

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CASE CCT: 245/21

in the intervention application of:

AFRICAN TRANSFORMATION MOVEMENT

Applicant in the
intervention
application

In re:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS**

First Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT IN THE
PROVINCIAL GOVERNMENT OF THE EASTERN CAPE**

Second Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT IN THE
PROVINCIAL GOVERNMENT OF THE FREE STATE**

Third Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT IN THE
PROVINCIAL GOVERNMENT OF GAUTENG**

Fourth Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT IN THE
PROVINCIAL GOVERNMENT OF KWAZULU-NATAL**

Fifth Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT IN THE
PROVINCIAL GOVERNMENT OF LIMPOPO**

Sixth Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT IN THE
PROVINCIAL GOVERNMENT MPUMALANGA**

Seventh Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT IN THE
PROVINCIAL GOVERNMENT OF THE NORTHERN CAPE**

Eighth Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT IN THE
PROVINCIAL GOVERNMENT OF THE NORTH WEST**

Ninth Respondent

**MEC RESPONSIBLE FOR LOCAL GOVERNMENT IN THE
PROVINCIAL GOVERNMENT OF THE WESTERN CAPE**

Tenth Respondent

SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION

Eleventh Respondent

RECEIVED
2021-08-12
APPLICATION FOR LEAVE TO INTERVENE IN TERMS OF RULE 8 OF THE
P. Bag X1, Constitution Hill, Braamfontein, 2013
RULES OF THE CONSTITUTIONAL COURT

2021-08-12

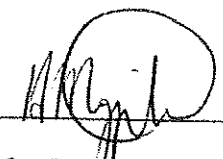
KINDLY TAKE NOTICE THAT the applicant for intervention, the African
Transformation Movement ("the ATM") applies to this Court for orders:

1. Directing that this matter be dealt with as an urgent application and that the ATM's non-compliance with the ordinary rules for service and time periods be condoned.
2. Granting the ATM leave to intervene in the proceedings as a respondent and the right to submit written submissions by Monday 16 August 2021 and present oral argument on Friday 20 August 2021 at the hearing of the matter subject to any directions the Court may give.
3. Any party opposing the ATM's application is directed to pay the costs of the application, including the costs of three counsel.

TAKE FURTHER NOTICE that the affidavit of **VUYOLWETHU ZUNGULA** together with the annexures thereto will be used in support of this application.

TAKE NOTICE FURTHER that if you intend to oppose this application you are required by **13 August 2021**, to lodge with the Registrar and to serve on the applicant's attorneys an affidavit setting out the grounds on which you oppose the application.

TAKE FURTHER NOTICE the ATM has appointed the address of their attorneys below as the address at which they will accept service of all process in these proceedings. ATM accepts electronic service at the following addresses: moshibudiwendy@gmail.com and Litigation3@magigaba.co.za


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TO: THE REGISTRAR OF THE CONSTITUTIONAL COURT

Constitution Hill

Johannesburg

AND TO: MOETI KANYANE ATTORNEYS

Applicant's Attorneys

Per email: moeti@kanyane.co.za

**AND TO: THE MINISTER OF COOPERATIVE GOVERNANCE &
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**AND TO: THE MEC FOR LOCAL GOVERNMENT FOR THE NORTHERN
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Eighth respondent

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AND TO: THE MEC FOR LOCAL GOVERNMENT FOR THE WESTERN CAPE

Tenth respondent

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BY ELECTRONIC MAIL

AND TO: THE SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION

Eleventh respondent

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Tenth Respondent

SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION

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FOUNDING AFFIDAVIT: APPLICATION FOR LEAVE TO INTERVENE IN TERMS OF RULE 8 OF

THE RULES OF THE CONSTITUTIONAL COURT

V-2 WR

I, the undersigned,

VUYOLWETHU ZUNGULA

do hereby make oath and state:

1. I am an adult male and the President of the African Transformation Movement ("*the ATM*"), a registered political party with offices at 10 Xalanga Street, Southernwood, Mthatha, Eastern Cape. As the President of the ATM, I am duly authorised to depose to this affidavit on behalf of the party.
2. The facts contained in this affidavit falls within my personal knowledge, unless the context indicates otherwise, and are to the best of my knowledge and belief both true and correct. Submissions of a legal nature are made on the advice of the ATM's legal representatives.
3. ATM seeks leave to intervene, and be joined as a party, in the Electoral Commission's ("*the Commission*") urgent application for direct access to this Court, in terms of rule 8 of the rules of this Court.
4. The Commission acknowledges that all political parties have a direct interest in the relief sought by the Commission, and the legal principles governing the relief sought (Commission's founding affidavit at paragraph 23).
5. The relief sought by the Commission in this application concerns one of the most fundamental questions that any democratic state may be confronted with:

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whether, and if so, when may an election be postponed, and who decides when an election may be postponed?

6. ATM seeks to intervene in the application in order to demonstrate that the Constitution provides a complete answer to whether, and if so, when an election may be postponed, and who may postpone an election. In doing so, it will be demonstrated that the Commission's contention that there is an "*impossibility*" not contemplated by the text of the Constitution is incorrect and misplaced.
7. ATM does not oppose prayers 1 and 2 of the Commission's notice of motion. I accept that this application is urgent and satisfies the requirements for direct access. ATM does, however, oppose the remainder of the relief sought by the Commission in its notice of motion.
8. There are four parts to this affidavit:
 - 8.1. In **PART I**, we set out the reasons for ATM's intervention and explain why it has a direct and substantial interest in both the legal principles underlying the application and the relief sought.
 - 8.2. In **PART II**, we explain why this Court does not have the power to grant the relief sought by the Commission in paragraphs 3 to 8 of its notice of motion, with reference to the history of section 159 of the Constitution, and the impact of the relief on the constitutionally mandated approach to the structures of government, the rule of law, democracy and the separation of powers.

- 8.3. In **PART III**, we explain what role Parliament has played in dealing with the impact of the Covid-19 pandemic on the LGE, and why it is important that only Parliament can provide the remedy to the Commission's contention that it is impossible to hold free and fair elections on 27 October 2021; and,
- 8.4. In **PART IV**, we place the evidence put up by the Commission regarding the impediments to free and fair elections in their proper context, and explain why, in light of the proper context, the election must be held on 27 October 2021.
9. Although ATM has not, as yet, been joined as a party to the Commission's application, it will nevertheless file its heads of argument on or before Monday 16 August 2021, unless the Court directs otherwise.

PART I: ATM'S INTERVENTION

10. The Commission recognises that all political parties, and indeed every citizen, has a direct and substantial interest in its application. We agree.
11. ATM is a registered political party with two seats in the National Assembly. I am one of the members of Parliament. The other member is Ms Thandiswa Linnen Marawu. Although ATM may be regarded as one of the "smaller" parties, it is a newly formed party, having only been established in 2018, prior to the national government elections in 2019.

12. In addition to ATM's two seats in the National Assembly, it also has a seat in the Eastern Cape Provincial Legislature and the KwaZulu-Natal Provincial Legislature. It is clear that although ATM is a "smaller" party, it has done considerably well in elections, notwithstanding the fact that it does not have the established history of larger parties.
13. ATM's success cannot be separated from the fact that South Africans are desperate for change, particularly at local government level where corruption is rampant and service delivery is poor.
14. Regular elections is the vehicle for that change.
15. ATM has candidates in every ward in the country, ready to lead at a local level. The relief sought by the Commission has a direct and substantial effect on each of the ATM's candidates who have put themselves forward for election on 27 October 2021.
16. ATM has made submissions to the Inquiry established by the he Commission in terms of section 14(4) of the Electoral Act, and chaired by Justice Moseneke (*"the inquiry"*). ATM's first submission was made on 14 June 2021, and supplementary submissions were made three days later on 17 June 2021. I annex both submissions as **ATM1**.
17. In these submissions ATM set out the reasons for which the election cannot be postponed, and why it is possible for the LGE elections to take place on 27 October

2021 in a free and fair manner, provided that Covid-19 protocols are observed. In particular, it was explained, *inter alia*, that:

- 17.1. The text of section 159 of the Constitution is peremptory and requires that a LGE take place within 90 days of the expiry of the 5 year term of municipal councils;
 - 17.2. There is no evidence that a LGE, where all Covid-19 protocols are observed, would constitute a “super-spreader event”;
 - 17.3. It would be irrational to postpone LGE on account of the election being a “super-spreader event” when, on a daily basis, citizens are forced to queue in long lines for social grants, taxis, buses, trains and shopping centres generally. To do so, would irrationally place the economic interests above the interests of democracy and constitutionalism; and,
 - 17.4. Covid-19 did not impose an impediment to several by-elections that ATM participated in during 2020.
18. I am advised that this Court has held that where the requirements for intervention are satisfied, it must allow intervention. ATM satisfies all of the requirements for intervention:
- 18.1. It has a direct and substantial interest in the subject matter of the litigation. Submissions were made by the ATM to the inquiry regarding the peremptory effect of section 159 of the Constitution, and why the LGE can take place freely and fairly on 27 October 2021;

- 18.2. It has a direct and substantial interest in the outcome of the application. The relief sought directly affects ATM: it has candidates who have put themselves forward for election in all of the wards across the country under the ATM; it represents a constituency desirous of an election, and it offers voters an alternative choice.
- 18.3. The application, and the reasons for intervention, are self-evidently not frivolous. As demonstrated below, there are important reasons why this Court cannot interpret section 159 of the Constitution to authorise the relief sought by the Commission. To do so would amount to a *de facto* judicial amendment of the Constitution. This is impermissible.
19. In the event that ATM is joined as a party to the application, I pray that the remainder of this affidavit is read as an answering affidavit to the Commission's founding affidavit.

PART II: UNDERSTANDING SECTION 159 OF THE CONSTITUTION THROUGH ITS HISTORY, THE TEXT AND THE STRUCTURE OF GOVERNMENT.

20. The evolutionary history of section 159 of the Constitution reveals that the current version of the text of section 159 of the Constitution was intended to cater for contingency situations. It is therefore incorrect to contend that both section 159, and the Constitution generally, do not address "*impossibility*". It does.
21. Section 179 of the Interim Constitution regulated local government elections. It provided that local government elections must be democratic and must take place

in terms of applicable law, and at intervals of not less than three and not more than five years.

22. The Constitutional Assembly replaced section 179 of the Interim Constitution with section 159 of the Final Constitution. In terms of section 159, *"the term of a municipal council may be no longer than four years, as determined by national legislation"*.
23. In 1998, less than two years after the Constitutional Assembly adopted the text of section 159, Parliament decided to amend the section by making two material changes to it:
 - 23.1. First, the amendment replaced the four year term of municipal councils with a 5 year term; and,
 - 23.2. Secondly, subsection (2) was inserted to specifically include the contingency or buffer period of 90 days, within which it is compulsory to hold a LGE, after the expiry of the 5 year term.
24. Before the 1998 amendment, section 159 of the Constitution was rigid. Both the Interim Constitution, and the unamended version of section 159 did not cater for contingency situations. The 1998 amendment sought to do just that.
25. I annex as **ATM2** a copy of the Constitution of the Republic of South Africa Amendment Bill, 1998, together with its memorandum of objects. Self-evidently, the amended section seeks to introduce flexibility in the face of an otherwise rigid section.

