

IN THE CONSTITUTIONAL COURT

CASE NO: _____

CCT 243/21

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS**

2021-03-04

First Respondent

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

CC-001

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 OF 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

NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE that the Electoral Commission hereby applies to this Court for an order in the following terms:

1. It is directed that this matter be dealt with as an urgent application and that the Electoral Commission's non-compliance with the ordinary rules for service and time-periods is condoned.
2. The Electoral Commission is granted direct access to this Court.
3. It is declared that the Electoral Commission may hold the forthcoming local government elections outside the 90-day period required by section 159(2) of the Constitution and section 24(2) of the Local Government: Municipal Structures Act 117 of 1998.
4. The Electoral Commission is directed to hold the forthcoming local government elections before 28 February 2022.
5. The Minister of Co-operative Governance and Traditional Affairs is authorised to:
 - 5.1. withdraw any notice calling and setting a date during October 2021 for the forthcoming local government elections; and
 - 5.2. issue a fresh notice calling and setting a date before 28 February 2022 for the forthcoming local government elections.
6. It is declared that, in terms of section 159(3) of the Constitution and section 26(1)(a) of the Local Government: Municipal Structures Act 117 of 1998, the

current municipal councils remain competent to function until the newly elected councils have been declared elected.

7. The Electoral Commission is to file a report with this Court on 15 October 2021, 15 November 2021, 15 December 2021 and 14 January 2022, setting out:

- 7.1. The steps taken and to be taken by the Commission to allow for forthcoming local government elections to be held before 28 February 2022; and

- 7.2. Any other matter it may consider necessary to report on.

8. Alternatively to prayers 3 to 7 above:

- 8.1. It is declared that the failure to hold the forthcoming local government elections within the 90 day period required by section 159(2) of the Constitution and section 24(2) of the Local Government: Municipal Structures Act 117 of 1998 is unconstitutional and invalid;

- 8.2. The declaration of invalidity is suspended and:

- 8.2.1. The duty of the Electoral Commission to hold the forthcoming local government elections within the 90 day period required by section 159(2) of the Constitution and section 24(2) of the Local Government: Municipal Structures Act 117 of 1998 is suspended until 28 February 2022;

8.2.2. The Electoral Commission is directed to hold the forthcoming local government elections before 28 February 2022; and

8.2.3. The Minister of Co-operative Governance and Traditional Affairs is authorised to:

8.2.3.1. withdraw any notice calling and setting a date during October 2021 for the forthcoming local government elections; and

8.2.3.2. issue a fresh notice calling and setting a date before 28 February 2022 for the forthcoming local government elections.

8.3. It is declared that, in terms of section 159(3) of the Constitution and section 26(1)(a) of the Local Government: Municipal Structures Act 117 of 1998, the current municipal councils remain competent to function until the newly elected councils have been declared elected.

8.4. The Electoral Commission is to file a report with this Court on 15 October 2021, 15 November 2021, 15 December 2021 and 14 January 2022, setting out:

8.4.1. The steps taken and to be taken by the Commission to allow for forthcoming local government elections to be held before 28 February 2022; and

8.4.2. Any other matter it may consider necessary to report on.

9. All parties are to pay their own costs.

10. Further and/or alternative relief.

BE PLEASED TO TAKE NOTICE FURTHER that the founding affidavit of **VUMA GLENTON MASHININI** (together with the supporting affidavits and annexures thereto) will be used in support of this application.

BE PLEASED TO TAKE FURTHER NOTICE that the Electoral Commission has appointed the address of its attorneys described below as the address at which it will accept notice and service of all process and documents in these proceedings.

BE PLEASED TO TAKE NOTICE FURTHER THAT all process in these proceedings may be served on the applicants' attorneys by email as follows:

Email: moeti@kanyane.co.za and mashudu@kanyane.co.za

BE PLEASED, FURTHER, TO TAKE NOTICE that:

- (a) In view of the urgency of this matter, the time-period for the filing of a notice of opposition in terms of Rule 18(3) of the Rules of this Court has been shortened and any party wishing to oppose the application must file its notice of opposition by **Wednesday 11 August 2021**; and
- (b) The matter will be disposed of in accordance with directions given by the Chief Justice in terms of Rule 18(4) of the Rules of this Court.

THUS DONE AND DATED AT Pretoria on this the 4th day of August 2021.



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Applicant's Attorneys

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Corporate 66 Office Park

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Die Hoewes, Centurion

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c/o RAMS INCORPORATED

9th Floor, Fredman Towers

13 Fredman Drive

Sandton

Tel: 011 883 2234/6

Ref: Mr W Moeketsane

To: THE REGISTRAR OF THE CONSTITUTIONAL COURT
1 Hospital Street
Constitution Hill
Braamfontein

And to: THE MINISTER OF COOPERATIVE GOVERNANCE & TRADITIONAL AFFAIRS
First respondent
87 Hamilton Street
Arcadia
Pretoria
e-mail: AvrilW@coqta.gov.za
c/o **THE STATE ATTORNEY**
SAAU Building
316 Thabo Sehume Street
Pretoria
Email: ichowe@justice.gov.za and
StateAttorneyPretoria@justice.gov.za

BY ELECTRONIC MAIL

And to: THE MEC FOR LOCAL GOVERNMENT FOR THE EASTERN CAPE
Second respondent
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 Civic Square
 Bhisho
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noncedo.nothoko@eccogta.gov.za and
sivuyisiwe.mayoyo@eccogta.gov.za

BY ELECTRONIC MAIL

And to MEC FOR LOCAL GOVERNMENT FOR THE FREE STATE
Third respondent
 OR Tambo House, 7th Floor,
 Cnr St Andrew's & Markgraaf Streets,
 Bloemfontein
 Email: hod@fscogta.gov.za; Tembeni.lobe@fscogta.gov.za and
lesleyk@fscogta.gov.za

BY ELECTRONIC MAIL

And to: THE MEC FOR LOCAL GOVERNMENT FOR GAUTENG
Fourth respondent
 37 Pixley ka Isaka Seme Street
 Marshalltown
 Johannesburg
 Email: quinton.kuhn@gauteng.gov.za;
Fred.Mokoko@gauteng.gov.za;
Zukiswa.Ncunyana@gauteng.gov.za; SIMON.MASISI-LETELE@gauteng.gov.za;
anthony.moonsamy@gauteng.gov.za

BY ELECTRONIC MAIL

And to: THE MEC FOR LOCAL GOVERNMENT FOR KWAZULU-NATAL
Fifth respondent
 330 Langalibalele Street
 Pietermaritzburg

Email: Lelani.Vandenberg@kzncogta.gov.za;
Kerry.Turner@kzncogta.gov.za;
Nokwanda.MCHUNU@kzncogta.gov.za and
Sanele.ZONDI@kzncogta.gov.za

BY ELECTRONIC MAIL

And to: THE MEC FOR LOCAL GOVERNMENT FOR LIMPOPO
Sixth respondent
 Hensa Tower Building
 28 Market Street
 Polokwane
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DumalisileN@coghsta.limpopo.gov.za and
Mathyem@coghsta.limpopo.gov.za

BY ELECTRONIC MAIL

And to: THE MEC FOR LOCAL GOVERNMENT FOR MPUMALANGA
Seventh respondent
 Samora Machel Building
 Ext 2, 7 Government Boulevard
 Riverside Park
 Mbombela
 Email: LVDWalt@mpg.gov.za; MvdMerwe@mpg.gov.za;
sam@mpg.gov.za; Skunene@mpg.gov.za and
MkhwanaziZF@mpg.gov.za

BY ELECTRONIC MAIL

And to: THE MEC FOR LOCAL GOVERNMENT FOR THE NORTHERN
CAPE
Eighth respondent
 JS du Plooy Building
 9 Cecil Sussman Street
 Kimberley
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mmadyo@ncpg.gov.za; gbotha@ncpg.gov.za;
mmanyeneng@ncpg.gov.za; pseane@ncpg.gov.za

BY ELECTRONIC MAIL

And to: THE MEC FOR LOCAL GOVERNMENT FOR NORTH WEST
Ninth respondent
 Telkom Building
 3366 Bessemmer Street
 Industrial Site
 Mafikeng
 Email: MMotlogelwa@nwpg.gov.za and tlerefolo@nwpg.gov.za

BY ELECTRONIC MAIL

And to: THE MEC FOR LOCAL GOVERNMENT FOR THE WESTERN
CAPE
Tenth respondent
 9 Wale Street
 Cape Town
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BY ELECTRONIC MAIL

And to: THE SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION
Eleventh respondent
 Block B, Corporate Park
 175 Corobray Avenue
 Waterkloof Glen
 Pretoria
 Email: ugopichund@salga.org.za

BY ELECTRONIC MAIL

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1

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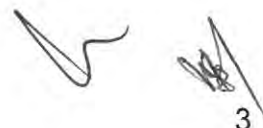
I, the undersigned,

VUMA GLENTON MASHININI

do hereby make oath and state that:

INTRODUCTION

- 1 I am the Chairperson of the Electoral Commission of South Africa ("the Commission"), duly appointed as such as contemplated in section 8(1) of



the Electoral Commission Act 51 of 1996 ("the Commission Act").

- 2 I depose to this affidavit on behalf of the Commission and am duly authorised to do so.
- 3 The facts in this affidavit fall within my personal knowledge, save where the context indicates otherwise, and are true and correct to the best of my knowledge. Where facts fall outside of my personal knowledge I attach confirmatory affidavits from the appropriate persons.
- 4 Where I make legal submissions, I rely on the advice of the Commission's legal representatives, whose advice I believe to be correct.

NATURE AND PURPOSE OF THE APPLICATION

- 5 South Africa, together with the rest of the world, has been battling the presence of SARS-CoV-2 Coronavirus and Covid-19 disease for nearly 18 months. The global Covid-19 pandemic has had unprecedented consequences for public health, and has resulted in a staggering number of deaths globally. South Africa is no exception.
- 6 This application raises the question of the possibility of holding constitutionally compliant local government elections in the conditions to which the global Covid-19 pandemic has given rise. There are, in sum, three constitutional requirements which the Commission must meet in arranging and managing constitutionally compliant local government elections.

6.1 First, the Commission must hold elections regularly. Section 159(2) of



4

the Constitution requires that the local government elections must be held within 90 days of the expiry of the municipal councils' five-year term of office. Accordingly, the next local government elections must take place before 1 November 2021.

- 6.2 Second, the Commission must hold elections that are free and fair. This means, *inter alia*, that every person who is entitled to vote has the opportunity to do so and faces no unreasonable restrictions or burdens; that political parties and candidates have the ability to compete on equal terms, and without undue hindrance or obstacle; that every adult citizen can freely contest elections and seek public office – through canvassing, advertising and the like; and that voters have access to reliable information about parties and candidates.
- 6.3 Third, the Commission must organise elections in a manner that respects, protects, promotes and fulfils constitutional rights to life, physical and psychological integrity and access to healthcare.
- 7 Given the state of the Covid-19 pandemic, the declaration of a national state of disaster, and the Regulations put in place to protect the public, the Commission commissioned an inquiry into the prospects of holding constitutionally compliant local government elections during the Covid-19 pandemic. It appointed former Deputy Chief Justice Dikgang Moseneke to conduct the inquiry.
- 8 Justice Moseneke held a thorough and wide-ranging inquiry. He invited and heard submissions from numerous interested parties, stakeholders, experts, and the general public, and took into account medical and scientific expert

evidence, legal considerations, and comparative best practice.

- 9 On 20 July 2020, Justice Moseneke delivered a comprehensive final report (“**the Report**”). Justice Moseneke’s central conclusion was that the forthcoming local government elections cannot be held in October 2021 in a manner that is free and fair and without infringing the rights to life, bodily and psychological integrity and access to healthcare, as required by the Constitution and related legislation.¹ In other words, the Commission is unable to produce constitutionally compliant local government elections before 1 November 2021. The Report recommends that the local government elections are instead held no later than the end of February 2022.
- 10 The Commission accepts, agrees with and has adopted Justice Moseneke’s core conclusions and recommendations. The purpose of this application is to give effect to the Report.
- 11 The Commission brings this application directly to this Court. This is a truly exceptional case, in which it is manifestly appropriate for this Court to decide the matter as the court of first and last instance.
- 12 The Commission seeks the following relief.
- 13 First, it asks for an order, based on the application of the principle that the law does not require the impossible:

13.1 declaring that the Commission may hold the forthcoming local government elections outside the 90-day period required by section

¹ Paragraph 321 of the Report.



6

159(2) of the Constitution and section 24(2) of the Local Government: Municipal Structures Act, 1998 ("**Municipal Structures Act**");

13.2 directing the Commission to hold the forthcoming local government elections by no later than the end of February 2022; and

13.3 authorising the Minister of Cooperative Governance and Traditional Affairs to:

13.3.1 withdraw the notice calling the forthcoming local government elections and setting 27 October 2021 as the date on which they will be held; and

13.3.2 issue a fresh notice calling and setting a date before 28 February 2022 for the forthcoming local government elections.

14 Second, and in the alternative, the Commission asks this Court to exercise its powers in terms of section 172 of the Constitution:

14.1 declaring that the failure to hold the forthcoming local government elections within the 90-day period required by section 159(2) of the Constitution and section 24(2) of the Municipal Structures Act, is unconstitutional and invalid;

14.2 suspending the declaration of invalidity, and the Commission's duty to hold the forthcoming local government elections within the prescribed 90-day period, until the end of February 2022;

14.3 directing that the local government elections be held by no later than



the end of February 2022;

14.4 authorising the Minister to:

14.4.1 withdraw the notice calling the forthcoming local government elections and setting 27 October 2021 as the date on which they will be held; and

14.4.2 issue a fresh notice calling and setting a date before 28 February 2022 for the forthcoming local government elections.

- 15 Third, whether the Court grants the primary or alternative relief, the Commission asks this Court to assume ongoing supervisory jurisdiction, requiring the Commission to report to the Court periodically on its progress in arranging constitutionally compliant local government elections in February 2022.
- 16 Fourth, the Commission seeks an order that, in terms of section 159(3) of the Constitution, the incumbent municipal councils remain competent until newly elected councils are declared elected.
- 17 The Commission respectfully asks the Acting Chief Justice to issue urgent directions for the further conduct of this matter. As I will explain later in this affidavit, it is of great importance that the Court determines this matter, if at all possible, by 30 August 2021 or, at the very latest, by 10 September 2021. The Commission respectfully requests that any directions issued cater for the need for a decision by this date. That is because the Commission is currently operating according to two timetables – one based



on a local government election in October 2021, and the other based on a local government election in February 2022 – in an effort to ensure that both are live possibilities when this matter is heard and decided. However, for reasons I will explain, by 30 August 2021 or, at latest, 10 September 2021, it will no longer be possible to implement both timetables, and the Commission will have no option but to proceed with the local government election in October 2021, despite its constitutional shortcomings.

18 At a meeting of National Party Liaison Committee (“**NPLC**”) convened by the Commission on 2 August 2021, the NPLC unanimously rejected the draft timetable for an election in October 2021. The political parties represented on the NPLC expressed their concern that they have less than three weeks to finalise their candidate nomination process – a process which would ordinarily take about three months – and that there will be no voter registration weekend.

19 The remainder of this affidavit is structured as follows:

19.1 First, I detail the parties who have been cited as respondents to this application. I will also describe the steps the Commission will take to bring this application to the attention of other interested parties, including registered political parties and to the general public.

19.2 Second, I outline Justice Moseneke’s Report, including the manner in which the Inquiry was held, the evidence and submissions which it considered, and its pertinent findings and conclusions.

19.3 Third, I set out the basis on which this Court has jurisdiction to hear

this matter, and demonstrate that this is a manifestly appropriate case in which to grant direct access on an urgent basis.

- 19.4 Fourth, I address the essential features of constitutionally compliant elections, and the obligations that this places on the Commission.
- 19.5 Fifth, I explain the objective impossibility of holding a constitutionally compliant local government election in October 2021. I also address certain developments that have occurred since the Report was published, as well as the proposed election timetable – which notably excludes any registration weekend – if local government elections must proceed in October 2021.
- 19.6 Sixth, I provide an overview of electoral practices during the Covid-19 pandemic both nationally and internationally, as recorded in the Report.
- 19.7 Seventh, I address Justice Moseneke's recommendation that the local government elections take place no later than February 2022. The Commission has prepared an election timetable on this basis (subject to any order granted by this Court) and also intends to adopt certain of Justice Moseneke's further recommendations to introduce measures to ensure that the local government elections are free and fair.
- 19.8 Finally, I describe the relief which the Commission seeks.

PARTIES AND METHOD OF SERVICE

20 The applicant is the Commission, a Chapter 9 institution² duly established in terms of section 3 of the Commission Act with the object of strengthening constitutional democracy and promoting democratic electoral processes. The Commission has its head office at Election House, Riverside Office Park, 1303 Heuwel Avenue, Centurion.

21 The cited respondents are as follows:

21.1 The first respondent is the Minister of Cooperative Governance and Traditional Affairs ("**the Minister**"), c/o the State Attorney SALU Building, 316 Thabo Sehume Street (Cnr Francis Baard Street), Pretoria. The Minister is charged with setting a date for an election of all municipal councils in terms of section 24(2) the Local Government: Municipal Structures Act, 1998 and postponing a municipal election in terms of section 8 of the Local Government: Municipal Electoral Act, 2000 ("**Municipal Electoral Act**").

21.2 The second respondent is the MEC responsible for Local Government for the Eastern Cape, of Tyamzashe Building, Phalo Avenue, Civic Square, Bisho.

21.3 The third respondent is the MEC responsible for Local Government for the Free State, of 7th Floor, OR Tambo House, corner St Andrew's and Markgraaf Streets, Bloemfontein.

21.4 The fourth respondent is the MEC responsible for Local

² Section 190 of the Constitution, 1996

Government for Gauteng, of 37 Pixley ka Isaka Seme Street, Marshalltown, Johannesburg.

- 21.5 The fifth respondent is the MEC responsible for Local Government for KwaZulu-Natal, of 330 Langalibalele Street, Pietermaritzburg.
- 21.6 The sixth respondent is the MEC responsible for Local Government for Limpopo, of Hensa Towers Building, 28 Market Street, Polokwane.
- 21.7 The seventh respondent is the MEC responsible for Local Government for Mpumalanga, of Samora Machel Building, Ext 2, 7 Government Boulevard, Riverside Park, Mbombela.
- 21.8 The eighth respondent is the MEC responsible for Local Government for the Northern Cape, of JS du Plooy Building, 9 Cecil Sussman Street, Kimberley.
- 21.9 The ninth respondent is the MEC responsible for Local Government for the North West, of Telkom Building, 3366 Bessemmer Street, Industrial Site, Mafikeng.
- 21.10 The tenth respondent is the MEC responsible for Local Government for the Western Cape, of 9 Wale Street, Cape Town.
- 21.11 The second to tenth respondents are cited in light of the responsibility they have over co-ordinating and supporting the effective functioning of local government.
- 21.12 The eleventh respondent is the South African Local Government

Association (SALGA) of Block B, Menlyn Corporate Park, 175 Corobray Avenue, Waterkloof Glen, Pretoria. SALGA is cited for the interest it may have in the orders sought, given its role as an autonomous association of all 257 South African local governments.

22 By arrangement with each of the aforementioned respondents, this application will be served on each respondent electronically.

23 Multiple stakeholders and political parties have an interest in this matter, many of whom engaged with the Inquiry. The Commission recognises that virtually every South African has a direct interest in this application. Indeed, any order this Court makes will affect the rights of each citizen. It is simply not practical to cite as a respondent and serve this application on every person who has such an interest. Instead, I set out below the steps that the Commission intends to take to inform the public of this application:

23.1 The Commission will upload its court papers to its website at the following address: www.elections.org.za/LGE 2021 Postponement Application.

23.2 At the above address, the Commission will include a link to the Justice Moseneke Inquiry on Free and Fair Local Government Elections during the Covid-19 pandemic, which includes the Moseneke Report and all the evidence on which it is based.³

23.3 At the above address, the Commission will include the requirements set out in Constitutional Court Rule 8 for intervention of parties in

³ <https://www.elections.org.za/freeandfair/>

proceedings and Constitutional Court Rule 10 for admission of amici curiae.

23.4 In addition, the Commission will email notice of this application and a link to the above address, at which papers can be located, to every registered political party for which the Commission has email details, currently over 400 parties.

23.5 Lastly, upon launching this application, the Commission will issue a public statement to the media publicizing the application and referring interested members of the public to the founding papers and this Court's Rules on intervention.

24 The Commission will comply with any further directions this Court may make in respect of parties to be joined or notified.

JUSTICE MOSENEKE'S REPORT

The purpose and scope of the Inquiry

25 Justice Moseneke produced his Report in terms of section 14(4) read with Section 5(2) (a) of the Commission Act, which provides that the Commission may publish a report indicating whether an impending election is likely to be free and fair.

26 The Commission received the Report on 20 July 2021 and authorised its immediate release to the public in the interest of transparency. A copy of the Report accompanies this application together with a confirmatory affidavit deposed to by the Honourable Justice Moseneke, marked "FA1". I ask that

the Report be deemed to be incorporated in this affidavit.

27 Justice Moseneke was appointed to "*enquire into, make findings, report on, and make recommendations concerning the likelihood that the Commission will be able to ensure that the forthcoming 2021 general local government elections will be free and fair in view of the Covid-19 pandemic and the measures promulgated by the Government to curb the continued spread of the virus.*"⁴

28 In addition to reporting on the likelihood of ensuring free and fair elections, Justice Moseneke was invited to indicate additional measures that the Commission may have to implement to realise free and fair elections within the Covid-19 context.⁵

29 Justice Moseneke held the Inquiry over a period of two months. The Inquiry called for and received submissions from registered political parties; key stakeholders in the electoral process; relevant health authorities; relevant disaster management authorities; and other stakeholders and experts.

30 The Inquiry invited written submissions from various public officials, including the Chief Electoral Officer of the Commission, the Minister of Health, the Minister of Cooperative Governance and Traditional Affairs, and the Directors-General of the relevant departments.⁶ The Commission and relevant departments all made submissions.

30.1 The Chief Electoral Officer, Mr Phatudi Simon (Sy) Mamabolo, as

⁴ Paragraph 2 of the Report.

⁵ Id.

⁶ Paragraph 13 of the Report.

head of the Commission's administration and its accounting officer, prepared and filed a submission to assist the Inquiry. Mr Mamabolo also presented oral submissions to the Inquiry. A copy of Mr Mamabolo's confirmatory affidavit, together with his written submissions and presentation slides, is attached to this affidavit marked **"FA2"**.

