**Report of the Portfolio Committee on Agriculture, Land Reform and Rural Development on an Oversight Visit to Sundays River Valley, Eastern Cape; Dated 29 November 2022**

The Portfolio Committee on Agriculture, Land Reform and Rural Development, having undertaken an oversight visit to the Sundays River Valley on 18 November 2022, reports as follows:

1. **Background**

This report accounts for an oversight visit conducted by the Portfolio Committee on Agriculture, Land Reform and Rural Development (the Committee) on 18 November 2022 at the Sundays River Valley (SRV). The oversight visit followed a letter written to the Speaker by the South African National Civic Organisation (SANCO) requesting an intervention of Parliament to resolve an impasse between citrus producers and farmworkers/community members with regard to labour relations, land reform and socio-economic challenges confronting communities in the SRV. The challenges have led to strike actions in 2014, 2018 and most recently in April 2022. The strike involved farmworkers and community members in the SRV organised under the banner of SANCO. The Speaker, having considered the letter, referred the matter to the Committee for consideration and reporting.

The oversight visit by the Committee adds to a myriad of interventions to assist in SRV communities to address the challenges that are damaging the citrus industry reputation and the economy at large. Interventions were focused on, amongst others, the role that the State can play to create a conducive environment for commercial farming as well as reciprocal activities and programmes of private sector to ease the tensions between farmers/employers and employees/local communities. Apart from interventions by government departments, an oversight visit by the Portfolio Committee on Rural Development and Agrarian Reform in the Eastern Cape Provincial Legislature (henceforth the Provincial Legislature) was also another attempt to ensure that stability of the area was restored as well as putting in place systems of government intervention and closer monitoring by the Provincial Legislature. This oversight, as the terms of reference below show, seeks to assess progress made by various government departments and to explore additional interventions necessary for bringing about stability in the SRV area.

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

The oversight visit to the SRV can be located in section 55(2) of the Constitution which provides 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”. As this report will show, the Committee sought to create space for accountability of government departments with regard to what they have been doing to create stability in the SRV and support agricultural development which creates jobs and contribute to economic development of South Africa. The Committee focused on understanding how organs of the State were implementing laws to address the challenges that have resulted in the strike action in the SRV; particularly legislation on labour rights and land redistribution together with policies on post-settlement support.

* 1. **Defining the problem**

The SRV is now characterised by incidences of violent labour disputes, protest action that takes place every fourth year (2014, 2018 and 2022). There are a range of issues that trigger the unrest in the SRV; amongst those is the alleged bias in favour of employment of foreign nationals when job opportunities open up at, unfair labour practices including non-recognition of workers organisations (trade unions); and payment of what farmworkers deem to be below a living wage. Whilst protest action by itself is a legally protected right for labour, the peculiarity of the protest actions observed in the SRV is that they tend to be violent and destructive. They torch pack houses, equipment, vehicles and general destruction of infrastructure that is necessary for farming operations as well as link to the markets. Ultimately, it makes it impossible for the farmers or producers to continue with production and generate the revenue that pays labour as well as investment in the local economy.

The strike action affects both employers and labour as well as the entire SRV area. The business owners end up spending lots of money in repairing the damage and rebuilding rather than investing in production which in turn creates more job opportunities. In some instances, it has resulted in reputational damage and lack of confidence in the area by producers, investors, and markets. All these are unintended consequences of the strike which has a lasting negative impact in the economy of the SRV; one of which is the inability of the SRV to create as many jobs as required because producers have been financially squeezed by the strike. Whilst the SRV presents opportunities for growing the citrus industry and create jobs for the majority, the challenges for the area immense. One of them is to create a balance between the labour rights of workers, living wages and creating a conducive environment for profitable citrus production.

* 1. **The aim and objectives of the oversight visit**

The SRV area require a lasting solution to the challenges cited above. An intervention is sought to ensure social cohesion and conducive environment for flourishing agricultural businesses and creation of decent jobs for communities in the area, thus contributing to growth of local economy and of the Country. The oversight visit, therefore, assessed progress with regard to attending to the conditions and factors underpinning local unrest by engaging with various interested parties. The oversight visit entailed the following:

1. Analysis of the challenges and assessing progress regarding interventions made by government departments since the oversight visit by the Provincial Legislature;
2. Listening to issues/concerns from members of the communities as well as their proposals with regard to the manner in which the challenges can be resolved; and
3. Engaging with the stakeholders’ responses and their perspectives to the challenges and government responsiveness to date.
4. **The delegation, attendance by the Executive, and other stakeholders**

The delegation of Members of the Portfolio Committee on Agriculture to the SRV is listed in Table 1 below. The delegation was supported by a team of parliamentary officials supporting the Committee with secretarial, content advisory, research and logistics functions.

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| Table 1: Delegation to the SRVLM (Members of the Portfolio Committee) | |
| Name | **Political Party** |
| MP Mandela, Nkosi ZMD: *Chairperson and Leader of the delegation* | African National Congress (ANC) |
| MP Tshwete, Ms B |
| MP Capa, Mr N |
| MP Mbabama, Ms TM | Democratic Alliance (DA) |
| MP Breedt, Ms T | Freedom Front Plus (FF+) |

The national government departments that participated in the stakeholder discussion were: Department of Agriculture, Land Reform and Rural Development (DALRRD); Department of Employment and Labour (DEL), the Commission for Conciliation Mediation and Arbitration (CCMA), and the Department of Home Affairs (DHA). In addition, municipal officials were represented by the Speaker of Sundays River Valley Local Municipality (SRVLM) and a number of Municipal Ward Councillors.