26. When a supermajority of Parliament decided to amend section 159 of the Constitution in 1998, it sought to set a new rule. It contemplated that if there was to be any delay in holding an election that delay could only be for a maximum of three months – 90 days.
27. Correctly, Parliament was concerned to set a hard-and-fast rule of 90 days. A discretionary or permissive section could easily be abused and undermine the right to regular elections.
28. Accordingly, the Constitution only recognises two instances when an election may be delayed or postponed:
- 28.1. The first instance is when an election cannot take place on a particular date or at a particular voting station because it would not be free and fair. However, the election must still take place within 90 days of the expiry of the municipal council's term.
- 28.2. The second instance is when a state of national emergency is called because the life of the nation is threatened. In this instance, the right to vote may be suspended in accordance with section 37(4) of the Constitution, with constitutionally mandated supervision by Parliament.
29. The second instance does not find application. The executive has elected to respond to the Covid-19 pandemic through the state of national disaster instead of a state of emergency in terms of section 37 of the Constitution. It bears mention that the state of national disaster has been on-going for a year and a half without

the Parliamentary oversight envisioned by the Constitution in respect of a state of national emergency.

30. The Constitution does not recognise a 'third' basis for postponing an election. The "impossibility" scenario contended for by the Commission is clearly catered for by the Constitution. But if a third basis is to be recognised for postponing an election, it must be Parliament who does so and not this Court.

SECTION 159 OF THE CONSTITUTION AS A RULE AND NOT A PRINCIPLE

31. If this Court interprets section 159 of the Constitution in a manner that affords the Commission the relief it seeks, it would amount to a *de facto* amendment of the Constitution by the Court.
32. The text of the Constitution does not permit the Court to extend the five year period of municipal councils, nor does the text permit the Court to extend the 90 days within which an election must be held.
33. Section 159 of the Constitution was intentionally framed as a clear rule and not an opened-ended principle. It is not a permissive norm or standard that allows for a generous interpretation. It is a hard-and-fast rule with no penumbral or grey area.
34. There can be no doubt that this Court must read the Constitution generously to advance the rights in the Bill of Rights. But that reading has limits: it cannot distort the language, or alter the clear meaning of words. If the text is to be amended, it

cannot be done through interpretation. It must be done by a supermajority in Parliament.

35. The separation of powers demands that when the Constitution speaks in unequivocal terms, it is honoured in that way. When the Constitution prescribes that the National Assembly must consist of no more than 400 women or men, it does not mean it may consist of 401 persons; when the Constitution prescribes that the President may only be elected for two terms, it does not mean that the President may be elected for two- and-a-half terms. And, when the Constitution prescribes that a municipal council must be elected within 90 days after the expiry of five years, it does not mean that it may be elected within 180 days after the expiry of the five year term.
36. When the Court gives effect to the clear meaning of a rule, it does not show deference to Parliament. Instead, it acknowledges that each branch of government plays a distinctive role, and it respects the role played by distinctive branches of government.

PART III: PARLIAMENT MUST BE ALLOWED TO CORRECT ITS INACTION

37. Parliament has failed to consider the impact of Covid-19 on the LGE. Although it is recognised by both the Commission and the inquiry, that political parties disagree as to whether the LGE on 27 October 2021 can be free and fair, this issue was never debated or even considered by Parliament.

38. The Commission has not approached Parliament on resolving the question of a LGE in light of the Covid-19 pandemic. Instead, it has adopted the approach that a Report is to be prepared on whether it is possible for a free and fair election to take place on 27 October 2021. When the Report was released, the Commission elected to approach this Court instead of Parliament.
39. There was no deliberation at all, as to what could be done to ameliorate some of the concerns identified by parties that are perceived to be impediments to a free and fair election.
40. Quite simply, the question of a LGE was not considered by Parliament at all. The Parliamentary timetable for the last three terms demonstrate that Parliament made no attempt to grapple with the impact of Covid-19 on the LGE. I annex the Parliamentary timetable for the last three terms as **ATM3**.
41. It is of concern that there was no engagement by members of Parliament on this important question. Instead, the only semblance of deliberation was through the submissions made by political parties to the inquiry setting out their views. This is unfortunate.
42. One of Parliament's purposes is to deliberate over differences of views. Through this deliberation, positions may change and new solutions to existing concerns may be forged. The submissions made to the inquiry is no substitute for Parliamentary deliberation. Essentially, by failing to deliberate and even consider the question of a free and fair LGE in light of the Covid-19 pandemic, political

parties deprived themselves (and by extension South Africans) of an opportunity to convince one another, and find solutions to legitimate and/or perceived concerns.

43. All of this is important for democracy. In effect, this Court is being asked to resolve something that could easily have been resolved by Parliament through the deliberation expected of it by the Constitution.
44. Parliament could easily have debated and considered the scientific evidence, and resolve that extra Covid-19 precautions must be observed on the day of election because it is surest way to prevent infections, whilst still honouring the Constitution's commitment to regular, free, and fair elections. As paragraph 135 of Justice Moseneke's Report notes:

"[135] Nonetheless, it can be gleaned from the available data that in countries such as South Africa, Egypt, and Ghana where mandatory Covid-19 protocols were put in place, and properly enforced, there were no reports of a spike in Covid-19 infections because of the elections. Whereas, in countries where there were no Covid-19 measures, or where they were not adequately implemented, for example in Burundi and Malawi, there appears to have been an increase in Covid019 infections after the elections". (emphasis added).

45. There would be no need for this Court to be asked to do the impossible and amend the Constitution through interpretation, if Parliament fulfilled the role expected of it by the Constitution.
46. But Parliament's failure is not a reason for the Court to do the impossible. Instead, Parliament must now correct its error, and be allowed to deliberate and resolve the question of a LGE during the Covid-19 pandemic.
47. It may be the case that Parliament resolves to amend the Constitution because there is a genuine impossibility of free and fair elections, that can only be overcome by a constitutional amendment. Or, Parliament may decide to reject an amendment because the people, through their elected representatives, are satisfied that a LGE can take place on 27 October 2021, in a manner that is free and fair.
48. Either way, constitutionalism and democracy requires Parliament to solve the problem, not the Court. It is possible for Parliament to amend the text of section 159 of the Constitution. It is not possible for this Court to do so through interpretation.

PART IV: THE POSSIBILITY OF FREE AND FAIR ELECTIONS IN LIGHT OF THE EVIDENCE

'THE BEST TIME FOR AN ELECTION IS NOW'

49. There is no guarantee that an election in February 2022, will be any safer than an election in October 2021. As Professor Shabir Madhi explained in his submissions before the inquiry:

"Even with the aspirational goal of vaccinating 40 million (now by March 2021) in SA, it is unlikely that "herd immunity" will be reached. Instead, the goal needs to be maximal protection of high risk individuals to protect them from severe disease and death, which itself would enable a return to normalcy – even with on-going circulation of the virus and occasional resurgences". (record page 507)

50. Prof Madhi explains that part of the problem is that "South Africa lags behind the global rate of vaccination, as well as compared to its peers such as Chile and other middle income countries" (record page 506).

51. It is therefore a matter of conjecture that an election in February 2022, will be any safer than an election in October 2021.

52. In the presentation made by Prof Salim Abdool Karim to the inquiry on 1 July 2021, he explains (with reference to the graph on page 502 of the record) that the best time for an election is in October 2021, rather than 3 months down the line:

*" I estimated what would the case numbers be if the elections were delayed three or six months. Now you can delay it nine months and so on, I didn't do those scenarios. **But, if you go with an October election, based on***

what we understand the epidemic to be doing right now, we'll be in low transmission. If you delay by three months we will still be in low transmission, but we will be at the very early stages of a fourth wave. If you delay by six months, we will be recovering from our fourth wave. So, that's what these three bars tell you. If you look at these three bars, the best time is now rather than three months from now or six months from now... If you look at these scenarios October is probably a safer bet than going with December or March.

Now, it might not be that we will have a fourth wave, in which case a three month delay or six month delay will be better. But I don't know that. I don't know if we'll have a fourth wave. I'm just going on the basis that every time each subsequent wave has been worse than the previous one. All my ideas that we'll do better as we go along has not panned out".
(emphasis added).

53. Prof Karim's presentation in which he explains the graph at page 502 of the record can be found at 8:15:40 at https://www.youtube.com/watch?v=NE7XOCT6nw&ab_channel=ElectionCommissionofSouthAfrica%28IEC%29
54. Prof Karim's medical expert submission before the inquiry is that a LGE in October 2021, is less likely to expose South Africans to the harms of Covid-19 and threaten their health and lives. As Prof Karim remarks "the best time is now".

55. Inasmuch as Dr Buthulezi, the Director-General of Health, expects that the 40 million target necessary for population immunity will be reached by February 2022, this expectation appears to be contradicted by Prof Madhi, who explains that evolving science demonstrates that it is futile to talk about herd or population immunity.
56. In a publication titled "Covid-19 herd immunity? It's not going to happen, so what next?" by Prof Madhi dated 3 August 2021, annexed hereto as **ATM4**, he explains that:

"The evolution of the virus has been so rapid that the Delta variant, which is currently dominating the world, is at least twice as transmissible as the ancestral virus that was circulating.

What this means is that herd immunity is no longer a discussion the world should be having. *We should start to avoid using that term in the context of SARS-CoV-2, because it's not going to materialise—or is unlikely to materialise—during our lifetimes.*

When politicians and others speak about herd immunity, unfortunately, they are under the misconception that the current tools we've got are adequate to eliminate the virus. It's not what we have at hand right now.

Instead, we should be talking about how to live with the virus. The tremendous success that's materialised with Covid-19 vaccines allows us to do this, without actually getting into the herd immunity threshold."

57. Prof Madhi goes on to explain that:

“... Also, for the now dominant Delta variant, immunity against infection (not only Covid-19 illness) would need to be closer to 84% for the “herd immunity” threshold to be reached”.

Secondly, failing to face up to the reality that herd immunity can't be achieved will mean that countries like South Africa will continue to believe that on-going restrictions will get them there. That will compromise the lives of people on multiple fronts—including education and livelihoods”.

58. Accordingly, even if South Africa vaccinates 67% of its population by February 2022, this is still not likely to achieve the population immunity which will render LGE in February 2022 safer than an election in October 2021. This is because the statistics relied upon by the government for population immunity is based on the beta variant of Covid-19 and not the dominant delta variant.
59. The truth is that the virus is unpredictable, and our the challenges it poses are constantly evolving. As Prof Madhi explains in his submissions before the inquiry, there may be newer variants and mutations that develop. All of this could easily contribute to further waves of the virus, and more restrictive lockdowns.
60. What we do know, however, is that observing Covid-19 protocols significantly reduces the risk of infection. Justice Moseneke recognises as much at paragraph 153 of the Report.

61. Notably, the Commission overlooks the evidence by Prof Karim that the best time for an election is in October 2021. What is more, the Commission makes no attempt to consider the impact of the delta variant, and whether South Africa is likely to reach population immunity in light of the challenges posed by the new delta variant, and possible future variants which renders the 67% vaccination target meaningless.