30.2 Dr Sandile Buthelezi, the Director-General of Health, made written and oral submissions to the Inquiry on behalf of the Department of Health. A copy of Dr Buthelezi's confirmatory affidavit, together with the Health Department's written submission and presentation is attached to this affidavit marked **"FA3"**.

- 31 The Inquiry also invited submissions from stakeholders comprising independent medical experts, international and regional electoral monitoring bodies, domestic electoral bodies, civil society organisations, registered political parties at national and local level, and individual members of the public.⁷ It received submissions from more than 40 political parties, more than 20 civil society organisations, and two electoral monitoring bodies. In addition, the Inquiry received around 3000 submissions from the public, by email, WhatsApp text messages and voice notes.⁸
- 32 The Inquiry received both written and oral submissions from stakeholders. Written submissions were uploaded to the Inquiry's website. Oral presentations were heard over a week-long period, and were live streamed

⁷ Paragraph 14 of the Report.

⁸ Paragraph 15 of the Report.

for the general public. Recordings of the oral submission were uploaded to the Inquiry's website together with PowerPoint or PDF presentations that accompanied them. These submissions remain accessible on the Inquiry's website, as does the final Report.

- 33 The medical submissions – which included those of health authorities and experts – covered matters related to the expected future trajectory of the Covid-19 pandemic as well as efforts to manage and mitigate the spread of Covid-19 and reach community immunity through the vaccination roll-out. As I explain below, these submissions were central to the Inquiry's conclusions and recommendations. Confirmatory affidavits marked **“FA4”** to **“FA10”** are attached, together with the relevant written submissions and/or presentations made to the Inquiry, from each of the following health experts:

33.1 Dr Fareed Abdullah;

33.2 Dr Aslam K.A. Dasoo;

33.3 Professor Salim Abdool Karim;

33.4 Professor Shabir A. Madhi;

33.5 Dr Jacqui Miot;

33.6 Dr Harry Moultrie; and

33.7 Professor Sheetal Silal.

The scheme of the Report

Introductory sections

34 The Report begins by setting out the common cause facts or background, which Justice Moseneke considered relevant to understanding the objective circumstances likely to obtain at the time of the envisaged election.

35 This includes:

35.1 The fact that the current term of all municipal councils will terminate by effluxion of time on 3 August 2021, and general local government elections are required by 1 November 2021 to elect new municipal councils.⁹

35.2 The steps the Commission had taken to plan local government elections in October 2021, the importance of voter registration, and the fact that 36% of eligible voters have still not registered to vote.¹⁰

35.3 The Covid-19 pandemic and the measures adopted by Government to curb the spread of Covid-19 and the likely impact on elections – which Justice Moseneke considered to be “*a vital consideration in assessing whether the pending local government elections are likely to be free and fair*”.¹¹ Insofar as the Disaster Management Regulations promulgated to contain the spread of Covid-19 are

⁹ Paragraph 23 of the Report.

¹⁰ Paragraphs 22 to 37 of the Report.

¹¹ Paragraph 57 of the Report.

concerned, the Report records that the Regulations: ¹²

35.3.1 impose non-pharmaceutical interventions that apply generally, regardless of the alert level in application, such as the mandatory wearing of masks while in public, physical distancing, and sanitisation. In addition, the Regulations require persons who are infected with the Covid-19 virus, or who have been in contact with someone who is infected with this virus, to isolate or quarantine;

35.3.2 place restrictions on the movement of persons and gatherings of varying levels of severity, depending on the applicable alert level. There are a number of offences created in terms of the Regulations that criminalise political gatherings and other political activity. The penalty, on conviction, is a fine, a period of imprisonment not exceeding 6 months, or both a fine and a period of imprisonment;

35.3.3 contemplate five Alert Levels, Level 5 involving the most severe restrictions. (I address the effect of the restrictions of Levels 4 and 3 later in this affidavit).

36 The Report also considers the law on local government elections,¹³ the legal standard of free and fair elections¹⁴ and the rights to life, bodily and

¹² Paragraphs 40 to 57 of the Report.

¹³ Paragraphs 58 to 68 of the Report.

¹⁴ Paragraphs 69 to 72 of the Report.

psychological integrity, and access to health care.¹⁵ I address these topics in the chapter below dealing with the essential features of constitutionally compliant elections.

- 37 The Report then goes on to consider submissions from the following categories of stakeholders.

Political parties

- 38 The Report considers the submissions of political parties at national government level as well as those registered exclusively at local government level. The key question of whether the 2021 local government elections ought to be postponed was highly contested, with some parties arguing that these elections should be deferred and others that they should proceed as scheduled.¹⁶

- 39 The Report considers the submissions on both sides of this debate.

39.1 Those that favoured the postponement of the local government elections raised concerns about the freeness and fairness of the election, the need to save life and limb, the fact that political parties could not campaign and the electorate could not make an informed choice, and the risk of low voter turnout undermining the credibility and integrity of the electoral process.¹⁷

39.2 Those that advocated for the local government elections to proceed

¹⁵ Paragraphs 73 to 77 of the Report.

¹⁶ Paragraph 78 of the Report.

¹⁷ Paragraphs 80 to 82 of the Report.

raised the importance of the regularity of elections under our constitutional democracy and suggested that there were adequate measures in place to ensure that the elections would be free and fair.¹⁸

Civil society organisations and organised media

- 40 The Report considers submissions from various civil society organisations.¹⁹ Again, on the question of whether the local government elections should proceed in October 2021, opinion was divided.
- 41 Some emphasised the importance of life above all else, and argued that proceeding with the local government elections under current conditions would stifle rather than enhance democracy by denying voters the right to confront their candidates.²⁰
- 42 Others argued for the importance of the regularity of elections, particularly given the link between the right to vote and socio-economic rights.²¹
- 43 BlindSA made submissions specifically on the impact of the elections on blind and partially sighted people and, from that perspective, proposed measures for a free and fair election.²²

Organised business, labour and civil society

- 44 The Inquiry held a meeting with the Rapid Response Team of the National

¹⁸ Paragraph 83 and 84 of the Report.

¹⁹ Paragraph 87 of the Report.

²⁰ Paragraphs 87 and 90 of the Report.

²¹ Paragraphs 87 to 89 of the Report.

²² Paragraphs 91 and 92 of the Report.

Economic Development and Labour Council (Nedlac) – the statutory body in terms of which business, labour and community organisations cooperate.²³

45 The Report notes that organised business was in favour of the local government elections proceeding in October 2021 subject to safety protocols being adhered to.²⁴

46 However, the community and labour constituencies took a different view. The community constituency questioned the freeness and fairness of the local government elections if political parties could not campaign for votes, and was open to the postponement of elections.²⁵

47 Organised labour submitted that no principle can be more important than the need to preserve life and, moreover, that because traditional methods of campaigning are not possible, free and fair elections cannot be held, as some political parties will have an advantage over those who do not have influence and resources.²⁶

General public and public opinion survey

48 The Report notes that the Inquiry generated significant public interest, and received approximately 3 000 written comments and voice notes from the public. The question whether the local government elections ought to proceed in October was highly contested.²⁷

²³ Paragraph 93 of the Report.

²⁴ Paragraphs 94 to 96 of the Report.

²⁵ Paragraphs 97 and 98 of the Report.

²⁶ Paragraph 99 of the Report.

²⁷ Paragraphs 100 and 101 of the Report.

- 49 Members of the public advocating for postponement of the local government elections raised concerns about the risk of increased transmission of the virus in the run up to, and during the holding of these elections, as well as whether local government elections held during a pandemic and with Covid-19 restrictions in place would be free and fair.²⁸
- 50 Those advocating for the local government elections to proceed emphasised the importance of elections occurring regularly in line with the constitutionally prescribed time-limits in order to hold public representatives to account.²⁹
- 51 The Report also considers a public survey by the University of Johannesburg and the Human Sciences Research Council on the public's views on the postponement of the local government elections.
- 52 While Justice Moseneke adopted a "cautious approach"³⁰ in relation to the results of the survey, he noted that it revealed that nearly 61% of South Africans favour a postponement, with 52% strongly favouring a postponement, and that postponement remains the preference across a range of socio-demographic variables and notwithstanding political party support.³¹

Electoral monitoring bodies

- 53 The Inquiry also invited submissions from electoral monitoring bodies. Two

²⁸ Paragraphs 102 to 104 of the Report.

²⁹ Paragraphs 105 to 107 of the Report.

³⁰ Paragraph 108 of the Report.

³¹ Paragraphs 109 to 112 of the Report.

electoral monitoring bodies – the Electoral Institute for Sustainable Democracy in Africa (EISA) and the Institute of Election Management Services in Africa (EIMSA) – made written and oral submissions.

53.1 EISA argued that while proceeding with local government elections clearly carries some risks from a health perspective, postponements to elections should be avoided wherever possible. It added that a decision to delay local government elections will be in hope, as there is no valid method for accurately predicting future conditions of the virus.³²

53.2 EIMSA argued that the Commission has an obligation to ensure free and fair elections, and if the current circumstances do not allow for free and fair elections, a postponement is called for. Unlike EISA, EIMSA submits that elections should be postponed to early 2022. This – according to EIMSA – will allow sufficient opportunity for political parties to hold their campaigns and reach out to the electorate and enable the Commission sufficient time to carry out the election processes, including the training of electoral staff.³³

Comparative electoral practice

54 The Report goes on to look comparatively at elections which have been held and postponed nationally and internationally as a result of the Covid-19 pandemic. I address these comparative examples in greater detail in a dedicated chapter of this affidavit, from paragraphs 185 to 207 below.

³² Paragraph 116 of the Report.

³³ Paragraphs 120 and 121 of the Report.

- 55 In brief, Justice Moseneke gave careful attention to the postponement of by-elections in South Africa, and to the postponement of elections globally.³⁴ He concluded that, in seeking the postponement by the Electoral Court of by-elections during the Covid-19 pandemic, the Commission made the “*correct call*” that it would not be possible to hold those by-elections in a manner that was free and fair.
- 56 From a global perspective, Justice Moseneke noted that in the period between 21 February 2020 to 21 June 2021, at least 78 countries postponed elections due to Covid-19; that 55 of those countries have now held elections; and that 125 countries held elections without any postponement, notwithstanding Covid-19 concerns.
- 57 He relied particularly on the examples of United States, India, and Brazil, which saw “*staggering numbers*” of deaths associated with their elections – “*something we should not wish for ourselves.*”³⁵

Civil Society Organisations focused on healthcare

- 58 The Inquiry received submissions from three health care non-governmental organisations, namely Right to Care, the Health Justice Initiative and the People’s Health Movement South Africa.
- 59 These submissions canvassed the likely timing of the third wave in various provinces in South Africa; the slow pace of vaccine rollout thus far; and the

³⁴ Paragraphs 123 to 156 of the Report.

³⁵ Paragraph 293 of the Report.

risks posed by electioneering activities as well as the election itself.³⁶

Submissions from the Ministerial Advisory Committee on Covid-19

- 60 Justice Moseneke considered various medical and scientific evidence, by which he was guided in his Report.
- 61 The first form of medical evidence which Justice Moseneke considered was from the Ministerial Advisory Committee, which presented projections for the state of the pandemic in October 2021. The health scientists submitted that it is not possible to predict what the pandemic will look like in October. Factors which make such prediction difficult include the differing waves of infections in different provinces, compliance with protocols, the impact of lockdown restrictions, the possibility of new variants, and the efficacy of the vaccines against existing variants and the supply of vaccines.
- 62 Exact predictions on community immunity were also hard to make given the above factors. However, the Ministerial Advisory Committee submitted that 67% of the population needed to be vaccinated before community immunity could be achieved. This would not be achieved by October 2021.
- 63 I address the Covid-19 projections for October 2021 versus February 2022 later in this affidavit. In brief, while it is expected that infections will decrease in August and September 2021, experts are unable to say whether the country is likely to be in a fourth wave in October 2021.

³⁶ Paragraphs 157 to 167.

Submissions from the Director General of the Department of Health

- 64 The Director-General discussed the increase in new infections leading to the third-wave and explained that, as of 7 June 2021, the delta variant is the dominant variant and driver behind South Africa's third wave.³⁷ He stated that the delta variant is at least twice as infectious as the beta variant which caused South Africa's second wave, and is highly transmissible. Even those previously infected with the beta variant may still be infected with the delta variant.³⁸
- 65 The Department of Health's view is that the holding of local government elections in October 2021 will place the public at risk of contracting the Covid-19 virus during election-related activities such as *"physical voter registration, the voting process itself when large numbers of people will gather at polling stations and will queue to complete their ballot, [and] large political gatherings"*.
- 66 The Department of Health emphasised that the rollout of the vaccine programme will not have reached a sufficient proportion of people to reach community immunity.³⁹

Submissions from medical experts

- 67 The Inquiry solicited the assistance of no less than 9 leading medical and public health experts in South Africa for submissions on the medical science related to the Covid-19 pandemic.

³⁷ Paragraph 191 of the Report.

³⁸ Paragraph 192 of the Report.

³⁹ Paragraph 199 of the Report.

- 68 The material presented by the scientists displayed substantial convergence. The differences amongst them are limited, in the main, to the likely trajectory of the virus and the resultant infections, hospitalisation and deaths in October 2021 compared to February-March 2022.⁴⁰
- 69 The scientists agreed that the delta variant can spread much faster, and that large numbers of people need hospitalisation and medical care in the third wave.
- 70 In respect of the capacity of the health system, only Gauteng, the Western Cape and KwaZulu-Natal may be able to meet the minimum capacity required for a “substantial health system response” to deal with a fourth and future waves.⁴¹ The other provinces do not have the capacity.
- 71 There was agreement that, when taking into account excess mortality, it seems the actual figures of Covid-19 mortality are about three times higher than the official reports of deaths, reaching as high as 180 000.⁴²
- 72 Vaccines are better at protecting against severe disease and death than at protecting against mild symptomatic illness. If one makes one important assumption, that the virus does not change, then it will be worthwhile to try to get some level of community immunity, which will substantially reduce the risk of hospitalisation and death. With varying emphasis, the experts agree that it is necessary to strive for community immunity and that, given the vaccination rate, it will not be possible for South Africa to achieve

⁴⁰ Paragraph 202 of the Report.

⁴¹ Paragraph 208 of the Report.

⁴² Paragraph 211 of the Report.

community immunity by October 2021.⁴³

- 73 In respect of the risks associated with elections, the experts are agreed that large gatherings are super spreader events. This is particularly true in closed spaces of low ventilation. They are also agreed that such events are likely to be 'seeding events' and 'wave triggers' that are dangerous. This threat to life and limb cannot be emphasised enough.⁴⁴

Minister of Co-operative Governance and Traditional Affairs

- 74 Finally the Inquiry considered the submissions from the Minister, who is the convenor of the Inter-Ministerial Committee on Municipal Elections, established by Cabinet to oversee the arrangements for the 2021 local government elections.
- 75 The Minister is also responsible for promulgating the Disaster Management Regulations, which impose several non-pharmaceutical interventions, including the mandatory wearing of masks when in public, physical distancing, sanitisation, curfews and limitations on gatherings. The Regulations also require those infected with the Covid-19 virus, or exposed to someone infected with the Covid-19 virus, to isolate or quarantine. The Minister submits that these non-pharmaceutical interventions are likely to remain in place in the run up to, and at the time earmarked for, the holding of the local government elections.⁴⁵

- 76 The severity of some restrictions may be relaxed or intensified depending

⁴³ Paragraphs 214 and 215 of the Report.

⁴⁴ Paragraph 221 of the Report.

⁴⁵ Paragraph 230 of the Report.

on the alert level applicable at the time, but it is not possible to predict the alert level that will apply in the run up to, and at the time earmarked for, the holding of local government elections. However, the Minister submits that it would be possible to hold free and fair local government elections under Alert Level 2.⁴⁶

77 The Minister is concerned that the restrictions imposed under the Regulations impact on the ability of voters to register, to vote, and to exercise their right to vote. The Minister also notes that vulnerable voters may be deterred from visiting voting stations because of fear of exposure to the virus. Furthermore, the Minister notes that the contravention of certain provisions in the Regulations is a criminal offence and that the presence of members of the South African Police Service at voting stations may deter voters from attending voting stations. The Minister submits that the police must enforce Covid-19 restrictions at voting stations, where necessary, but must ensure that *“there is no chilling effect on the right to vote”*. However, no suggestions are made as to how to avoid a chilling effect.⁴⁷

78 The Minister included submissions on possible amendments to the Regulations and measures to ensure free and fair elections to be considered by the National Coronavirus Command Council.

Findings, conclusions and recommendations

79 The central question which Justice Moseneke was called upon to answer was whether the local government elections set for October 2021 are likely

⁴⁶ Paragraph 231 of the Report.

⁴⁷ Paragraphs 233 and 235 of the Report.

to be free and fair.

- 80 His answer, which is at paragraph 256 of the Report, is as follows:

“Having considered all the submissions of stakeholders, applicable law, research on electoral practices during the Covid-19 pandemic, and the related science, we conclude that it is not reasonably possible or likely that the local government elections scheduled for the month of October 2021 will be held in a free and fair manner, as required by the peremptory provisions of the Constitution and related legislation. And we go further to find that the scheduled elections are likely to be free and fair if they were to be held not later than the end of the month of February 2022.”⁴⁸

- 81 He repeats this conclusion at paragraph 321 of the Report, and adds the following at paragraph 322:

Should the Commission accept and seek to implement the outcome of this Inquiry it is self-evident that it must approach, with deliberate speed, a court of competent jurisdiction to seek a just and equitable order to defer the local government elections to not later than the month of February 2022 and on such terms the court may grant.

- 82 The key findings upon which these conclusions were based can be summarised as follows.

82.1 **First**, much of what is required to be done in the lead up to the local government elections will not be reasonably possible given the restrictions in place under Alert Level 4 lockdown.

82.2 **Secondly**, the electoral conduct of the Commission during the Covid-19 pandemic and lockdown restrictions was to conduct by-elections

⁴⁸ Paragraph 256 of the Report.

only when the country was placed under Alert Level 1.

82.2.1 Justice Moseneke found that the Commission's concern is justified that under a state of national disaster, and with restrictions in place on the movement of persons and gatherings, political parties and independent candidates will not be able to freely participate in the forthcoming local government elections and voters will not have the opportunity to exercise rights that are essential to the conduct of free and fair elections.

82.2.2 The concern is heightened if South Africa is placed under an alert level that imposes more severe restrictions during the run up to, and at the time earmarked for, the local government elections.⁴⁹ This restricts political parties and independent candidates from participating "*fully and effectively*" and diminishes the freeness and fairness of the election. It is also likely to have a disproportionate impact on smaller less resourced political parties and independent candidates.⁵⁰

82.3 **Thirdly**, the medical expert data and predictions show that whilst the delta variant may have subsided somewhat during October 2021, the risk to our population of infection, serious illness and consequential hospitalisation and death will remain high.

⁴⁹ Paragraph 265 of the Report.

⁵⁰ Paragraph 267 and 268 of the Report.

82.3.1 Our public health care system is inadequate for the health demands spawned by the pandemic. Our death or mortality rate appears to be nearly three times more than the official statistics of death. That means the threat to life posed by the pandemic is much higher than meets the eye.

82.3.2 All experts tell us that by holding elections in October 2021 or in February-March 2022 there is a potential risk of infection or of even a fourth wave. The real difference will be made by community immunity through vaccination. Even if community immunity, at 67 per cent of our population, is not reached in February-March 2022, there will be far less risk of hospitalisation and death than there will be in October 2021.⁵¹

82.4 **Fourthly**, the electoral experience in other countries, particularly the studies on the Presidential elections in the United States of America, State Assembly elections in India, and local government elections in Brazil during the pandemic are concerning. The recorded estimates of deaths associated with each of these elections run into staggering numbers – something we should not wish for ourselves.⁵²

83 Having determined that it is not possible to hold constitutionally compliant local government elections in October 2021, Justice Moseneke went on to justify the reasons for setting a date of no later than February 2022, and

⁵¹ Paragraph 292 of the Report.

⁵² Paragraph 293 of the Report.

providing recommendations on how free, fair and safe local government elections may be held in February 2022.

84 In his concluding paragraph, Justice Moseneke recommends that if the Commission accepts and seeks to implement the outcome of the Inquiry, it must approach a competent court to seek a just and equitable order to defer the local government elections to not later than the month of February 2022.⁵³

85 That is precisely the purpose of this application.

JURISDICTION, DIRECT ACCESS AND URGENCY

Jurisdiction

86 This matter engages this Court's jurisdiction under section 167(3)(b) of the Constitution in two respects.

87 First, it raises numerous constitutional issues.

88 Most significantly, it requires the balancing of various constitutional requirements, particularly:

88.1 the requirements in section 1(d) of the Constitution that elections must be regular, and in section 159 of the Constitution that elections must be held within 90 days of the expiry of the term of office of municipal councils;

88.2 the obligation on the part of the Commission in terms of section 190

⁵³ Paragraph 322 of the Report.

of the Constitution to ensure that elections are free and fair; and

88.3 the rights to elections that are free, fair and regular (section 19(2)); to vote in elections for any legislative body in terms of the Constitution (section 19(3) (a)); to stand for public office and, if elected, hold office (section 19(3) (b)); to life (section 11), to bodily and psychological integrity (section 12), and to access to health care (section 27).

89 In the context of striking the appropriate balance between these competing constitutional principles, the application raises the question as to the proper approach when it is impossible to hold a free and fair local government election within the period prescribed in section 159 of the Constitution. It therefore concerns the application to constitutional requirements of the common law principle that the law does not require one to perform or comply with that which is impossible.

90 This matter also engages this Court's powers under section 172 of the Constitution to grant a just and equitable remedy. The Commission asks not only for declaratory and mandatory relief, but also, in the alternative, for a suspended order of constitutional invalidity. In either event, it asks this Court in the exercise of its just and equitable remedial power to assume ongoing supervisory jurisdiction.

91 In addition to raising constitutional issues, the application raises arguable questions of law of general public importance. These include, for example:

91.1 whether it is unconstitutional for the Commission to hold an election outside the period prescribed in section 159(2) of the Constitution, in

circumstances where it is impossible to hold a constitutionally permissible election within that period;

91.2 if it is unconstitutional, whether the Court can and should suspend any declaration of invalidity to permit the forthcoming local government elections to take place outside the period prescribed in section 159 of the Constitution; and

91.3 whether it is appropriate for the Court to exercise supervisory jurisdiction.

92 On each of these questions, the application bears prospects of success (and the questions are thus “arguable” within the meaning of section 167(3) of the Constitution).

93 There can thus be no question that this matter squarely engages the Court’s jurisdiction under section 167(3)(b) of the Constitution.