1. **Overview of the findings by the Portfolio Committee on Rural Development and Agrarian Reform of the Eastern Cape Provincial Legislature**

The oversight visit, as stated above, complements the work initiated by the Eastern Cape Provincial Legislature’s Portfolio Committee on Rural Development and Agrarian Reform in its attempt to assist to bring out stability in the SRV. In its oversight processes, the Provincial Legislature reported about the following:

* Allegations of brutalisation by a security company which was hired by Habata Farm.
* Allegations of the Sundays River Valley Citrus Growers Association (SRVCGA) employing undocumented foreign nationals to replace local workers. Further, it noted an unverified figure of 70 percent of workers being foreign nationals and only 30 percent being South Africans. Those that were at the forefront of mobilisation of communities to participate in the strike action were either dismissed, demoted or replaced by foreign nationals.
* Workers were being picked up for work at 6H00 for a shift that starts at 11h00 but they would not be paid for any time spent on the farm before 11am.
* Employers/farmers not allowing workers to join unions and those that have joined were either intimidated or forced to resign from the unions.
* There are farms that are not part of the SRVGA and the SRVCGA could not be held responsible for what happens there, suggesting that most of the challenges were in those farms.
* Farmers were unable to pay the R30.00 (a rate which is above the national minimum wage) demanded by workers because of the economic climate in the country. It also noted that in 2018 and 2019 workers were paid more than the minimum wage.
* Infrastructure on farms was torched and damaged during the unrest.
* There was not data about the operations of the labour brokers in the area.

In its conclusions, the report of the Provincial Legislature affirmed a need for respect and enforcement of the rights of farm workers, particularly Sections 18, 23 and 34 of the constitution relating to freedom of association, labour relations and resolution of labour disputes. Any workplace disciplinary action ought to follow due processes prescribed in law. Dismissal of employees without following legal processes was a violation of workers’ rights. It also expressed concerns with regard to the unexplained delays with the Commission for Conciliation Mediation and Arbitration (CCMA) processes to address the challenges.

In addition to project-specific recommendations in Annexure 1 of this report, the Provincial Legislature’s Portfolio Committee recommended that –

* Relevant stakeholders should convene to find lasting solutions and normalise the relations between farmworkers and employers/farmers as well as to address all the allegations of victimisation and unfair labour practices.
* Interventions by stakeholders should also attempt to normalise the relations in the SRV communities, including farmers, and foster social cohesion.
* The DEL and HOA should respectively address a range of allegations made against the farmers not recognising, and discouraging participation in, trade unions at work places and employment of undocumented foreign nationals.
* Coordination between the DALRRD and DEL in conducting labour inspections and awareness campaigns on the rights of farm workers.

1. **Overview of engagements with Stakeholders, farm workers and community members**

In line with the objectives for the oversight visit, the Committee sought to gather information about the unrests, interventions made, and assess progress towards attaining the stability of the area. The oversight visit was also interventionist in the sense that, apart from understanding the root causes of the strikes, it also intended to determine what further action, if any, could be taken by the relevant government departments. It aimed to solicit bottom up solutions to the challenges of the area. The engagements were two fold; firstly, stakeholder meeting attended by DALRRD, DEL, DHA, SRVLM, CCMA, SRVCGA and the Workers Committee; secondly, public meeting where community members, farm workers, land reform beneficiaries, Workers Committees as well as land rights and labour activists could raise concerns and suggestions towards addressing the challenges.

* 1. **Stakeholder engagements**

Various stakeholders were invited the brief the Committee about their own perspectives regarding the nature of the challenges confronting the SRV (especially the labour unrest witnessed every four years). The Committee also requested the stakeholders present their individual actions since the oversight and recommendations of the Provincial Legislature and well status quo with regard to the unrest and possible further strike actions in the area. They were also requested to present possible solutions to the challenges.

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

Mr Thozamile Lukholo, representing the Provincial Shared Services Centre (PSSC) or DALRRD, reported that the Provincial Legislature held stakeholder engagement on 20 September 2022 and on the following day, it visited Willow Tree to assess the impact of the strike on producers. The oversight raised three key issues for the attention of the DALRRD; viz., transfer of leased land to the beneficiaries, stock theft and access roads, and market assistance.

1. **Lease and transfer of farms to the beneficiaries and development support**

In the Eastern Cape, there are PLAS farms whose leases have not been renewed. One of those farms (*Willow Tree*), has been allocated to a group of black farmers who were farming successfully to an extent that they were able to purchase another farm (*Siyaphambili*) for themselves. They have been negotiating with the DALRRD for the donation and transfer of the farm to the beneficiaries. However, current policy instruments do not permit transfer of the land except a purchase of the farm at the original purchase price as provided for the in the State Land Lease and Disposal Policy. Officials of DALRRD have met with the beneficiaries to explore options available as provided for in the policy. The Executive Committee requested time to consult the other beneficiaries and revert with a way forward.