THE BALANCE TO BE STRUCK AND “ THE THREAT TO LIFE AND LIMB”

62. The importance of an election cannot be overstated. This Court has repeatedly affirmed the importance of regular, free and fair elections. Undoubtably, elections are important because it gives expression to the will of the people. But is also important because it contemplates the peaceful transfer of power.
63. Quite literally, there is a threat to life and limb every single day that South Africans are forced to endure rampant corruption and poor service delivery.
64. Lives are lost when students are forced to use pit latrines, instead of functioning toilets. And people die when they do not receive the medical attention they require because the government has neglected to ensure that hospitals are adequately equipped. The examples of the threat to life and limb caused by poor governance is endless, many of these examples have come before the courts, including this Court.

65. An election not only provides an opportunity to install a new government; for many South Africans (and indeed, many of my constituents) it is their only hope to protect their and their families, health, and livelihoods.
66. South Africans expose themselves to the risk of infection every day. When we enter public transport such as a taxi, bus or train, we know that there is a risk of contracting the coronavirus.
67. When we enter shopping centres to purchase food, we risk infection in order to feed our families.
68. And, when South Africans queue for a social grant, or indeed even a vaccination, (in the largest vaccination drive in the history of the country) they know that there is a risk of being exposed to the virus.
69. As Prof Madhi explains, we must learn to live with the virus. There can be no doubt that if we had a constant hard lockdown, the virus will not be transmitted. But that is not reasonable, and trade-offs are made.
70. The government permits economic activity (in the face of exposure to the virus) because lives will be lost without it. In light of these trade-offs, the Commission adopts the irrational position that what is required is a postponed election because there is a risk of infection. It does so, even though it recognises that there is still a risk of infection in a postponed election.

71. The health and economic trade-offs made by the South Africans every day who risk infection by queuing for a vaccination, social grant and shopping centre in order to protect their health and livelihoods, are not ignored. So too, should the importance of regular elections and democracy not be ignored in balancing the response to the Covid-19 pandemic.

“INTERNATIONAL EXPERIENCE”

72. All of the examples cited by the Commission regarding postponed elections internationally have one thing in common: they all concern elections postponed by legislatures and not the Courts.
73. The Commission correctly notes that:
- 73.1. France’s legislature enacted the Emergency Response to the Covid-19 Epidemic Act, 2020, which postponed France’s municipal elections.
- 73.2. In England, the House of Commons passed the Coronavirus Act 2020, which postponed local government elections; and,
- 73.3. Brazil passed a constitutional amendment in order to permit postponing local government elections.
74. In all three countries cited by the Commission (and the Report), the decision to postpone the election was made the people through their representatives, rather than the Court. It appears that international experience does not evidence an election postponed by a Court on account of the Covid-19 pandemic.

CONCLUSION

75. For all the reasons above, it is submitted that ATM falls to be joined as a party to these proceedings, and the Commission's application falls to be dismissed.



VUYOLWETHU ZUNGULA

DATED AT Cape Town THIS 12 DAY OF AUGUST 2021.

Signed and sworn before me at Cape Town on this 12 day of August 2021 the deponent having acknowledged that he knows and understands the contents of this affidavit, has no objection to taking the prescribed oath and considers the oath to be binding on his conscience.



COMMISSIONER OF OATHS

William Michael Rosenberg

COMMISSIONER OF OATHS

Ex officio

Advocate of the High Court of South Africa

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ATM 1

14 June 2021

The Electoral Commission of South Africa (IEC)
Tugela House
1303 Heuwel Avenue
Centurion

ATTENTION: Justice Dikgang Moseneke

Dear Sir

ATM SUBMISSION OF INQUIRY ON FREENESS & FAIRNESS OF 2021 LGE

Your letter dated 07 June 2021 regarding the above-mentioned matter bears reference. Based on your letter, our understanding of your terms of reference are as follows:

- (a) Enquire into, make findings and report with recommendations on the likelihood that the IEC would be able to ensure that the forthcoming 2021 Local Government Elections (LGE) will be **free and fair**, in view of:-
 - (i) the challenges posed by the Covid-19 pandemic; and
 - (ii) the measures promulgated by the government to curb the continued spread of the pandemic.
- (b) Indicate **additional measures** that the IEC may be required to implement in order to **realise free and fair elections** within the context of the of Covid-19 pandemic.

Based on the terms of reference for the inquiry from Electoral Commission of South Africa (IEC) mentioned above, the African Transformation Movement (ATM) would like to make the following submission:

The African Transformation Movement (ATM) is a Political Party represented in the National Assembly, and both in the Eastern Cape Legislature and KwaZulu-Natla

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Legislature. We have an interest in the forthcoming 2021 Local Government Elections (LGE) since we will be contesting elections in all the South African Wards, Metropolitan Municipalities, Local Municipalities and District Municipalities.

1. Free, Fair Elections and Good Governance: Carrier for Service Delivery

In a democracy such as ours in South Africa, **the power of law makers flows from the voting citizens, and lawmakers act as the citizens' proxies.** This delegation from voters to legislators gives the law its legitimacy or force. Correlatively, the obligation to obey the law flows from the fact that the law is made by and on behalf of the citizens. In sum, the obligation and the legitimacy of the law, and the obligation to obey the law flow directly from the right of every citizens to vote. As a practical matter, we require all within our country's boundaries to obey its laws, whether or not they vote. But this does not negate the vital symbolic, theoretical and practical connection between having a voice in making the laws and being obliged to obey it. This connection, inherited from social contract theory and enshrined in the Constitution, stands at the heart of our system of Constitutional Democracy.

The right of all citizens to vote, regardless of virtue or mental ability or other distinguishing features underpins the legitimacy of South African democracy and Parliament's claim to power. **A government that restricts the franchise to a select portion of citizens** is a government that weakens its ability to function as the legitimate representative of the excluded citizens, jeopardizes its claim to representative democracy and erodes the basis of its right to convict and punish law-brakers. This therefore means that the right **to elect legislators in a free and unimpaired fashion** is a bedrock of our political system.

Free and fair elections are necessary pre-condition and requirement for good governance. If therefore good governance is the goal for free and fair elections, elections must be processed towards attainment of this goal. In other words, elections should enable society not to get the leaders who enslave them but leaders whose character is prescribed by **Jesus Christ** in the Book of **Mathew 20:20-28** as follows:

"Among the heathen, kings are tyrants and each minor official lords it over those beneath him. But among you it is quite different. Anyone wanting to be a leader

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among you must be your servant. And if you want to be right at the top, you must serve like a slave. Your attitude must be like My own, for I, the Messiah, did not come to be served, but to serve, and to give My life as a ransom for many".

Mathew 20:20-28 lays down the basic law for developing values and principles for good governance and free and fair elections. This scriptural word articulates the dialectical relationship between the electorate and the persons they deploy to serve in public institutions. People elect into office servants and not tyrants who lord it over the electorate. The message is that democratic elections are a sacred selection of true and humble servants whose daily business is to better, and not betray, the lives of the people.

The challenges of abiding by this basic law is that most practitioners of politics and the political organizations consist of people who are not by words and deeds followers of the Word of God as propounded in the **Mathew 20:20-28**. They walk by sight and not by faith. Hence in elections they see opportunities for access to public status, employment and accumulation of wealth and not opportunity to provide selfless service, suffering and sacrifice. This is the context within which electoral competition rules and governance principles are often bended to serve personal and family interests.

South Africa is functioning as a democracy in which laws are established, which amongst others, provide for the right to vote and to be elected at **genuine periodic elections**. The rationale for genuine periodic election is on the understanding that the electorate take a risk of voting for electoral promises made by representatives with no guarantee of delivery. Once you increase this period, thereby making it not to be genuine, you are actually denying the electorate free expression of their will. **Right to elections delayed is actually right to elections denied**, thereby making elections not to be free and fair. We cannot allow the current Councillors to overstay the period given to them by the electorate, particularly given the high levels of corruption by our Councillors. It is not in anybody's interest to see the electorate taking law in their hands and engage in protest simply because law is not protecting them. For that matter postponing elections for more than the legislated period is unconstitutional.

It is true that Covid-19 pandemic is posing some challenges towards the freeness and fairness of these 2021 LGE, but those challenges are not insurmountable. A number of By-elections were successfully held during various levels of Covid-19 pandemic. Besides the most vulnerable group with respect to Covid-19 are queuing every month for their grants and there has never been complaints regarding the abnormal spread of Covid-19. It was the same situation in Post Offices where people were queuing to collect R350 SRD Grant. Also, on a daily basis workers queue for buses, taxis and trains going to work. When Covid-19 protocols are observed risk of contamination is minimised.

The ATM would therefore like to make the following submission to the Inquiry with respect to free and fair elections during 2021 LGE as influenced by Covid-19 pandemic:

- (a) Of all the key stakeholder during elections, voters are critical. Both the government and Political Parties are mere proxies that represent and get a mandate from the voters. The view of the voters is critical in this matter. If voters are ready for 2021 LGE, IEC is duty bound to ensure that they happen without compromising the health of the voters. As servants of the people the government and the Political Parties should assist communities to get what they want.
- (b) Tempering with the five-year election period is a very serious violation of the social contract between the people and the leadership. Change is healthy and it is a way of putting pressure on politicians to deliver their promises on time. Never delay elections!!!
- (c) By-elections held during various stages of Covid-19 lock down is a practical evidence that full blown Local Government Elections can be held as long as precautionary measures are observed. For that matter no one is sure when the Covid-19 will end. Maybe variant 4 and 5 are still to come. Half a loaf is better than what is not scientifically known.
- (d) Strict Covid-19 measures will teach people to observe these protocols more. This will be an opportunity for Political Parties to raise awareness to their constituencies about the importance of adhering to Covid-19 protocols. When they see their trusted leaders adhering to these set government measures and

respecting Covid-19 protocols they will follow suit in doing the same. When Political Parties do their campaigns, they even go to remote rural areas where there is no signal for a TV or radio. Some will be hearing for the first time about the dangers of Covid-19 and effective methods of protecting themselves against it. By this, what seems to be a disaster may be converted into an opportunity. Running away from the problem is not a best way of dealing with it.

- (e) The very Covid-19 pandemic has introduced not only a health problem but an economic problem. When dealing with the consequences of the Covid-19 pandemic the economy of the country which is currently on its knees need to be taken into consideration. One critical way of doing that is to ensure that people vote for the leaders of their choice and also give them a new mandate.

2. Additional Measures to Realise Free and Fair Elections

Over and above the existing measures promulgated by the government do deal with Covid-19 pandemic, ATM would like to recommend the following additional measures in order to realise free and fair elections:

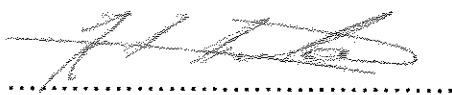
- (a) The scope of special votes should be extended to those people who are vulnerable to Covid-19, e.g., 60 years old and more, tested positive for Covid-19 pandemic, etc.
- (b) Means and ways should be developed to allow those who want to vote but are undergoing quarantine sessions due to Covid-19 pandemic.
- (c) The Electoral Commission of South Africa (IEC) must come up with extra measures to ensure that the Covid-19 pandemic protocols does not compromise the monitoring by Political Party Agents and independent electoral monitoring bodies in ensuring freeness and fairness of 2021 LGE.

3. Conclusion

- (a) In conclusion, we would like to register our interest, on behalf of constituency, that the 2021 Local Government Elections should be held as scheduled for 27 October 2021. This should be done with strict adherence to Covid-19 pandemic measures.