Direct access

94 I am advised that section 167(6)(a) of the Constitution and Rule 18 of the Constitutional Court Rules allow an applicant to apply directly to this Court for relief when it is in the interests of justice to do so.

95 This Court has held that the interests of justice depend *inter alia* on the importance of the constitutional issues raised; the desirability of obtaining an urgent ruling of this Court; the possibility of obtaining relief in another Court; and the time and costs that may be saved by approaching this Court directly.

96 I respectfully submit that it is manifestly in the interests of justice for direct access to be granted. The Commission relies on the following four reasons in particular for direct access.

97 The first is the singular importance of the issues raised in this application.

97.1 The holding of a general election in the context of a global pandemic is a matter of profound significance. So too is the careful balancing of constitutional guarantees that it entails – on the one hand, the guarantee of holding elections regularly and, on the other, the guarantee that those elections being free and fair.

97.2 There are also fundamental constitutional rights at stake – which the Commission is duty-bound under section 7 of the Constitution to respect, protect, promote and fulfil – including the rights to life, bodily and psychological integrity, and political rights, including to free, fair and regular elections.

97.3 These are issues in respect of which a pronouncement by this Court is of pivotal importance. If the application is upheld, it would mean that the Commission is entitled to hold the forthcoming local government elections outside the period prescribed in the Constitution. If the application is dismissed, it would mean that the local government elections must proceed in circumstances where an independent inquiry has concluded, and the Commission believes, that it cannot be conducted freely and fairly, and without infringing the fundamental constitutional rights of citizens.

97.4 In other words, whichever way the Court ultimately decides, these are conclusions too weighty and too significant not to have the *imprimatur* of our highest Court. They are issues in respect of which all South Africans have a direct interest, and in respect of which they require certainty from this Court. It is thus crucially important, for purposes of public trust and confidence that this Court decides this matter.

97.5 However, as I explain below, if this Court does not grant direct access, these questions will never reach this Court.

98 That leads directly to the **second** reason for direct access, which is the fact that, given the urgency of the matter, it is not feasible or practical for the Commission to follow the ordinary appellate hierarchy. There simply is not time for the Commission to approach another Court first. If the Commission were to do so, these critically important constitutional issues would become a *fait accompli* before they reach this Court. Simply put, the pronouncement of a lower court would, in effect, have taken precedence over this Court and, as a result of delay, this Court would be precluded from determining these vital issues.

98.1 Justice Moseneke provided his report to the Commission on 20 July 2021. The Commission held an extraordinary meeting the next day, where it carefully considered and adopted the Report. It thereafter acted with expedition to brief counsel and prepare this application within a period of only two weeks. It therefore cannot be suggested that the Commission caused this urgency itself.

98.2 On 3 August 2021, the Minister proclaimed the date of the local

government elections as 27 October 2021.

98.3 The Minister's proclamation must be understood in the light of her letter to the Commission dated 1 August 2021, a copy of which I attach marked "FA11". In that letter, the Minister explains that until a court order authorises her to do otherwise, she has no option but to proclaim the date of the local government elections for 27 October 2021 in terms of section 24(2) of the Municipal Structures Act. She makes clear that if she is authorised by a Court to proclaim the date of the elections outside the 90-day period prescribed in section 159(2) of the Constitution, then she will do so. But until she is so authorised, the local government elections remain scheduled to proceed on 27 October 2021.

98.4 The Commission fully understands the Minister's position. However, the proclamation of the local government elections, and the legal and practical consequences to which it automatically gives rise, places the Commission in an invidious position.

98.5 On the one hand, the Commission is required to prepare on the basis that the local government elections will take place in October 2021. As explained, the Minister has formally proclaimed and set the local government election date of 27 October 2021. Since the forthcoming elections have been formally called, the Commission is required to finalise and publish an election timetable in the *Government Gazette* as required by section 11(1) of the Municipal Electoral Act.



98.5.1 The Commission contends that the local government elections cannot proceed in a constitutionally compliant manner in October 2021. However, in the absence of an order declaring that the Commission may hold the local government elections outside the 90-day period prescribed by section 159(2) of the Constitution and section 24(2) of the Municipal Structures Act, they will have to proceed in October 2021 despite being constitutionally non-compliant.

98.5.2 An election is a huge and costly undertaking. It requires the procurement of electoral supplies, logistics and infrastructure. Later in this affidavit, I describe a truncated timetable of the steps that the Commission intends to take between the filing of this affidavit and 27 October 2021, in the event that this Court declines to grant the relief which the Commission seeks.

98.5.3 Perhaps the most significant aspect of the Minister's proclamation is that it is no longer possible to register voters for an election in October 2021. That is because, in terms of section 6(1A) of the Municipal Electoral Act, only a voter who applied for registration *prior* to the proclamation of an election date may vote in the election concerned.

98.5.4 Indeed, this is one of the many reasons that free and fair local government elections in October 2021 is impossible. There are currently only 25 741 615 registered voters whose

names appear on the national common voters' roll. This does not compare favourably with the number of citizens eligible to vote. According to the national population register, 40 263 709 citizens are eligible to vote, meaning that only approximately 64% of eligible voters are registered. If the election proceeds in October 2021, it will do so with a significant number of eligible voters unregistered.

98.5.5 By way of comparison, in 2016, the Commission interacted with approximately 6 600 000 people over two registration weekend events. Of that total, 1 385 000 were registering for the first time. The remainder were updating their registration details. I attach marked "FA12" a schedule summarising registration activity since 2004.

98.5.6 On the basis of previous experience, the Commission anticipates that if it were to hold a single registration weekend ahead of the forthcoming local government elections, between 400 000 and 600 000 people would register to vote for the first time. This number does not include all the people who need to update their registration details. It also does not include all the people who would register to vote online, but who would be precluded from doing so if the election is to be held in October 2021. For all these categories of people, the impact of the election



proceeding in October 2021 is that they will be effectively disenfranchised.

98.5.7 The absence of a registration weekend is a major development *since* the Moseneke Report was published. In his Report, Justice Moseneke recognised that the voter registration weekend had been postponed to the weekend of 31 July 2021 and 1 August⁵⁴ – the last possible weekend before a proclamation of elections for October 2021. However, this registration weekend had to be cancelled, because various parts of the country were experiencing the peak of the third wave, and the country has been in Adjusted Alert Level 4 (from 28 June 2021 to 25 July 2021) and Adjusted Alert Level 3 (since the night of 26 July 2021).

98.5.8 The upshot is that if the local government elections go ahead in October 2021, then they will do so without a significant portion of the eligible voting population registered to vote. It will be the first time in our history that a nation-wide election has been organised in South Africa without a national voter registration weekend.

98.5.9 Because of these considerations and others, political parties agree that the local government elections in October 2021 will not be free and fair. On 3 August 2021, the Commission convened a meeting of the NPLC, a body established to give

⁵⁴ Paragraph 29 of the Report.

effect to the Commission's function under section 5(1) of the Commission Act to "*establish and maintain liaison and co-operation with parties.*" The NPLC unanimously rejected the draft timetable for local government elections in October 2021. The political parties represented on the NPLC expressed their concern, in particular, that they have less than three weeks to finalise their candidate nomination process – a process which would ordinarily take about 3 months – and that there will be no voter registration weekend.

98.6 At the same time, while the Commission remains bound to comply with the Minister's proclamation until a court directs otherwise, and is taking steps to meet the proclaimed election date, it is simultaneously taking steps to ensure that, if this Court grants its relief and permits the local government elections to be held outside the 90-day period prescribed by section 159(2) of the Constitution, the election can go ahead in a constitutionally compliant manner in February 2022.

98.6.1 To this end, the Commission has prepared a timetable for working towards an election by the end of February 2022. I describe this timetable in detail at paragraphs 229 to 233 below.

98.6.2 In short, the Commission contemplates:



- (a) a registration weekend on 18 and 19 September 2021
(which is anticipated to be in the “trough” between the
third and fourth waves of the pandemic in South Africa);
- (b) online registration on a continuous basis until the close of
the voters’ roll on the date of proclamation;
- (c) a proclamation date of Wednesday 3 November 2021 or
any other such date as may be agreed to with the
Minister;
- (d) a voting date of Wednesday 23 February 2022.

98.6.3 Apart from the voting date itself, the most significant aspect of this timetable is the planned registration weekend on 18 and 19 September 2021. Registration will take place at 23, 151 sites around the country. Organising a registration weekend is a major logistical task: it includes concluding lease agreements with landlords, compiling a bill of material, picking and packing equipment and material in over 257 warehouses and storage facilities countrywide, and transporting this equipment and material to 23, 151 voting station sites, arranging staff and resources, and the like. It also means preparing promotional materials (such as print, electronic and outdoor placements of billboards and street posters) announcing to the public sufficiently far in advance that the registration weekend is taking place, in an effort to mobilise people to register to vote.

98.6.4 Of course, if this Court were to refuse the Commission's relief, then the Commission would cease the steps preparing for February 2022 local government elections immediately. But for as long as there is a prospect of the relief being granted, the plans must continue, or free and fair local government elections even in February 2022 will be rendered impossible.

98.6.5 However, it will only be feasible for the voter registration weekend to proceed on 18 and 19 September 2021, if the Court has given an order in advance of that date, which authorises the Minister to withdraw her Proclamation and to proclaim an election before the end of February 2022, and which permits the Commission to hold the local government elections before the end of February 2022. Simply put, the Commission needs to know, before the scheduled registration weekend, whether it will be permitted to register voters on those dates for local government elections in February 2022.

98.7 In these circumstances, it is clearly not feasible for the Commission to follow the ordinary appellate hierarchy, and to approach either the Electoral Court or the High Court first.

98.8 The Commission is currently operating according to two timetables – one based on local government elections in October 2021, and the other based on local government elections in February 2022 – in an

effort to ensure that both are live possibilities when this matter is decided. However, there will come a point where it is no longer possible to implement both, and the Commission will have no option but to hold the local government elections in October 2021 in accordance with the Minister's proclamation.

98.8.1 In particular, in order to hold the local government elections in February 2022, the Commission would have to organise and hold a nationwide registration weekend on 18 and 19 September. This will require the Commission – by no later than **30 August 2021** – to activate a campaign to inform the public, facilitate the process of finalising lease agreements with 23 151 landlords for voting station, recruit and complete the training programme. All these activities have significant associated costs, and certainty is required before these costs are incurred. It is thus of great importance that, if at all possible, this Court gives its decision before **30 August 2021**.

98.8.2 Alternatively, and at the very latest, the Commission would require certainty on the position by no later than 10 September 2021. If the decision is given by that date, the Commission would still be able to make a final decision on whether to proceed with the registration weekend for 18-19 September 2021 (which it would do if the relief sought is granted and the election will be held by February 2022) or

cancel the registration weekend for 18-19 September 2021 (which it would do if the relief sought is refused and the election will be held on 27 October 2021). Waiting until 10 September 2021 to make this decision would be theoretically possible, but would involve the wastage of very substantial funds. It is thus critical that this Court gives its decision, at the very latest, by 10 September 2021.

98.8.3 A further consideration is that the Commission will simultaneously be spending its budget in preparing for the possibility of going ahead with the local government elections on 27 October 2021. In respect of logistics and infrastructure alone, the Commission estimates the cost will be around R87 million. The cost drivers are the ballot paper printing, ballot paper printing quality assistance, and local storage for electoral supplies. If the local government elections are to proceed in October, these ballot papers will be based on the submission of candidates as at 23 August 2021. The Commission will need to ensure that ballot paper production and distribution to the Municipal Election Officers commences from mid-September 2021. This would be a significant wasted cost if the local government elections were to take place in February 2022, based on an updated candidate lists.

98.8.4 It is thus of great importance that a final decision is obtained, if at all possible, by 30 August 2021 or, at the very latest, by 10 September 2021.

98.9 It is uncertain whether the Electoral Court would even have jurisdiction to hear this matter, or to grant the relief that the Commission seeks. However, even if the Commission were to approach the Electoral Court or the High Court, an appeal to this Court would thereafter be inevitable – and indeed desirable, given the importance of the issues at stake, and the need for public trust and confidence that only a judgment from this Court can provide.

98.10 But there simply is no time for the Commission to approach another court first. Even if the Commission were to obtain an order on an urgent basis at first instance, any appeal would suspend that order, and, by the time the matter reached this Court, it would be impossible for the Commission to obtain substantive redress.

98.11 More importantly, the public would have been deprived of this Court's final determination of the fundamentally important constitutional issues that arise in this matter.

99 **Third**, the circumstances giving rise to this case are not merely exceptional. They are unprecedented. Although direct access is granted only exceptionally, I am advised that this Court has in appropriate cases granted

direct access.⁵⁵

100 The present application arises because of one of the worst global pandemics in human history. It is a case that concerns, in the context of this pandemic, the right of every South African to vote in elections that are regular, free and fair. It is difficult to conceive of a case more deserving of direct access. There is certainly no risk that granting direct access in this case will give rise to the proliferation of frivolous direct access applications in future.

101 **Lastly**, for the reasons set out more fully in the remainder of this affidavit, the application self-evidently bears prospects of success.

102 For all these reasons, I respectfully submit that this is a truly exceptional case, in which the interests of justice require the Court to assume jurisdiction as the court of first and final instance, and to grant direct access.

Urgency

103 This application for direct access is brought on an urgent basis in terms of Rule 12 of the Constitutional Court Rules. As explained above, urgency is a compelling reason for granting direct access.

104 Put simply, and as I have already explained, the urgency of the matter is this.

⁵⁵ See for example *United Democratic Movement v Speaker of the National Assembly and Others* 2017 (5) SA 300 (CC) paras 23 to 28; *Mazibuko v Sisulu and Another* 2013 (6) SA 249 (CC) paras 33 to 37; *Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State v Zuma* (CCT 295/20) [2021] ZACC 2; 2021 (5) BCLR 542 (CC).

104.1 Now that the Minister has made her proclamation (which she did on 3 August), the local government elections are scheduled to proceed on 27 October 2021.

104.2 The Commission contends that the election cannot proceed freely and fairly on that date. In addition, as I have explained above, the political parties represented on the NPLC have unanimously rejected the timetable which would make an election on this date possible.

104.3 But in the absence of an order allowing the Commission to hold the election outside the 90-day period prescribed in the Constitution, it will have to proceed on that date. The Commission is currently expending time and resources working towards that date in case this Court does not grant the relief it seeks.

104.4 Electioneering and campaigning activities will precede the election day. If the local government elections are to take place on 27 October 2021, it can reasonably be expected that these activities will commence imminently.

104.5 The Commission asks this Court to allow it to hold the local government elections outside the period prescribed in section 159(2) of the Constitution, and to direct it to hold the elections before the end of February 2022. The Commission is thus simultaneously taking steps towards holding local government elections in February 2022, including by organising a registration weekend on 18 and 19 September 2021.

104.6 However, the registration weekend on 18 and 19 September is itself time- and resource-intensive, and, in any event, can only lawfully proceed if, prior to the scheduled date, this Court grants an order allowing the Commission to hold the election outside the period in section 159(2) of the Constitution, and directing it to do so before the end of February 2022.

105 Therefore, this Court's ordinary procedures simply will not suffice. In order for any relief granted to be effective, it is essential that this Court gives an order in advance of the planned registration weekend on 18 and 19 September 2021. As a matter of practical reality, the registration weekend on 18 and 19 September 2021 can only feasibly proceed if this Court has given its order, if at all possible, by 30 August 2021 or, at the very latest, by 10 September 2021.

106 Moreover, the consequences for public trust and confidence will be catastrophic if the Commission registers potentially millions of people on 18 and 19 September 2021, only for those people to be turned away from the polls on 27 October 2021.

107 Similarly, during registration weekends significant numbers of voters change the voting district in which they are registered. On average in an election year, approximately 2 832 876 registered voters re-register in a different voting district to ensure that they are correctly registered to participate in the local government elections. In addition to this, on average 939 514 registered voters re-register in the same voting district with either a new or an improved address. This is especially important in the context of local

government elections, which take place partly on the basis of constituency-based elections. There would be serious chaos and confusion if voters were to change their registered voting districts on 18 and 19 September 2021, only for those voters to be told on 27 October 2021 that their changes in registration were not effective and they were not allowed to vote in their new voting district.

- 108 The Commission therefore respectfully requests that it is afforded a hearing so as to enable the Court to grant an order, if at all possible, before 30 August 2021 or, at the very latest, before 10 September 2021.and that the Acting Chief Justice's directions make provision for the filing of any further affidavits and heads of argument to allow for such a hearing.

CONSTITUTIONALLY COMPLIANT ELECTIONS

- 109 Justice Moseneke's central conclusion was that the Commission would not be able to hold a constitutionally compliant election in October 2021. In arriving at that conclusion, and with reference to this Court's previous decisions, Justice Moseneke carefully sketched various essential features of a constitutionally compliant election.
- 110 I address these essential features in this section. In essence, I explain that the Commission is obliged by the Constitution to hold elections which (i) are regular; (ii) are free and fair; and (iii) respect, protect, promote and fulfil the rights in the Bill of Rights, particularly the right to life, physical and psychological integrity and access to healthcare.

The constitutional standard

- 111 Section 1 of the Constitution, provides that South Africa is one, sovereign, democratic State founded on certain values, including *"[u]niversal adult suffrage, a national common voter's roll, regular elections and a multi-party system of democratic government to ensure accountability, responsiveness and openness"*.
- 112 Section 19(2) of the Constitution entrenches the right of every citizen to *"free, fair and regular elections"* for the legislative bodies at national, provincial and local government level; the right to vote in elections for any legislative body established in terms of the Constitution, and to do so in secret; as well as the right to stand for public office and, if elected, to hold office.
- 113 Chapter 7 of the Constitution regulates the local sphere of government, which is made up of wall-to-wall municipalities throughout South Africa. Each municipality's executive and legislative authority is vested in its municipal council.
- 114 The Constitution thus requires that elections, including those in the municipal sphere, are free and fair, as well as regular. These are cumulative requirements. The Constitution does not permit elections that take place regularly, but which are not free and fair. At the same time, it requires that free and fair elections must also be held regularly.
- 115 The regularity of local government elections is enshrined in section 159 of the Constitution, which provides as follows:

Terms of Municipal Councils

159. (1) The term of a Municipal Council may be no more than 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.
- (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.

116 Therefore, the Constitution prescribes the terms of municipal councils as being no more than five years, and requires that an election must be held within 90 days of the end of the terms of a municipal council. A municipal council remains competent to function until the newly elected council has been declared.

117 The requirement in terms of section 19(2) and 190 of the Constitution that elections must be free and fair is a single requirement, and not a conjunction of two separate and disparate elements. The term "*free and fair*"—

" . . . highlights both the freedom to participate in the electoral process and the ability of the political parties and candidates, both aligned and non-aligned, to compete with one another on relatively equal terms, so far as that can be achieved by the IEC. As to the former, from the perspective of a political party or an individual candidate seeking election in a municipal ward, it demands the freedom to canvass; to advertise; and to engage in the activities normal for a person seeking election. Phenomena like 'no go' areas; the denial of facilities for the conduct of meetings; disruption of meetings; the destruction of advertising

material or the intimidation of candidates, workers or supporters, could all prevent an election from being categorised as free and fair.”⁵⁶

118 Free and fair elections are the lifeblood of democracy. They allow the populace to select its leaders, and then to hold them accountable. Indeed, this Court has held that the right to vote is “empty” without free and fair elections, and that the latter gives content and meaning to the former.⁵⁷

119 Justice Moseneke aptly described the requirement of free and fair elections as “*the golden standard of our electoral project*”, and explained that without them “*there can be no democracy*”.⁵⁸ That is because a government that does not receive its mandate from the people, through the expression of their will in free and fair elections, lacks legitimacy, and the outcome of such elections would be invalid to the extent that they are unlawful and inconsistent with the Constitution.

120 This Court has explained that, while there is no fixed meaning of a free and fair election, there are certain elements which are of “*fundamental importance to the conduct of free and fair elections*”.⁵⁹ Justice Moseneke recognised, endorsed and expanded upon these essential elements of free and fair elections in his Report.⁶⁰ They include the following:

120.1 Every person who is entitled to vote must have the opportunity to do so and should, if possible, be registered to do so. There should be no

⁵⁶ Kham and Others v Electoral Commission and Another 2016 (2) SA 338 (CC) para 86.

⁵⁷ New National Party of South Africa v Government of the Republic of South Africa and Others 1999 (3) SA 191 (CC)

⁵⁸ Paragraph 69 of the Report

⁵⁹ Kham para 34.

⁶⁰ Paragraph 71 of the Report.

unreasonable restrictions or burdens placed on eligible voters who wish to exercise the right to vote.

120.2 Each person's vote must count equally or be of equal value.

120.3 No one who is not entitled to vote should be permitted to do so.

120.4 Every person who is entitled to vote must be able to vote in secret.

120.5 Political parties and candidates must have the ability to compete with one another on relatively equal terms and without "*any undue hindrance or obstacle*"⁶¹ in the way that the elections are prepared for and conducted.

120.6 Every adult citizen must be able freely to contest elections and seek public office, whether through membership of a political party or as an independent candidate. Political parties and candidates should be free to canvass, to advertise, and to engage in the activities normal for a person seeking election.

120.7 Insofar as elections have a territorial component (as is the case with local government elections, where candidates are in the first instance elected to represent particular wards), the registration of voters must be undertaken in such a way as to ensure that only voters in that particular area are registered and permitted to vote.

120.8 Voters should have access to reliable information about the elections and the parties and candidates contesting the same and must be able

⁶¹ Kham para 87.

to vote free from intimidation and similar hindrances.

The statutory framework

121 In addition to the Constitution, local government elections are also regulated by the Municipal Structures Act and the Municipal Electoral Act.

122 Section 24(1) of the Municipal Structures Act echoes the constitutional requirement that the term of municipal councils is *"five years, calculated from the day following the date set for the previous election of all municipal councils"*. Section 24(2) requires the Minister, whenever it is necessary, and after consulting the Commission, to call and set a date for an election of all municipal councils by notice in the Government Gazette, *"which must be held within 90 days of the date of the expiry of the term of municipal councils"*.

123 Section 26(1) of the Municipal Structures Act gives effect to section 159(3) of the Constitution, and provides that a person is elected as a member of a municipal council for a period ending when the next council is declared elected.

124 The Municipal Structures Act and Municipal Electoral Act allow for postponements in certain circumstances. The principle that guides the postponement of elections is always whether the elections can be conducted in a manner that is free and fair.

125 Section 8(1) of the Municipal Electoral Act allows the Commission to request the Minister to postpone the voting day for an election *"if the Commission is satisfied that it is not reasonably possible to conduct a free*

and fair election on that day”.