With regard to development support, the DALRRD brought in the SRVCGA to assist emerging farmers. In October 2022, the PSSC met with the SRVCGA to renew the MOU with SRVCGA concerning the development support. PSSC also participated in the proceedings of the Provincial Legislature which highlighted some of the post-settlement support challenges. For example, Mt Robert farm has challenges with access to water. In response to the question about progress report on its interventions, the DALRRD reported that it was hamstrung by financial constraints. However, for 2022/23, a total of R500 000 has been expended in inputs supply in the SRV area to support the needy emerging farmers. More resources were going to be allocated in the new financial year in order to improve the conditions on the farms, particularly Mt Roberts. Over the last five financial years, DALRRD has delivered a tractor (Landhini) in 2017/28 and various equipment to land reform beneficiaries in 2021/22. It has also run skills training programme on maintenance of infrastructure and tractors for selected beneficiaries.

1. **Stock theft and poor access roads**

The matters of stock theft and poor access roads negatively impact on agricultural productivity. However, these concerns were not within the scope of the mandate of the DALRRD. They are matters that could be best dealt with by the South African Police Services (SAPS), Department of Public Works and the Department of Transport. However, as a coordinator for rural development, the DALRRD was playing a coordinating role and facilitation role. It also expected that the Municipality would also play an active role in the support of local economic development by ensuring that these matters were addressed.

1. **Marketing assistance**

The PSSC in the Eastern Cape does not have capacity to assist land reform beneficiaries with marketing, despite them being part of the Department of Agriculture, Land Reform and Rural Development. The PSSC supported the beneficiaries of land reform in the SRV to be part of the Sundays River Citrus Company (SRCC) whose mandate is to assist farmers with regard to access to market. Therefore, there is greater dependence and reliance on commodity groups in matters relating to marketing. The strike action has also affected emerging farmers because they could not sell their produce in the market.

* + 1. **Department of Home Affairs**

It has been alleged that farmers/employers prefer to employ undocumented foreign nationals as opposed to local community members. At the time of the visit, it was estimated to be in the region of 70 percent foreign and 30 percent local. Having been requested to present a report about its own investigations and interventions with regard to the matter, the DHA report is summarised below.

Mr Luyanda Mzolisi (the Director of Immigration) reported that the 2021 operation or investigations by the DHA partly confirmed the challenge as alleged except the figures relating to undocumented foreign nationals. In the investigation of three farms, the DHA found that there were 77 farmworker foreign nationals. Of the 77 workers, 62 were in the country illegally and were undocumented. They were therefore detained and deported. The status of 15 farmworkers was confirmed. In terms of the nationalities, there were 14 Malawians, 21 Zimbabweans, and 27 Lesotho nationals. This a huge challenge confronting the sector and South Africa at large. It only logical to raise a question about the employers that recruit illegal foreign nationals. The DHA reported that one farm owner was charged on the spot there whilst the other was not charged because the DHA, after verification of the documents, found that the permits presented were fraudulent and the employer was not responsible misrepresentation but the workers. Those permits, at face value, looked authentic and DEL concluded that the employer was misled and he had no means to verify the status of the documents. The other farm owner that was charged on the spot was fined R2500.00 at the local magistrate court. DHA also reported that 35 farmers charged in the last 6 months for contravention. (employing illegal foreign nationals). The dilemma confronting the DHA was the Zimbabwe Dispensation or the Zimbabwean Exemption Program (ZEP) as an example.

* + 1. **Department of Employment and Labour**

Mr Mike Ngqolowa, Manager of the Gqeberha office of the DEL, reported about the interventions of the DEL in the SRV as well as attempts to avert possible violent and illegal strikes in future. Interventions follows a strike action by farm workers and community members with the demands listed below; namely –

* An end to the alleged preference of employment of foreign nationals over the locals. (It is alleged that farms employ 95 percent foreign nationals and 5 percent locals who mainly are employed for seasonal jobs whilst foreign nationals are hired on permanent basis);
* Intensification of labour inspection on farms (it is alleged that when labour inspectors visit farms, the employers send foreign nationals away);
* Recognition of trade unions and allowing workers to joint trade unions of their choice.
* An end of assigning farmworkers to 1 medical doctors whose note is the only one admissible to farmers in the area;
* A wage rate of R30 per hour whereas the national minimum wage is R23/19 per hour;
* Pending implementation of the 2018 settlement, hence most farm workers do not trust the process because the 2018 was not implemented;
* Transportation and payment of hourly rate should be brought in line with relevant legislation. The complaint related to the fact that farmworkers were fetched from their homes at 6am and only allowed to start working at around 10:00 or 11:00, thus limiting the number of hours of work.

Following the strike action, the DEL attempted to make certain interventions in order to resolve some of the labour disputes that have resulted in the strike. One of such interventions was negotiations, alongside the CCMA, with the parties; viz. employers and workers organisations. On the 4th of May 2022, the process collapsed as there was no agreement. On 23 and 27 May 2022, DEL initiated a multidisciplinary operation involving all the stakeholders together. Unfortunately, as they were planning, they were advised that it was not possible proceed with the operation because the area was volatile.

There have been formal negotiations chaired by a Commissioner of the CCMA as an independent body to try to resolve the issues between the workers and the farmers. However, the representatives of the parties (representatives of employees/farmworkers and employers) could not agree.

DEL met with the SRVCGA separately from the workers to discuss the demands of the workers. They informed DEL that they erred by not allowing workers allowing workers to start their shift at 8am or when they arrive on farms. They undertook to correct that irregularity. On the demand of R30 per hour, the SRVCGA is not responsible for determining the minimum wage which is R23.19 per hour. They further disputed the allegation that farmworkers were underpaid. They informed DEL that they even pay more to the workers. DEL was yet to receive evidence of payments which are in line with the minimum wage or above. However, due to the differences in opinion, the negotiations collapsed.