- (b) In addition to measures promulgated by the government, we would like the IEC to implement extra measures to deal with Covid-19 pandemic as outlined in 3(a),(b)&(c) above.
- (c) The Covid-19 pandemic might have compromised the election campaign for the Political Parties but that has happened to all Political Parties equally and there is unfairness imposed to some Political Parties while advantaging others. Voters are more important than the government and Political Parties who are proxies.
- (d) The ATM participated in a number of By-elections that took place during the period of the Covid-19 pandemic across the country. Our experience is that there was never any impeding element in monitoring that were imposed by the Covid-19 pandemic measures. Save to say that in general South African Elections are never free and fair. They favour more the Political Party that is already in power and to a lesser extent the bigger Political Parties with resources to do monitoring. Even the Presiding Officers generally do not take you seriously if you are a small Political Party. For instance, as the ATM, we raised a complaint with the IEC and the Electoral court in one By-election that we felt was not handled fairly by IEC officials but we never received a response from the Electoral Court since April 2019 to date.
- (e) As the ATM we would like to request the Inquiry to afford us an oral presentation to outline and emphasise our view on this matter.**

Yours in National Peace Revolution (NPR)



Thandisizwe Khukula
ATM SECRETARY GENERAL

COMMISSION ON FREE AND FAIR ELECTIONS DURING LOCAL GOVERNMENT ELECTIONS, 2021

CHAIRPERSON: THE HONOURABLE JUSTICE, DIKGANG MOSENEKE

AFRICAN TRANSFORMATION MOVEMENT SUPPLEMENTARY SUBMISSIONS

INTRODUCTION

1. The Commission of inquiry, **"the Commission"**, has been established to check the freeness and fairness of local government elections earmarked to be held in October 2021.
2. Subsequent to the African Transformation Movement, **"ATM"**, submitting it's submissions dated 14 June 2021, it has deem it fit and proper to supplement the aforesaid submissions.
3. It is to be noted that all South African citizens irrespective of their age have a right to vote. The right to vote is of course indispensable to, and empty without, the right to free and fair elections, the latter gives content and meaning to the former. The right to free and fair elections underlines the importance of the right to vote and the requirement that every election should be fair has implications for the way in which the right to vote can be given more substantive content and legitimately exercised.

POSTPONEMENT OF THE ELECTIONS

4. Regard had to be to the fact that elections are not about a Political Party, or Independent Candidate, or Government, they are about communities coming together to determine the future of our country and their communities. At all material times the supremacy of the Constitution should prevail.
5. The Constitution does not provide for the postponement of the elections. There is no mechanism designed to regulate the postponement of the elections, this would require Constitutional amendment.
6. The Electoral Commission of South Africa "**the IEC**" would have to show the Constitutional Court that it has done everything within its power to hold free and fair elections. The IEC has had public measures in place which they tested during the Municipal by-elections held in November/December 2020, applied same in April/May 2021, at this point, there is no scientific evidence or otherwise to the effect that the by-elections became super-spreader events. There has not been complaints that the by-elections were not free and fair, the voter turnout was satisfactory in more than 65% average turn out.
7. The IEC has declared that it is ready for the elections. Postponing a vote could, however, mean that leaders and representatives who are not doing good job will remain in office for longer.

Citizens will be denied, temporally, their right to shape public policy - perhaps at exactly the moment they need to.
8. ATM urges the Honourable Commission to exercise a Judicial notice of the allegations of corruption reported on daily basis by all media houses,

the continued Service Delivery Protests and strikes, that demonstrates unwillingness of the people to persevere on no Service Delivery and maladministration. If the current municipal administration is not changed by vote, it means the Commission has endorsed corrupt rulers to remain in power, and the continued maladministration. People have signalled their need to change the current municipal administration by exercising the right to vote which is possible only if the elections scheduled for October 2021 go ahead.

9. Elections have been held during the Covid-19 pandemic in countries like USA, South Korea, Israel, France, Malawi, etc. South Africa cannot be an exception to that.

10. The Constitution of the Republic of South Africa, 1996(Act 108 of 1996), in clause 159 provides that:-

"the term of the Municipal Council may not be more than five (5) years".

The postponement of the elections will be a conduct inconsistent with the Constitution, something which the ATM cannot leave unabated.

THE CURRENT COVID -19 PANDEMIC CONDITIONS ON FREE AND FAIR ELECTIONS

11. The advantage of Local Government Elections is that they happen in specific locality and so registered voters have to vote at voting stations where the number of voters can be managed. In most cases, people vote per Ward and the Ward has more than one voting stations (**voting district**)

12. The time for opening of voting stations may be extended to an earlier hour and closes at a later hour than is normal. The current lockdown Level 3 Regulations allows for gatherings limited to fifty (50) indoors and hundred (100) people outdoors, something possible for election purposes, the strict protocols with regard to sanitising, social distance to be followed, in fact, in Municipal Elections there are no long queues as compared to National and Provincial Elections.
13. The by-elections held in November/December 2020 and April/May 2021, have not been reported as super-spreader events. Some measures may be implemented. The IEC may be directed to develop health systems to limit the spread of Covid-19 Pandemic. There has not been evidence that during the by-elections Covid-19 health protocols were not followed or have posed threat to freeness and fairness of the elections.

EFFECT OF COVID-19 ON POLITICAL PARTY CAMPAIGNING

14. Local Government Elections consists of election of Ward Councillors, or Ward Councillor Candidates, this is done at a Political Party branch level, that requires a minimum number of attendance.

Campaigning by Political Parties is limited to a Ward level and not beyond that. The current Covid-19 Regulations make it possible for Political Party campaigning at Branch level and at Ward level at some instances with all the health protocols designed to limit the spread of the virus being followed. If Political Party campaigns are compromised it would be equal to all the Political Parties.

EFFECTS OF COVID-19 ON ELECTION MONITORING

15. It is not reasonably possible, or to be clear, there is no reasonable possibility of compromising of proper and effective monitoring by Political Party Agents and independent electoral monitoring bodies of freeness and fairness of the elections. Party Agents and the IEC officials constitute a manageable number with ability to observe the designed health protocols, risk of infection is not foreseeable.
16. It is re-iterated that ATM participated in a number of by-elections that took place during the pandemic. The ATM considered the by-elections to be free and fair as far as Covid-19 is concerned.

CONCLUSION

17. The ATM, acting in terms of the extended provisions of Section 38 of the Constitution, and further acting in public interest in terms of Section 38(d) and in the interests of its Members, in terms of Section 38(e) of the Constitution, 1996, recommends that the elections to go ahead as scheduled.



THANDISIZWE KHUKHULA
ATM SECRETARY GENERAL
17 JUNE 2021

ATM 2

REPUBLIC OF SOUTH AFRICA

CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA AMENDMENT BILL

(As amended by the Portfolio Committee on Constitutional Affairs (National Assembly))

(MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT)

[B 84B—98]

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GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Constitution of the Republic of South Africa, 1996, so as to extend the term of Municipal Councils; to provide for the designation of alternates in respect of certain members of the Judicial Service Commission; to amend the name of the Human Rights Commission; to adjust the powers of the Public Service Commission; and to extend and modify the application of transitional arrangements in respect of local government; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 159 of Act 108 of 1996

1. The following section is hereby substituted for section 159 of the Constitution of the Republic of South Africa, 1996 (hereinafter referred to as the principal Act): 5

“Terms of Municipal Councils

159. (1) The term of a Municipal Council may be no more than **[four]** five years, as determined by national legislation.

(2) If a Municipal Council is dissolved in terms of national legislation, or when its term expires, an election must be held within 90 days of the date that Council was dissolved or its term expired. 10

(3) A Municipal Council, other than a Council that has been dissolved following an intervention in terms of section 139, remains competent to function from the time it is dissolved or its term expires, until the newly elected Council has been declared elected.”. 15

Amendment of section 178 of Act 108 of 1996

2. Section 178 of the principal Act is hereby amended—

(a) by the substitution for paragraph (k) of subsection (1) of the following paragraph:

“(k) when considering matters specifically relating to a provincial or local division of the High Court, the Judge President of that division 20

and the Premier of the province concerned, or an alternate designated by [the Premier, of the province concerned] each of them.”;

(b) by the addition of the following subsections:

“(7) If the Chief Justice or the President of the Constitutional Court is temporarily unable to serve on the Commission, the Deputy Chief Justice or the Deputy President of the Constitutional Court, as the case may be, acts as his or her alternate on the Commission. 5

(8) The President and the persons who appoint, nominate or designate the members of the Commission in terms of subsection (1)(c), (e), (f) and (g), may, in the same manner appoint, nominate or designate an alternate for each of those members, to serve on the Commission whenever the member concerned is temporarily unable to do so by reason of his or her incapacity or absence from the Republic or for any other sufficient reason.”. 10 15

Amendment of section 196 of Act 108 of 1996

3. Section 196 of the principal Act is hereby amended by the addition to subsection (4) of the following paragraph:

“(g) to exercise or perform the additional powers or functions prescribed by an Act of Parliament.”. 20

Substitution of expression in Act 108 of 1996

4. The principal Act is hereby amended by the substitution for the expression “Human Rights Commission”, wherever it occurs, of the expression “South African Human Rights Commission”.

Amendment of item 26 of Schedule 6 to Act 108 of 1996 25

5. Item 26 of Schedule 6 to the principal Act is hereby amended—

(a) by the substitution for paragraphs (a) and (b) of subitem (1) of the following paragraphs, respectively:

“(a) the provisions of the Local Government Transition Act, 1993 (Act 209 of 1993), as may be amended from time to time by national legislation consistent with the new Constitution, remain in force in respect of a Municipal Council until [30 April 1999 or until repealed, whichever is sooner] a Municipal Council replacing that Council has been declared elected as a result of the first general election of Municipal Councils after the commencement of the new Constitution; and 30 35

(b) a traditional leader of a community observing a system of indigenous law and residing on land within the area of a transitional local council, transitional rural council or transitional representative council, referred to in the Local Government Transition Act, 1993, and who has been identified as set out in section 182 of the previous Constitution, is *ex officio* entitled to be a member of that council until [30 April 1999 or until an Act of Parliament provides otherwise] a Municipal Council replacing that council has been declared elected as a result of the first general election of Municipal Councils after the commencement of the new Constitution.”; and 40 45

(b) by the substitution in subitem (2) for the expression “30 April 1999” of the expression “30 April 2000”.

Short title

6. This Act is called the Constitution of the Republic of South Africa Amendment Act, 1998. 50

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MEMORANDUM ON THE OBJECTS OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA AMENDMENT BILL, 1998

1.1 In terms of section 159 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996, hereafter "the Constitution"), and with reference to the previous local government elections, the final date for the holding of local government elections differs in respect of different parts of the country. The maximum term of Municipal Councils is one year shorter than those of the national legislature and provincial legislatures, which complicates efforts to synchronise elections within all spheres of government.

1.2 In order to address this problem clause 1 of the Bill seeks to amend section 159 of the Constitution, so as to determine the term of Municipal Councils to be not more than five years. Clause 1 also proposes to regulate the functioning of an existing Municipal Council until the newly elected Council assumes office.

2. The Judicial Service Commission has requested that section 178 of the Constitution be amended in order to provide for the designation of alternates in respect of certain members of the Commission in order to facilitate the work of that Commission. The Commission stated its preference for a provision in terms of which the designating authority could name an alternate in advance, so as to avoid a situation where alternates would be nominated on an *ad hoc* basis. Clause 2 seeks to give effect to the request.