126 Section 8(2) provides that the Minister must, upon request from the Commission, and by notice in the Government Gazette “*postpone the voting day for the election to a day determined in the notice, but that day must fall within a period of 90 days of the applicable date mentioned in section 24(2) or 25(3) of the Municipal Structures Act*” – that is, within 90 days of the expiry of the incumbent municipal councils.

127 Section 9(1) of the Municipal Electoral Act allows for the postponement of voting at a particular voting station by the Commission itself, if it “*is satisfied that it is not reasonably possible to conduct a free and fair election at a voting station on the voting day*”. The Commission must postpone the election to a date “*within a period of 90 days of the applicable date mentioned in section 24(2) or 25(3) of the Municipal Structures Act*” – that is, again, within 90 days of the date of expiry of the term of the current municipal councils.

128 The statutory scheme thus allows for the postponement of elections – generally by the Minister, and at a particular voting station by the Commission – but only:

128.1 if the Commission is satisfied that it is not reasonably possible to conduct free and fair elections on that day – what Justice Moseneke calls the “*litmus test on whether elections should be postponed*”,⁶² and

⁶² Paragraph 69 of the Report.

128.2 to a date that falls within the 90-day period following the expiry of the five-year term of the incumbent municipal councils.

The Commission's obligations

129 The Commission is a Chapter 9 institution, established in terms of section 181, and regulated by sections 190 and 191 of the Constitution.

130 In terms of section 190, the Commission is required to:

130.1 manage elections of national, provincial and municipal legislative bodies in accordance with national legislation;

130.2 ensure that those elections are free and fair; and

130.3 declare the results of those elections within a period that must be prescribed by national legislation and that is as short as reasonably possible.

131 The Commission thus bears a direct constitutional obligation to conduct elections that are free and fair. It acts in direct breach of its constitutional obligation if it conducts an election – even if it is within the period prescribed under section 159 – that is not free and fair.

132 The Commission also bears an obligation, to all participants in elections, of even-handedness in the application and implementation of electoral laws. This Court has described the Commission's function as being to ensure a "*level playing field*", in which all participants can compete "*without any*

undue hindrance or obstacle".⁶³ In particular, the Commission owes an obligation—

"to all participants without fear or favour and should ensure that all the participants can compete without any undue hindrance or obstacle occasioned by the manner in which the preparations for the election have been undertaken or the way in which the election has been conducted."⁶⁴

133 The Commission is an organ of state. It therefore bears obligations under section 7(2) of the Constitution to "*respect, protect, promote and fulfil the rights in the Bill of Rights*". There are a range of constitutional rights that are implicated in conducting an election during a pandemic.

134 The first and most fundamental is the right to life. The right to life has been described, together with dignity, as the most fundamental of all rights. Given its importance, any limitation to the right to life must be exceptionally compelling to be justifiable.

135 In addition, section 12 of the Constitution guarantees every person the right to bodily and psychological integrity. This means that every person is entitled to be free from acts against their body to which they did not consent; to security in and control over their body; and to the absence of physical intrusion.

136 The Constitution also provides that everyone has the right to have access to health care services, and that the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive

⁶³ Kham para 87.

⁶⁴ Id.

realisation of this right. The negative aspect of the right to health care is that the state must not prevent and impair access to health care services.

137 As I have explained above, section 19(2) of the Constitution entrenches the right of every citizen to "*free, fair and regular elections*" for the legislative bodies at national, provincial and local government sphere; the right to vote in elections for any legislative body established in terms of the Constitution, and to do so in secret; as well as the right to stand for public office and, if elected, to hold office.

138 The Commission bears a positive obligation in relation to the obligation to conduct free, fair and regular elections. That is indeed the very core of its constitutional mandate. It also bears at least negative obligations not to impair or infringe the right to life, the right to physical and psychological integrity and the right of access to health care services.

Summation

139 There are, in sum, three requirements which the Commission must meet in arranging and managing constitutionally compliant elections.

140 First, the Commission must hold elections regularly. Insofar as local government elections are concerned, this means that they must be held within 90 days of the expiry of the incumbent municipal councils.

141 Second, the Commission must hold elections that are free and fair. This means, inter alia, that every person who is entitled to vote has the opportunity to do so and faces no unreasonable restrictions or burdens; that political parties and candidates have the ability to compete on equal terms,

and without undue hindrance or obstacle; that every adult citizen can freely contest elections and seek public office – through canvassing, advertising and the like; and that voters have access to reliable information about parties and candidates.

142 Third, the Commission must organise elections in such a manner that respects, protects, promotes and fulfils constitutional rights, including the right to life, physical and psychological integrity and access to healthcare.

143 As I explain below, it is objectively impossible for the Commission to hold an election that is constitutionally compliant. That is, it is impossible for the Commission to satisfy the requirements of the local government elections being regular, free and fair, and protecting the right to life, physical and psychological integrity and access to healthcare.

A CONSTITUTIONALLY COMPLIANT LOCAL GOVERNMENT ELECTION IS IMPOSSIBLE

144 Justice Moseneke found and the Commission agrees that the local government elections cannot be held freely and fairly, and without infringing fundamental constitutional rights, in October 2021.

145 I demonstrate below that the objective facts demonstrate this plainly to be so. Simply put, having regard to the essential features of constitutionally compliant elections described above, it is objectively impossible for the Commission to organise constitutionally compliant local government elections in October 2021.

The objective circumstances

146 As Justice Moseneke explains⁶⁵, the decision as to whether elections are likely to be free and fair *“depends on the context, and on the objective circumstances which are likely to obtain at the time of the envisaged election.”*

147 I have set out above the standard for constitutionally compliant elections, which are endorsed in the Report. Justice Moseneke was required to make an objective determination as to whether the scheduled elections would meet this standard.

148 To this end, Justice Moseneke explains that while the submissions by political parties, civil society and members of the public were instructive and important, the Report does not make factual findings on the positions advanced by these stakeholders.⁶⁶ Instead, his conclusions are based on the objective facts and circumstances, and particularly the medical and scientific evidence he received.

What the election requires

149 Justice Moseneke notes that running registration activities requires the Commission to interact with a generous number of people. The voter registration weekend, for example involves opening all voting stations across the Republic, approximately 23 200 stations.⁶⁷

⁶⁵ Paragraph 20 of the Report.

⁶⁶ Paragraph 244 of the Report.

⁶⁷ Paragraphs 53 to 54 of the Report.

150 The importance of the voter registration cannot be overstated. Yet 36 per cent of eligible voters are not yet registered to vote. With young people being disproportionately underrepresented among registered voters.⁶⁸ I confirm that at the time of deposing to this affidavit, the proportion of unregistered eligible voters remains at 36 per cent.

151 In-person registration is vital to avoid disenfranchising eligible voters who do not have access to online platforms.⁶⁹

152 Only a voter who applied for registration prior to the proclamation of an election date may vote in the election concerned. This means that no registration, whether on-line, in person, or through a voter registration weekend can take place after an election has been formally called.⁷⁰

153 In addition to the run-up to election day, the day itself requires mobilisation in huge proportions. The holding of a general election involves probably the single largest mobilisation of citizens in the Republic on a particular day.⁷¹ There are currently 25.7 million registered voters who would be eligible to participate in the local government election.⁷² The forthcoming election will, in effect, involve 4 725 separate elections; electing proportional representation members of 8 metropolitan councils, 205 local councils and 44 district councils as well as 4 468 ward councillors.⁷³

⁶⁸ Paragraph 31 of the Report.

⁶⁹ Paragraph 30 of the Report.

⁷⁰ Paragraph 32 of the Report, citing section 6(1A) of the Municipal Electoral Act.

⁷¹ Paragraph 52 of the Report.

⁷² Paragraph 56 of the Report.

⁷³ Paragraph 25 of the Report.

The likelihood of transmission of Covid-19 as a result of elections

154 As set out in the Report, and according to the World Health Organisation, the virus can spread from person to person through respiratory droplet transmission, which occurs when a person is in close contact (within 1 metre) with an infected person who has respiratory symptoms or who is talking or singing. Respiratory droplets containing the virus can reach the mouth, nose or eyes of a susceptible person and can result in infection.⁷⁴

155 The scientific experts were agreed that large gatherings are super spreader events. Professor Abdool Karim raised five risks of transmission that arise with election activities⁷⁵:

155.1 Occupational exposure for the Commission's staff and campaign staff;

155.2 Door-to-door visits;

155.3 Small group meetings;

155.4 Large group rallies and marches; and

155.5 Voting day queues and polling booth risks.

156 These activities pose three principal risks:

156.1 Gatherings, especially those indoors (large group rallies and marches being super spreader events);

⁷⁴ Paragraph 51 of the Report.

⁷⁵ Paragraph 221 of the Report.

156.2 Movement of people; and

156.3 The level of adherence to non-pharmaceutical interventions (such as including the mandatory wearing of masks when in public, physical distancing, sanitisation, curfews and limitations on gatherings).

The risk posed by Covid-19

157 As Justice Moseneke acknowledged⁷⁶, “[t]he intractable question [...] is whether the Commission is likely to conduct free and fair local government elections in October 2021 given the potential threat to life, bodily and psychological integrity and access to health care posed by the Covid-19 pandemic.” (my emphasis)

158 As is apparent from the Report, the health authorities’ and experts’ submissions significantly underpinned Justice Moseneke’s conclusion and recommendations.

159 Justice Moseneke considered the impact of the Covid-19 pandemic and the measures which have been adopted to curb its spread to be “a vital consideration” in assessing whether the local government elections are likely to be free and fair.⁷⁷

160 The Director-General of the Department of Health, Dr Buthelezi, referred to the increasing presence of the delta variant and noted that it is at least twice

⁷⁶ Paragraph 20 of the Report.

⁷⁷ Paragraph 57 of the Report.

as infectious as the beta variant, and it is highly transmissible.⁷⁸

161 The Department of Health's view is that the holding of local government elections in October 2021 will place the public at risk of contracting the Covid-19 virus during election activities such as *"physical voter registration, the voting process itself when large numbers of people will gather at polling stations and will queue to complete their ballot, [and] large political gatherings"*. Furthermore, the Department of Health emphasised that the rollout of the vaccine programme will not have reached a sufficient proportion of people to reach community immunity, concluding that if local government elections were held in October 2021, there would be a high likelihood of a high number of delta infections, hospitalisations and deaths.⁷⁹

Dr Buthelezi's confirmatory affidavit is attached to this affidavit.

162 Professor Abdool Karim concurred that the delta variant can spread much faster, and large numbers of people need hospitalisation and medical care. The Professor stated that *"anything that exacerbates the spread of these variants just makes matters so much worse."*⁸⁰ A confirmatory affidavit of Professor Abdool Karim is attached to this affidavit together with the written submission made to the Inquiry.

163 Dr Abdullah and Dr Dasoo submitted that there is a significant undercounting of Covid-19 deaths and that the threat to life and limb is much larger than the official number of Covid-19 deaths suggests, likely three times higher than official reports of deaths. The country's health care

⁷⁸ Paragraph 192 of the Report; See also paragraph 204 of the Report.

⁷⁹ Paragraph 199 of the Report.

⁸⁰ Paragraph 204 of the Report.

system has not been able to create special capacity to manage a third wave and it is unlikely that it will be able to do so in a fourth wave.⁸¹ Confirmatory affidavits of Dr Abdullah and Dr Dasoo are attached to this affidavit together with the written submission made to the Inquiry.

164 Professor Silal and Dr Miot provided the Inquiry with evidence of the efficacy two vaccines (Astra Zeneca and Pfizer) against the delta variant. They noted that the efficacy of Pfizer in relation to hospitalisation was high after a single dose, at 94 per cent, while it is only 33 per cent effective in relation to all symptomatic disease.⁸²

165 They also addressed the requirements and possibility for achieving community immunity. As recorded in the Report, at least 67 per cent of the population must be vaccinated before community immunity can be achieved.⁸³ The Report accepts that even with the "best will in the world" and even if the country caught up to what the plans are for the vaccination programme, enough people would not have been vaccinated by October 2021 for the country to achieve community immunity.⁸⁴ The confirmatory affidavits of Professor Silal and Dr Miot are attached to this affidavit, together with the written submission made to the Inquiry.

166 The Director General of the Health Department, Dr Buthelezi, made a similar submission, stating that for South Africa to achieve community immunity, 40 million people must be vaccinated. By the beginning of

⁸¹ Paragraphs 209 to 210 of the Report.

⁸² Paragraph 173 of the Report.

⁸³ Some experts view 67 per cent to be too low a target, see paragraph 218 of the Report.

⁸⁴ Paragraph 174 and 175 of the Report.

October 2021, the Health Department expected to have vaccinated 16 million people.⁸⁵

Changed circumstances

167 The Commission recognises that the present circumstances are not identical to the context in which the Report was published, and they will keep changing over the coming months. However, as I will explain, the circumstances have not changed to an extent that undermines the Report's conclusion and recommendations.

168 At the outset, however, I emphasise that an election is not confined to voting day. It includes everything that occurs in the run-up to an election, amongst others candidate selection, campaigning and electioneering and voter registration. Therefore, in determining the possibility of a free and fair election in October 2021, it is not enough to consider merely the likely state of Covid-19 on voting day. Instead, one has to consider whether the essential ingredients of a free and fair election, which precede an election, can possibly be implemented.

169 I respectfully submit that any developments after the publication of the Moseneke Report can at best bear on voting day. They cannot change the fact that candidates and political parties have been and will be unable to campaign and advertise effectively; that the electorate has been and will be denied access to crucial information; and, most significantly, that a significant proportion of the eligible voting population has not registered to

⁸⁵ Paragraphs 194 and 195 of the Report.

vote.

Increased vaccination roll-out

170 The Report was compiled at a time when the vaccine roll out programme was slower than it is today, with 3.5 million people having been vaccinated by 30 June 2021.⁸⁶ The Report records that by October 2021, those who are 50 years and older, and some who are 40 years and older, may be vaccinated.⁸⁷

171 Since then, vaccine roll out has increased dramatically. Persons aged 35 to 49 have been eligible to register for vaccinations since 15 July 2021. On 26 July 2021, the President announced that those aged 18 to 34 would be eligible to register for vaccinations from 1 September 2021.

172 As set out in the confirmatory affidavit of the Director General of the Department of Health, Dr Buthelezi, as of 1 August 2021 –

172.1 The cumulative number of vaccines administered (excluding vaccination records captured on paper in the preceding 24 hours) is 7, 567, 757.

172.2 This has resulted in 2, 982, 952 people being fully vaccinated (either with a single dose of the Johnson & Johnson vaccine or a double dose of the Pfizer vaccine).

172.3 Therefore approximately 4.9% of South Africa's population is fully

⁸⁶ Paragraph 174 of the Report.

⁸⁷ Paragraph 172 of the Report.

vaccinated.

172.4 In the past week the average number of doses administered daily was 220, 000. This rate results in the vaccination of one million people every four days.

172.5 With the expected vaccine batches coming from Johnson & Johnson and Pfizer in the coming days, the Department is expecting to reach 400 000 vaccinations per day by 6 August 2021. By reaching this target, we will be able to vaccinate one million people every three days.

172.6 Assuming the best trajectory of vaccinating one million people every three days, in the next 87 days this would achieve vaccinating an additional 29 million people.

172.7 Therefore, if this highest target is met 36.5m doses will have been administered by 27 October 2021. This does not equate to 36.5 fully vaccinated individuals as the Pfizer vaccine requires two doses and is being administered with a 42-day interval between the first and second dose.

172.8 There is also a lag period before the immune response elicited by the vaccine is effective. For Johnson & Johnson there is some response two weeks after vaccination, but it is really properly effective after four weeks. For Pfizer it is two weeks after the second dose of the vaccine. This would mean to have the most effective immune response by 27 October 2021 a person would need to have received

the Johnson & Johnson vaccine by the start of October 2021, or the second dose of the Pfizer vaccine by mid-October 2021.

173 Dr Buthelezi concludes that it does not appear that South Africa will have achieved community immunity and/or the vaccination of at least 67% of the population in time for a 27 October 2021 local government election date. However, the country does look on track to reach community immunity and/or the vaccination of at least 67% of the population by, or before, February 2022.

174 Justice Moseneke notes in the Report that the age group 35 to 59 are a very "*characteristic population*" for two reasons⁸⁸:

174.1 first, they constitute the largest number of admissions in hospitals in Covid-19 cases, and

174.2 second, this age group is a big portion of the voter population. It is this age group that will likely attend group rallies and other electioneering activities that are precursors to voting day, and are also likely to participate in high contact activities.

175 Group rallies and electioneering activities will precede the election day. And if the local government elections are to take place on 27 October 2021 it can be expected that they will commence shortly. The risk remains that a significant portion of the characteristic population will not be fully vaccinated when these activities commence.

⁸⁸ Paragraph 172 of the Report.

The country is currently on Adjusted Alert Level 3

176 The duration of the national state of disaster has been successively extended for one-month periods in terms of section 27(5)(c) of the Disaster Management Act. Most recently, through Government Notice No. R 611 of 12 July 2021, the national state of disaster has been extended to 15 August 2021. It is highly likely that the country can anticipate further extensions for this year if not beyond.

177 The Report correctly records that Adjusted Alert Level 4 was applied nationally on 27 June 2021 and that on 11 July 2021 it was extended for a further two weeks. Justice Moseneke notes that *“Under Adjusted Alert Level 4, all gatherings are prohibited, with very few listed exceptions. The ban on gatherings expressly includes gathering at political events. Moreover, it is a criminal offence to convene or attend a gathering, including a political gathering, under Adjusted Alert Level 4.”*⁸⁹

178 On Sunday 26 July 2021, after the Report was published, the President announced that the country would be moved from Adjusted Alert Level 4 to Adjusted Alert Level 3 with immediate effect. It is not certain for how long Level 3 will apply.

179 While Levels 3, 2 and 1 impose less severe restrictions on the movement of persons and gatherings, significant restrictions remain⁹⁰ –

179.1 Curfews remain. Under Alert Level 3 the curfew applies from 22h00

⁸⁹ Paragraphs 44 and 45 of the Report.

⁹⁰ Paragraphs 46 to 50 of the Report.

to 04h00. Breaking curfew is criminal offence under all these alert levels.

179.2 Political gatherings are permitted subject to restrictions, such as the wearing of masks, physical distancing and adherence to Covid-19 health protocols. There are limits imposed on the number of people who may attend a gathering. Under Alert Level 3, the maximum number of people who may attend a gathering is 50 at an indoor venue and 100 at an outdoor venue. If a venue cannot accommodate the numbers permitted with the requisite physical distancing, then more than 50 percent of the capacity of the venue may not be used.

179.3 Any gathering that contravenes the Regulations must be dispersed by an enforcement officer. If a person refuses to disperse, the enforcement officer must take appropriate action, which may include the arrest and detention of any person at the gathering. It is also a criminal offence, for the duration of the national state of disaster, to hinder, interfere with or obstruct enforcement officers in the exercise of their powers or performance of their duties.

179.4 It is an offence for any person to incite, instigate, command, or procure any other person to commit any offence in terms of the Regulations. This may include convening a gathering that contravenes the Regulations under Alert Levels 3, 2 and 1.

180 The restrictions placed by the Regulations affect not only the election day itself but the lead up to the election. This remains a bar to free and fair

elections.⁹¹

A truncated timetable for an October 2021 election

181 The Commission recognises that, until this Court directs otherwise, it must take steps to comply with the Minister's proclamation and arrange local government elections in October 2021.

182 The Commission has prepared a truncated timetable for local government elections in October 2021 ("**the October 2021 timetable**"), which I attach marked "**FA13**". The timetable provides for the steps that must be taken prior to a 27 October 2021 election date.

182.1 As I have explained above, the October 2021 timetable was unanimously rejected by the NPLC at a meeting on 3 August 2021. The parties represented on the NPLC expressed their concern that, in terms of the October timetable, they would have less than three weeks to finalise their candidate nomination process – a process which would ordinarily take about 3 months – and that there will be no voter registration weekend. This is the first time in democratic South Africa that an election timetable has been rejected outright by the NPLC.

182.2 The October 2021 timetable contemplates that the election date will be formally proclaimed on 6 August 2021 and provides an 82-day lead time. Since the proclamation was in fact made on 3 August, there is an 85-day lead time within which to organise the local

⁹¹ Paragraph 265 to 269 of the Report.

government elections. The Commission is required to finalise and publish the election timetable in the *Government Gazette* as required by section 11(1) of the Municipal Electoral Act. The Commission will provide the Court with the published timetable once it has been gazetted. It is unlikely to differ markedly from the October 2021 timetable attached.

182.3 The October 2021 timetable excludes the possibility of a general voter registration weekend. This will necessarily limit the preparation of an updated and comprehensive certified voters' roll for October 2021 elections. The risk exists that the local government elections may be challenged on the basis that aspirant contestants and or voters did not have an opportunity to register or to update their details.

182.4 On the October 2021 timetable, there can be little increase in the number of registered votes. This is not only due to the statutory prohibition⁹² but also due to practicalities. It would not be possible to extend the period for voter registration for any period prior to an October 2021 election, whether online, door-to-door or through a national voter registration weekend. The registration of voters within demarcated voting districts is central to local government elections and, as such, is subject to scrutiny by all interested parties. A completed voters roll is required in order for the following steps to take place:

⁹² Section 6(1A) of the Municipal Electoral Act.

182.4.1 The voters' roll must be made available for inspection and objections and the Commission must consider the objections raised. These steps are already compressed to a 5 day period in the October timetable. This poses a risk to an accurate certified voters' roll for local government elections in October 2021 and further accentuates the risks of challenges to the outcome of the elections based on the voters' roll.

182.4.2 The voters' roll must be certified and published by 1 September in anticipation of a 27 October election date. A final voters' roll is needed for planning the allocation of resources and officials to the various polling stations.

183 On the October timetable, the cut-off date for the submission of candidates is 23 August 2021. Given the fact that the country was only removed from Adjusted Alert Level 4 on 26 July 2021, political parties may not have been able to comply with their internal requirements for candidate nominations. This is indeed one of the bases upon which the NPLC has rejected the October timetable.

184 I set out the above to demonstrate that if elections must go ahead in October, then the Commission is in a position to run the elections. However, running an election is not the same as running a constitutionally compliant election. For the reasons I have given, I deny that an election organised according to the above timetable would be constitutionally compliant.

A handwritten signature and initials are located in the bottom right corner of the page. The signature is a stylized, cursive 'L' shape, and the initials are 'KJ'.

ELECTORAL PRACTICE DURING THE COVID-19 PANDEMIC

185 Justice Moseneke gave careful attention to the postponement of by-elections in South Africa, and to the postponement of elections globally.⁹³ He concluded that, in seeking the postponement by the Electoral Court of by-elections during the Covid-19 pandemic, the Commission made the “*correct call*” that it would not be possible to hold those by-elections in a manner that was free and fair.

