

TABLE OF CONTENTS

<i>Foreword</i>	<i>ii</i>
<i>Executive Summary</i>	<i>iv</i>
<i>Acronyms</i>	<i>vii</i>
NATIONAL	
<i>Chapter 1 Introduction</i>	<i>1</i>
<i>Chapter 2 Land Rights</i>	<i>7</i>
<i>Chapter 3 Labour</i>	<i>25</i>
<i>Chapter 4 Safety and Security</i>	<i>35</i>
<i>Chapter 5 Economic and Social Rights</i>	<i>43</i>
PROVINCIAL	
<i>Chapter 6 Western Cape</i>	<i>57</i>
<i>Chapter 7 Northern Cape</i>	<i>73</i>
<i>Chapter 8 Eastern Cape</i>	<i>85</i>
<i>Chapter 9 Limpopo</i>	<i>99</i>
<i>Chapter 10 North West</i>	<i>113</i>
<i>Chapter 11 Free State</i>	<i>127</i>
<i>Chapter 12 Kwa Zulu-Natal</i>	<i>137</i>
<i>Chapter 13 Mpumalanga</i>	<i>149</i>
<i>Chapter 14 Gauteng</i>	<i>161</i>
FINDINGS AND RECOMMENDATIONS	
<i>Chapter 15 Introduction</i>	<i>169</i>
<i>Chapter 16 General</i>	<i>170</i>
<i>Chapter 17 Land Rights</i>	<i>177</i>
<i>Chapter 18 Labour</i>	<i>182</i>
<i>Chapter 19 Safety and Security</i>	<i>187</i>
<i>Chapter 20 Economic and Social Rights</i>	<i>194</i>
ANNEXURE	
<i>Annexure</i>	<i>203</i>

FOREWORD

One of the defining features of the South African Constitution is its commitment to equality and the promise that the various rights enshrined within it will endure for the benefit of all South Africans. In practice however we have seen how those with more resources and influence have been able to use the Constitution to advance themselves while the poor and the marginalized find it difficult to access the various benefits and rights that the new dispensation offers. In many respects the disparities that existed in 1994 continue to do so now and present a formidable challenge to the fragile democracy that we have put in place. It is critical that groups who may be regarded as marginalized and vulnerable are able to see and experience the Constitution working for them. Included in this latter category are the many millions who live and work in farming communities.

The South African Human Rights Commission, being a constitutional body charged with the task of promoting respect for human rights and a culture of human rights, promoting the protection, development and attainment of human rights and the monitoring and assessment of the observance of human rights in the Republic, has received many complaints on human rights violations that occur in our farming communities. The Commission's hearing in Messina in 1999 is an example of the Commission's interventions in this regard. The Commission is also aware of incidents of human rights violations in these communities reported by the media. Examples of some of these incidents are crime including farm attacks, unlawful evictions, racism, gender discrimination, child abuse, denial of access to socio-economic rights such as access to education, health, and water, social security and many other abuses that have an impact on the right to human dignity of the members of these communities.

In view of the human rights situation in the farming communities and in line with its constitutional mandate to promote and protect human rights in South Africa, the Commission decided to conduct an inquiry into human rights violations in these communities in order to:

- *Determine, in a systematic manner, the nature and causes of these violations*
- *Investigate what has been done to address human rights violations in farming communities, and*
- *Determine what could and should be done to deal with these violations in such a way that the human rights of members of this community can best be protected and promoted.*

The inquiry was launched on 11 June 2001 and was followed by background research conducted on behalf of the Commission in order to inform the inquiry. This was followed by a nationwide awareness campaign in order to obtain submissions and complaints on the human rights situation in the farming communities from relevant stakeholders. The information gathered in through research and submission formed the basis of the public hearings, which were conducted in 2002 and 2003. The advocacy and legal services departments, in collaboration with Commissioners, played a major role in the planning and implementation of these hearings. This report is the outcome of the above processes.