3. Uncertainty exists with regard to the powers of the Public Service Commission pertaining to the hearing of appeals in, and the investigation of, cases of misconduct. Apart from this, the need to adjust the powers and functions of the Public Service Commission may be anticipated to recur from time to time. Clause 3 of the Bill seeks to address these matters by providing for the allocation of additional powers and functions to the Public Service Commission by an Act of Parliament. This provision would enable the adjustment of the powers and functions of the Public Service Commission in future, without recourse to a constitutional amendment.

4. The Chairperson of the Human Rights Commission has proposed that the name of that Commission be changed to the "South African Human Rights Commission". It is argued that it is practice for national human rights institutions to bear the appellation of the countries concerned. The current name also results in confusion between the Human Rights Commission and the Human Rights Committee, which was formerly known as the Human Rights Commission. Clause 4 seeks to effect the necessary change of name.

5.1 Item 26(1) of Schedule 6 to the Constitution provides special constitutional protection to the provisions of the Local Government Transition Act, 1993 (Act No. 209 of 1993, "the LGTA"), until 30 April 1999. It also provides for traditional leaders to be *ex officio* members of local government structures until that date. Fundamental aspects of the present local government dispensation are dependent for their constitutional tenability on the said protection. In order to apply the provisions of the LGTA until the next local government elections, it is necessary to extend the protection beyond 30 April 1999.

5.2 Clause 5 of the Bill provides for the extension of the duration of the transitional arrangement in respect of the provisions of the LGTA, and for the extension of the *ex officio* membership of traditional leaders on Municipal Councils, until the date on which a Municipal Council has been declared elected as a result of the first general election of Municipal Councils after the commencement of the (new) Constitution.

6. None of the above amendments relates to a matter that affects the National Council of Provinces, alters provincial boundaries, powers, functions or institutions, or amends a provision that deals specifically with a provincial matter. Consequently, the Department of Constitutional Development and the State Law Advisers are of the view that the legislative procedure established by section 74(3)(a) of the Constitution has to be followed and that the Bill is required to be passed by the National Assembly only.

7. The Bill was published for public comment and submitted to the provincial legislatures for their views, and is to be submitted to the National Council of Provinces for public debate, as required by section 74(5) of the Constitution.

BODIES/ORGANISATIONS CONSULTED

The Department of Justice
The Human Rights Commission
The Judicial Service Commission
The Ministry for the Public Service and Administration

Implications for provinces

The amendments do not affect provinces.

Implications for municipalities

The amendments have the effect of extending the term of existing municipalities. As a result of the amendments to item 26 of Schedule 6 to the Constitution, a Municipal Council will remain competent to function in terms of the LGTA until it is replaced by a newly elected Municipal Council, and the *ex officio* membership of traditional leaders will be maintained until the Municipal Council concerned has been replaced by a newly elected Municipal Council. The amendment to section 159 of the Constitution specifically authorises a Municipal Council to continue to function pending the first meeting of the newly elected Council, even after its term has expired or it has been dissolved in terms of national legislation.

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PARLIAMENTARY PROGRAMME 2021

FIRST TERM

AS AGREED TO BY THE PROGRAMME COMMITTEE ON 11 MARCH

Enquiries: A Mbanga
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PARLIAMENTARY PROGRAMME FRAMEWORK FOR 2021
(As agreed to by the Joint Programme Committee on 26 November 2020)

FIRST TERM		SECOND TERM
26 January – 19 March (8 weeks)		NCOP 4 May – 18 June (7 weeks) NA 4 May – 4 June (5 weeks)
Leave Period	4 – 8 January	
Constituency Period	11 – 25 January (2 weeks)	
NA Members' Training/ Committees	26 January – 10 February	Freedom Day: Tuesday, 27 April Workers' Day: Saturday, 1 May
NCOP Members' Training	26 – 28 January	
NCOP Committees	2 – 5 February	Committees/ Departmental Strategic Plan
NCOP Presiding Officers, Provincial Legislatures Speakers and Deputy Speakers Annual meeting	9 – 10 February	Briefings to NCOP Committees
		4 – 7 May
Joint Sitting (SONA)	11 February (19:00)	NA Committees/Oversight
Debate on President's State-of-the-nation Address	16 – 17 February	NCOP Questions to the Deputy President
Reply by President to debate on State-of-the-nation address	18 February	NCOP Questions to Cluster 2: Social Services
		May
NCOP Plenaries/ Committees/ Legislation	23 February – 19 March	NA Budget Vote debates /Plenaries
		May
NA Plenaries/ Mini-plenaries	February – March	NCOP Plenaries/ Committees/Departmental Strategic Plan
Budget speech	24 February	Briefings to NCOP Committees
(Including tabling of Fiscal Framework, Appropriation Bill and Division of Revenue Bill)		11 May – 10 June
NCOP Committees Strategic Planning (Annual Review) Sessions	2 – 4 March	Debate on Vote 2: Parliament
NCOP Questions to the Deputy President	March	May
NCOP Questions to Cluster 4: Economics	March	Africa Day: Tuesday, 25 May
		June
NA Questions to the President	March (p)	
NA Questions to the Deputy President	March (p)	NA Plenary on Division of Revenue Bill
NA Questions to Clusters	March	NCOP Plenary on Division of Revenue Bill
NA debate on Fiscal Framework	March	Decision on Appropriation Bill by NA
Tabling of departmental strategic plans	March	June
NA plenary on Division of Revenue Bill	March	June
		Youth Day: Wednesday, 16 June
		June (p)
NA Constituency Period	23 March – 3 May (6 weeks)	Decision on Appropriation Bill by NCOP
		17 June (p)
		7 June – 16 August (10 weeks)
		21 June – 16 August (8 weeks)

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THIRD TERM		FOURTH TERM	
17 August – 3 September (3 weeks)		5 October – 3 December (9 weeks)	
NCOP Committees/ Oversight	17 – 20 August	NCOP Preliminary Oversight Visits – Taking Parliament to the People	5 – 8 October
NA Committees	17 August – 3 September	NA Committees (BRR Reports)	5 – 15 October
	Women's Day: Monday, 9 August		
NCOP Questions to the Deputy President	August	NCOP Plenaries/ Committees/ Oversight	12 – 22 October
NCOP Questions to Cluster 1: Peace and Security	August	Provincial Week	26 – 29 October
NCOP Questions to Cluster 3: Governance	August	NA Plenaries/ Mini-plenaries	19 October – 26 November
Women's Parliament	August (p)	NA Questions to the President	October - November
		NA Questions to the Deputy President	October - November
		NA Questions to Clusters	October - November
NCOP Plenaries/ Committees/ Legislation	24 August – 3 September	NCOP Questions to the President	October/ November (p)
Constituency Period	6 September – 4 October (4 weeks)	Tabling: 2021 Medium Term Budget Policy Statement and Adjustments Budget:	October
		Revised Fiscal Framework	October
		NA Division of Revenue Amendment Bill	November
		NCOP Division of Revenue Amendment Bill	November
		NA Decision on Adjustments Appropriation Bill by Parliament	November
		NCOP Plenaries/ Committees/ Legislation	2 November – 2 December
		NCOP Plenaries/ Committees/ Legislation	November
		NCOP Questions to Deputy President	November
		Taking Parliament to the People:	15 – 19 November
		NCOP Annual Address by the President/ Deputy President	19 November
		NCOP Decision on Adjustments Appropriation Bill by Parliament	2 December (p)
		NA Committees Oversight	30 November – 3 December
		Constituency Period	6 – 10 December (1 week)
		Reconciliation Day: Thursday, 16 December	
		Leave Period	13 December – January 2022

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CLUSTERING OF MINISTRIES: A GUIDE FOR QUESTIONS FOR ORAL & WRITTEN REPLY

CLUSTER 1 - Peace and Security	CLUSTER 2 - Social Services	CLUSTER 3 - Governance	CLUSTER 4 - Economics	CLUSTER 5 - Economics
<ul style="list-style-type: none"> Defence and Military Veterans Home Affairs International Relations and Cooperation Justice and Correctional Services Police State Security 	<ul style="list-style-type: none"> Basic Education Health Higher Education, Science and Technology Human Settlements, Water and Sanitation Social Development Sports, Arts and Culture 	<ul style="list-style-type: none"> Cooperative Governance and Traditional Affairs Minister in the Presidency Minister in the Presidency for Women, Youth and Persons with Disabilities Public Service and Administration 	<ul style="list-style-type: none"> Agriculture, Land Reform and Rural Development Communications, Telecommunications and Postal Services Employment and Labour Environment, Forestry and Fisheries Finance Mineral Resources and Energy 	<ul style="list-style-type: none"> Public Enterprises Public Works and Infrastructure Small Business Development Tourism Trade and Industry Transport

INTERNATIONAL EVENTS:

1. **Seminar - Structure & Functioning of the IPU. The Seminar is for Parliamentary Officials serving as Secretaries of IPU Groups - Virtual Seminar: 22-26 March for 3-4 hours daily**
2. **Southern African Development Community Parliamentary Forum Online Committee Meetings - Virtual Seminar: March**
3. **Southern African Development Community Parliamentary Forum: Meeting of the Finance Sub-Committee - Virtual Meeting: TBC March 09:30-12:30**

WEEK 8

NATIONAL ASSEMBLY		NATIONAL COUNCIL OF PROVINCES	
MONDAY, 15 MARCH	CONSTITUENCY DAY	MONDAY, 15 MARCH	CONSTITUENCY DAY
<p>TUESDAY, 16 MARCH</p> <p>10:00 – 13:00 Committees</p> <p>14:00 – ±18:00 PLENARY (HYBRID)</p> <ol style="list-style-type: none"> 1. Member's statements (50) 2. Consideration of Local Government: Municipal Structures Amendment Bill [B 19D – 2018] (s76(1)) and of Report of PC on Cooperative Governance and Traditional Affairs thereon (ATC, 23 February 2021, p 37) (5) 3. Consideration of Customary Initiation Bill [B 7D - 2018] (s76(1)) and of Report of PC on Cooperative Governance and Traditional Affairs thereon (ATC, 23 February 2021, p 45) (5) 4. Consideration of First Report of National Assembly Rules Committee, 2021 (ATC, 11 March 2021, p 4) 5. Consideration of Recommendations of Independent Panel established in terms of Rule 129U to conduct a preliminary assessment on A motion from Ms N W A Mazzone to initiate an enquiry in terms of s194(1) of Constitution, 1996 for removal of Adv Mkwane from Office of the Public Protector on grounds of misconduct and/or incompetence (ATC, 1 March 2021, p 2) 6. Motions without notice 		<p>TUESDAY, 16 MARCH</p> <p>14:00 PLENARY</p> <p>Questions to Cluster 4B: Economics</p> <ul style="list-style-type: none"> - Public Enterprises - Public Works and Infrastructure 	