186 From a global perspective, Justice Moseneke relied particularly on the examples of United States, India, and Brazil, which saw “*staggering numbers*” of deaths associated with their elections – “*something we should not wish for ourselves.*”⁹⁴

187 In this section, I explain Justice Moseneke’s findings on this score in greater detail, and respectfully submit that his conclusions are unassailable.

The postponement of by-elections in South Africa

188 Between March 2020 (when South Africa first went into lockdown) and June 2021, the Commission approached the Electoral Court on eight occasions, to seek orders either postponing the holding of by-elections or extending the period within which the Commission is authorised to hold by-elections.

189 The Electoral Court granted the orders on each occasion.⁹⁵ The orders are

⁹³ Paragraphs 123 to 156 of the Report.

⁹⁴ Paragraph 293 of the Report.

⁹⁵ Case number 001/2020, court order granted on 19 March 2020; Case number 002/2020, court order granted on 4 May 2020; Case number 003/2020, court order granted on 19 June 2020; Case number 004/2020, court order granted on 17 July 2020; Case number 005/2020, court order granted on 23 September 2020; Case number 001/2021, court order granted on 21

attached marked "FA14.1 to FA14.8".

190 The first application was granted on 19 March 2020 – just days after the President announced the proclamation of a national state of disaster on 15 March 2020. The remaining seven applications were brought when the country was placed under Alert Level 2 to Alert Level 5.

191 The Commission has thus only proceeded with by-elections when South Africa has been under Alert Level 1 – that is, when the number of daily new infections was at its lowest, and when movement and social gathering was least restricted.

192 By-elections were held on 11 November 2020 and 9 December 2020. However, when the alert level was increased to Adjusted Alert Level 3, the Commission sought and obtained postponements of by-elections that were scheduled to take place during January, February and March 2021, and again later when the country was placed on Adjusted Alert Level 4.

193 In each of the cases where the Commission sought a postponement of by-elections, it relied on four reasons.

193.1 First, that the Commission was hindered from preparing for, and conducting by-elections in a free and fair manner.

193.2 Second, that the risk of infections spreading through the holding of election activities did not make it possible for the by-elections to be held safely.

193.3 Third, that because Alert Levels 2 to 5 impose restrictions on gatherings and political activities and confine people to their places of residence for large periods of the day, political parties and candidates are inhibited from campaigning for votes, thus undermining the freeness and fairness of the by-elections.

193.4 Fourth, that there was a real possibility that voters would stay away from the polls, undermining the credibility of the outcomes and the legitimacy of those who were elected to lead.

194 Justice Moseneke concluded⁹⁶ that, insofar as the postponement of by-elections is concerned, there was *"no fault in the attitude of the Commission"*; that its concerns about the inability of persons to exercise rights that are essential to the conduct of free and fair elections were justified; and that it had *"made the correct call that the measures promulgated by the Government to curb the continued spread of the pandemic had an adverse impact on the likelihood of the by-elections being free and fair."*

Elections globally

195 Justice Moseneke also considered – on the basis of extensive comparative research – the global experience of holding elections during the Covid-19 pandemic.

196 Relying on a report titled *Global Overview of the Covid-19 Impact on Elections* published by the International Institute for Democracy and

⁹⁶ Paragraphs 264 and 265 of the Report.

Electoral Assistance,⁹⁷ Justice Moseneke found that in the period between 21 February 2020 to 21 June 2021, at least 78 countries postponed elections due to Covid-19; that 55 of those countries have now held elections; and that 125 countries held elections without any postponement, notwithstanding Covid-19 concerns.⁹⁸

197 In Africa, at least 14 countries and territories postponed national and subnational elections due to Covid-19,⁹⁹ and at least 28 countries proceeded with elections (some of which had initially been postponed).¹⁰⁰

198 In part because of the paucity of Covid-19 testing in some African countries, it was not clear whether elections in Africa led to a spike in Covid-19 infections.¹⁰¹ However, the data suggests that where mandatory protocols were put in place and properly enforced, the elections did not cause a spike in infections; whereas in countries where protocols were not in place or not adequately implemented there was an increase in Covid-19 infections after the elections.¹⁰²

199 Justice Moseneke also considered the approach of certain countries outside Africa, whose experiences were instructive. These were France, England,

⁹⁷ Available at <https://www.idea.int/news-media/multimedia-reports/global-overview-covid-19-impact-elections>)

⁹⁸ Paragraph 128 of the Report.

⁹⁹ Of the 14 countries and territories in Africa that decided to postpone elections, nine of them postponed national elections and referendums, including Zimbabwe, Kenya, Ethiopia, Somalia, Chad, Nigeria, Gabon, Liberia, and Somalia. While five countries, including South Africa, Botswana, Uganda, Libya, and Tunisia, postponed subnational elections.

¹⁰⁰ These countries and territories include South Africa, Cameroon, Guinea, Mali, Benin, Burundi, Nigeria, Malawi, Tunisia, Egypt, Uganda, Seychelles, Cape Verde, Tanzania, Côte d'Ivoire, Algeria, The Gambia, Burkina Faso, Namibia, Ghana, Liberia, Niger, Kenya, Central African Republic, Republic of the Congo, Somaliland, Algeria, and Ethiopia.

¹⁰¹ Paragraph 134 of the Report.

¹⁰² Paragraph 135 of the Report.

Brazil, the United States and India.

200 France, England and Brazil initially postponed elections due to the Covid-19 pandemic, but later held elections after the period of postponement.

201 In France, municipal elections were scheduled to take place in March 2020, but the second round of elections was postponed by three months to June 2020.¹⁰³

201.1 France's electoral system makes provision for a second round of voting if there is no absolute majority after the first round. The first round of voting was scheduled for 15 March and the second for a week later, on 22 March.

201.2 The first round of voting proceeded as scheduled. This was at the very beginning of the pandemic, when there had only been a total of 5 000 cases and 127 reported deaths in France.

201.3 Justice Moseneke noted, citing a study in a scientific journal,¹⁰⁴ that there was significantly reduced voter turnout in France. Only 44.66% of registered voters went to the polls, as compared to 63% in 2014. Voter turnout was particularly low among groups most vulnerable to Covid-19. Low voter turnout reportedly led to complaints about the legitimacy of the elections.

201.4 While most municipalities achieved an absolute majority after the first

¹⁰³ Paragraphs 138 to 142 of the Report.

¹⁰⁴ Noury et al. "How does COVID-19 affect electoral participation? Evidence from the French municipal elections." (2021) 16 *PLoS ONE* 2 at 2.

round of voting (making a second round unnecessary), approximately 5 000 municipalities required a second round of voting. However, the day after the first round, on 16 March 2020, France introduced new lockdown restrictions confining people to their homes.

201.5 The law in France was silent on the postponement of elections. Therefore, on 23 March 2020, France's parliament passed new legislation (Article 19 of the Emergency Response to the COVID-19 Epidemic Act, 2020) announcing a state of health emergency, and permitting the postponement of the second round of voting.

201.6 The second round of voting was ultimately held on 28 June 2020, and voter turnout remained low (41.67% of registered voters voted).

202 England was scheduled to hold local government elections in the first week of May 2020. As a result of the Covid-19 pandemic, however, elections were postponed for a full year to May 2021.¹⁰⁵

202.1 Emergency primary legislation in the form of the Coronavirus Act 2020 was introduced in March 2020, and passed by both houses of parliament within a week, which permitted the postponement of local government elections.

202.2 The elections went ahead on 6 May 2021, at a time when the rate of daily new confirmed cases in the United Kingdom was low and declining. They were also held under special conditions, including the use of postal and proxy votes; emergency proxies if voters were ill or

¹⁰⁵ Paragraphs 143 and 144 of the Report.

self-isolating; social distancing, protective equipment and the wearing of face masks at voting sites; and limitations on campaigning.

203 In Brazil, local government elections were scheduled for 4 October 2020, but were postponed until 15 and 29 November 2020.¹⁰⁶

203.1 Because the length of time between local government elections is prescribed in Brazil's Constitution, Brazil passed a constitutional amendment to postpone the local government elections.

203.2 It ultimately held local government elections on 15 and 29 November 2020. The election resulted both in reduced voter turnout and a large increase in infections.

203.3 In the first round of voting, 77% of registered voters voted – 6% lower than the previous local government elections. This is despite the fact that Brazil has a system of compulsory voting. While the drop may not be fully attributable to the pandemic, 40% of absent voters reported that they did not vote because of their fear of infection.

203.4 There was also a large increase in new confirmed Covid-19 cases immediately following the campaigning period, which has been attributed to widespread in-person campaigning in defiance of Covid-19 restrictions.

204 The United States and India did not postpone their elections at all, despite the risks posed by the pandemic.

¹⁰⁶ Paragraphs 145 to 149 of the Report.

205 The Presidential election in the United States took place on 3 November 2020.¹⁰⁷

205.1 By the end of October 2020, the United States had reported 9 105 230 cases and 229 932 deaths, and it experienced a peak in October 2020.

205.2 Various states modified voting procedures to ensure safe elections, including by allowing early in-person voting, and the use of voting by mail. However, these measures were frequently challenged in legal proceedings and fed into complaints about the legitimacy of the elections.

205.3 Although there was a record high voter turnout for the 2020 Presidential elections, campaign rallies, particularly by the Republican Party, have been linked with a dramatic spike in cases. Covid-19 cases and deaths surged in the run-up to the elections, and the US set a new record for daily new confirmed cases (91 000) the day after the election was held.

205.4 One study¹⁰⁸ cited by Justice Moseneke found that 18 rallies resulted in 30 000 confirmed Covid-19 cases, and likely led to more than 700 deaths. In addition, in certain states, in-person voting at voting stations was linked to increased numbers of Covid-19 cases following the election.

¹⁰⁷ Paragraphs 150 to 152 of the Report.

¹⁰⁸ Bernheim et al. "The Effects of Large Group Meetings on the Spread of COVID-19: the Case of Trump Rallies" Stanford Institute for Economic Policy Research (SIEPR) Working Paper 20-043 (30 October 2020), available at https://sebotero.github.io/papers/COVIDrallies_10_30_2000.pdf.

206 India has held several elections since the outbreak of the Covid-19 pandemic.¹⁰⁹

206.1 On 6 April 2021, India held State Assembly elections in four states and one union territory. These were among the largest elections held during the pandemic, with 185 million eligible voters.

206.2 There was increased voter turnout in the April 2021 elections (57.05%) compared to previous elections (56.66% in 2015).

206.3 However, despite the adoption of certain measures to reduce the risk of virus transmission, on 26 April 2021 India reported 360 960 infections – the highest daily tally of new confirmed infections in the world at that point. Among the causes attributed to this surge in cases was the political campaigning and mass rallies for the State Assembly elections, as well as religious gatherings. India was criticised by experts for allowing large gatherings, including hundreds of mass political rallies and roadshows

206.4 The Electoral Commission in India eventually banned roadshows and limited political rallies to a maximum of 500 attendees. However, these restrictions were perceived to be weak and too late.

207 Justice Moseneke thus concluded that, while helpful comparisons are difficult to make given divergent contexts, the electoral experiences in the United States, India, and Brazil saw “*staggering numbers*” of deaths associated with their elections – “*something we should not wish for*

¹⁰⁹ Paragraphs 153 to 156 of the Report.

ourselves.”¹¹⁰

THE PROSPECTS OF FREE AND FAIR LOCAL GOVERNMENT ELECTIONS IN FEBRUARY 2022

208 Justice Moseneke did not stop at his conclusion that local government elections in October 2021 would not be free and fair. He went further, and concluded on the basis of the evidence before him – particularly scientific and medical data – that *“the scheduled elections are likely to be free and fair if they were to be held not later than the end of the month of February 2022.”*¹¹¹

209 In this section, I explain that Justice Moseneke's conclusion on this score too is correct, that based on the current information free and fair local government elections in February 2022 are possible, and that the Commission has formulated a plan for such elections to take place.

The considerations at stake

210 The Commission asks this Court for an order permitting it to hold the local government elections outside the 90-day period prescribed in section 159(2) of the Constitution, and directing it to hold local government elections by the end of February 2022, as recommended by Justice Moseneke.

211 In selecting the date to which the local government elections should be delayed, Justice Moseneke recognised a number of competing considerations at stake.

¹¹⁰ Paragraph 293 of the Report.

¹¹¹ Paragraph 256 of the Report.

- 212 The first is the need to choose the earliest possible date on which a free and fair election can safely be held. As Justice Moseneke put it, “[t]he postponement should be no longer than is strictly and reasonably necessary to save lives and limbs”.¹¹²
- 213 The Commission believes that any delay to the local government elections – though necessitated by exceptional circumstances that pose an objective collective threat to lives and preclude a free and fair election – should be kept to a minimum.
- 214 At the same time, it is important that the date is realistic and not overly optimistic. If it can be avoided, there should not be multiple delays of the elections. Ideally the elections should, as Justice Moseneke recommended, “be deferred only once, and to the earliest possible date”.¹¹³
- 215 To these considerations must be added a third – the uncertainty of the future. Medical experts who contributed to the Inquiry said that it was not possible to predict with certainty what the Covid-19 pandemic would look like in October 2021, let alone February 2022. In addition, the Commission has no control over the variables that might affect the possibility of free and fair elections in February 2022 – such as vaccine supply, the trajectory of the pandemic within the different parts of the country and the possible emergence of new mutations and variants of coronavirus.
- 216 Taking these considerations into account, the Commission has adopted the following approach to seeking a delay of the local government elections.

¹¹² Paragraphs 299 and 300 of the Report.

¹¹³ Paragraph 295 of the Report.

216.1 The Commission asks for an order directing it to hold the local government elections by the end of February 2022. Justice Moseneke relied on sound medical expertise to conclude that by February 2022 the threat to lives caused by a local government election is likely to be substantially reduced. February 2022 is, therefore, the earliest date by which a constitutionally compliant election can possibly take place – or what Justice Moseneke described as the “*nearest point of safety*”.¹¹⁴

216.2 At the same time, to cater for the inherent uncertainty of the future, the Commission asks this Court to assume an ongoing supervisory jurisdiction. This will require the Commission to report to the Court periodically until February 2022, indicating its progress in organising the local government elections, and updating the Court on the possibility of the elections being free and fair. It will also enable the Commission to return to this Court on duly supplemented papers for further relief. To the extent that any further delay may be necessary in order to hold a free and fair election, such a delay would then occur under this Court’s close control and supervision.

The projected state of Covid-19 in February 2022

217 Justice Moseneke noted that there was wide divergence amongst political parties, civil society organisations and other stakeholders as to the extent of any postponement.¹¹⁵ Ultimately, he chose to “*heed the science*”¹¹⁶ and

¹¹⁴ Paragraph 299 of the Report.

¹¹⁵ Paragraph 19 of the Report.

found that, on key issues, the material presented by medical scientists displayed substantial convergence.¹¹⁷

218 While there was some divergence amongst the experts as to the likely state of the pandemic and levels of infections by the end of February 2022, the key consideration in Justice Moseneke's selection of February 2022 as the appropriate date for the holding of local government elections was the likelihood of community immunity (or, at a minimum, widespread vaccination) by that stage. Wide-scale vaccination is the primary means by which hospitalisations and death can be prevented.

219 On this score, Justice Moseneke found that most experts, including Professor Silal, Dr Miot and Dr Moultrie, agreed that the more people who are vaccinated at the time of holding the local government elections, the more lives will be saved, and that the country would be better protected by the end of February 2022, because more people would have been vaccinated by then.¹¹⁸ These experts expressed the view that—

“on any scenario, the country will be better off, and there will be less infections, hospitalisations and lower mortality around March 2022 than in October 2021, because more people of voting age would have been vaccinated. Put otherwise, more lives are likely to be saved in March 2022 than in October 2021.”¹¹⁹

220 Confirmatory affidavits from Prof Silal, Dr Miot and Dr Moultrie have been

¹¹⁶ Paragraphs 200 and 272 of the Report.

¹¹⁷ See paragraphs 202 and 274 of the Report.

¹¹⁸ Paragraphs 186, 227, 291 of the Report.

¹¹⁹ Paragraph 186 of the Report.

filed together with this affidavit, and these medical experts' respective written submissions to the Inquiry are attached to their confirmatory affidavits.

221 Added to this is the fact that, having gone through a third, and most likely a fourth wave before February 2022, South Africa will likely have had a greater build-up of natural immunity. The experts agreed with Prof Shabir Madhi that there is a level of natural immunity derived from previous infections with the beta and delta variants, and that this will play a role in what happens going forward.¹²⁰

222 A confirmatory affidavit from Prof Madhi has also been filed together with this affidavit, and his submission to the Inquiry is attached to his confirmatory affidavit.

223 In order for South Africa to achieve community immunity, at least 67% of the population (or approximately 40 million people) must be vaccinated.¹²¹ With varying emphasis, the experts who made submissions to the Inquiry agreed that it is necessary to strive for community immunity and that, given the vaccination rate, it will not be possible for South Africa to achieve community immunity by October 2021.¹²²

224 However, Dr Buthelezi, the Director-General of Health, made written and oral submissions to the Inquiry in relation to the vaccination programme which suggest that South Africa will reach this target by February 2022. He

¹²⁰ Paragraphs 217 and 283 of the Report.

¹²¹ Paragraphs 175, 195 218, 292 of the Report.

¹²² Paragraphs 215 and 282 of the Report.

explained that:¹²³

224.1 The vaccination programme has not progressed as fast as the Health Department had anticipated, in large part because of vaccine supply.

224.2 Vaccination supply has however improved and, by the end of October 2021, the Health Department expects to vaccinate more than 16.6 million people.

224.3 Based on guidance by the Advisory Committee, the Health Department is of the view that, for South Africa to achieve community immunity, 40 million people must be vaccinated.

224.4 The Health Department expects that this target will be reached by February 2022. Dr Buthelezi agreed that community immunity will not necessarily stop infections, but it will significantly drop the mortality rate. Dr Buthelezi confirmed that the highest risk in achieving this target and timeline is the risk in the vaccine supply line.

225 A confirmatory affidavit from Dr Buthelezi has been filed together with this affidavit, and his submission to the Inquiry is attached to his confirmatory affidavit. Dr Buthelezi goes further in his affidavit and explains that, while there has been a significant ramping up of the vaccination programme since the Report was published, it remains the case that South Africa will not have vaccinated 67% of the population by the end of October 2021 but is likely to have achieved this by February 2022.

226 Dr Fareed Abdullah explained to the Inquiry¹²⁴ that the country must reach a

¹²³ Paragraphs 193 to 197 of the Report.

stage where there is a flattening of the hospitalisation and mortality curve, and that, because of the higher levels of vaccination and related immunity in February-March 2022, holding elections then will save thousands of lives. A confirmatory affidavit from Dr Abdullah has also been filed together with this affidavit, and his submission to the Inquiry is attached to his confirmatory affidavit.

227 This accorded with the submissions made by Prof Silal, Dr Miot and Dr Moultrie that the more people that are vaccinated at the time of holding elections the more lives will be saved. It also accorded with the submissions of Dr Buthelezi of the Department of Health, who warned against election gatherings and campaigning during October 2021, and that community immunity through vaccination will have been reached by February 2022 when approximately 40 million of the population would have been vaccinated.

228 On the basis of these submissions, Justice Moseneke concluded as follows:¹²⁵

“All experts tell us that by holding elections in October 2021 or in February-March 2022 there is a potential risk of infection or of even a fourth wave. The real difference will be made by community immunity through vaccination. Even if community immunity, at 67 per cent of our population, is not reached in February-March 2022, there will be far less risk of hospitalisation and death than there will be in October 2021.”

¹²⁴ Paragraphs 226 and 290 of the Report.

¹²⁵ Paragraph 292 of the Report.

The Commission's proposal for free and fair local government elections by February 2022

A revised timetable for February 2022 local government elections

229 In his submission to the Inquiry, the Commission's Chief Electoral Officer explained the steps that the Commission had taken to hold local government elections in October 2021 should it be necessary to do so.

230 The submission by the Chief Electoral Officer to the Inquiry, in which he sets out the detailed steps it had taken for an election in October 2021, is attached together with his confirmatory affidavit as "FA2.1".

231 I confirm that the Commission has taken, or will take, the same steps in relation to any election in February 2022. In particular, the Commission has taken the following steps recognised by Justice Moseneke:¹²⁶

231.1 it will ensure a conducive legislative environment for the holding of the elections;

231.2 it has completed the ward and voting district delimitation process in preparation for the election;

231.3 it is preparing for the holding of a voter registration weekend on 18 and 19 September to enable eligible voters to register to vote and registered voters to check and update their registration details;

231.4 it is procuring 23 151 voting stations across the country for the proposed voter registration weekend and election day;

¹²⁶ Paragraph 26 of the Report.

231.5 it is procuring and preparing for the distribution of electoral materials for the voter registration weekend and voting day;

231.6 it is recruiting and training electoral staff to administer voter registration, voting, vote counting and the collation of the election results;

231.7 it has procured 40 000 new voter management devices to be deployed on voter registration weekend and election day;

231.8 it is registering political parties as part of an on-going process;

231.9 it is performing voter outreach and education, including communicating with voters about the Covid-19 health protocols that will be in place for the voter registration weekend and election day; and

231.10 it is engaging with National Treasury to obtain funding for personal protective equipment for the election day.

232 The Commission has prepared a revised election timetable, which is premised on this Court granting it the relief it seeks. The preparation of this timetable should not be construed as the Commission taking for granted that it will obtain such relief. It is simply necessary, if a free and fair election is to happen even in February 2022, that the Commission begins taking the necessary steps towards such an election without delay.

233 The Commission's revised timetable for a February 2022 election is as follows:

233.1 The voter registration weekend will take place on **18-19 Sept 2021**.

233.1.1 Based on the evidence of the medical experts before the Moseneke Inquiry, mid-September 2021 is expected to be in a "*trough*" between the third and fourth waves of the Covid-19 pandemic in South Africa.

233.1.2 Apart from the voter registration weekend, online registration will be available on a continuous basis, until the close of the voters' roll on the date of proclamation.

233.2 The Minister will proclaim the date of the election by **3 November 2021**.

233.3 The voters' roll will be made available for inspection and objections between **8 and 15 November 2021**.

233.4 The Commission will consider objections to the voters' roll between **16 and 22 November 2021**.

233.5 The cut-off date for the nomination of candidates will be **24 November 2021**.

233.6 The voters' roll will be certified on **9 December 2021**.

233.7 The Commission will certify the final list of candidates on **10 December 2021**.

233.8 The voting date will be **23 February 2022**. The Department of Health anticipates that it will have fully vaccinated 67% (40 million) of the

total population of SA (of 60 million), which is the minimum threshold for community immunity.

