

# **REPORT OF THE SELECT COMMITTEE ON PUBLIC PARTICIPATION, PETITIONS AND MEMBERS' LEGISLATIVE PROPOSAL OF THE 5<sup>TH</sup> MPUMALANGA PROVINCIAL LEGISLATURE: WORKERS' PARLIAMENT 2016**

## **1. INTRODUCTION**

The Constitution of the Republic of South Africa empowers the Legislative arm of the state, particularly the Mpumalanga Provincial Legislature with responsibilities inclusive of Law-making and Executive Oversight. Section 118 indicates that the legislature in executing its responsibilities must involve the public. As part of the mechanism, noting that public involvement in the Legislative process must find expression in all committees and activities of the Legislature, the Legislature has established a Select Committee on public participation, petitions and members' legislative proposals hereinafter referred to as the Committee to intensify public involvement in the Legislative Activities. The Committee, in line with its delegated function, presides over sectorial parliaments. One of the Sectorial Parliaments which the Committee presided over is the Workers' Parliament. The Legislature has therefore delegated the Committee to conduct Workers' Parliament.

## **2. OBJECTIVES**

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

- To educate and share information with workers.
- Facilitate a direct oversight exercise involving all the role players i.e. the Legislature, executive and the targeted beneficiaries in one sitting.
- Provide space for positive engagement on economics of our Province

## **3. THEME FOR 2016 WORKERS' PARLIAMENT**

Advancing People's Power in sustaining the gains of democracy

#### **4. THEMATIC AREAS**

The following were topics for discussion by the Workers' Parliament 2016:

- Measures to mitigate the negative impact of job losses.
- Skills development and youth unemployment.
- Defending the rights of vulnerable workers in the third decade of our democracy.
- The second radical phase of our democratic transition and 2016 local government elections.

#### **5. STAKEHOLDERS**

The following were identified stakeholders:

- Labour federations
- Employers Organizations (NAFCOC, SACOB, BMF etc.)
- CCMA
- Members of the public
- Unemployed
- Local Community (Rural)
- Department of Labour

#### **6. METHOD OF WORK**

The project team conducted three districts workshops in preparation for the Workers' Parliament. The Committee met on 17 May 2016 to discuss the state of readiness to host the Workers Parliament; subsequently, the Committee hosted the Workers Parliament on the 28 May 2016 at the Hlalani Kahle Multi-Purpose Centre in Emalahleni Local Municipality. The event focused on drawing the workers communities from three districts in the Province (Ehlanzeni, Nkangala and Gert Sibande). Each district was represented in all the debates, deliberations and commissions of the Workers Parliament.

## **6.1 Welcoming Remarks By Hon. BT Shongwe; Speaker of the Mpumalanga Provincial Legislature**

In her welcoming remarks, the Honourable Speaker gave the background on the importance of workers day with specific reference to incidents of abuse of farm workers that are continuing, the latest being in the Mvaba farm and the intervention by the Minister of Labour, who visited the farm in trying to address the challenges faced by the workers. The commitment by the Minister of Labour in delegating the Deputy Minister to represent her in the Workers' Parliament was also lauded. The Speaker also indicated that the Legislature has taken a decision to take the sittings of sectoral parliaments closer to the people in different communities of the province, and appealed to the labour federations to continue supporting this initiative.

The Speaker also expressed sadness that bodies of the Lilly mine workers are still trapped underground.

The Speaker concluded her remarks by thanking all the representatives of labour federations for their participation and attendance of the 2016 Workers' Parliament. A commitment was made that the issues raised during the 2016 Workers Parliament will be sent to relevant departments on adoption as the resolutions of the House for implementation and report back to the workers.

## **6.2 Message of support from COSATU**

The Provincial Chairperson of COSATU Mr Mlombo started by acknowledging work done by the government for the people even though there are still challenges. He also expressed disappointment on the issue of Lily Mine Workers who are still trapped underground. He went on to raise the following issues:

- Sectoral Parliaments should not just become talk shows that lack action
- The disbandment of labour brokers

- Questioned the full implementation of the NHI that is forever piloted
- Expressed serious concern on the job losses in the province
- Made an appeal for fast tracking of land redistribution as more than 80% of land is still in the hands of minorities
- Called for government's intervention into the issue of employers who still disregard the rights of workers
- The implementation of employment equity is still a pipe dream
- On behalf of COSATU reaffirmed their support of the government

The MEC for Finance, Economic Development and Tourism; Honourable S Kholwane introduced the guest Speaker of the 2016 Workers Parliament.

### **6.3 Keynote Address by the Deputy Minister of Economic Development**

The 2016 Workers Parliament was graced by the presence of the Deputy Minister of Economic Development, Hon Madala Masuku who delivered the keynote address on behalf of the Minister of Labour. He started by tendering an apology from the Minister of Labour; Honourable MN Oliphant.