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7. Notices of motion	
<p>WEDNESDAY, 17 MARCH</p> <p>09:00 – 13:00 Committees</p> <p>10:00 Chief Whips' Forum (Closed meeting) <i>(virtual)</i></p> <p>12:45 – 14:45 Joint Committee of Chairpersons <i>(virtual)</i></p> <p>15:00 – ±17:45 PLENARY (HYBRID)</p> <p>Questions for Oral Reply:</p> <ul style="list-style-type: none"> • Deputy President 	<p>WEDNESDAY, 17 MARCH</p> <p>12:45 – 14:45 Joint Committee of Chairpersons <i>(virtual)</i></p> <p>13:00 Multi-Party Women's Caucus (Steering Committee)</p> <p>14:00 PLENARY</p> <p>Questions to Cluster 4C: Economics</p> <ul style="list-style-type: none"> - Communications and Innovation. - Tourism
<p>THURSDAY, 18 MARCH</p> <p>08:30 Programme Committee <i>(virtual)</i></p> <p>10:00 – 12:30 CAUCUS</p> <p>14:00 – ±17:50 PLENARY (HYBRID)</p> <ol style="list-style-type: none"> 1. Questions for Oral Reply: (180) <ul style="list-style-type: none"> • Cluster 3: Governance 2. Motions without notice 3. Notices of motion 	<p>THURSDAY, 18 MARCH</p> <p>10:00 – 12:30 Multi-Party Women's Caucus</p> <p>14:00 PLENARY</p> <p>Questions to Cluster 4D: Economics</p> <ul style="list-style-type: none"> - Employment and Labour - Finance
<p>FRIDAY, 19 MARCH</p> <p>10:00 – ±12:30 PLENARY (HYBRID)</p> <ol style="list-style-type: none"> 1. Consideration of Report of SC on Appropriations on <i>Division of Revenue Bill</i> [B3 – 2021](s76(1)) 2. Second Reading debate: Division of Revenue Bill [B3 – 2021](s76(1)) (77) 	<p>FRIDAY, 19 MARCH</p> <p>JOINT COMMITTEES</p> <p>09:00 – 15:00 Human Rights Day Virtual Lecture: "The Year of Unity, Socio Economic Renewal and Nation Building"</p>

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3. Debate on Human Rights Day: <i>Promoting human rights in the age of Covid-19</i> (88)	
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CONSTITUENCY PERIOD: 23 MARCH – 3 MAY

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PARLIAMENTARY PROGRAMME 2021

SECOND TERM

AS AGREED TO BY THE PROGRAMME COMMITTEE ON 27 MAY

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PARLIAMENTARY PROGRAMME FRAMEWORK FOR 2021
(As agreed to by the Joint Programme Committee on 26 November 2020)

SECOND TERM	
	<p>NCOP 4 May – 18 June (7 weeks) NA 4 May – 4 June (5 weeks)</p> <p><i>Freedom Day: Tuesday, 27 April</i> <i>Workers' Day: Saturday, 1 May</i></p>
Committees/ Departmental Strategic Plan Briefings to NCOP Committees	4 – 7 May
NA Committees/Oversight	4 – 7 May
NCOP Questions to the Deputy President	May
NCOP Questions to Cluster 2: Social Services	May
NA Budget Vote debates /Plenaries	May
NCOP Plenaries/ Committees/Departmental Strategic Plan Briefings to NCOP Committees	11 May – 10 June
Debate on Vote 2: Parliament	May
	<i>Africa Day: Tuesday, 25 May</i>
Debate on Vote 1: Presidency (followed by Reply)	June
NA Plenary on Division of Revenue Bill NCOP Plenary on Division of Revenue Bill	June June
Decision on Appropriation Bill by NA	June
	<i>Youth Day: Wednesday, 16 June</i>
Youth Parliament	June (p)
Decision on Appropriation Bill by NCOP	17 June (p)
NA Constituency Period NCOP Constituency Period	7 June – 16 August (10 weeks) 21 June – 16 August (8 weeks)

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THIRD TERM		FOURTH TERM	
17 August – 3 September (3 weeks)		5 October – 13 December (9 weeks) Programme 2021	
NCOP Committees/ Oversight	17 – 20 August	NCOP Preliminary Oversight Visits – Taking Parliament to the People	5 – 8 October
NA Committees	17 August – 3 September	NA Committees (BRR Reports)	5 – 15 October
	Women's Day, Monday, 9 August	NCOP Plenaries/ Committees/ Oversight	12 – 22 October
NCOP Questions to the Deputy President	August	Provincial Week	26 – 29 October
NCOP Questions to Cluster 1: Peace and Security	August	NA Plenaries/ Mini-plenaries	19 October – 26 November
NCOP Questions to Cluster 3: Governance	August	NA Questions to the President	October - November
Women's Parliament	August (p)	NA Questions to the Deputy President	October - November
	Heritage Day: Friday, 24 September	NA Questions to Clusters	October - November
NCOP Plenaries/ Committees/ Legislation	24 August – 3 September	NCOP Questions to the President	October/ November (p)
Constituency Period	6 September – 4 October (4 weeks)	Tabling: 2021 Medium Term Budget Policy Statement and Adjustments Budget:	October
		Revised Fiscal Framework	October
		NA Division of Revenue Amendment Bill	November
		NCOP Division of Revenue Amendment Bill	November
		NA Decision on Adjustments Appropriation Bill by Parliament	November
		NCOP Plenaries/ Committees/ Legislation	2 November – 2 December
		NCOP Plenaries/ Committees/ Legislation	November
		NCOP Questions to Deputy President	November
		Taking Parliament to the People:	15 – 19 November
		NCOP Annual Address by the President/ Deputy President	19 November
		NCOP Decision on Adjustments Appropriation Bill by Parliament	2 December (p)
		NA Committees Oversight	30 November – 3 December
		Constituency Period	6 – 10 December (1 week)
		Reconciliation Day: Thursday, 16 December	
		Leave Period	13 December – January 2022

WEEK 13

NATIONAL ASSEMBLY		NATIONAL COUNCIL OF PROVINCES	
<p>MONDAY, 31 MAY</p> <p>CONSTITUENCY DAY</p>		<p>MONDAY, 31 MAY</p> <p>CONSTITUENCY DAY</p> <p><i>Note: [Deadline for Submission of Questions to the Deputy President scheduled for 15 June 2021]</i></p>	
<p>TUESDAY, 1 JUNE 10:00 – 13:00 Committees</p> <p>MINI PLENARIES (VIRTUAL)</p> <p>11:00 - 13:15</p> <p>Vote 8: National Treasury (State Security)</p> <p>14:00 – ± 18:30 PLENARY (HYBRID)</p> <ol style="list-style-type: none"> 1. Debate on Vote 2: Parliament (135) 2. Consideration of Reports on Budget Votes (no debates) 3. Consideration of the President's reservations on the constitutionality of Copyright Amendment Bill [B 13B - 2017] (s75) as submitted to him (ATC, 22 June 2020, p 2) and Report of PC on Trade and Industry thereon (ATC, 19 May 2021, p 89) (5) 4. Consideration of the President's reservations on the constitutionality of Performers' Protection Amendment Bill [B 24B - 2016] (s75) as submitted to him (ATC, 22 June 2020, p 2) and Report of PC on Trade and Industry thereon (ATC, 19 May 2021, p 87) (5) 		<p>TUESDAY, 1 JUNE 10:00</p> <p>PLENARY (VIRTUAL)</p> <ol style="list-style-type: none"> 1. Motions 2. Reports 3. Consideration of the Division of Revenue Bill [B 3 – 2021] 4. Policy debate on Budget Vote 2: Parliament 5. Policy debate on Budget Vote 38: Tourism 	

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<p>5. Consideration of Report of PC on Women, Youth and Persons with Disabilities on Draft Notice on Determination of Remuneration of Independent Constitutional Institutions (ATC, 19 May 2021, p 3) (5)</p> <p>6. Consideration of Report of Standing Committee on the Auditor-General on Determination of Remuneration of Independent Constitutional Institutions (ATC, 24 May 2021, p 143) (5)</p> <p>7. Debate on Youth Day: <i>Growing youth employment for an inclusive and transformed society amid Covid-19</i> (88)</p>	
<p>WEDNESDAY, 2 JUNE 09:00 – 13:00 Committees 10:00 Chief Whips' Forum (Closed meeting) (<i>virtual</i>)</p> <p>14:00 – ±19:30 PLENARY (HYBRID) Debate on Vote 1: The Presidency</p>	<p>WEDNESDAY, 2 JUNE 14:00 PLENARY (VIRTUAL)</p> <ol style="list-style-type: none"> 1. Reports 2. Legislation 3. Policy debate on Budget Votes
<p>THURSDAY, 3 JUNE 08:30 Programme Committee (<i>virtual</i>) 09:00 Joint Programme Committee (<i>virtual</i>) (p) 10:00 CAUCUS</p> <p>14:00 – ±17:00 PLENARY (HYBRID)</p> <ol style="list-style-type: none"> 1. Resumption of debate on Vote 1: The Presidency (Reply) 2. Second Reading debate – Criminal and Related Matters Amendment Bill [B 17B - 2020] (s75), Criminal Law (Sexual Offences) Amendment Bill [B16-20 (s75)] and 	<p>THURSDAY, 3 JUNE 10:00 – 12:30 Caucus</p> <p>Note: [Deadline for Submission of Questions to Cluster 1A: Peace and Security scheduled for 17 June 2021]</p>

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<p>Domestic Violence Amendment Bill [B20-20 (s75)] (90) (p)</p> <p>3. Consideration of the President's reservations on the constitutionality of Liquor Products Amendment Bill [B 10B – 2016] (s75) as submitted to him (ATC, 12 June 2020, p 2) and Report of PC on Agriculture, Land Reform and Rural Development thereon (ATC, 25 May 2021, p 117) (5)</p>	
<p>FRIDAY, 4 JUNE 10:00 – ±17:00 PLENARY (HYBRID)</p> <ol style="list-style-type: none"> 1. Consideration of Report of ST on Appropriations on Special Appropriation Bill [B5 - 2021] (ATC, June 2021, p) (<i>no debate</i>) 2. First Reading debate: Special Appropriation Bill [B5 – 2021](s77) (77) 3. Second Reading: Special Appropriation Bill [B5 – 2021](s77) (no debate) 4. Consideration of Report of ST on Appropriations on <i>Appropriation Bill [B4 - 2021] (ATC, June 2021, p) (no debate)</i> 5. First Reading debate: Appropriation Bill [B4 – 2021](s77) (77) 6. Consideration of Votes and Schedule: Appropriation Bill [B4 – 2021](s77) (200) 7. Second Reading: Appropriation Bill [B4 – 2021](s77) (no debate) 	<p>FRIDAY, 4 JUNE 08:30 – 10:00 Members Support and Facility Forum (MSF) meeting</p> <p>10:00 PLENARY (VIRTUAL)</p> <ol style="list-style-type: none"> 1. Reports 2. Legislation 3. Policy debate on Budget Vote 33: Human Settlements 4. Policy debate on Budget Vote 41: Water and Sanitation (Items 3 and 4 – one debate)

(1) Fourth Ordinary Session of PAP

21 May – 4 June

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- (1) IPU virtual parliamentary meeting themed “The role of parliaments in addressing inequalities to end AIDS by 2030”
7 June at 15:00 – 16:30

NA CONSTITUENCY PERIOD: 7 JUNE – 16 AUGUST

NCOP CONSTITUENCY PERIOD: 24 JUNE – 16 AUGUST

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PARLIAMENTARY PROGRAMME 2021