Measures to ensure free and fair local government elections

234 In addition to the steps described above, the Commission will adopt certain additional measures recommended by Justice Moseneke, drawn from international best practice,¹²⁷ to ensure that the local government elections can proceed freely and fairly in February 2022.

235 Insofar as campaigning is concerned:¹²⁸

235.1 Restrictions will be placed on campaigning in the run up to the local government elections, and all people that attend in-person political gatherings will be required to adhere to Covid-19 health protocols, including social distancing, mask wearing and sanitising. To this end, the Commission will engage the Minister to ensure that the Regulations promulgated in terms of the Disaster Management Act include a chapter on campaigning for the local government elections.

235.2 In addition, the Commission will encourage political parties and independent candidates to ensure adherence with Covid-19 health protocols at all campaign activities.

235.3 The Commission will endeavour to put in place measures to ensure equal opportunities for political parties and independent candidates to contest the local government elections in light of the restrictions on

¹²⁷ Paragraph 301 of the Report.

¹²⁸ Paragraphs 302 to 305 of the Report.

traditional methods of campaigning. The Commission intends to engage with the Independent Communications Authority of South Africa and public and private broadcasters about the possibility of providing increased and equitable broadcasting access to all political parties and candidates.

236 Insofar as electoral planning is concerned:¹²⁹

236.1 The Commission will ensure that all electoral staff who are present at voting stations or conducting home visits have the opportunity to be vaccinated prior to the local government elections, in order to reduce the risk faced by electoral staff and voters. The Commission has already commenced engagements with the Department of Health to include electoral staff in a phase of priority vaccination.

236.2 The Commission will procure voting stations that allow for physical distancing and natural ventilation. Indeed, the Commission's Covid-19 protocols emphasises ventilation as a key component, and, the suitability of sites from a Covid-19 perspective is a key consideration in concluding lease agreements for voting stations.

237 Insofar as voter registration is concerned:¹³⁰

237.1 The Commission will adopt measures to reduce congestion during voter registration, including encouraging online registration where possible.

¹²⁹ Paragraphs 306 to 308 of the Report.

¹³⁰ Paragraphs 309 and 310 of the Report.

237.2 The Commission will adopt and apply the same Covid-19 protocols for registration as will be adopted on voting day.

238 Insofar as voting is concerned, the Commission will adopt various measures to reduce congestion, including:¹³¹

238.1 If additional funding is availed to support an additional special voting day, the Commission may consider varied voting hours;

238.2 creating mandatory sub-stations based on registered voter surname dis-aggregation in high-density voting districts;

238.3 creating special accommodations and priorities in queues for more vulnerable voters to reduce the length of time that they spend in queues, as well as their exposure to the risk of virus transmission.

239 Special voting will be expanded and extended in various ways to ensure that no one is disenfranchised, including:¹³²

239.1 the current eligibility prescripts which are broad enough to accommodate those who are ill, in isolation or quarantine and those who are at-risk of more severe illness from Covid-19 in terms of section 55 of the Municipal Electoral Act;

239.2 use of special voting by these groups will be encouraged;

239.3 the period for application for special votes will be extended to allow more people to apply; and

¹³¹ Paragraph 311 of the Report.

¹³² Paragraph 312 of the Report.

239.4 voters applying for a special vote will be encouraged to submit their applications online or electronically and resources will be prioritised to promote online special vote application platforms.

240 Insofar as voter education is concerned:¹³³

240.1 Information about the Covid-19 protocols that will be in place at voting stations will be widely disseminated and easily accessible in all South African languages. The Commission has commenced a major reprioritisation of messaging on multiple platforms as part of its communication campaign.

240.2 The spreading of disinformation related to Covid-19 with the intention of influencing the conduct or outcome of the local government elections will be carefully monitored and sanctioned in terms of the applicable legislation. Disinformation is currently dealt with in terms of sections 69(2) and 79 of the MEA. Where disinformation is shared on social media platforms, they will be referred to be resolved speedily and effectively in terms of the Real 411 collaboration with Media Monitoring Africa, alternatively, they will be referred to the Electoral Court for a finding and sanction.

241 Insofar as election observation and agents for political parties and candidates is concerned:¹³⁴

241.1 In order to ensure transparency, election observers and agents for

¹³³ Paragraph 313 and 314 of the Report.

¹³⁴ Paragraphs 315 and 316 of the Report.

political parties and candidates will be allowed to observe activities at voting stations with proper adherence to all Covid-19 protocols, including physical distancing, sanitisation and mandatory wearing of masks.

241.2 In order to observe social distancing, parties will be represented by one agent on a rotational basis if the configuration or size of the stations cannot accommodate the number of observers and agents present.

241.3 While it is not possible to make use of broadcasting or livestreaming at more than 23 000 voting stations, the Commission will enhance transparency by introducing virtual elements at the ten Results Operation Centres.

242 Insofar as the period after voting is concerned, in the event that the number of days for special voting is extended, additional measures will be considered to ensure the security of the ballots and legitimacy of the local government elections.¹³⁵

RELIEF

243 The Commission asks this Court for the following orders.

244 First, it asks for an order, based on the application of the principle that the law does not require the impossible:

244.1 declaring that the Commission may hold the forthcoming local

¹³⁵ Paragraphs 317 of the Report.

government elections outside the 90-day period required by section 159(2) of the Constitution and section 24(2) of the Municipal Structures Act;

244.2 directing the Commission to hold the forthcoming local government elections by no later than the end of February 2022;

244.3 authorising the Minister to:

244.3.1 withdraw the notice calling the forthcoming local government elections and setting 27 October 2021 as the date on which they will be held; and

244.3.2 issue a fresh notice calling and setting a date before 28 February 2022 for the forthcoming local government elections.

245 Second, and in the alternative, the Commission asks this Court to exercise its powers in terms of section 172 of the Constitution:

245.1 declaring that the failure to hold the forthcoming local government elections within the 90 day period required by section 159(2) of the Constitution and section 24(2) of the Structures Act, is unconstitutional and invalid;

245.2 suspending the declaration of invalidity, and the Commission's duty to hold the forthcoming local government elections within the prescribed 90-day period, until the end of February 2022;

245.3 directing that the local government elections be held by no later than

the end of February 2022;

245.4 authorising the Minister to:

245.4.1 withdraw the notice calling the forthcoming local government elections and setting 27 October 2021 as the date on which they will be held; and

245.4.2 issue a fresh notice calling and setting a date before 28 February 2022 for the forthcoming local government elections.

246 Third, whether the Court grants the primary or alternative relief, the Commission asks this Court to assume ongoing supervisory jurisdiction, requiring the Commission to report to the Court periodically on its progress in arranging constitutionally compliant local government elections in February 2022.

247 Fourth, for the sake of caution and certainty, the Commission seeks an order that, in terms of section 159(3) of the Constitution, the incumbent municipal councils remain competent until newly elected councils are declared elected.

Declaratory and mandatory relief based on supervening impossibility

Supervening impossibility as a legal basis for non-compliance

248 I am advised that as this Court held in *Mtokonya v Minister of Police* that “no one should be compelled to perform or comply with that which is impossible, in the sense of physical, objective impossibility”, and “[i]f performance in

terms of a particular law has been rendered impossible by circumstances over which the person with interest had no control, those circumstances are taken as a valid excuse for not complying with what such law prescribes.”¹³⁶

249 I am advised further that this reflects a trite common law principle – that the law does not require the impossible. This is encompassed in the doctrine *lex non cogit ad impossibilia* – no one should be compelled to perform or comply with that which is impossible. This maxim derives from the principles of justice, equity and reasonableness that underlie the common law, and has been recognised and applied by this Court.¹³⁷

250 I have demonstrated in this affidavit that it is objectively impossible for the Commission to hold constitutionally compliant local government elections within the 90-day period prescribed in section 159(2) of the Constitution. This was Justice Moseneke’s central finding. In particular, it is objectively impossible for the Commission to hold a local government election within that period which is free and fair, and which respects, protects, promotes and fulfils the rights to life, bodily and psychological integrity and access to healthcare.

251 More specifically, given the health risks posed by conducting a nationwide local government election during the Covid-19 pandemic – which includes, not only voting day, but the steps leading up to it (including registration) – without having yet reached community immunity, it is objectively impossible for the Commission to ensure that local government elections held before 1

¹³⁶ Mtokonya v Minister of Police 2018 (5) SA 22 (CC) paras 136 and 137.

¹³⁷ Barkhuizen v Napier 2007 (5) SA 323 (CC) para 75; Mtokonya v Minister of Police 2018 (5) SA 22 (CC) para 136

November 2021 will be constitutionally compliant.

252 It is impossible to hold constitutionally compliant local government elections in October 2021 because of objective facts entirely beyond the Commission's control.

252.1 The facts giving rise to the impossibility of a constitutionally compliant local government election include the spread of Covid-19; the lack of community immunity before 1 November 2021; necessary restrictions on electioneering; and, perhaps most importantly, the absence of proper voter registration. From the date of the Minister's proclamation, it is no longer *legally* permissible to register voters for local government elections in October 2021.

252.2 Even if it were legally possible, it is not *practically* possible to do so within the time remaining before an October 2021 local government election, and particularly considering that South Africa is still in the third wave of the Covid-19 pandemic, and currently under Adjusted Alert Level 3. Nor is it feasible given the various preliminary steps to the election that require a completed voters' roll. Simply put, any organisation in the position of the Commission would face the same objective factors rendering a constitutionally compliant local government election impossible.

252.3 These factors are not within the Commission's control. Factors such as the presence of the Covid-19 pandemic, the threat it poses to life and limb, the emergence of new variants, the constraints on hospital capacity, and speed of the vaccine roll-out all contribute to the

impossibility of holding constitutionally compliant local government elections. The Commission has no control over these factors. Nor does it have any control over the extension of the declaration of a state of national disaster, the determination of the appropriate Alert Level at a particular time, and the applicable Regulations.

253 I am advised that the doctrine of supervening impossibility has been applied by our courts to contractual and statutory obligations. There is no principled reason why it should not also apply to constitutional obligations. In any event, to the extent necessary, the Commission seeks a development of the common law in terms of section 173 and/or section 39(2) of the Constitution, to apply the doctrine of supervening impossibility to constitutional requirements.

Declaratory and mandatory relief

254 I have explained above that it is objectively impossible for constitutionally compliant local government elections to take place in October 2021. The doctrine of supervening impossibility provides that if it is impossible to act, then a party is not in breach of any obligations which it would otherwise be required to perform.

255 On this basis, in the first instance, the Commission seeks the following declaratory and mandatory relief:

255.1 declaring that the Commission may hold the forthcoming local government elections outside the 90-day period required by section 159(2) of the Constitution and section 24(2) of the Municipal

Structures Act;

255.2 directing the Commission to hold the forthcoming local government elections by no later than the end of February 2022;

255.3 authorising the Minister to:

255.3.1 withdraw the notice calling the forthcoming local government elections and setting 27 October 2021 as the date on which they will be held; and

255.3.2 issue a fresh notice calling and setting a date before 28 February 2022 for the forthcoming local government elections.

Alternatively, the Court's powers to craft a just and equitable remedy

256 If the Court declines to grant the Commission its primary relief premised on the doctrine of supervening impossibility, then the Commission accepts that holding the local government elections outside the period prescribed in section 159(2) of the Constitution would be unlawful and unconstitutional. The Court would, in that event, be required under section 172(1)(a) of the Constitution to declare the Commission's conduct unconstitutional and invalid.

257 However, following a declaration of invalidity, the consequences must be dealt with in a just and equitable order under section 172(1)(b). I am advised that our courts have wide powers to craft any remedy that is just and equitable.



258 In particular, the Constitution specifically envisages that courts may at times need to permit invalid laws or conduct to persist, where it would be just and equitable to do so.

258.1 Where invalidating breaches of the Constitution would cause undue disruption, the Court can limit this impact by limiting the retrospective effect of the declaration of invalidity.¹³⁸

258.2 The court can also permit the breach to continue where it is just and equitable to do so, by suspending a declaration of invalidity for any period, and on any conditions.¹³⁹

259 The same principles apply in this case. In order to ensure certainty in the public interest, and to enable constitutionally compliant local government elections to take place in February 2022, this Court can at once declare the holding of the local government election outside the period prescribed in the Constitution to be constitutionally invalid, but suspend the order of invalidity until after February 2022. This is consistent with the approach adopted by this Court in the *Mhlophe* matter.¹⁴⁰

260 A further factor in support of this Court's power to provide a remedy is the right of the electorate to take part in free and fair elections. This Court acknowledges the maxim *ubi jus, ibi remedium* - where there is right there is a remedy. Unless the forthcoming local government elections can be held outside the period prescribed in section 159(2) of the Constitution, the

¹³⁸ Section 172(1)(b)(i) of the Constitution

¹³⁹ Section 172(1)(b)(ii) of the Constitution

¹⁴⁰ Electoral Commission v Mhlope and Others 2016 (5) SA 1 (CC)



electorate will be deprived of its right to participate in free and fair elections.

261 Finally, a remedy is only appropriate if it is effective.¹⁴¹ An appropriate remedy would therefore need to be crafted to effectively protect the rights of citizens to vote, and for the local government elections they participate in to be free and fair and otherwise constitutionally compliant.

262 On this basis the Commission seeks the following relief in the alternative:

262.1 declaring that the failure to hold the forthcoming local government elections within the 90 day period required by section 159(2) of the Constitution and section 24(2) of the Structures Act, is unconstitutional and invalid;

262.2 suspending the declaration of invalidity, and the Commission's duty to hold the forthcoming local government elections within the prescribed 90-day period, until the end of February 2022;

262.3 directing that the local government elections be held by no later than the end of February 2022;

262.4 authorising the Minister to:

262.4.1 withdraw the notice calling the forthcoming local government elections and setting 27 October 2021 as the date on which they will be held; and

¹⁴¹ Fose v Minister of Safety and Security 1997 (3) SA 786 (CC) para 69

262.4.2 issue a fresh notice calling and setting a date before 28 February 2022 for the forthcoming local government elections.

Supervisory and ancillary relief

263 If this Court grants the relief on either of the above bases the Commission seeks two further orders. The purpose of these orders is to ensure transparency and certainty.

264 The first is a supervisory order, requiring the Commission to report to the Court on a monthly basis on its progress in arranging constitutionally compliant local government elections in February 2022.

264.1 I have explained above that, while Justice Moseneke heeded the science in recommending the postponement of the local government elections to February 2022, the future is inherently uncertain.

264.2 There can be no absolute guarantee that new mutations or variants will not arise before then undermining the efficacy of vaccines, or that there will not be a crisis in vaccine supply to South Africa. The Commission has no control over variables such as these.

264.3 The purpose of the supervisory relief is to cater for the inherent uncertainty of the future. The Commission seeks this relief because it appreciates that holding the local government elections outside the period prescribed in section 159(2) of the Constitution is no small matter.

264.4 The Commission asks this Court to assume an ongoing supervisory jurisdiction, which will require the Commission to report to the Court periodically until February 2022, indicating its progress in organising the local government elections, and setting out the steps taken and to be taken by the Commission to allow for constitutionally compliant local government elections to be held before 28 February 2022.

265 The second is a declaratory order that, in terms of section 159(3) of the Constitution, municipal councils remain competent until newly elected councils are declared elected.

265.1 This relief follows axiomatically from this Court directing the local government elections to be held by the end of February 2022.

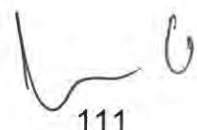
265.2 If the Court directs that the local government elections should proceed before the end of February 2022, then, by virtue of section 159(3) of the Constitution, the incumbent municipal councils will remain in office until February 2022.

265.3 For the purposes of public certainty, the Commission simply seeks an order declaring that to be so.

266 In the circumstances, the Commission prays for the order in terms of the Notice of Motion which this affidavit accompanies.



VUMA GLENTON MASHININI



111

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of his knowledge both true and correct. This affidavit was signed and sworn to before me at **Centurion** on this the **4th** day of **August 2021**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

Full names:

Address:

Capacity:

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"FA1"**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA****CASE NO:** _____

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS AND OTHERS**

Respondents

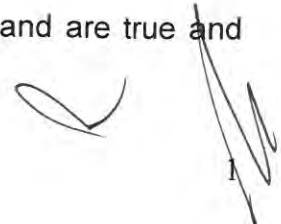
CONFIRMATORY AFFIDAVIT

I, the undersigned,

DIKGANG ERNEST MOSENEKE

do hereby make oath and state that:

- 1 I am a former Deputy Chief Justice of the Republic of South Africa, duly appointed by the applicant to hold the Justice Moseneke Inquiry on Free and Fair Local Government Elections during COVID and to produce a report in terms of sections 14(4) read with section 5(2)(a) of the Electoral Commission Act, 51 of 1996 ("**the Report**").
- 2 The facts in this affidavit fall within my personal knowledge and are true and



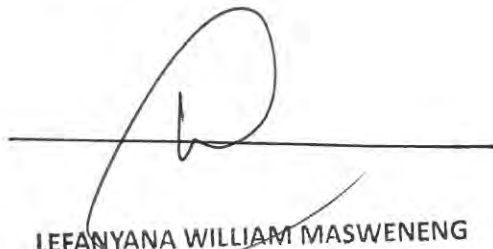
correct to the best of my knowledge.

- 3 I confirm that I conducted the aforementioned Inquiry, authored the Report and, on 20 July 2021, delivered the Report to the applicant. I provided a revised, final version of the Report, containing only minor formatting changes and non-substantive corrections, on 27 July 2021. A copy of the final revised Report is attached hereto marked "DM1".



JUSTICE DE MOSENEKE

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's both true and correct. This affidavit was signed and sworn to before me at Pretoria on this the 03rd day of **August 2021**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



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"DM1"


FREE**FAIR**

**A REPORT TO THE ELECTORAL COMMISSION OF SOUTH AFRICA IN
TERMS OF SECTION 14(4) READ WITH SECTION 5(2)(a) OF THE
ELECTORAL COMMISSION ACT**

Introduction

- [1] On 21 April 2021, the President of the Republic announced that the 2021 general local government elections will be held on 27 October 2021. On the following day, 22 April 2021, the Electoral Commission of South Africa (Commission) held a pre-arranged meeting with the leaders of political parties represented in the National Political Party Liaison Committee (the Liaison Committee), when some leaders expressed concern that the elections may not be free and fair, emphasising the lockdown restrictions forbidding electoral political activity. Other leaders thought that, with appropriate precautions, elections are likely to be free and fair.¹
- [2] On 20 May 2021, the Commission appointed me to enquire into, make findings, report on, and make recommendations concerning the likelihood that the Commission will be able to ensure that the forthcoming 2021 general local government elections will be free and fair in view of the Covid-19 pandemic and the measures promulgated by the Government to curb the continued spread of the virus (Inquiry). The Commission went on to stipulate that the report of the Inquiry may indicate additional measures that the Commission may have to implement to realise free and fair elections within the Covid-19 context.
- [3] The Inquiry was required to call for and receive submissions from registered political parties; key stakeholders in the electoral process, including the Chief Electoral Officer; relevant health authorities in the Republic, particularly in respect of matters related to the expected future trajectory of the pandemic as well as efforts to manage and mitigate the spread of Covid-19, and reach community immunity through vaccination endeavours; relevant disaster management authorities; and other

¹ The Liaison Committee is a body established in line with section 5(1) of the Electoral Commission Act, 1996 (Electoral Commission Act), through which the Commission maintains liaison and co-operation with political parties.



stakeholders and experts both here and elsewhere whose submissions would assist me in the execution of the assignment.

[4] The assignment envisaged a written report to the Commission (Report) bearing findings and recommendations. The Commission will consider the Report and take such steps as it may consider necessary. Thus, the Report is plainly not directive but rather advisory.

[5] In the conduct of the assignment: I was entitled to appoint one or more knowledgeable or experienced people to assist in the performance of the task of the Inquiry, to determine the procedure for calling and receiving written and oral submissions and, in appropriate cases, to receive sworn or affirmed statements.

[6] Given the nearness of the date for the elections announced by the President,² being 27 October 2021, there was considerable urgency attached to this assignment. The agreed timelines for the execution of the task were stringent and hurried. It follows that this Report, although well considered, was perforce, prepared in great haste. This assignment is without precedent since the enactment of the Electoral Commission Act in 1996, as are the circumstances that have necessitated the conduct of this task. I trust that this Report will assist the Commission in the execution of its constitutional mandate to conduct and ensure free and fair elections.

² The President's announcement was made on 21 April 2021, available at: <http://www.thepresidency.gov.za/newsletters/president-announces-27-october-2021-date-local-government-elections>.



Legal basis for the appointment

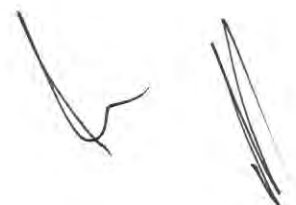
[7] The Commission is a constitutional institution established in terms of section 181,³ read with section 190,⁴ of the Constitution of the Republic of South Africa (Constitution). Section 190(1) requires the Commission to manage elections of national, provincial, and municipal legislative bodies as prescribed by national legislation, to ensure that those elections are free and fair, and to declare the results of those elections within a period that must be prescribed by national legislation and that is as short as reasonably possible.

³ Section 181 of the Constitution reads as follows:

- “(1) The following state institutions strengthen constitutional democracy in the Republic:
- (a) The Public Protector.
 - (b) The South African Human Rights Commission.
 - (c) The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities.
 - (d) The Commission for Gender Equality.
 - (e) The Auditor-General.
 - (f) The Electoral Commission.
- (2) These institutions are independent, and subject only to the Constitution and the law, and they must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice.
- (3) Other organs of state, through legislative and other measures, must assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions.
- (4) No person or organ of state may interfere with the functioning of these institutions.
- (5) These institutions are accountable to the National Assembly, and must report on their activities and the performance of their functions to the Assembly at least once a year.”

⁴ Section 190 of the Constitution provides as follows:

- “(1) The Electoral Commission must—
- (a) manage elections of national, provincial and municipal legislative bodies in accordance with national legislation;
 - (b) ensure that those elections are free and fair; and
 - (c) declare the results of those elections within a period that must be prescribed by national legislation and that is as short as reasonably possible.
- (2) The Electoral Commission has the additional powers and functions prescribed by national legislation.”