The project was executed in an integrated manner and the following individuals and departments are acknowledged for their contribution:

- *The office of the Chairperson (past and present) and CEO for their leadership, commitment and fundraising efforts.*
- *The project committee under the direction of Commissioner McClain and the Deputy CEO, Bongani Khumalo for steering the initiative and overcoming a multitude of challenges.*
- *The Commissioners for participating in and contributing to the various stages of the project.*

- The research and documentation department for developing the concept paper and conducting background research that informed the inquiry.
- The legal services department for spearheading the public hearing stage of the project.
- The advocacy department for their public awareness initiatives and setting up of the various events relating to the project.
- The provincial offices for their contribution to all stages of the project.
- Judith Cohen for her assistance in compiling and editing the report.

In addition, the contribution of a number of individuals and organisations outside of the Commission justify acknowledgement:

- *NGO's, CBO's, advice offices, local councillors, trade unions, farmers unions and government departments for submissions made and presentations delivered at the public hearings.*
- *The interpreters from the magistrates' courts for services rendered and town council officials for providing venues and assistance in preparations for the hearings.*
- *The NGO's for logistical support and public awareness initiatives.*
- *The service providers that dealt with transcribing, recording, catering and cultural performances.*

In particular, a thank you is extended to the panel members who gave of their expertise and time during the hearings and also provided critical comments on the draft chapters of the report and the recommendations. They are Ms S Mabusela, Mr. A Mohamed, Mr. A du Toit, Ms T. Mhlungu, Mr. N. Cloete, Mr. F Hendricks, Mr. N Jack, Mr. L Matsuang, Mr. J Mushasha, Mr. Mbau, Ms J Piliso-Seroke, Mr. W Ellis, Mr. P Helepi, Mr. P Misselhorn, Ms A Gabriel, Mr. P Manzini, Ms A Dominy, Mr. W de Klerk, Ms K Mamba, and Ms D Gilfillan-Weidama.

Most importantly, we are extending a sincere thank you to those living in farming communities who bravely made individual submissions and shared with the panelists the human rights infringements and violations they are experiencing.

We hope that this report and project will contribute to a better understanding of the reality of life in farming communities in our country and will become a tool that will assist in the taking of measures and the implementation of programs to alleviate the numerous problems that beset that community. Ultimately the success of our democracy depends on our ability to ensure that the promise of the Constitution is able to reach all who need it.

*Jody Kollapen
Chairperson
South African Human Rights Commission*

EXECUTIVE SUMMARY

*In recent years reports of farmers brutality towards their workers, shocking employment and living conditions on farms, child labour and the ongoing murders of farmers have dominated our newspapers and radio, giving a clear message that all is not well in the farming and agricultural sector. Some of the reports were confirmed during the SAHRC's visits to farms during Human Rights Week in 2001. In addition, numerous complaints were received from people living and working in farming communities, including farmers. It was therefore imperative that the SAHRC conduct an **Inquiry into Human Rights in Farming Communities**. The nature of complaints have ranged from evictions, lack of social services, lack of access to education, health care, lack of social security grants and the safety and security of people working and owning the farms.*

The Inquiry was launched on 11 June 2001. It consisted of three phases: research; public education awareness; and participation by individuals at public hearings, both provincially and nationally. The Inquiry considered and investigated land rights and tenancy, labour, safety and security and economic and social rights. The Inquiry sought to determine the extent of human rights violations in farming communities, publicise conditions on farms, raise awareness, improve the living conditions of farming communities and improve respect for human rights in farming communities.

The Inquiry looked at complex problems around relationships, capacity, and in many cases, the fragility of our democracy that is almost ten years old. The purpose of the Inquiry was to address those people who feel that the benefits of the Constitution are yet to reach them. The Inquiry does not aim to find anybody culpable, in a sense of guilt or innocence, but rather to try to understand how human rights have been advanced, if they have been advanced, and what the obstacles are to human rights being advanced.

The Inquiry also tried to determine whether the obstacles that lie in the face of realisation of rights are of policy, or in the area of enforcement.

As a national institution supporting democracy, the SAHRC aims to contribute toward alleviating the situation.

The Inquiry sought to identify broad trends and the underlying causes of human rights violations at various levels in farming communities. Therefore individual names of alleged perpetrators were not mentioned.