THIRD TERM

AS AGREED TO BY THE PROGRAMME COMMITTEE ON 5 AUGUST

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THIRD TERM		FOURTH TERM (p)	
NCOP	17 August – 3 September (6 weeks)	NA	2 November – 10 December (6 weeks)
NA	17 August – 1 October (6 weeks)	NCOP	2 November – 14 December (7 weeks)
NCOP Committees/ Oversight	17 – 20 August	NA Plenaries/ Mini-plenaries	2 November – 10 December
Plenaries/NA Committees	17 August – 1 October	NA Questions to the President	November
	Women's Day: Monday, 9 August	NA Questions to the Deputy President	November
NCOP Questions to the Deputy President	August	NA Questions to Clusters	November
NCOP Questions to the President	August	Tabling: 2021 Medium Term Budget Policy Statement and Adjustments Budget:	2 November
Women's Parliament	August (p)	Revised Fiscal Framework	November
NCOP Plenaries/ Committees/ Legislation	24 August – 3 September	NA Division of Revenue Amendment Bill	November
NCOP Constituency Period	6 September – 2 November (8 weeks)	NCOP Division of Revenue Amendment Bill	November
	Heritage Day, Friday, 24 September	NA Decision on Adjustments Appropriation Bill by Parliament	December
		NCOP Plenaries/ Committees/ Legislation	2 November – 14 December
		NCOP Questions to Deputy President	November
		NCOP Questions to Cluster 2: Social Services	November
		NCOP Questions to Cluster 3: Governance	November
		NCOP Annual Address by the President/ Deputy President	19 November (p)
		NCOP Decision on Adjustments Appropriation Bill by Parliament	14 December (p)
		NA Constituency Period	13 – 24 December (2 weeks)
		NCOP Constituency Period	15 – 24 December (1 week)
		Reconciliation Day: Thursday, 16 December	
		Leave Period	27 December – January 2022

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WEEK 14

NATIONAL ASSEMBLY	NATIONAL COUNCIL OF PROVINCES
MONDAY, 16 AUGUST CONSTITUENCY DAY	MONDAY, 16 AUGUST CONSTITUENCY DAY
TUESDAY, 17 AUGUST COMMITTEES	TUESDAY, 17 AUGUST COMMITTEES OVERSIGHT <i>Mitigating the impact of the COVID-19 pandemic and the recent public violence, looting and destruction of property</i>
WEDNESDAY, 18 AUGUST 10:00 Chief Whips' Forum (Closed meeting) (virtual) COMMITTEES	WEDNESDAY, 18 AUGUST COMMITTEES OVERSIGHT <i>Mitigating the impact of the COVID-19 pandemic and the recent public violence, looting and destruction of property</i>
THURSDAY, 19 AUGUST 08:30 Programme Committee (virtual) 10:00 – 13:00 CAUCUS COMMITTEES	THURSDAY, 19 AUGUST COMMITTEES OVERSIGHT <i>Mitigating the impact of the COVID-19 pandemic and the recent public violence, looting and destruction of property</i>
FRIDAY, 20 AUGUST COMMITTEES	FRIDAY, 20 AUGUST 10:00 – 17:00 Women's Charter for Accelerated Development: "Setting a 25-Year Vision and Agenda to Advance Women's Equality, Growth and Development"

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WEEK 15

NATIONAL ASSEMBLY		NATIONAL COUNCIL OF PROVINCES	
MONDAY, 23 AUGUST	CONSTITUENCY DAY	MONDAY, 23 AUGUST	CONSTITUENCY DAY
<p>TUESDAY, 24 AUGUST</p> <p>10:00 – 13:00 Committees</p> <p>14:00 – PLENARY (HYBRID)</p> <p>Consideration of reports on oversight activities on the recent unrest</p>		<p>TUESDAY, 24 AUGUST</p> <p>08:30 – 09:30 Committee of Chairpersons meeting</p> <p>10:00 Ministerial Briefing Session on Youth Poverty and Unemployment: "Interventions to address youth unemployment and poverty"</p>	
<p>WEDNESDAY, 25 AUGUST</p> <p>09:00 – 13:00 Committees</p> <p>10:00 Chief Whips' Forum (Closed meeting) (virtual)</p> <p>15:00 – PLENARY (HYBRID)</p> <p>Consideration of reports on oversight activities on the recent unrest</p>		<p>WEDNESDAY, 25 AUGUST</p> <p>08:30 – 10:00 Provincial Whips Forum (Closed meeting)</p> <p>14:00 PLENARY (VIRTUAL)</p> <p>Debate on the recent public violence, looting and destruction of property: "Peace, stability and rebuilding beyond the public violence, looting and destruction of property"</p>	
<p>THURSDAY, 26 AUGUST</p> <p>08:30 Programme Committee (virtual)</p> <p>10:00 – 13:00 CAUCUS</p> <p>14:00 – PLENARY (HYBRID)</p> <ol style="list-style-type: none"> Members' statements (50) Legislation (p) Consideration of Report of PC on Higher Education, Science and Technology on Oversight visit to National Student Financial Aid Scheme (NSFAS) (ATC, 4 June 2021, p 4) (5) 		<p>THURSDAY, 26 AUGUST</p> <p>08:30 – 10:00 Programme Committee meeting</p> <p>10:00 – 12:30 Caucus</p> <p>14:00 PLENARY (HYBRID)</p> <p>Questions to the Deputy President</p>	

<p>4. Consideration of Report of JT Committee on the Financial Management of Parliament on Parliament of Republic of South Africa's 2019/20 Annual Report (ATC, 28 May 2021, p 24) (5)</p> <p>5. Consideration of Report of PC on Small Business Development on Covid-19 Debt Relief Fund Beneficiaries virtual oversight (ATC, 18 May 2021, p 67) (5)</p> <p>6. Consideration of Report of PC on International Relations and Cooperation on 1st and 2nd quarters 2020/21 expenditure performance of Department of International Relations and Cooperation and African Renaissance and International Cooperation Fund (ATC, 14 May 2021, p 144) (5)</p> <p>7. Motion without notice</p> <p>8. Notices of motion</p>	<p>FRIDAY, 27 AUGUST 09:00 – 11:00 PGIR meeting</p> <p>WOMEN'S PARLIAMENT</p>
	<p>FRIDAY, 27 AUGUST 09:00 – 11:00 PGIR meeting</p> <p>WOMEN'S PARLIAMENT</p>

WEEK 16

NATIONAL ASSEMBLY		NATIONAL COUNCIL OF PROVINCES	
MONDAY, 30 AUGUST	CONSTITUENCY DAY	MONDAY, 30 AUGUST	CONSTITUENCY DAY
TUESDAY, 31 AUGUST 10:00 – 13:00 Committees 14:00 – PLENARY (HYBRID) <ol style="list-style-type: none"> Members' statements (50) Legislation (p) Committee reports Motions without notice Notices of motion 		TUESDAY, 31 AUGUST 10:00 – 15:45 PLENARY (VIRTUAL) Ministerial Briefing Session on the Vaccination Programme, including the expansion and acceleration of the vaccination programme to include other cohorts at national and provincial levels	
WEDNESDAY, 1 SEPTEMBER 09:00 – 13:00 Committees 10:00 Chief Whips' Forum (Closed meeting) (<i>virtual</i>) 15:00 – 18:00 PLENARY (HYBRID) Questions for oral reply: (180) <ul style="list-style-type: none"> Cluster 4: Economics 		WEDNESDAY, 1 SEPTEMBER 09:00 – 12:00 Localizing the Economic Reconstruction and Recovery Plan: Gender and Youth Focus: Northern Cape 14:00 PLENARY (VIRTUAL) <ol style="list-style-type: none"> Motions Reports Legislation Debate on the Township Economy: "Building a self-reliant and vibrant township economy" 	
THURSDAY, 2 SEPTEMBER 08:30 Programme Committee (<i>virtual</i>) 10:00 – 13:00 MPW CAUCUS 14:00 – PLENARY (HYBRID) <ol style="list-style-type: none"> Legislation (p) Committee reports 		THURSDAY, 2 SEPTEMBER 10:00 – 12:30 Caucus 14:00 PLENARY (VIRTUAL) <ol style="list-style-type: none"> Reports Legislation 	

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	3. Debate on Heritage Month: <i>"United in our diversity and rich cultural heritage - The path to constructing a non-racial, non-sexist, united and prosperous democratic society"</i>
FRIDAY, 3 SEPTEMBER 10:00 – 12:30 PLENARY (HYBRID) Questions to the President	FRIDAY, 3 SEPTEMBER 09:00 – 12:00 Localizing the Economic Reconstruction and Recovery Plan: Gender and Youth Focus: Free State Province 10:00 – 12:00 Members Support and Facility Forum (MSF) meeting

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WEEK 17

NATIONAL ASSEMBLY		NATIONAL COUNCIL OF PROVINCES	
MONDAY, 6 SEPTEMBER	CONSTITUENCY DAY	MONDAY, 6 SEPTEMBER	CONSTITUENCY DAY
TUESDAY, 7 SEPTEMBER		TUESDAY, 7 SEPTEMBER	
10:00 – 13:00 Committees		10:00	PLENARY (VIRTUAL) Ministerial Briefing Session on the Safety and Security response and management of the recent public violence, looting and destruction of public property
14:00 – PLENARY (HYBRID)	<ol style="list-style-type: none"> 1. Members' statements (50) 2. Legislation (p) 3. Committee reports 4. Motions without notice 5. Notices of motion 		
WEDNESDAY, 8 SEPTEMBER		WEDNESDAY, 8 SEPTEMBER	
10:00 Chief Whips' Forum (Closed meeting) (<i>virtual</i>)		09:00 – 12:00	Localizing the Economic Reconstruction and Recovery Plan: Gender and Youth Focus: Limpopo Province
09:00 – 13:00 Committees		14:00	PLENARY (VIRTUAL) <ol style="list-style-type: none"> 1. Motions 2. Reports 3. Legislation 4. Debate on Section 139 Interventions: "Building a viable mechanism and legislative framework to guide Section 139 Interventions in Municipalities"
15:00 – 18:00 PLENARY (HYBRID)	<p>Questions for oral reply: (180)</p> <ul style="list-style-type: none"> • Cluster 5: Economics 		
THURSDAY, 9 SEPTEMBER		THURSDAY, 9 SEPTEMBER	
08:30 Programme Committee (<i>virtual</i>)		10:00 – 12:30	Caucus
10:00 – PLENARY (HYBRID)		14:00	PLENARY (VIRTUAL) <ol style="list-style-type: none"> 1. Motions

<p>Condolences for the following Members:</p> <ul style="list-style-type: none"> • Ms T M A Tongwane (40) • Mr C MacKenzie (40) • Ms B Maluleke (40) • Mr L M Ntshayisa (40) • Mr M N Nxumalo (40) 	<p>2. Reports 3. Legislation 4. Debate on the Devolution of the South African Police Service (SAPS)</p>
<p>FRIDAY, 10 SEPTEMBER</p> <p>COMMITTEES</p>	<p>FRIDAY, 10 SEPTEMBER</p> <p>09:00 – 12:00 Localizing the Economic Reconstruction and Recovery Plan: Gender and Youth Focus: Eastern Cape Province</p> <p>15:00 – 18:00 Localizing the Economic Reconstruction and Recovery Plan: Gender and Youth Focus: North West Province</p>