[8] So, the very existential object of the Commission is to conduct and ensure free and fair elections. In the execution of this task, which is so vital to our democracy, national legislation authorises the Commission to publish a report on the likelihood or otherwise that a pending election will be free and fair. The empowering provision is section 14(4) of the Electoral Commission Act.⁵ Section 5(2)(a) of the same Act provides that the Commission may for purposes of the achievement of its objects acquire capacity by way of employment, secondment, appointment on contract or otherwise.⁶

[9] The establishment of the Inquiry and its terms of reference are reasonably necessary and justified in pursuit of the constitutional obligation and legal mandate of the Commission. More so, my appointment is envisaged and authorised by the Electoral Commission Act.⁷

Setting up the Inquiry

[10] Shortly after my appointment on 20 May 2021, with the aid of the Commission, the Inquiry set up an office on the first floor of Tugela House, Riverside Office Park, Centurion, from which the personnel of the Inquiry would do their work.

[11] From 24 May 2021, the Inquiry appointed Mr Success Hlase and Ms Lily Mahlakoane who were seconded by the Commission to provide executive support and administrative assistance. In quick succession, I appointed a team of four law

⁵ Section 14(4) of the Electoral Commission Act states that “[t]he Commission may, if it deems it necessary, publish a report on the likelihood or otherwise that it will be able to ensure that any pending election will be free and fair.”

⁶ Section 5(2)(a) of the Electoral Commission Act provides, amongst other things, that “[t]he Commission shall, for the purposes of the achievement of its objects and the performance of its functions –

(a) acquire the necessary staff, whether by employment, secondment, appointment on contract or otherwise.”

⁷ Section 5(2)(a).

researchers for the duration of the Inquiry from the ranks of duly qualified advocates and attorneys. They are Ms Molebogeng Kekana, Ms Catherine Kruyer, Ms Faathima Mahomed and Mr Thabang Mabina. Their contribution to the work of the Inquiry has been most professional and invaluable.

[12] From the week of 24 May 2021, the staff held a series of meetings with the Commission, and together set up a proper office with workstations, the required digital communications and other support systems including a live website.⁸

[13] On 27 May 2021, the Inquiry held a meeting with the Liaison Committee. I apprised the political parties about the process that the Inquiry would adopt. The representatives of the political parties in turn pledged their support for the Inquiry. The Inquiry issued a press statement detailing the salient features of the Inquiry's terms of reference and providing a schedule of the key milestones and the dates earmarked for each of the activities. The following day, the Inquiry issued letters inviting written submissions from the Chief Electoral Officer of the Commission, the Minister of Health, and the Minister of Cooperative Governance and Traditional Affairs (Minister), and the Director-Generals of the relevant departments.

[14] On 1 June 2021, the Inquiry invited other key stakeholders to make written submissions on specified issues and any issue connected with the proper conduct of local government elections. Stakeholders were also invited to express a view on whether they wished to make oral submissions to the Inquiry. The key stakeholders broadly fell into the following categories: independent medical experts; international and regional electoral monitoring bodies; domestic electoral monitoring bodies; civil

⁸ The Inquiry's website is available at: <https://www.elections.org.za/freeandfair/>.

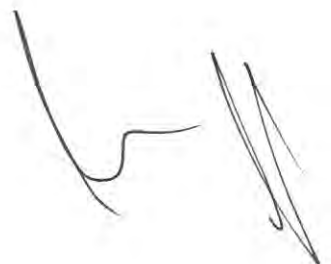
society organisations; political parties registered with the Commission at national and local government levels;⁹ and individual members of the public.

[15] From the beginning of June 2021, the Inquiry began receiving numerous emails from the public expressing their views on whether the local government elections should proceed or not. Over a period of several weeks, the Inquiry received around 3 000 submissions from the public by email and WhatsApp text messages and voice notes.

[16] On 4 June 2021, the Commission filed its written submissions with the Inquiry. On 8 June 2021, the Inquiry's website went online. The website provided details for the public to make submissions to the Inquiry. On 15 June 2021, medical experts and electoral monitoring bodies made written submissions to the Inquiry. On 18 June 2021, political parties and civil society organisations made written submissions to the Inquiry, followed by the Minister on 20 June 2021. During the week of 21 June 2021, the Inquiry considered the written submissions. On 22 June 2021, the Inquiry issued a press statement informing the public about the upcoming week of oral hearings and providing details about how the hearings could be accessed via online platforms. On 23 June 2021, the Inquiry invited key stakeholders, who had so requested, to make oral submissions. As important stakeholders, the political parties on the Liaison Committee were also invited to make oral submissions.

[17] For a weeklong from 28 June 2021, the Inquiry heard oral submissions from a range of interested parties. The hearings were in person or on digital platforms and extensively televised, reported on, and available for viewing on online streaming platforms. This opportunity to livestream the oral submissions was valuable considering the prevailing lockdown restrictions which prevented the public and other

⁹ The Inquiry despatched 460 invitations.



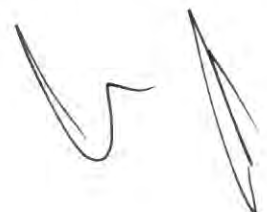
interested parties from physically attending the hearings. From 5 July 2021, the Inquiry started its internal deliberations ahead of writing this Report. On Friday 9 July 2021, the Inquiry heard further oral submissions from the South African Covid-19 Modelling Consortium (Modelling Consortium) on two specified issues related to medical science.

- [18] In pursuit of transparency, the Inquiry has placed all written submissions and transcriptions of oral submissions on its website for unhindered access by all stakeholders and the public. Tracking statistics on the website show significant visitations and interest.

Scheme of the Report

- [19] Before this Inquiry there are matters that were keenly contested and others that were not. The prime divergence amongst most stakeholders – including political parties, representatives of organised business and labour and civil society, civil society organisations, individual members of the broader society, and government authorities – is whether the local government elections scheduled for 27 October 2021 should be proceeded with or deferred to a later date within the context of the Covid-19 pandemic.

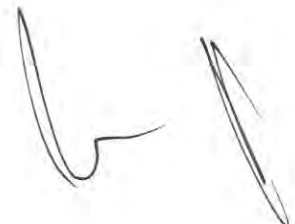
- [20] Even so, there are several other matters that are indeed common cause to, or uncontested by, the stakeholders. At the outset, the Report proposes to set out the common cause facts or background. This is important for two reasons. First, the decision on whether elections are likely to be free and fair depends on the context, and on the objective circumstances which are likely to obtain at the time of the envisaged election. Second, in this way, we hope to clear the overgrowth in the path of a later critical analysis of the core conundrum of this Inquiry. That intractable question bears repetition and it is whether the Commission is likely to conduct free and fair local



government elections in October 2021 given the potential threat to life, bodily and psychological integrity and access to health care posed by the Covid-19 pandemic.

[21] This Report hopes to traverse, albeit briefly:

- (a) the factual background;
- (b) the Covid-19 pandemic and the measures adopted by Government to curb the spread of Covid-19, and the likely impact on elections;
- (c) the law on local government elections;
- (d) the legal standard of free and fair elections;
- (e) the rights to life, bodily and psychological integrity, and access to health care;
- (f) submissions from the following stakeholders:
 - The Commission;
 - Political parties;
 - Civil society organisations and organised media;
 - Organised business, labour and civil society;
 - General public;
- (g) a public survey by the University of Johannesburg Human Sciences Research Council (Research Council);
- (h) submissions from electoral monitoring bodies;

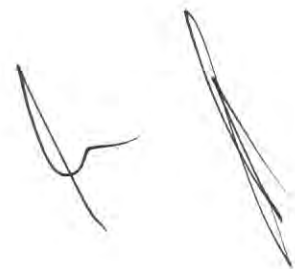


- (i) electoral practice in our country, the rest of our African continent and elsewhere in the world in the wake of the pandemic;
- (j) submissions from civil society organisations focused on health care;
- (k) submissions from Ministerial Advisory Committee on Covid-19 (Advisory Committee);
- (l) submissions from the Director-General of the Department of Health;
- (m) submissions from medical experts;
- (n) submissions from the Minister; and
- (o) findings, conclusion, and recommendations.

Background

[22] Most of the uncontested facts have been garnered from the material furnished by the Commission in its terms of reference or written and oral submissions, or from other research or other official documents.

[23] Since the last general local government elections were conducted on 3 August 2016, the current term of all municipal councils in the Republic will terminate by effluxion of time on 3 August 2021, and general local government elections will have to be held by 1 November 2021 to elect new municipal councils. To this high-level legal proposition, we return later.



[24] The position of the Commission is that it must prepare for the local government elections in accordance with its constitutional mandate and the requirements that elections occur regularly and within the prescribed time limits. However, the Commission accepts that elections must be free and fair, and has undertaken to approach the Constitutional Court to seek a short postponement of the elections if it is not possible to hold free and fair elections in October of this year, considering the trajectory of the pandemic.

[25] The forthcoming local government elections will, in effect, involve 4 725 separate elections; electing proportional representation members of 8 metropolitan councils, 205 local councils and 44 district councils as well as 4 468 ward councillors.

[26] The Commission has assured the Inquiry that it has made proper arrangements to conduct free and fair local government elections in October this year. In preparation for the conduct of the local government elections, the Commission asserts that it:

- (a) is ensuring a conducive legislative environment for the holding of the elections;
- (b) has completed the ward and voting district delimitation process in preparation for the election;
- (c) is preparing for the holding of a voter registration weekend to enable eligible voters to register to vote and registered voters to check and update their registration details;
- (d) is procuring 23 151 voting stations across the country for the voter registration weekend and election day;



- (e) is procuring and preparing for the distribution of electoral materials for the voter registration weekend and voting day;
- (f) is recruiting and training electoral staff to administer voter registration, voting, vote counting and the collation of the election results;
- (g) is procuring 40 000 new voter management devices to be deployed on voter registration weekend and election day;
- (h) is registering political parties as part of an on-going process; and
- (i) is performing voter outreach and education, including communicating with voters about the Covid-19 health protocols that will be in place for the voter registration weekend and election day.¹⁰

[27] The Commission has assured the Inquiry that all preparatory steps are on track to be completed on schedule and will be in place for the voter registration weekend and for the conduct of the local government elections in October this year.

[28] However, the procurement cost of personal protective equipment for the voter registration weekend, and for election day, is currently unfunded.¹¹ The Commission is in engagements with National Treasury regarding additional funding.

¹⁰ The Commission is intending to release a video on "Voting in Covid Times" on social media platforms at the end of July, among other short videos to promote voter education. The Commission has already launched a community radio programme in some provinces and had organised 195 radio slots across all provinces as at 1 June 2021. The Commission held the launch for the local government elections 2021 on 9 June 2021, as part of its communication strategy.

¹¹ The total expenditure estimated for personal protective equipment procurement costs is R129 350 364.

[29] On 7 July 2021, the Commission announced that the voter registration weekend planned for 17 and 18 July 2021 would be postponed to 31 July and 1 August 2021 because of the third wave spreading across the country.¹² The two-week postponement necessitated changes to the Commission's timetable for the holding of the local government elections, including delaying the proclamation of the elections by the Minister from 2 August 2021 to 6 August 2021, and reducing the election timetable from 86 days to 82 days. The Commission remains confident that "successful elections can be held within [the] reduced election timetable".¹³

[30] The Commission launched online voter registration in mid-July 2021.¹⁴ While it is hoped that online voter registration will boost registration, this can hardly be the only way in which eligible voters may place themselves on the voters roll. In-person registration is vital to avoid disenfranchising eligible voters who do not have access to online platforms.

[31] The importance of the voter registration cannot be overstated. There are 40 263 709 citizens eligible to vote according to the national population register. Of those eligible to vote, only 25 789 566 are currently registered to vote. In other words, 36 per cent of eligible voters are not yet registered to vote. Young people are disproportionately underrepresented among registered voters.

[32] It is important to grasp that only a voter who applied for registration prior to the proclamation of an election date may vote in the election concerned.¹⁵ This means the elections will only be formally called after the registration weekend which, for now, is

¹² Electoral Commission, Press Release, 7 July 2021, available at: <https://www.elections.org.za/pw/News-And-Media/News-List/News/News-Article>.

¹³ Id.

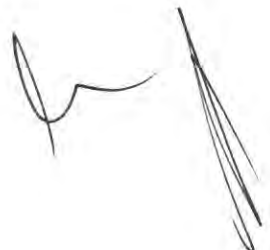
¹⁴ Online self-registration is available at: <https://registertovote.elections.org.za/Welcome>.

¹⁵ Section 6(1A) of the Local Government: Municipal Electoral Act, 2000 (Municipal Electoral Act).

set for 31 July and 1 August 2021. Given the steps that must be taken prior to voting day, the elections must be proclaimed by not later than 6 August 2021.

[33] The Commission's submissions also covered the measures put in place to reduce the risk of transmission of the virus on election day. The Covid-19 protocols adopted by the Commission are as follows:

- (a) All voting stations will be defogged and sanitised before voting commences;
- (b) Voting officers will be provided with personal protective equipment for use at voting stations and at home visits;
- (c) Voters will be encouraged to bring their own pens and pens provided by the Commission will be sanitised between uses;
- (d) Queue walkers will enforce physical distancing of 1.5 metres while voters queue outside voting stations and will ensure that all voters in the queue are wearing face masks;
- (e) Door controllers will ensure that voters entering the voting station are wearing face masks, will sanitise voters' hands upon entrance and exit, and control access to the voting station to prevent congestion;
- (f) Inkers will check the identity documents of voters and mark voters' fingernails with disposable buds, which will be discarded in disposable bags;
- (g) Officials must ensure that physical distancing of 1.5 metres is maintained inside voting stations at all times; and



- (h) During counting procedures, electoral officials must use rubber gloves, sanitise hands at various stages, sanitise all surfaces before and after use, and always maintain physical distancing.

[34] The Commission has affirmed that political party agents, electoral observers and the media will be able to observe the voting and counting process, with adherence to all Covid-19 protocols, including physical distancing. Each party or candidate may have two agents per voting station and one agent per home visit. If the venue cannot accommodate these numbers, an alternative arrangement will be reached in consultation with the political parties and independent candidates.

[35] The Commission has submitted that the Covid-19 protocols adopted by it are reasonable measures to ensure that the elections are held in a manner that safeguards the health of voters, electoral staff and others who will attend voting stations during the voter registration weekend and on voting day. The Commission has indicated that it does not currently have the budget to implement any additional risk reduction measures that have cost implications.

[36] From the time the President announced the declaration of a national state of disaster on 15 March 2020, the Commission has approached the Electoral Court (Court) on eight occasions, to seek an order postponing the by-elections. We return to the postponement of by-elections later.¹⁶

[37] Nonetheless, the Commission repeatedly reassured the Inquiry that it was ready to discharge its constitutional and legislative obligations to conduct the general local government elections by 1 November 2021, and that it was at an advanced stage of preparation. To this end, from a technical point of the view, the Commission is

¹⁶ See paragraphs 124-5 below.



confident that the arrangements to conduct the national local government elections will be fully in place.

The Covid-19 pandemic and its likely impact on elections

[38] On 11 March 2020, the World Health Organisation (WHO) publicly characterised Covid-19 as a pandemic, which means a global outbreak of disease. The Covid-19 outbreak has since been declared a national emergency by many countries. Since then, the pandemic has grown exponentially and, as of 18 July 2021, internationally there have been 189 743 723 confirmed cases of Covid-19, including 4 084 990 deaths, reported to WHO.¹⁷ In South Africa, as at 18 July 2021, 2 295 095 persons have tested positive for the virus and 1 510 385 persons have recovered from the disease, representing a recovery rate of 89 per cent, and 66 859 persons have succumbed to the disease.¹⁸

[39] On 15 March 2020, the President announced that Cabinet had resolved to declare a national state of disaster, as part of Government's measures to combat the global outbreak of the Covid-19 pandemic. The national state of disaster was formally declared by the Minister on the same day.¹⁹

[40] The Minister also promulgated the Disaster Management Regulations to contain the spread of Covid-19.²⁰ The Regulations make provision for an alert level system to

¹⁷ See <https://covid19.who.int/>.

¹⁸ See <https://sacoronavirus.co.za/2021/07/18/update-on-covid-19-sunday-18-july-2021/>.

¹⁹ In her capacity as the designated authority in terms of section 27(1) of the Disaster Management Act, 2002 (Disaster Management Act) by publication in the *Gazette* on the same day, GN 313, GG 43096, 15 March 2020.

²⁰ Section 27 of the Disaster Management Act empowers the Minister, during a national state of disaster, to make regulations, issue directions and authorise the issuing of directions concerning the disaster, after consultations with other members of Cabinet. The regulations promulgated by the Minister remain in force until the state of disaster lapses or the regulations are repealed.

manage the response to Covid-19. The applicable alert level is determined by the Minister in consultation with the Minister responsible for health and Cabinet.²¹ The determination of the alert level considers the prevalence and incidence of the virus, the availability of resources to treat those with severe illness and other factors relevant to the containment of the virus.²²

[41] The Regulations impose non-pharmaceutical interventions that apply generally, regardless of the alert level in application, such as the mandatory wearing of masks while in public,²³ physical distancing,²⁴ and sanitisation.²⁵ In addition, the Regulations require persons who are infected with the virus, or who have been in contact with someone who is infected with the virus, to isolate or quarantine.²⁶

[42] The Regulations also place restrictions on the movement of persons and gatherings of varying levels of severity, depending on the applicable alert level. There are a

²¹ Regulation 3(1) of the Regulations relating to Covid-19 GN R480, GG 43258, 29 April 2020 (Disaster Management Regulations). The alert level applicable may differ at a national, provincial, metropolitan or district level or in a hotspot.

²² Regulation 3(4).

²³ Regulation 1 defines a “face mask” as “a cloth face mask or a homemade item that covers the nose and mouth, or another appropriate item to cover the nose and mouth”. Regulation 5, which contains general measures to contain the spread of Covid-19, makes the wearing of a mask mandatory when in public places, and prohibits any person from entering a building used by the public or being in any public open space without a mask.

²⁴ Regulations 36(1)(c), 53(1)(c) and 72(1)(c), which apply under Alert Levels 3, 2 and 1, require that every person who attends a gathering “must maintain a distance of at least one and a half meters from each other”. Regulation 5(4)(c), which applies generally, requires every business premises to “take steps to ensure that persons queuing inside or outside the premises are able to maintain a distance of one and a half metres from each other”. Notwithstanding that regulation 5(4)(c) only refers to business premises, in practice, this regulation is observed at all public places.

²⁵ Regulation 5(4)(d), which applies generally, provides that every business premises must “provide hand sanitisers for use by the public”. As is the case with regulation 5(4)(c), in practice, regulation 5(4)(d) is observed at all public places.

²⁶ Regulations 6 and 7, which apply generally, require any person who has or is suspected of having contracted Covid-19, or who has been in contact with a person who has Covid-19, to isolate or quarantine. Regulation 1 defines “isolation” as “separating a sick individual with a contagious disease from healthy individuals that are not infected with such disease in a manner that aims to prevent the spreading of infection or contamination” and defines “quarantine” as “the restriction of activities or separation of a person, who was or may potentially have been exposed, to Covid-19 and who could potentially spread the disease to other non-exposed persons, to prevent the possible spread of infection or contamination to healthy individuals”.

number of offences created in terms of the Regulations that criminalise political gatherings and other political activity. The penalty, on conviction, is a fine, a period of imprisonment not exceeding 6 months, or both a fine and a period of imprisonment.

[43] Alert Level 5 would involve the most severe restrictions on movement of persons and gatherings, much like the restrictions in place when South Africa was in a hard lockdown from 26 March to 30 April 2020. The Regulations do not at present prescribe the restrictions that will be in place under Alert Level 5.

[44] Adjusted Alert Level 4, which was determined to apply nationally on 27 June 2021,²⁷ places significant restrictions on the movement of persons and gatherings. Although work outside the home is permitted, every person who can work from home must do so.²⁸ There are restrictions placed on interprovincial travel.²⁹ A curfew is imposed from 21h00 until 04h00, during which time every person is confined to their place of residence, with narrow exceptions.³⁰ In addition, it is a criminal offence to break curfew.³¹

[45] Under Adjusted Alert Level 4, all gatherings are prohibited, with very few listed exceptions.³² The ban on gatherings expressly includes gatherings at political events.³³ Moreover, it is a criminal offence to convene³⁴ or attend³⁵ a gathering, including a

²⁷ GN R564, GG 44772, 27 June 2021.

²⁸ Table 1 of the Disaster Management Regulations.

²⁹ Regulation 17(4).

³⁰ Regulation 17(1).

³¹ Regulation 17(2).

³² Regulation 21(1).

³³ Regulation 21(4).

³⁴ Regulation 21(22).

³⁵ Regulation 21(23) provides that any person who attends a gathering and who knows or ought reasonably to have known or suspected that it is prohibited, commits a criminal offence.

political gathering, under Adjusted Alert Level 4. On 11 July 2021, Adjusted Alert Level 4, with some amendments, was extended for two weeks, until 25 July 2021, and may be extended again.

[46] Alert Levels 3, 2 and 1 impose less severe restrictions on the movement of persons and gatherings. Curfews are imposed under Alert Levels 3, 2 and 1, beginning at 22h00, 23h00 and 00h00, respectively, and ending at 04h00.³⁶ In addition, breaking curfew is a criminal offence under all these alert levels.³⁷ There are no restrictions on interprovincial travel under Alert Levels 3, 2 and 1.

[47] Gatherings, including political gatherings, are permitted under Alert Levels 3, 2 and 1 subject to restrictions, such as the wearing of masks, physical distancing and adherence to Covid-19 health protocols.³⁸ There are also limits imposed on the number of people who may attend a gathering, depending upon whether the gathering is to take place at an indoor or outdoor venue and the capacity of the venue to accommodate physical distancing.

[48] Under Alert Level 3, the maximum number of people who may attend a gathering is 50 at an indoor venue and 100 at an outdoor venue.³⁹ Under Alert Level 2, the maximum number of people who may attend a gathering is 100 at an indoor venue and 250 at an outdoor venue.⁴⁰ Under Alert Level 1, the maximum number of people who may attend a gathering is 250 at an indoor venue and 500 at an outdoor venue.⁴¹ If a

³⁶ Regulations 33(1), 50(1) and 68(1).

³⁷ Regulations 33(2), 50(2) and 68(2).

³⁸ Regulations 36(1), 53(1) and 72(1).

³⁹ Regulation 36(3).

⁴⁰ Regulation 53(3).

⁴¹ Regulation 72(3).



venue cannot accommodate the numbers permitted with the requisite physical distancing, then more than 50 per cent of the capacity of the venue may not be used.⁴²

[49] Under Alert Levels 4, 3, 2 and 1, any gathering that contravenes the Regulations must be dispersed by an enforcement officer.⁴³ If any person refuses to disperse, the enforcement officer must take appropriate action, which may include the arrest and detention of any person at the gathering.⁴⁴ It is also a criminal offence, for the duration of the national state of disaster, to hinder, interfere with or obstruct enforcement officers in the exercise of their powers or performance of their duties.⁴⁵

[50] In addition, the Regulations have recently been amended to make it an offence for any person to incite, instigate, command, or procure any other person to commit any offence in terms of the Regulations.⁴⁶ This may include convening a gathering that contravenes the Regulations under Alert Levels 3, 2 and 1.