The negotiation process was a fair and transparent one. Workers were represented by Adv. Matiwane as an evidence disputing the allegations made that farmers were not allowing them to be represented by the lawyers. There was a long period where DEL left the situation as is in the hope that by the time they returned to the negotiation table it would have improved. The only thing they did was information sessions and inspections.

On 14 August 2022, there was an information session at ADDO where 204 workers attended. Another information session was convened at Valencia on 16 and 8 august 2022 at Moses Mabhida. These information sessions were arranged in order to bring awareness about labour rights. The events were supported by employers who also contributed by transporting workers to the sessions. This information sessions form part of the interventions to assist in resolving the tensions that exist.

With regard to inspections, DEL focused on wholesale and retail, agriculture, hospitality and others. On the evening of the 2nd of September 2022 they had a debriefing which showed that they had 170 inspections all together. For the agricultural sector, they focussed mainly on the Sectoral Determination, Occupational Health and Safety Act (OHSA), Unemployment Insurance Fund (UIF) and the Basic Conditions of Employment Act (BCEA). The outcome was that there were nine employers who were not compliant with BCEA and OHSA. It has become clear that DEL could have done more to avert the strike. In its own analysis, it concluded that a long period of COVID restrictions may have resulted in what appears to be a neglect of the farming area of SRV. There was a renewed effort to ensure that matters at the SRV are attended to and resolved.

According to DEL, there were no trade unions representing farmworkers but SANCO is playing that role (this view is disputed by the SRVCGA). Further, there is no database of labour brokers in the area which is creating a problem of unfair labour practices and ill treatment of workers as well as preference of foreigners. DEL has requested from the SRVGA a list of trade unions operating in the area as well as that of labour brokers.

* + 1. **The Commission on Conciliation Mediation and Arbitration (Gqeberha)**

The Commissioner confirmed some of the issues that the DEL official has presented especially as it related to the interventions by the CCMA. She also reported that, between January and October 2022, the CCMA dealt with 38 cases for ADDO and 60 cases for Kirkwood. However, these cases were not only from farms; they dealt with all labour disputes in those areas. The CCMA, as a neutral body, has engaged with the communities over the years and has established a good reputation and relationships. A project to work with communities went well until the protest after which it collapsed. During the processes to deal with the strike, CCMA discovered that some of the people who were involved in the protest were not employees or farmworkers, thus making it difficult to negotiate with. At the time of the visit of the Provincial Legislature, the negotiations under Section 150 were still in progress and not finalised. But CCMA was in constant communication with the parties. The process was also complicated that there were other farmers who were not part of the SRVCC, thus making it difficult to negotiate as there was no central point of negotiation.

* + 1. **Briefing by Sundays River Valley Citrus Growers**

The Citrus Industry in the Eastern Cape, the biggest region in the country, is the second largest GDP contributor in the Province. The Sundays River Valley (SRV) has a capacity to export close to 35 million, 15kg-equivalent cartons, annually. However, its production is threatened by periodical illegal, violent and disruptive protest or strike actions. In 2022, the industry has suffered financial loss of approximately R990 million due to the violent strike that led to led to burning of properties and infrastructure.

The citrus industry is seasonal in nature and is estimated that it employs 15 000 permanent workers and during harvesting and processing season it can employ up to 25000 workers. A large percentage of the seasonal workers migrate from within South Africa, especially the Western Cape, as well as from neighbouring countries like Lesotho and Zimbabwe. There are also a large number of employment opportunities created through the service industries, especially Agrochemical and Export companies. It therefore goes without saying that if there were no unnecessary disruptions, the industry could potentially create jobs which are truly needed in South Africa.

1. **Labour organisations and unions in the SRV**

There is an appreciation of the role that the labour organisations and trade unions play at work places. However, in the SRV trade unions are not organised in any meaningful way. The weak organisation can be attributed to the seasonal and migratory nature of employment. In contrast to what DEL reported, the SRVCGA reported that labour unions represented a minority of employees in the SRV and they have recognition agreements at various work places (FAWU, SACTWU, NULAW, AFADWU, SATAWU, DETAWU, SHOWUSA, NUMSA, SACCAWU and SOLIDARITY). The weak organisation of the trade unions have resulted in SANCO taking up space that should have been occupied by work place organisations. In 2014, a group of people under the banner of SANCO led a protest action which resulted destruction of municipal properties. In 2018 SANCO demanded that producers pay above the statutory minimum wage determined for agricultural employees, a demand which was accompanied by a protest action which resulted in violence and destruction of property. Producers were forced to ultimately concede to the demand.

In order to deal with the challenges of the area, the Sundays River Valley Citrus Producers Forum (SRVCPF), the Sundays River Valley Cooperative (SRVC) and the SRV Collaborative were established.

1. **Sundays River Valley Citrus Producers Forum**

The SRVCPF is a voluntary organisation representing more than 95 percent of the producers and pack houses in the SRV. Members of the forum pay a levy per export carton and the funds are used to provide and maintain basic services to all communities in the SRV. The organisation together with other various stakeholders spent more than R30 million in providing and maintaining services such as running water; electricity; sewerage system; school facilities and learning activities; computer facilities; transport of kids to schools and activities. The SRVCwas established in 2018 to develop and empower people on various skills. The majority of the founders were SANCO members.