The Deputy Minister Masuku continued his address by indicating that the Workers Parliament is taking place when the continent celebrates the 53<sup>rd</sup> anniversary of the OAU, currently the AU. He also went further to relate the freedom of workers to the freedom of the people of South Africa, and stated the AU's commitment to defeating colonialism. The following issues were noted from the Deputy Minister's address:

- The labour federations should be alert about the centre of capitalism, which in turn manifests itself in the exploitation of workers
- He emphasised the 21 years of democracy and the importance of the labour relations Act
- The Republic of South Africa is the only African country represented in the International Labour Organisation with the labour rights enshrined in the Constitution.

- A high need for government to create appropriate labour relations framework and pass laws accordingly.
- The importance of continuous engagements between labour federations and government.
- The blossoming of new labour federations which is a cause for redress in the actual basic principles that led to the formation of labour unions.
- There is a need for more workforces to be unionised as compared to the current one third of workers that are already in unions.
- The more the trade unions become weak, their existence and the labour laws become useless
- Labour federations need people who understand their purpose of existence and why they were formed than being all about popularity, which calls for a need to go back and check what kind of democracy is needed by the working class
- A need to deal with the issues of individual bargaining as compared to collective bargaining
- Workers' liberation is not an easy exercise, and it calls for the labour federations to strive towards a creation of decent work conditions for workers as one of their key roles. In the process caution should be exercised to avoid perpetuating worker fragmentation
- Workplace stability is a very crucial factor in the creation of an environment where the economy will thrive
- It is important for the labour federations to take note of the bosses who exercise capital power over workers, and give them the ability to view workers day as the day they should use to demonstrate workers power
- The liberation movement allows for balance between workers and their employers. Therefore, labour federations should support programmes of the government of the day
- Highlighted the 2013/14 realignment of the Labour Relations Act through amendments and raised serious concerns regarding the protection of the labour legislation, a role that calls for the participation of all role players including the government, employers, employees and the labour federations representing them

- The Department of Labour has given the employers 6 months to fix issues of compliance with the labour laws, failing which will call for the Department of Labour's application of punitive measures.
- Finally, it is the primary responsibility for labour federations to ensure that the workplace is an environment for decent work

In response to the issues raised during the 2015 Workers Parliament, the Deputy Minister indicated the following:

- In order to educate farm workers and domestic workers on their rights, an imbizo was held in which a thousand workers were in attendance including workers unions, the Legislature and representatives from the Department of Labour. More such imbizos will be continued with.
- A labour centre was revamped in Carolina as a means to improve the quality of services to workers
- In order to intensify the process of educating workers, the department produced booklets which are in the process of being translated into different languages used in the Mpumalanga province
- In order to enforce the labour laws, the department continues to hold gatherings in different areas of the province
- Unannounced inspection visits are conducted in those areas earmarked as hotspots by the Department.
- On the exploration of temporary farm workers' provident fund, it was indicated that this matter falls under the jurisdiction of the Financial Services Board

The Deputy Minister concluded his address by making an appeal to labour federations to make inputs that will assist the department, more especially where there is a difficulty in obtaining legitimacy on matters raised. The department of labour has no legislative framework to use in calling for amendments to legislation. It was also indicated that the weak representation of domestic and farm workers calls for serious attention of the labour federations. The low level trade union density that focuses on only one third of the workers against the rest should be viewed in a serious light.

## **7. INPUTS FROM THE COMMISSIONS**

### **7.1 Measures to mitigate the negative impact of job losses**

The Commission under this theme noted with appreciation the report back from the previous Workers Parliament, and made the following inputs:

- The SMMES are to be used as a mitigating factor for youth unemployment
- There is a high need of skills development for all the unemployed youth.
- TVET Colleges should partner with Companies for ease of the placement of Students on completion of their studies.
- Workers must be trained on financial management, to avoid being too indebted which leads to depletion of their funds when they retire or get retrenched.
- The University must channel most resources on producing farmers and not farm employees
- Government must minimise the outsourcing of services as much as possible
- Government must devise means to curb the unfair competition in small businesses and assist in the sustainability of tuck shops in the villages.
- The shortage of land for farming purposes should be addressed as it is a major contributing factor to youth unemployment
- Revive and intensify the campaign of buying of South African products
- More needs to be done to build the government's financial institution
- The resolutions of the commissions should be implemented, monitored, evaluated and report back in the next sitting of the Workers Parliament

## **7.2 Skills development and youth employment**

- Failure of the economy of South Africa to absorb graduates must be given serious attention
- Corruption and nepotism is too high and poses a serious challenge leading to youth unemployment
- The University of Mpumalanga to consider opening for studies in all the faculties
- Government to skill and reskill the youth on scarce skills e.g. artisans
- Government must consider offering free education up to tertiary level
- Government must put in place systems that will support, monitor and evaluate cooperatives

