative area.
5. The description of properties under the control of the AmaTshatshu Traditional Council.
   1. Chris Hani Development Agency (CHDA)

The CHDA was requested to submit a profile of their organisation, in particular their areas of specialisation, funding and localities within which it works.

1. COMMITTEE OBSERVATIONS
   1. The delegation observed that the issues at Gwatyu are complex and required a thorough research and a detailed action plan in order to resolve them.
   2. Although the 77 farms at Gwatyu are owned by government, there is no collaboration between the Department of Agriculture, Land Reform and Rural Development, Cooperative Government and Traditional Affairs, traditional council and the wider community in conducting the land rights enquiry. Members of the AmaTshatshu Traditional Council believe that all Gwatyu farms are within their administrative area.
   3. The delegation failed to understand the reasons for the lessee to stop paying the lease fees since 1998, except to say that it was after the process that was led by Judge Heath.
   4. The Committee raised a serious concern and expressed disappointment with regard to some community members who refer to themselves as a CPA who disrupted and left the meeting in protest whilst they had an opportunity to raise their concerns and challenges in the meeting.
   5. There is lack of service delivery and a broken working relationship between government departments and people of Gwatyu, including lack of working relationships between government departments to assist the people of Gwatyu. Key development issues related to the centrality of electricity in advancing education, especially during the Covid-19 period.
   6. There is a great agricultural potential in Gwatyu. However, there is a need to put a plan in place to revitalise Gwatyu farms. One of the issues to be looked at is the sheep breeding station for the benefit of Gwatyu people.
   7. Lack of support by the provincial Cogta to the AmaTshatshu Chieftaincy, especially on the land access and control issue including clear indication on the interactions made between Cogta and DALRRD on the recognition and support provided to the Tshatshu Chieftaincy.
   8. Possibility of AmaTshatshu getting their land back from the state after the situation has been resolved was explored.
   9. Lack of a clear indication of land that is under AmaTshatshu Chieftancy during the installation of Inkosi Gungubele was raised as a serious concern. Eastern Cape Cogta was mandated to make a written submission to indicate what land is under the control of the AmaTshatshu.
   10. The main frustration of the Gwatyu Committee, led by Ms Thembakazi Matsheke, was as a result of lack of failure of government to address community development needs, including securing people’s tenure, joblessness and basic services.
   11. The Comprehensive Rural Development Programme approach was identified as a possible model to be used at Oathay/Thembani. There was a need for inclusive process to ensure that there is sustainable solution to the challenges.
   12. The Committee observed a need for mechanisms to be put in place by the department with regard to the fencing of farms to prevent accidents that are happening in the N2 around Gwatyu as reported by Busi Mdeyide.
   13. The Chris Hani Development Agency and the Provincial COGTA, in attendance of the meeting, were requested to respectively make submissions on the following:
       * Comprehensive background and mandate of, as well as funding sources for, the Chris Hani Development Agency;
       * Written confirmation of the details of the two administrative areas under the AmaTshatshu Traditional Council.
2. Recommendations

In view of the observations and conclusion recorded above, the Portfolio Committee recommends that the Minister of Agriculture, Land Reform and Rural Development must ensure that-

* 1. The DALRRD in collaboration with COGTA, at both national and provincial levels, must provide clarity with regard to the ownership and allocation of the Gwatyu farms, or lack thereof, to the AmaTshatshu Traditional Council at the time of its reestablishment and recognition by the Eastern Cape Government. The Minister must also report to Parliament about the outcomes of the process.
  2. An inclusive meeting involving community members with beneficial occupation rights, AmaTshatshu Traditional Council and other relevant persons within Gwatyu should be facilitated by the DALRRD in order to conclude land rights enquiry and find a lasting and amicable solution to the land disputes and competing claims to land at Gwatyu.
  3. The DALRRD, as a coordinator and catalyst for rural development, must mobilise other government departments such as Water and Sanitation, Human Settlements, Public Works, Basic Education, Minerals and Energy to provide basic services to the people of Gwatyu. Such services include water, electricity, road infrastructure, fencing alongside roads, high school development and health facilities.
  4. Skills development programmes such as the National Youth Development Agency (NYDA) and National Rural Youth Service Corps (Narysec) form part of the services delivered to Gwatyu to assist the youth of Gwatyu with skills for employment.
  5. The Land Audit Report completed in 2015 and the 2017 Land Rights Enquiry Report must be made available to the Committee. The audit must indicate list of farms occupied by the ‘lessees’, beneficial occupation rights holders, AmaTshatshu Traditional Council and members, and vacant farms.
  6. Must prioritise a meeting with King Dalimvula as requested and to address the rural development matters of Gwatyu and other rural settlements under his administrative area.
  7. Put a moratorium of the possible leasing of Gwatyu farms, including the so-called vacant farms, until land rights enquiry and adjudication of existing, and often overlapping, land rights are completed.
  8. Present to the Committee a detailed time bound development plan with regard to the resolution of the prevailing situation in Gwatyu as well as attending the development needs as stated above. The plan should include the support that will be provided to the farmers organisations including individual farming members of the Gwatyu community.
  9. The DALRRD consider reviewing and or amending existing relevant laws and policy frameworks to address tenure security for people with informal land rights. Key amongst the legislative processes should be to introduce the Communal Land Tenure Bill and related policy instruments to record people’s rights. Further, to provide clarity with regard to options for people who do not meet the 1913 cut-off date in terms of the Restitution of Land Rights Act.

The Minister should present to parliament a progress report on the implementation of these recommendations within three months after the adoption of this report by the National Assembly.

*Report to be considered.*