All the disruptions and damage to properties was blamed to SANCO. The referral of the dispute to the CCMA for mediation aimed at ending the strike as well as improving the conditions did not yield desired outcomes because negotiators were not from among farm workers themselves but SANCO members. It was reported that there are ongoing civil and criminal litigation against the individuals who, it would appear, are abusing the SANCO banner for their own nefarious purposes.

1. **SRV Collaborative**

The SRV collaborative was established because of the unacceptable situation at SRV to avoid future incidents. Its activities are funded by the SRVCPF. The collaborative makes a massive contribution to the community, the latest contribution being the establishment of a Victim Support Centre in ADDO.

The SRVGA, having presented the state of affairs at SRV and demonstrated the severe loss resulting from the violent protest seen at SRV, summarised the consequences as follows:

* It took about three weeks for everyone to get enough pickers again and a lot of the migrating labour left as soon as they could.
* Four to six weeks of the best paying market weeks were missed followed by an enormous, accented peak. Missed sales were never recovered and sales in the peaks happened at reduced values.
* The cold, often wet, weather led to reduced picking hours. For the first time in decades, fruit was literally dumped off.
* Producers would only be able to calculate losses after all sales were finalised.
* The image of this region as a reliable supplier of citrus fruit was severely dented as the market is critically aware of the sequence of strikes over the past years.

1. **The way forward**

There are a number of issues that government and social partners must address in order to remedy the situation (a repeat of the unrest) and build the economy of the area as well as that of the country. The events described above, coupled with an unprecedented escalation in costs - especially fuel and shipping costs, left producers in the SRV economically crippled. Producers are a billion Rand short in money to prepare the crop which in turn could possibly result in reduction of crop and employment opportunities.

Despite the challenges outlined in this report, the SRVGA reported that there are opportunities to grow the industry in the SRV over the medium-term. It could unlock employment opportunities from the current 40 000 employees in peak season to an estimated 65 000 employees by 2028/30. Increase in job opportunities will result in great spinoffs because an increase in 25000 could benefit 100 000 people. There are a number of important steps to take in order to realise these ideals and gain producer and investor confidence and the capacity to further invest in the industry. The proposals of the SRVGA could be summarised as follows:

* Set an Independent Panel that should hear all the grievances and evidence of all allegations made be provided.
* Provision of financial support to producers as many cannot meet their financial obligations due to the strike that crippled them economically as stated above.
* The SRV Municipality, supported by National and Provincial Departments, will have to consider investment and expansion of infrastructure required for the citrus industry and communities in the SRV. The SRVCPF will not waiver in its commitment towards all communities. Equally, the support of the national and provincial government is vitally important in providing the infrastructure (roads, rail or harbours).
* SANCO to consider how it can play its role as a constructive Civic Organization and to completely withdraw from labour disputes. The SRV Collaborative or a similar forum can play a role in bringing people in communities closer to another.
* Labour disputes, where ever that occur, must be allowed to follow legislated labour dispute resolutions process such as the CCMA processes. The latter organisation must intensify its presence in the Valley. Labour disputes should be treated on a case by case not be generalised as if it occurs on all farms.
* The SRVCPF and the various Foundations must continue their community upliftment initiatives.
* Producers should seek the cooperation of the DEL to ensure that sufficient employment is deployed to pick the crop and that migrant workers are legally processed to deploy them as pickers.
* Producers confirmed their commitment in employing South Africans only in pack houses as was the case always.
* SAPS ought to ensure law and order in the Sundays River Valley and focus on drugs, illicit trade, and the large scale of copper theft which is crippling farming operation.
* All role players would have to commit themselves to work harmoniously to unlock the potential in the Sundays River Valley to the benefit of all communities.
  1. **Public meeting of farmworkers and community members**

AS stated above, one of the key activities for the oversight was community public meeting. Given that the Provincial Legislature held public meeting in Kirkwood, the delegation held its public meeting in Addo. In attendance was the delegation from Parliament, Speaker of the SRVLM with local councillors, SANCO, community leaders and individual community members. A total of 109 people attended the meeting and 17 participated by making oral submissions for consideration by the Committee.

Inputs of community members and their organisations can be summarised as follows:

* The 2018 strike action was due to underpayment of workers by farmers. Since 2019 to 2021, there has not been salary increases resulting in another strike in 2022. Whilst there were people who informed the Committee that there were no Trade Unions, workers and community members reported that there are active trade unions operating on farms but are not recognized by farmers just like they undermine Workers Committees. Some workers also alleged that employers/farmers did not allow legal representation of workers at the CCMA processes, making it a very difficult process.
* There is a need to harmonise the situation at SRV. Employers demeanour contributed to the unrest through unfair labour practices such as dismissal of employees who speak out against unfair labour practices or violation of human rights.
* One of the unfair practice relates to employers/farmers refusal to pay farmworkers for the hours spent at workplace (farm). For example, it was alleged that employers pick farmworkers from their homes at around 05:00am to 06:00am in the morning only to sign in for work at 11:00, excluding the hours of their arrival at workplace.
* Some farmworkers allege that some employers practice what is referred to as dummy promotions; meaning one would be given 20 or more staff to supervise but as a supervisor he or she are liable for the wrongdoing of all the staff under him/her.
* Some people raised concerns with regard to equity schemes, empowerment farms as well as ‘the collaborative’. To cite an example, an employee of a certain farm was made to sign documents but she later found out that she was signing for water (either water rights in her name or a municipal account for the farm was in her name). She further reported that she was owing municipality a huge sums of amount for water consumption rates.
* Beneficiaries of the partnerships in the empowerment schemes of all types reported that once they die, the membership lapses and no other member of their families is legible to become a member. Some also accused schemes of not paying out dividends to members.
* Some workers expressed concerns with regard to the shareholder agreement they signed with the help of the DALRRD (or its predecessor DRDLR) insofar as it stipulates that shareholding cannot be inherited after the death of a member. What is more concerning being that in some schemes it is stated that farm workers receive shares in the enterprise when they reach five years of service on a particular farm? However, some farmers have found ways of working around the clause by dismissing farmworkers who are close to reaching five years.
* Members of the public reported that it was for the first time to hear that the SRV Forum has donated about R30 million to the SRV municipality. They wanted to know what the fund was used for.
* Some people accused the SRVGA that it undermined the Workers Committee elected to be part of the negotiation on behalf of the workers. Its role was not recognised.
* The employers/farmers were making relations worse because, after the strike, those that were at the forefront of mobilising for the protest action were dismissed after the strike was called off despite an agreement that no one would be dismissed or suspended. One of those dismissed is Ray Wessels, the Chairperson of the Workers Committee, and other shop stewards including Sibulela Nodoti.
* Employment of undocumented foreign nationals overlooking unemployed people in the SRV valley was one of the major problems. As already stated, they have asked that at least 70 percent of employees at the SRV should be local people and 30 percent be migrants and documented foreign nationals. They allege that foreign nationals were preferred because they were being exploited, they were underpaid and do not complain because they are not documented. Actions should be taken against farmers who employed undocumented foreign workers.
* Communities reported that inspection reports of the DEL would not demonstrate the extent of the challenge of employment of undocumented foreign national because some farmers lock the gates to prevent labour inspectors from conducting inspections. It is so because the DEL is by law expected to notify the employer of the date and time of inspection.
* The role of SANCO also came into question. Some among the members of the public expressed unhappiness with the manner in which SANCO operated in the area. There was a perception that it was an instigator of violence and protest rather than negotiating settlement of labour disputes. However, some on the other hand supported SANCO because it was a civic organisation operating within communities and it gets involved in community struggles such as a fight for employment within the area where they live. Violation of labour rights and other human rights is also something that they will also get involved in.
* Young people should be given opportunity to study agriculture and this means they will be empowered and have job opportunities in the agricultural sector broadly.
* There is a perception of bias against farmworkers. Members of communities raised a concern that one of the commissioners of the CCMA that negotiated the ending of the strike, Mr Marius Kotze, was later contracted to by the SRVGA investigate the issues raised by workers. Farmworkers have lost trust in the process led by the CCMA. This perception was worsened when the CCMA ruled in favour of farmers in of the cases around the strike.
* There is almost absent monitoring of, and oversight over, equity and empowerment schemes. A concern was raised that government spend millions of Rands to buy land but there is no follow-up whether the money has been used for what it was meant for; as a result, beneficiaries are losing out.

1. **Key conclusions**

The Committee, having engaged with the oral submissions of stakeholders, farmworkers and community members, deliberated on key observations as presented in this report. In view of the observations, the following conclusions can be made:

* 1. *Protracted and violent strikes do not only impact the business owners/employers/farmers only, it also impacts negatively on employees/farmworkers.* Employees and communities in the vicinity are also impacted by the strike because when income revenue is affected, the local economy does not grow to create more job opportunities. As a result of strike, businesses that cannot cope and may close shop, or layoff excess labour. Infrastructure damage means that municipalities and private sector might have to divert funds meant of other important services to repairing the damage. In the end, taxpayers end up paying for damaged roads, clinics and schools.
  2. *Unresolved disputes regarding wages and salaries are some of the central factors causing workers to embark on strikes. T*he Committee was not presented with evidence to support that farmworkers in the SRV were paid in terms of the Sectoral Determination for Agricultural Workers. DEL could also not present data to dispel the allegations.However, the demand of payment of R30.00 per hour was above the National Minimum Wage of R23.19 and it is a matter that relevant policy makers must deal with. Whilst some members of the SRVCGA reported that some packers were paid R30 per hour (above the minimum wage), it could not be generalised as much as caution should be taken to avoid generalisation about farmers not paying NMW and violating farmworkers’ labour rights.
  3. *Picking up farmworkers from home and not allow them to stark working the moment they arrive at a workplace can be seen as an abuse of workers.* An irregularity regarding pick up time of farmworkers at 5am and arriving at work between 6am and 7am, to later start their shift at 11am means that farmworkers have about four hours spent at workplace which they are not being paid for. This state of affairs, if not addressed, has a potential to result in further disquiet among workers and could spark protest action. A report presented by the DEL with regard to a finding and consensus about resolving this matter was welcome by the Committee and it is likely contribute to improvement of the relations on commercial farms in the SRV.
  4. *Trade unions and other worker organisations can play a useful role in bringing about workplace stability provided that they are recognised and members can participate freely.* The SRVCGA has reaffirmed its appreciation of the role of Trade Unions at workplace, and that there are 11 Trade Unions. However, their weak organisation and mobilisation might have opened up avenues for other civic organisations such as SANCO to enter into workplace to deal with labour issues which should, under normal circumstances would be the domain of Trade Unions. Trade Union activities might also have been weakened by the alleged non-recognition – a matter that SRVGA disputes and confirming to the Committee that all the 11 Trade Unions have recognition agreements.
  5. *Farming enterprises preferring employment of migrants and undocumented foreign nationals over the local communities are likely to face disruption and violent protest from local communities.* Most of the farms have been built on the back of hard work of local communities, either losing land or the forefathers providing cheap labour on those farms. Morally, some of these large-scale farming enterprises, as this report shows about the SRV Forum, should be involved in community development initiatives. Even more important, is to create jobs for the local communities, especially youth. At the current rate, high levels of unemployment are a threat to sustainability of farming enterprises that overlook local communities when there are job opportunities. The allegation of 70:30 percentages of undocumented foreign nationals to local workers might not be unrealistic given the high number of undocumented foreign nationals that DEL and DHA have found on some of the farms. More investigations are required to fully understand the state of affairs.
  6. *Low levels of prosecution of employers/farmers who employ undocumented foreign nationals, or low fines, do not deter those who are involved in this act of illegality.* Whilst undocumented foreign nationals employed on farms were detained and deported. As stated above, of the three farms where undocumented foreign nationals were employed, only one was arrested and paid a fine of R2500.00 on the basis of calculations made by the Department of Justice and Constitutional Development (DOJ&CD). The Committee expressed concerned over a skewed approach when dealing with employer’s criminality. Employers are treated leniently hence repeat of these transgressions.
  7. *Lack of visibility of inspectors from DEL on farms, as well as lack of plan for regular inspections will ultimately result the types of protest action seen in the SRV.* Whilst there are allegations that inspectors were being denied access to farms for inspections, Committee was of the view that inspectors have a statutory duty and were empowered in law to ensure that they have access. The Committee noted that DEL has presented list of inspections conducted and has not articulated areas where they were prevented, apart from explaining the limitations arising from the fact that they were required to inform the owner prior to visit in which case dishonest employer could stage everything.
  8. *Poor lease management of PLAS farms could result tenure insecurity for farmers and lack of investment on the property by the lessees:* Whilst acquisition of strategically located land in the SRV was welcome, a number of cases where beneficiaries where waiting for title deeds or their lease agreements were not renewed was a worrying factor that could pose a threat to agricultural productivity, and may result in land disputes when access is disputed either by government or any concerned party for whatever reason they may advance. It might also result in uncertainty and the uneasiness from emerging farmers to invest on the farm to improve production. As heard during the public meeting, already communities are alleging that that those who were supposed to benefit from the farms were not because DALRRD was bringing new beneficiaries.
  9. *Share Equity Schemes in which membership, especially former farmworkers or workers have no sense of ownership are unlikely to be sustainable as concerned groups might emerge from within to challenge the status quo.* A major concern related to clauses of the Shareholders agreement which stipulates that shareholding were not transferable even after the death of a member, his/her children could not inherit the shareholding.

1. **Recommendations**

In view of the observations and key conclusions of this recommendations, the Committee recommends the following:

**The Presidency** should –

* 1. Set up an Inter-Ministerial Task Team or Committee to delve into the state of affairs at the Sundays River Valley with a view to develop plans and interventions (short, medium and long-term) to resolve the challenges confronting farming communities in the SRV (both farmers, farm workers and community members). The IMTT, giving due consideration to all the recommendations of this report, should through the Presidency report about its plans and interventions at SRV to Parliament within six months after adoption of this report by the National Assembly.

**The Minister of Agriculture, Land Reform and Rural Development** should -

* 1. Submit a comprehensive list of farms that have been leased out to farmers in the SRV, indicating the cost of acquisition, the number of beneficiaries, the number of years it has been leased for, whether the lease agreement has been renewed, if not why and the current status of the farm.
  2. Reviewing of all share equity schemes, strategic partnerships, joint ventures or any other forms of empowerment schemes or private sector collaboration in the SRV in order to, amongst others, determine if shareholder agreements are transformative and empowering tools for land reform beneficiaries. The review should also consider assessing the financial status of the enterprises since the inception, profit and loss sharing (PLS), and declaration of dividends. Further, assess the socio-economic impact of these schemes on the lives of land reform beneficiaries, looking at all aspects of the relations of production, power and property.
  3. Given that South Africa, after Spain, is the World’s second largest exporter of fresh citrus fruits, the Minister should consider convening a bilateral with the SRVCGA in order to address the concerns specifically for the SRV with regard to infrastructure damage and financial loss that resulted from the strike as well as mechanisms to strengthen market access and how the citrus industry in the SRV can contribute in the fight against unemployment in the Eastern Cape and South Africa broadly and playing a key role in the economic recovery of South Africa.

**The Minister of Employment and Labour** should –

* 1. Ensure that DEL, in collaboration with the DALRRD as a rural development coordinator and the SRVGA, develop a database of unemployed people (especially youth) in the SRV looking for employment; the SRVGA should use the database to source labour both permanent and seasonal.
  2. Using its inspection reports, put together a report that demonstrate the total number of people employed in the SRV, their nationality, place of residence and the nature of employment in order to determine the veracity of the allegations relating to the 95 percent of farmworkers being undocumented foreign nationals.
  3. Ensure that DEL conduct regular follow-up inspections on farms in the SRV to monitor and assess compliance with legislation as well as unfair labour practices that farmworkers complained about. Some of the key issues are BCEA, Sectoral Determination, working hours, OHSA, UIF and most importantly employment equity.
  4. Support the establishment of ‘workplace forums’ as platform for engagement between workers and employees. Similarly, foster environment where membership to trade unions is not hampered by employers/farmers.
  5. DEL should facilitate engagements between Trade Unions operating in the SRV and SANCO in order to clearly delineate areas of focus in order to minimise confusion as unions and civic organisation operate in different manners.
  6. The Minister of Employment and Labour and the Minister of Justice and Constitutional Development should consider reviewing penalties imposed during prosecution of employers who employ undocumented foreign nationals and/or contravene labour legislation generally.