WEEK 18

NATIONAL ASSEMBLY	NATIONAL COUNCIL OF PROVINCES
<p>MONDAY, 13 SEPTEMBER</p> <p>CONSTITUENCY DAY</p>	<p>MONDAY, 13 SEPTEMBER</p> <p>CONSTITUENCY DAY</p>
<p>TUESDAY, 14 SEPTEMBER</p> <p>10:00 – 13:00 Committees</p> <p>14:00 – 16:45 PLENARY (HYBRID) Questions to the Deputy President</p>	<p>TUESDAY, 14 SEPTEMBER</p> <p>10:00 PLENARY (VIRTUAL) Ministerial Briefing Session on Economic Interventions to revive economic activity in areas that were affected by the recent Public Unrests and Looting</p>

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WEDNESDAY, 15 SEPTEMBER 10:00 Chief Whips' Forum (Closed meeting) (<i>virtual</i>) 09:00 – 13:00 Committees 15:00 – 18:00 PLENARY (HYBRID) Questions for oral reply: (180) <ul style="list-style-type: none"> Cluster 1: Peace and Security 	WEDNESDAY, 15 SEPTEMBER 10:00 – 12:00 Heritage Month Lecture: Charlotte Maxeke Legacy and Iconic Leadership 14:00 PLENARY (VIRTUAL) Ministerial Briefing Session on Infrastructure: "Accelerating the Implementation of the National Infrastructure Plan for employment creation and development"
THURSDAY, 16 SEPTEMBER 08:30 Programme Committee (<i>virtual</i>) 10:00 – 13:00 CAUCUS 14:00 – PLENARY (HYBRID) 1. Legislation (p) 2. Committee reports	THURSDAY, 16 SEPTEMBER 14:00 PLENARY (VIRTUAL) 1. Motions 2. Reports 3. Legislation 4. Debate on Positioning state owned enterprises as the main catalyst for growth and development in South Africa
FRIDAY, 17 SEPTEMBER COMMITTEES	FRIDAY, 17 SEPTEMBER 10:00 – 15:00 Youth Parliament - Report Back (Ministerial Interactive Session): "Accelerating Youth Economic Power in a Time of COVID 19" (provisional)

WEEK 19

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NATIONAL ASSEMBLY		NATIONAL COUNCIL OF PROVINCES	
MONDAY, 20 SEPTEMBER	CONSTITUENCY DAY	MONDAY, 20 SEPTEMBER	CONSTITUENCY DAY
<p>TUESDAY, 21 SEPTEMBER</p> <p>10:00 – 13:00 Committees</p> <p>14:00 – PLENARY (HYBRID)</p> <ol style="list-style-type: none"> 1. Members' statements (50) 2. Legislation (p) 3. Committee reports 4. Motions without notice 5. Notices of motion 		TUESDAY, 21 SEPTEMBER	
<p>WEDNESDAY, 22 SEPTEMBER</p> <p>10:00 Chief Whips' Forum (Closed meeting) (<i>virtual</i>)</p> <p>09:00 – 13:00 Committees</p> <p>15:00 – 18:00 PLENARY (HYBRID)</p> <p>Questions for oral reply: (180)</p> <ul style="list-style-type: none"> • Cluster 2: Social Services 		WEDNESDAY, 22 SEPTEMBER	
<p>THURSDAY, 23 SEPTEMBER</p> <p>08:30 Programme Committee (<i>virtual</i>)</p> <p>10:00 – 13:00 CAUCUS</p> <p>14:00 – PLENARY (HYBRID)</p> <ol style="list-style-type: none"> 1. Committee reports 2. Debate on Heritage Day (88) 		THURSDAY, 23 SEPTEMBER	
FRIDAY, 24 SEPTEMBER		FRIDAY, 24 SEPTEMBER	

COMMITTEES	
WEEK 20	
NATIONAL ASSEMBLY	NATIONAL COUNCIL OF PROVINCES
MONDAY, 27 SEPTEMBER CONSTITUENCY DAY	MONDAY, 27 SEPTEMBER CONSTITUENCY DAY
TUESDAY, 28 SEPTEMBER 10:00 – 13:00 Committees 14:00 – PLENARY (HYBRID) 1. Members' statements (50) 2. Legislation (p) 3. Committee reports 4. Motions without notice 5. Notices of motion	TUESDAY, 28 SEPTEMBER
WEDNESDAY, 29 SEPTEMBER 10:00 Chief Whips' Forum (Closed meeting) (<i>virtual</i>) 09:00 – 13:00 Committees 15:00 – 18:00 PLENARY (HYBRID) Questions for oral reply: (180) • Cluster 3: Governance	WEDNESDAY, 29 SEPTEMBER
THURSDAY, 30 SEPTEMBER 08:30 Programme Committee (<i>virtual</i>) 10:00 – 13:00 MPW CAUCUS 14:00 – MINI-PLENARY SESSIONS (VIRTUAL) (p)	THURSDAY, 30 SEPTEMBER

WR V.2

FRIDAY, 1 OCTOBER	COMMITTEES	FRIDAY, 1 OCTOBER
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ATM 4

THE CONVERSATION

Academic rigour, journalistic flair

COVID-19 herd immunity? It's not going to happen, so what next?

August 3, 2021 11:55am SAST

Author



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The best hope of beating the pandemic is to vaccinate as many people as soon as possible. Luca Sola/AFP via Getty Images

Any notion that COVID-19 was going to last for just a few months was very much misplaced in 2020. Especially after it was recognised that the SARS-CoV-2 virus was largely spread through the airborne route, all indications were that it would cause repeat bouts of waves. This is what happened in the [flu epidemic of 1918](#).

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In addition very few scientists predicted that we would see the type of mutations that occurred over such a short period of time. This has resulted in the virus becoming both more transmissible and more able to evade immune responses.

The evolution of the virus has been so rapid that the Delta variant, which is currently dominating the world, is at least twice as transmissible as the ancestral virus that was circulating.

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What this means is that herd immunity is no longer a discussion the world should be having. We should start to avoid using that term in the context of SARS-CoV-2, because it's not going to materialise – or is unlikely to materialise – during our lifetimes.

When politicians and others speak about herd immunity, unfortunately, they are under the misconception that the current tools we've got are adequate to eliminate the virus. It's not what we have at hand right now.

Instead we should be talking about how to live with the virus. The tremendous success that's materialised with COVID-19 vaccines allows us to do this, without actually getting into the herd immunity threshold.

Peddling the concept of herd immunity creates a misconception that we are actually going to get to a stage where this virus is going to be eliminated. That's unlikely to happen. It will continue circulating.

There are a number of dangers in continuing to make people believe it's possible.

Firstly, it could dent confidence in vaccines. Even if South Africa gets to its target of 67% of the population being vaccinated – as set out by the Department of Health – there will still be outbreaks of COVID-19. The result will be that people begin to doubt the benefits of being vaccinated. Also, for the now dominant Delta variant, immunity against infection (not only COVID-19 illness) would need to be closer to 84% for the "herd immunity" threshold to be reached.

Secondly, failing to face up to the reality that herd immunity can't be achieved will mean that countries like South Africa will continue to believe that ongoing restrictions will get them there. That will compromise the lives of people on multiple fronts – including education and livelihoods.

What is herd immunity?

Herd immunity is when someone infected by the virus won't, on average, infect another person. So you reach a state where the immunity in the population against infection by the virus is such that there are too few people in the environment for sustained onward transmission to take place to others.

This is because they've developed immunity against being infected, or at least have developed immunity to the extent where even if they were infected, they would be able to clear the virus very quickly and wouldn't be able to transmit it to other people.

So herd immunity essentially means that you have brought about an absolute interruption in the chain of transmission of the virus in the population in the absence of other interventions that too could interrupt virus transmission such as wearing of face masks.

But some changes have forced a shift in our thinking about herd immunity. It's now viewed much more as an aspiration rather than actual goal.

What's changed

Firstly, the evolution of the virus and the mutations that have occurred.

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One set of mutations made the virus much more transmissible or infectious. The Delta variant is just such an example. Initially we thought the SARS-CoV-2 reproductive rate was between 2.5 and 4. In other words, in a fully susceptible population every one person infected would on average infect about two and a half to four other people. But the Delta variant is at least twofold more transmissible. That means that the reproductive rate of the Delta variant is probably closer to six rather than three.

The second change is that the virus has shown an ability to have mutations that make it resistant to antibody neutralising activity induced by past infection from the original virus, as well as antibody responses induced by most of the current COVID-19 vaccines.

The third big issue centres on the durability of protection. Our memory responses are lasting for at least six to nine months at the moment. But that doesn't mean that they will protect us against infection from variants that are evolving, even if such memory responses do assist in attenuating the clinical course of the infection leading to less severe COVID-19.

The fourth issue conspiring against us being able to reach a herd immunity threshold any time soon is the inequitable distribution of vaccine across the world, the slow uptake and the sluggish rollout. Unfortunately, this provides fertile ground for ongoing evolution of the virus.

No country is going to lock its borders perpetually. This means the entire global population needs to reach the same sort of threshold round about the same time. At the moment just 1% of the populations of low-income countries have been vaccinated. And 27% of the global population.

With the Delta variant, we would need to get close to 84% of the global population developing protection against infection (in the absence of non-pharmacological interventions) in as brief a period of time as possible.

Next steps

The only sustainable solution is to learn to live with the virus.

This will require ensuring that we get the majority of individuals, especially adults, and particularly those at a higher risk of developing severe COVID-19 and dying, vaccinated as quickly as possible. In my view this could be achieved in South Africa with 20 million people vaccinated – not the 40 million target set by the government. But the 20 million would need to include 90% of people above the age of 60, and 90% of people above the age of 35 who have co-morbidities.

If South Africa achieved this milestone, it could get back to a relatively normal lifestyle even with the virus continuing to circulate and causing the occasional outbreak. It would also ensure a threshold that guaranteed its healthcare systems weren't going to be overwhelmed, and that people were not going to die in large numbers.

We are simply going to have to become comfortable with the idea that SARS-CoV-2 is going to be like one of the numerous other viruses that circulate that cause respiratory illness each day. Usually mild infections, and less often a severe disease.

So people will, unfortunately, continue dying of COVID-19, but certainly not at the magnitude that's been seen over the past 18 months. A major advance would be for COVID-19 to be no more severe than what is seen every influenza season (10,000 to 11,000 deaths) in South Africa.

The UK experience is where we should be heading. That is getting back to a relatively normal lifestyle, provided that we've got a adequate number of people vaccinated, and particularly people who are at higher risk of developing severe COVID-19.

The UK is currently close to 85% of adults that have already received at least a single dose of the vaccine. As a result they're able to remove almost all restrictions.

The UK is seeing an increase in number of cases of the Delta variant. But they've seen very nominal changes when it comes to hospitalisation and death. The vast majority of people (97%) who still end up being hospitalised and dying of COVID-19 in the UK are those who decided not to be vaccinated.

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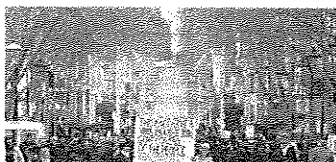
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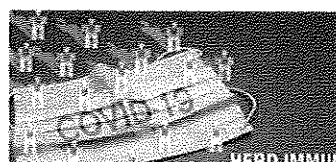
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