The evidence and information presented to the Inquiry has shaped the Final Report. It is anticipated that read as a whole, the Report will provide an accurate reflection of the broad trends of the human rights situation in farming communities and the underlying causes of human rights abuses that occur. The Final Report is set out in three parts: Part A reflecting the National Hearings; Part B reflecting the Provincial Hearings; and Part C stating the Findings and Recommendations.

The Inquiry

The prevailing themes of the Inquiry were the lack of access to farms, long distances that must be travelled to access services, a lack of awareness of rights, particularly socio-economic rights, and the lack of service from State service providers. The indignity and suffering of many who shared their experiences with the panel is alarming and highlights the necessity for all role-players to address the issues in a co-operative manner, within a human rights framework based on dignity and the achievement of equality. Many are already doing this and there are many examples of co-operation that need to be supported and encouraged.

Land Rights

Despite constitutional provisions and the promulgation of legislation such as ESTA and LTA to protect those whose tenure on land is legally insecure, evictions and the rights of those

who dwell on the farm owners' land dominated the Inquiry. There is a clear lack of support for the legislation from organised agriculture and a failure to ensure legal representation for those whose rights are violated.

Patterns of land ownership remain, for the most part, unchanged from the Apartheid era and the pace of land redistribution has been slow. The expectations of many people are unrealistic and there is a limited understanding of the complexity of the land reform processes.

Labour

There is general and widespread lack of compliance with labour legislation despite many efforts undertaken by organised agriculture to train their members. Farm workers, for the most part, remain un-unionised and the farming workplace remains non-conducive to the organisation of labour due to lack of access and the environment of intolerance and hostility towards unions. Farm workers' wages on the whole are low, with many regional differences.

Women workers, seasonal workers and illegal foreign workers are more vulnerable and are greatly discriminated against in the farming workplace. There are still incidents of child labour occurring and the CLIG structures that are in place have much work to do to eradicate this practice.

Safety and Security

Unacceptable levels of violence and crime are experienced in farming communities. Violence is perpetrated against farm dwellers by a range of actors, including those in the private and public sector. There is a general lack of confidence in the criminal justice system being able to assist farm dwellers, which is perceived as biased in favour of farm owners.

Farm attacks continue at an unacceptable rate although a number of measures have been put in place to address this issue.

These challenges must be addressed to ensure a safe and stable farming community.

Economic and Social Rights

There is a general lack of access to service delivery from the State and lack of knowledge of economic and social rights. The specific challenges of farming communities are sometimes recognised by government Departments but there is still much that needs to be done.

Little has been done to promote access to housing in farming communities. This can be attributed to the challenges of providing housing to farm dwellers on private property and the Departments of Land Affairs and Housing passing responsibility to each other with little delivery taking place.

The challenges facing the delivery of health services are enormous, given the financial and human resource constraints of the Department. The practicalities of providing an accessible health service in a comprehensive manner in farming communities is one which service providers will continue to grapple with.

The lack of information on HIV/AIDS is of great concern and indicative that the challenges the pandemic presents in farming communities are not being confronted.

The realisation of access to food is negatively impacted upon due to the high levels of poverty experienced in farming communities. The PSNP programme is not operating at optimal levels in farming communities to assist children in accessing food. Access to water also poses challenges in terms of service delivery while many reports were received of access to water being terminated to force farm workers to leave the land.

Social security is not always accessed because farm dwellers do not have ID documents, are unaware of these rights, do not know how to go about accessing them or do not have the resources to access them.

The great distances that children must travel to attend school and the lack of adequate infrastructure impacts upon access to education in farming communities. ABET and education for children with special needs are also not adequately realised in farming communities.

Findings and Recommendations

The Inquiry dealt with issues relating to relationships, power and access. These issues are the key to unlocking the enjoyment of rights that are currently denied. They are complex concepts and some parties may find it difficult to come to terms with and unpack the findings that have been made. The general recommendation is that a Farming Community Forum be formed at a national level where farm dwellers, farm owners and government can interact on a level playing field and holistically address the many difficult challenges that are recognised as facing farming communities. The Inquiry is of the view that due to the seriousness of the issues that need to be confronted and dealt with, this initiative should receive the highest possible support from the State and that it should be based in the Office of the State President.