**The Ministers of Police** and **Justice and Constitutional Development** should –

* 1. Ensure that South African Police Services and DOJ&CD, working with the SRVCGA and Workers Committees and the Trade Unions, develop a programme of information campaigns informing residence that damage of public infrastructure and private property as a form of protest is a criminal offence with intension to instil public ownership of public property.
  2. Criminal charges should be laid against the perpetrators of violence during the strike in order to deter people from possible destruction of property in future.

**The Minister of Home Affairs** should -

* 1. Regularly undertake inspections at workplace to verify if all foreign nationals employed on farms have valid documents and permits to work in South Africa. Where there are undocumented foreign nationals, those workers must be detained in order to follow the procedures relating to undocumented people in South Africa. Further, work with the DOJ & CD to ensure that employers that have contravene labour laws are prosecuted and pay high fines or maximum sentence is imposed for the crime so that they are not able to repeat the offence.
  2. With regard to trade unions, the trade unions operating in the Citrus Industry in the area should provide a list of their membership and the farms that they are operating as well as initiatives undertaken or to be taken to increase their visibility in the area. Further, the DEL should do a thorough investigation on the allegations that Trade Unions are denied access by farmers and submit the report to Parliament.

**Sundays River Valley Citrus Growers Association** should consider –

* 1. Developing a network of Traditional Councils and Community Authorities to supply labour for the SRV farms. Further explore avenues for attracting unemployed youth in the province of the Eastern Cape to provide labour in the agricultural sector (both down and upstream industries).

Unless otherwise indicated, responses to the above recommendations should be submitted to the National Assembly by no later than three months after the adoption of this report by the National Assembly.

Report to be considered.

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| Annexure 1: Specific Recommendations of the Eastern Cape Provincial Legislature in relation to site visits to land reform farms | | | |
| Farm name | Background | Finding | Recommendations to the DRDAR |
| *Willow Tree* | * A PLAS farm (101ha) – partnership with SRCC * SRCC is responsible for day to day farm management, identification, mentorship and training of successful black farm manager; also responsible for the transfer of farming and business skills to the beneficiaries; and also responsible for distribution, marketing and sales. * Business has 12 beneficiaries (11 males & 1 female); employs 16 perm. and 83 casual . | * The farm was negatively affected by the strike; it could not meet market demands. * Gender imbalance in both the number of the beneficiaries and of the employees. * The support provided to the farm by the DRDAR, particularly funding, does not make impact towards self-sustainability. * Challenge of theft in the area. | * Support farm management to provide support to enhance farm production capacity. * Monitor the farm and ensure that the gender imbalance is addressed * Review the funding model for development support * Support farm management to establish theft prevention methods. |
| *Siyaphambili* | * A farm of 117.199ha with 101.8 ha of water rights owned by 30 beneficiaries (initially 32). * Beneficiaries bought Siyaphambili farm. * Plans to develop 100 ha of citrus orchards | * Beneficiaries required financial support to be able to cultivate the land and establish the orchards. | * The DALRRD must within its limited resources provide the needed support in order for the farming operations to take place. |
| *Mt Roberts Beef Farm* | * PLAS cattle and goat farm acquired farm in 2018, with three (3) beneficiaries (Sandlana family) * Received 15 heifers of Bonsmara and one bull of Bonsmara (Livestock Improvement Programme). * Has 147 cattle and 68 savana goats; sells weaners to the local market (Paterson and Hobson) * Employs two permanent stock handlers. | * There is a challenge of water in the farm. * The 944 ha of the farm is not divided into grazing camps. * The farm received 15 heifers of Bonsmara and one bull of Bonsmara from the Department Livestock Improvement Programme. | * Provide stock water system as it is highly needed. * Provide the farm with the needed material for camp division. * The Department is commended for its support to the emerging farmers. |
| *Mtongana Livestock Farm* | * An 849 ha livestock farm situated at Tuku village, also plants fodder in 2021/22. * Received technical advice in terms of extension and advisory services and veterinarian. * It has 203 breeding cows, nine bulls, sheep and goats (mainly a weaner production with few cull cows sold at the end of a production chain). * Sells to local butcheries and auctions. * Has six permanent workers (could employ additional 15 casual workers during fodder production. | * Access road is in poor condition; it negatively impacts on timeous delivery of goods. * Not received their tittle deeds and cannot access financial aid from banks. * Livestock Improvement Programme is helping farmers but livestock died just three days after being delivered. * Farmers are in need of an abattoir and the unutilised infrastructure next to Wesley can be converted for the purpose. | * Collaborate with the SRVM and the Department of Roads and Transport to improve farm access roads through IGR. * Fast track issuing the Title Deeds to the beneficiaries. * Review the Livestock Distribution Policy to address incidents of death of livestock. * Develop an abattoir in the area. |