## **7.3 Defending the rights of vulnerable workers in the third decade of our democracy**

- The Department must strengthen the monitoring of labour laws, review the minimum salaries and implement the danger allowance policies
- Government must introduce proper regulations of the taxi industry, to guarantee job security and benefits as workers in the taxi industry are working long hours, that are not well compensated
- Government must pass laws that will compel the taxi owners to register their workers for proper determination of remuneration, and compliance with the Basic Conditions of Employment
- The issue of foreign small business owners not complying with tax and labour laws of our country to be dealt with decisively
- Some inspectors do not help the workers because they are taking bribes from employers
- Inspectors do not talk to workers when they visit work places they only speak to employers and that makes up one side of the story
- Government must discontinue the outsourcing of security services



## **7.4 The second radical phase of our democratic transition and 2016 Local Government Elections**

- Government must conduct workshops to enlighten citizens on municipal demarcation processes
- All workers to participate in encouraging their counterparts to vote
- People must be equipped with the knowledge and understanding of how Local Government is constituted as the sphere of government that is closest to the people
- Local government is divided into three categories Local Municipalities , District Municipalities and Metropolitan Councils
- Every five years there are elections to renew the mandate of the government at the local level
- South African local Government Association (SALGA) represent the concern of councillors in Local Government

## **8. FINDINGS**

- 8.1 The Department of Labour embarked on a process of realigning the Labour Relations Act in 2013/14, and is currently in the process of ensuring that the employers fully comply.
- 8.2 There are employers who do not comply with the labour laws and continue to violate the rights of workers, as a result they were given six months to deal with their compliance issues.
- 8.3 The taxi industry is not properly regulated as a result the workers are exposed to unfair labour practices characterised by lack of job security
- 8.4 The competition between local and foreign small business owners in the villages is unfair as it allows the foreign owners not to comply with tax and labour laws of the Republic of South Africa
- 8.5 The inspectors from the Department of Labour only hold sessions with the employers during their visits, which leave employees with no voice in the issues affecting their work
- 8.6 Corruption and nepotism is too high and it is contributing to failure of

the economy of South Africa to absorb graduates into employment on completion of their studies

- 8.7 The provident fund applicable in the farming sector does not cover all Employees and it falls outside the Department of Labour's jurisdiction
- 8.8 There is a lack of understanding the manner in which the municipal demarcation process works, especially by the senior citizens
- 8.9 The faculties of studies offered by the University of Mpumalanga are very Limited
- 8.10 Some of the cooperatives funded by the government are not sustainable and end up collapsing due to mismanagement of funds and misunderstanding that occurs amongst the founding members

## **9. RECOMMENDATIONS**

The Committee therefore recommends that:

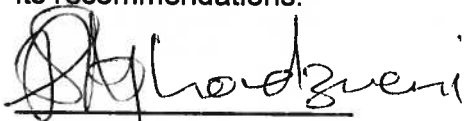
- 9.1 The Department of Labour should intensify the systems of monitoring of compliance by the employers as a means to protect the labour legislation.
- 9.2 The Department of Labour must enforce labour laws and apply punitive measures on employers who after the six months period fail to ensure that they comply.
- 9.3 The Department must introduce proper regulations of the taxi industry, to guarantee job security and benefits pass laws that will compel the taxi owners to register their workers for proper determination of remuneration, and compliance with the Basic Conditions of Employment
- 9.4 The Department should deal with the issue of foreign small business owners who do not comply with tax and labour laws of our country decisively, and devise means to curb the unfair competition in small businesses in order to assist in their sustainability. Revive and intensify the campaign of buying proudly South African products
- 9.5 The Department must fully involve the labour federation representatives when they do inspections, which will help in ensuring that employees become part of the discussions. Inspectors should also desist from accepting bribes from the employers.

- 9.6 The Department must ensure that Government minimise the outsourcing of services as much as possible and the University and TVET Colleges should partner with Companies and other institutions for ease of the placement of Students on completion of their studies.
- 9.7 The Department of Labour must in consultation with the financial services board facilitate the process of exploring the possibilities of including temporary farm workers in provident fund.
- 9.8 Government must facilitate the conducting of workshops to enlighten the concerned citizens on the municipal demarcation processes
- 9.9 The University of Mpumalanga to consider opening for studies in all the Faculties of learning
- 9.10 Government must put in place systems that will support, monitor and evaluate cooperatives as a way of ensuring that they are still in operation and the funds are properly accounted for

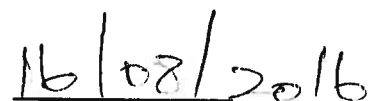
## 9. CONCLUSION

The committee would like to extend a sincere gratitude to all the participants for their meaningful inputs aimed at improving the lives of the workers. The 2016 Workers Parliament played a crucial role in unearthing challenges in the field of labour. The Committee further appreciates the engagements and liaison with the workers through the monitoring of implementation of the recommendations and feedback from the Department of Labour, with the hope to inspire confidence of the workers in viewing the Legislature as the right platform for engagement.

The Committee therefore recommends that the House accept the report with its recommendations.



**HON JL NGHONDZWANI**



**DATE**

**CHAIRPERSON: SELECT COMMITTEE ON  
PUBLIC PARTICIPATION, PETITIONS AND MEMBERS'  
LEGISLATIVE PROPOSALS**

REPORT ON WORKERS PARLIAMENT 2016