The panel made numerous findings and recommendations to the various role-players on specific issues that were raised during the Inquiry. Many of these recommendations relate to training to address the lack of knowledge and the many perceptions and realities that stand in the way of people accessing their rights. Although the panellists found that there was general adequacy in the laws that protect people and assist them in claiming their rights, the major challenge confronting farming communities is the barriers that stand in the way of realisation. These barriers include a lack of will power, a lack of service, a lack of access and a lack of resources and knowledge.

ACRONYMS

ABET	<i>Adult Basic Education & Training</i>
ACOC	<i>Area Operational Co-ordinating Committee</i>
AnCRA	<i>Association for Community and Rural Advancement</i>
Agri EC	<i>Agri Eastern Cape</i>
Agri NC	<i>Agri Northern Cape</i>
Agri SA	<i>Agri South Africa</i>
ATR	<i>Army Territorial Reserve</i>
BCEA	<i>Basic Conditions of Employment Act</i>
CBO	<i>Community Based Organisation</i>
CCMA	<i>Commission for Conciliation, Mediation & Arbitration</i>
CFPEO	<i>Cape Fruit Producers Employers Organisation</i>
CLIG	<i>Child Labour Intersectoral Group</i>
COIDA	<i>Compensation for Occupational Injuries & Diseases Act</i>
COSATU	<i>Congress of South African Trade Unions</i>
CRLR	<i>Commission on the Restitution of Land Rights (also know informally as the Land Claims Commission)</i>
ETI	<i>Ethical Trade Initiative</i>
IDT	<i>Independent Development Trust</i>
DLA	<i>Department of Land Affairs</i>
DoA	<i>Department of Agriculture</i>
DoE	<i>Department of Education</i>
DoH	<i>Department of Housing</i>
DoHA	<i>Department of Home Affairs</i>
DoHealth	<i>Department of Health</i>
DoJ	<i>Department of Justice</i>
DSD	<i>Department of Social Development</i>
DWAF	<i>Department of Water Affairs and Forestry</i>
ECARP	<i>Eastern Cape Agricultural Research Group</i>
ECDLA	<i>Eastern Cape Department of Land Affairs</i>
ECDoH	<i>Eastern Cape Department of Housing</i>
ECDoL	<i>Eastern Cape Department of Labour</i>
ECDPP	<i>Eastern Cape Department of Public Prosecutions</i>
ECSAPS	<i>Eastern Cape South African Police Services</i>
EEA	<i>Employment Equity Act</i>
ESTA	<i>Extension of Security of Tenure Act</i>
FAS	<i>Foetal Alcohol Syndrome</i>
FLAC	<i>Franschhoek Legal Advice Centre</i>
FSA	<i>Free State Agriculture</i>
FSDLA	<i>Free State Department of Land Affairs</i>
FSDoE	<i>Free State Department of Education</i>
FSDoH	<i>Free State Department of Housing</i>
FSDoL	<i>Free State Department of Labour</i>
FSDPP	<i>Free State Director of Public Prosecutions</i>
FSSAPS	<i>Free State South African Police Services</i>
GDLA	<i>Gauteng Department of Land Affairs</i>
GDoE	<i>Gauteng Department of Education</i>
GDoH	<i>Gauteng Department of Housing</i>
GDoL	<i>Gauteng Department of Labour</i>
GOCOC	<i>Ground Operational Co-ordinating Committee</i>

GSAPS	<i>Gauteng South African Police Services</i>
ICD	<i>Independent Complaints Directorate</i>
ILO	<i>International Labour Organisation</i>
IMSSA	<i>Independent Mediation Services of South Africa</i>
KZN	<i>KwaZulu-Natal</i>
KZNDLA	<i>KwaZulu-Natal Department of Land Affairs</i>
KZNDoe	<i>KwaZulu-Natal Department of Education</i>
KZNDOL	<i>KwaZulu-Natal Department of Labour</i>
KZNDPP	<i>KwaZulu-Natal Director of Public Prosecutions</i>
KZNLLC	<i>KwaZulu-Natal Land Legal Cluster</i>
KZNSAPS	<i>KwaZulu-Natal South African Police Services</i>
LAB	<i>Legal Aid Board</i>
LCC	<i>Land Claims Court</i>
LDLA	<i>Limpopo Department of Land Affairs</i>
LDoH	<i>Limpopo Department of Housing</i>
LDoL	<i>Limpopo Department of Labour</i>
LRA	<i>Labour Relations Act</i>
LRAD	<i>Land Redistribution for Agricultural Development</i>
LRC	<i>Legal Resources Centre</i>
LSAPS	<i>Limpopo South African Police Services</i>
LTA	<i>Labour Tenants Act</i>
MEC	<i>Member of the Executive Council</i>
MKMVA	<i>Mkhonthe we Sizwe (Western Cape)</i>
MDLA	<i>Mpumalanga Department of Land Affairs</i>
MDoL	<i>Mpumalanga Department of Labour</i>
MDPP	<i>Mpumalanga Director of Public Prosecutions</i>
MDSS	<i>Mpumalanga Department of Safety and Security</i>
MSAPS	<i>Mpumalanga South African Police Services</i>
NAFU	<i>National African Farmers Union</i>
NERPO	<i>National Emerging Red Meat Producers Organisation</i>
NGO	<i>Non Governmental Organisation</i>
NCDLA	<i>Northern Cape Department of Land Affairs</i>
NCDoe	<i>Northern Cape Department of Education</i>
NCDoH	<i>Northern Cape Department of Housing</i>
NCDOL	<i>Northern Cape Department of Labour</i>
NCDPP	<i>Northern Cape Directorate of Public Prosecutions</i>
NCSAPS	<i>Northern Cape South African Police Services</i>
NKUZI	<i>Nkuzi Development Association</i>
NLC	<i>National Land Committee</i>
NOCOC	<i>National Operational Co-ordinating Committee</i>
NORAD	<i>Norwegian Agency for Development</i>
NWDLA	<i>North West Department of Land Affairs</i>
NWDoE	<i>North West Department of Education</i>
NWDoH	<i>North West Department of Housing</i>
NWDoHealth	<i>North West Department of Health</i>
NWDoL	<i>North West Department of Labour</i>
NWSAPS	<i>North West South African Police Services</i>
OHSa	<i>Occupational Health & Safety Act</i>
PSETA	<i>Public Sector Education Training Authority</i>

<i>PEPUDA</i>	<i>Promotion of Equality & Prevention of Unfair Discrimination Act</i>
<i>PIE</i>	<i>Prevention of Illegal Occupation of and Unlawful Eviction from Land Act</i>
<i>POCOC</i>	<i>Provincial Operational Co-ordinating Committee</i>
<i>PSNP</i>	<i>Primary School Nutrition Programme</i>
<i>RDP</i>	<i>Reconstruction and Development Programme</i>
<i>REIP</i>	<i>Rural Education Information Programme</i>
<i>RLT</i>	<i>Rural Legal Trust</i>
<i>RPP</i>	<i>Rural Protection Plan, also referred to as Rural Safety Plan</i>
<i>SAAPAWU</i>	<i>South African Agricultural, Plantation, and Allied Workers' Union</i>
<i>SAHRC</i>	<i>South African Human Rights Commission</i>
<i>SANDF</i>	<i>South African National Defence Force</i>
<i>SAPS</i>	<i>South African Police Services</i>
<i>SDA</i>	<i>Skills Development Act</i>
<i>SDP</i>	<i>Social Discount Product</i>
<i>SETA</i>	<i>Sector Education and Training Authority</i>
<i>SGB</i>	<i>School Governing Body</i>
<i>TAU</i>	<i>Transvaal Agricultural Union</i>
<i>TRAC</i>	<i>Tenure Reform Agriculture Committee</i>
<i>UIF</i>	<i>Unemployment Insurance Fund</i>
<i>WCDLA</i>	<i>Western Cape Department of Land Affairs</i>
<i>WCDoE</i>	<i>Western Cape Department of Education</i>
<i>WCDoHealth</i>	<i>Western Cape Department of Health</i>
<i>WCDoHousing</i>	<i>Western Cape Department of Housing</i>
<i>WCDoL</i>	<i>Western Cape Department of Labour</i>
<i>WCDPP</i>	<i>Western Cape Directorate of Public Prosecutions</i>
<i>WCSAPS</i>	<i>Western Cape South African Police Services</i>