[51] The Commission documented with considerable detail the potential impact of the pandemic as well as measures introduced to combat the spread of Covid-19 on the conduct of free and fair elections. The Commission's posture is that elections cannot be free and fair whilst restrictions imposed under Alert Levels 2, 3, 4 and 5 are in force. We did not understand any of the stakeholders to challenge this stance of the Commission. It notes that people can contract Covid-19 from others who have the virus, even if the infected person is asymptomatic. According to the WHO, the virus

⁴² Regulations 36(3), 53(3) and 72(3).

⁴³ Regulations 21(21), 36(7), 53(7) and 72(7). Section 1 of the Regulations defines an "enforcement officer" as including "a member of the South African Police Service, the South African National Defence Force, metro police, traffic officers, immigration inspectors; and a peace officer as defined in section 1 of the Criminal Procedure Act".

⁴⁴ Regulations 21(21), 36(7), 53(7) and 72(7).

⁴⁵ Regulations 31(1)(c), 47(1), 64(1) and 83(1).

⁴⁶ Regulation 14(9), as amended by the Disaster Management Act: Regulations relating to Covid-19: Amendment, GN R565, GG 44772, 27 June 2021.

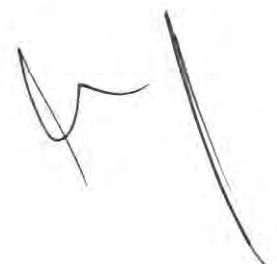
can spread from person to person through respiratory droplet transmission, which occurs when a person is in close contact (within 1 metre) with an infected person who has respiratory symptoms or who is talking or singing. Respiratory droplets containing the virus can reach the mouth, nose or eyes of a susceptible person and can result in infection.

[52] The holding of a general election involves probably the single largest mobilisation of citizens in the Republic on a particular day. The Commission, as indicated, has taken steps to ensure that scheduled elections can proceed within the constraints of Alert Level 1. However, it is not able to predict with any certainty the trajectory of the virus and recognises that this uncertainty also poses challenges to the potential climate within which elections will take place.

[53] Prior to the calling of a general local government election, the Commission interacts with a generous number of people during its targeted communication and registration activities.

[54] A key feature of these activities is the voter registration weekend, during which the Commission will open all approximately 23 200 voting stations across the Republic to allow eligible citizens to register as voters, to check their registration details, and to update the same, as well as to obtain the addresses of voters whose names appear on the voters' roll without addresses.

[55] The second feature involves the Commission employing fieldworkers to undertake a door-to-door registration campaign in identified areas to ensure that affected voters can register as voters or re-register in the correct voting district, as well as to obtain the addresses of voters whose names appear on the voters' roll without addresses.



[56] The Commission records that, as of 6 May 2021, there were about 25.7 million registered voters who would be eligible to participate in the forthcoming general local government elections. The Commission expects this number to rise because of additional registrations between now and the proclamation of the elections.

[57] The impact of the pandemic and the regulatory measures which have been adopted to curb its spread are a vital consideration in assessing whether the pending local government elections are likely to be free and fair. To this matter we return later in the analysis and findings.

The Constitution, municipal election law and term of office

[58] Before sketching the views of stakeholders, it is now apposite to set out briefly the governing law on electoral postponements about which there is no significant difference amongst the stakeholders. The debate seems to be about how the Commission could regularise local government elections that might be delayed beyond the time limit that is constitutionally prescribed.

[59] As a starting point, the Constitution, provides that South Africa is one, sovereign, democratic State founded on certain values, which include “[u]niversal adult suffrage, a national common voter’s roll, regular elections and a multi-party system of democratic government to ensure accountability, responsiveness and openness”.⁴⁷

[60] The Constitution then expands on the values set out in the founding provisions, and details the political rights which every citizen is entitled to, including “the right to free, fair and regular elections for any legislative body established in terms of the Constitution”, the right to vote in elections for any legislative body established in terms

⁴⁷ Section 1(d) of the Constitution.

of the Constitution, and to do so in secret, as well as the right to stand for public office and, if elected, to hold office.⁴⁸

[61] Chapter 7 of the Constitution focuses on the local sphere of government, which is made up of various municipalities across the country.⁴⁹ Each municipality's executive and legislative authority is vested in its municipal council.⁵⁰ Considering contentions of some of the stakeholders, it is salutary to emphasise that two of the key constitutional objects of local government are "to provide democratic and accountable government for local communities" and "to ensure the provision of services to communities in a sustainable manner".⁵¹

[62] Importantly for present purposes, the Constitution prescribes the terms of municipal councils, clearly stating that "[t]he term of a Municipal Council may be no more than five years, as determined by national legislation".⁵² The Constitution then

⁴⁸ Section 19 of the Constitution, which reads as follows:

- “(1) Every citizen is free to make political choices, which includes the right –
 - (a) to form a political party;
 - (b) to participate in the activities of, or recruit members for, a political party; and
 - (c) to campaign for a political party or cause.
- (2) Every citizen has the right to free, fair and regular elections for any legislative body established in terms of the Constitution.
- (3) Every adult citizen has the right –
 - (a) to vote in elections for any legislative body established in terms of the Constitution, and to do so in secret; and
 - (b) to stand for public office and, if elected, to hold office.”

⁴⁹ Section 151(1) of the Constitution. Section 155(1) provides for the following three categories of municipalities (which are defined in further details in the Local Government: Municipal Structures Act, 1998):

- (a) Category A: A municipality that has exclusive municipal executive and legislative authority in its area.
- (b) Category B: A municipality that shares municipal executive and legislative authority in its area with a category C municipality within whose area it falls.
- (c) Category C: A municipality that has municipal executive and legislative authority in an area that includes more than one municipality.

⁵⁰ Section 151(2) of the Constitution.

⁵¹ Section 152(1)(a) and (b) of the Constitution.

⁵² Section 159(1). Section 159 of the Constitution reads as follows in full:

states that “[i]f 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”.⁵³ A municipal council remains competent to function from the time that it is dissolved, or its term expires, until the newly elected council has been declared elected⁵⁴ (unless the municipal council was dissolved pursuant to an intervention by the relevant provincial executive).⁵⁵

[63] Besides the Constitution, the postponement of local government elections is also regulated by a cluster of legislative provisions.⁵⁶ The Municipal Structures Act⁵⁷ echoes that the term of municipal councils is “five years, calculated from the day following the date set for the previous election of all municipal councils”.⁵⁸ Whenever it is necessary, the Minister, after consulting the Commission, must, by notice in the Government Gazette, call and set a date for an election of all municipal councils, “which must be held within 90 days of the date of the expiry of the term of municipal

“(1) The term of a Municipal Council may be no more than 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.

(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.”

⁵³ Section 159(2).

⁵⁴ Section 159(3) of the Constitution.

⁵⁵ Section 139(1)(c) of the Constitution provides that when a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation, including, in exceptional circumstances, dissolving the municipal council and appointing an administrator until a newly elected municipal council has been declared elected.

⁵⁶ The Local Government: Municipal Structures Act, 1998 (Municipal Structures Act), and the Municipal Electoral Act.

⁵⁷ Municipal Structures Act.

⁵⁸ Section 24(1) of the Municipal Structures Act.



councils”.⁵⁹ The legislation further provides that a person is elected as a member of a municipal council for a period ending when the next council is declared elected.⁶⁰

[64] Once the Minister has received a request from the Commission for the general postponement of elections,⁶¹ she, by notice in the Government Gazette, “must postpone the voting day for the election to a day determined in the notice, but that day must fall within a period of 90 days of the applicable date mentioned in . . . the Municipal Structures Act”.⁶² The applicable date mentioned in the Municipal Structures Act means the date of the expiry of the term of the incumbent municipal councils. In other words, in the event of a general postponement of municipal elections, the revised voting date

⁵⁹ Section 24(2) of the Municipal Structures Act.

⁶⁰ Section 26(1)(a) of the Municipal Structures Act.

⁶¹ Section 8(1) of the Municipal Electoral Act allows for a request for the postponement of elections as follows:

“The Commission may request the Minister or, in the case of a by-election, the [Member of the Executive Council of a province responsible for local government in the province (the MEC)], to postpone the voting day determined for an election if the Commission is satisfied that it is not reasonably possible to conduct a free and fair election on that day.”

⁶² Section 8(2) of the Municipal Electoral Act. Section 24 of the Municipal Structures Act provides as follows:

- “(1) The term of municipal councils is five years, calculated from the day following the date set for the previous election of all municipal councils in terms of subsection (2).
- (2) Whenever necessary, the Minister, after consulting the Electoral Commission, must, by notice in the Government Gazette, call and set a date for an election of all municipal councils, which must be held within 90 days of the date of the expiry of the term of municipal councils. The notice may be published either before or after the term of municipal councils expires in terms of subsection (1).”

Section 25(3) of the Municipal Structures Act deals with by-elections, and requires the municipal manager of the municipality concerned, after consulting the Commission, to call and set a date for a by-election, which must be held within 90 days of the date –

- (a) of the voting day of the previous election, if the Commission does not declare the result of the election of a municipal council, or in a district management area, or in a ward, within seven days after such elections (section 25(1)(a), read with section 5(1)(n) of the Electoral Commission Act);
- (b) on which the election was set aside by the court, if a court has set aside the election of a council, or in a district management area, or in a ward (section 25(1)(b));
- (c) on which the council was dissolved, if a council is dissolved (section 25(1)(c)); or
- (d) on which the vacancy occurred, if a vacancy in a ward occurs (section 25(1)(d)).

must fall within the 90-day period following the expiry of the five-year term of the current municipal councils.⁶³

[65] Similarly, the Municipal Electoral Act allows for the postponement of voting at a particular voting station, if the Commission “is satisfied that it is not reasonably possible to conduct a free and fair election at a voting station on the voting day”.⁶⁴ In the circumstances, the Commission must postpone the election prior to the commencement of voting at that voting station, and the election must be postponed to a date determined by the Commission and, as in the case of a general postponement, “that day must fall within a period of 90 days of the applicable date mentioned in . . . the Municipal Structures Act” (i.e. within 90 days of the date of expiry of the term of the current municipal councils).

[66] For completeness, it should be noted that the Electoral Act contains similar provisions regarding the general postponement of a voting day,⁶⁵ and the postponement of voting at a particular voting station.⁶⁶ In both instances, the Electoral Act provides

⁶³ In terms of the relevant provisions of the Municipal Electoral Act and the Municipal Structures Act.

⁶⁴ Section 9(1) of the Municipal Electoral Act.

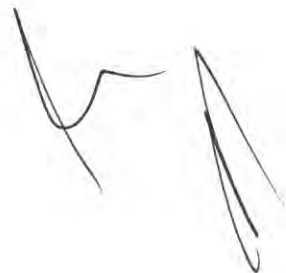
⁶⁵ Section 21(1) of the Electoral Act provides that the Commission may request the person who called an election (i.e. the Minister) to postpone the voting day for that election, provided the Commission is satisfied that –

- “(a) the postponement is necessary for ensuring a free and fair election; and
- (b) the voting day for the election will still fall within the period as required by the Constitution or national or provincial legislation thereunder.”

Section 21(2) states that if the Minister accedes to the request for a general postponement, she, by proclamation or notice in the Government Gazette, must postpone the voting day for the election to a day determined by her, but that day must fall within the period referred to in section 21(1)(b), i.e. the period stipulated in the Constitution or the applicable national or provincial legislation.

⁶⁶ Section 22(1) of the Electoral Act provides that if it is not reasonably possible to conduct a free and fair election at a voting station on the proclaimed voting day, the Commission may, at any time before the voting at a voting station has commenced, postpone voting at that voting station. This type of postponement must be–

- (a) effected in the prescribed manner;
- (b) to a day that would still fall within the period referred to in section 21(1)(b); and
- (c) publicised in the media, in order to ensure wide publicity of the postponement of the voting day at that voting station.



that the postponement must be necessary for ensuring a free and fair election, and the revised voting day must still fall “within the period as required by the Constitution or national or provincial legislation thereunder”. This is the period stipulated in the Constitution, which is “within 90 days of the date that Council was dissolved, or its term expired”, or, similarly, in terms of the Municipal Structures Act, “within 90 days of the date of the expiry of the term of municipal councils”.⁶⁷

[67] According to the Constitution, when the term of a municipal council expires, an election must be held within 90 days of the date on which that council’s term expired.⁶⁸ In terms of the Municipal Structures Act, whenever necessary, the Minister, after consulting the Commission, must, by notice in the Government Gazette, call and set a date for an election of all municipal councils, which must be held within 90 days of the date of the expiry of the term of municipal councils.⁶⁹

[68] Our legislative scheme allows for the postponement of elections, both generally and at a particular voting station. In the case of a general postponement of a voting day, it is the Minister who has the power to postpone the election. In the case of a postponement at a particular voting station, it is the Commission that decides to postpone voting. Nonetheless, in both scenarios (i) the Commission must be satisfied that it is not reasonably possible to conduct free and fair elections on that day, and (ii) the adjourned voting day, must fall within the 90-day period following the expiry of the five-year term of the incumbent municipal councils. This aligns with the Constitution, which states that an election must be held within 90 days of the date on which a municipal council was dissolved, or its term expired.⁷⁰

⁶⁷ Section 24(2) of the Municipal Structures Act.

⁶⁸ Section 159(2) of the Constitution.

⁶⁹ Section 24(2) of the Municipal Structures Act.

⁷⁰ Section 159(2) of the Constitution.

Free and fair elections

[69] The litmus test on whether elections should be postponed is whether, if they were held, the elections will be free and fair. The requirement of free and fair elections is the golden standard of our electoral project. Indeed, without free and fair elections there can be no democracy.⁷¹ A government that does not receive its mandate from the people, through the expression of their will in free and fair elections, will not have legitimacy. But what is more, the outcome of such elections would be invalid to the extent that they are unlawful and inconsistent with the Constitution and other law.

[70] International⁷² and regional law,⁷³ similarly, require that the authority of government be based on the will of the people and that elections must be held which reflect the will of the people. While there is no internationally accepted definition of “free and fair elections”, the meaning given to free and fair elections in South African law is informed by international and regional law.⁷⁴

⁷¹ *My Vote Counts NPC v Minister of Justice and Correctional Services and Another* [2018] ZACC 17; 2018 (5) SA 380 (CC) (*My Vote Counts II*) at para 32; *Richter v The Minister for Home Affairs and Others* [2009] ZACC 3; 2009 (3) SA 615 (CC) at para 53; and *New National Party v Government of the Republic of South Africa and Others* [1999] ZACC 5; 1999 (3) SA 191 (CC) at para 11.

⁷² Article 21(1) and (3) of the Universal Declaration of Human Rights, 10 December 1948; and Article 25(a) and (b) of the International Covenant on Civil and Political Rights, 16 December 1966. See also *Kham and Others v Electoral Commission and Another* [2015] ZACC 37; 2016 (2) SA 338 (CC) at footnote 25.

⁷³ Article 13 of the African Charter on Human and Peoples' Rights, 27 June 1981; Articles 3.4 and 17 of the African Charter on Democracy, Elections and Governance, 30 January 2007; Part II Article 4(a) of the African Union, Declaration on the Principles Governing Democratic Elections, 8 July 2002; SADC Principles and Guidelines Governing Democratic Elections, 20 July 2015; and Article 3 of the Additional Protocol to the European Convention on Human Rights, 4 November 1950. For an explanation of the elements essential to free and fair elections in Europe, see the European Commission for Democracy through Law, Code of Good Practice in Electoral Matters, 18-19 October 2002.

⁷⁴ The Constitutional Court outlined the elements fundamental to free and fair election in a unanimous judgment, by Wallis AJ, in *Kham* at para 34. These elements were “distilled” from international and regional law.

[71] In South African law, whether an election is free and fair must be assessed in context and involves a value judgement.⁷⁵ There are a number of elements that are fundamental to the conduct of free and fair elections.⁷⁶ These elements include:

- (a) Universal suffrage: Every adult citizen must have the right to vote.⁷⁷
- (b) Secret suffrage: Every person who is entitled to vote must be able to vote in secret.⁷⁸
- (c) Equal suffrage: Each person's vote counts equally or is of equal value.⁷⁹
- (d) Free suffrage: Every person who is entitled to vote must have the opportunity to do so. This requires that every person who is entitled to vote "should, if possible, be registered to do so".⁸⁰ It further requires that there are no unreasonable restrictions or burdens placed on eligible voters who wish to exercise the right to vote.⁸¹

⁷⁵ *Kham* at para 34.

⁷⁶ *Id.*

⁷⁷ Section 1(d) of the Constitution enshrines universal suffrage as a founding value. Section 19(3) of the Constitution confers the right to vote on every "adult citizen".

⁷⁸ Section 19(3) of the Constitution enshrines the right to vote in secret.

⁷⁹ Section 1(c) of the Constitution enshrines human dignity and equality as founding values of our constitutional democracy. Treating people with human dignity and with respect for their equal worth, requires giving all eligible voters an equal say in who will represent them. This was expressed by the Constitutional Court in *August and Another v Electoral Commission and Others* [1999] ZACC 3; 1999 (3) SA 1 (CC) at para 17:

"The vote of each and every citizen is a badge of dignity and personhood. Quite literally, it says that everybody counts."

⁸⁰ *Kham* at para 34.

⁸¹ *Richter* at para 57; and *New National Party* at paras 21 and 23.

(e) Freedom to contest elections: Every adult citizen must be able to freely contest elections whether through membership of a political party or as an independent candidate.⁸²

(f) Equality of opportunity: Political parties and candidates must have the ability to compete with one another on relatively equal terms.⁸³ This requires that all political parties and candidates are able to compete without “any undue hindrance or obstacle” in the way that the elections are prepared for and conducted.⁸⁴

[72] The likelihood of the forthcoming local government elections being free and fair must be assessed in light of the impact of the Covid-19 pandemic and the measures promulgated by the Government to curb the continued spread of the pandemic on the elections.

The rights to life, bodily and psychological integrity, and access to health care services

[73] The right to life is as old as humanity. Sadly, life is not always adequately protected. Our Constitution rightly proclaims that everyone has the right to life.⁸⁵ This right has on numerous occasions been adjudged – albeit alongside the right to dignity – as the

⁸² *New Nation Movement* at para 120. In *Kham*, the Constitutional Court highlighted, at para 91, the link between free and fair elections and the right to stand for and, if elected, hold office. The Constitutional Court said that the constitutional commitment to free and fair elections provides a safeguard of the right to stand for public office.

⁸³ *Kham* at para 86.

⁸⁴ *Kham* at para 87.

⁸⁵ See section 1 of the Constitution.

most important of all basic human rights. The right to life is “the most fundamental of all rights”.⁸⁶

[74] As important as it is, it may still be susceptible to a limitation in terms of the Constitution. Academics have stated that “the justification for a limitation [to the right to life] would have to be exceptionally compelling”.⁸⁷ Undoubtedly, this is due to the nature and importance of this right. So important is the right to life that its limitation negates other constitutional rights, including the right to dignity.⁸⁸ To this end, the right to life not only imposes negative duties upon the State but translates into a positive duty as well. This means the State is not only precluded from taking someone’s life, it is also required to act positively in fulfilment of its duty to protect the lives.⁸⁹

[75] The Constitution also entitles everyone to the right to bodily and psychological integrity.⁹⁰ The right to bodily and psychological integrity refers primarily to the right to autonomy and self-determination over one’s own body.⁹¹ It seeks to uphold

⁸⁶ *S v Makwanyane and Another* [1995] ZACC 3; 1995 (3) SA 391 (CC) at para 217. In this context, the words of O’Regan J at paras 326-7 bear relevance:

“The right to life is, in one sense, antecedent to all the other rights in the Constitution. Without life, in the sense of existence, it would not be possible to exercise rights or to be the bearer of them. But the right to life was included in the Constitution not simply to enshrine the right to existence. It is not life as mere organic matter that the Constitution cherishes, but the right to human life: the right to live as a human being, to be part of a broader community, to share in the experience of humanity. This concept of human life is at the centre of our constitutional values. The Constitution seeks to establish a society where the individual value of each member of the community is recognised and treasured. The right to life is central to such a society. The right to life, thus understood, incorporates the right to dignity. So the rights to human dignity and life are entwined. The right to life is more than existence – it is a right to be treated as a human being with dignity; without dignity, human life is substantially diminished. Without life, there cannot be dignity.”

⁸⁷ Currie and De Waal *The Bill of Rights Handbook* 6 ed (Juta, Cape Town) at 260; See also *Ex Parte Minister of Safety and Security and Others: In Re S v Walters and Another* [2002] ZACC 6; 2002 (4) SA 613 (CC) at para 28.

⁸⁸ Currie and De Waal at 260.

⁸⁹ Currie and De Waal at 262.

⁹⁰ Section 12(2) of the Constitution.

⁹¹ See the Child Rights International Network Library available at: <https://archive.crin.org/en/home/what-we-do/policy/bodily-integrity.html>.

everyone's right to be free from acts against their body which they did not consent to.⁹² In other words, it is a right to make decisions concerning one's body without undue interference. Everyone has the right to both security in and control over their body.⁹³ To this end, absent consent, any physical intrusion is a human rights violation.⁹⁴ One's right to control over their body would thus be frustrated if one were to be coerced or unduly influenced into taking a decision regarding their body or is denied the option of making the decision at all.⁹⁵

[76] Like the right to life, the right to bodily and psychological integrity may be limited provided such limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.⁹⁶ To this end, any significant limitations of the rights to life, dignity and bodily and psychological integrity would, for its justification demand a very compelling countervailing public interest".⁹⁷

[77] In addition, the Constitution provides that everyone has the right to have access to health care services, including reproductive health care,⁹⁸ and that the State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.⁹⁹ The Constitutional Court affirmed that "the right to have access to health care services includes the right of access to medicines, although

⁹² See the Child Rights International Network Library available at: <https://home.crin.org/issues/bodily-integrity>.

⁹³ Section 12(2)(b) of the Constitution.

⁹⁴ See the Child Rights International Network Library available at: <https://archive.crin.org/en/home/what-we-do/policy/bodily-integrity.html>.

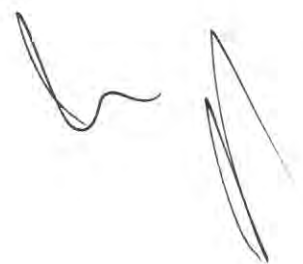
⁹⁵ Nienaber and Bailey "The Right to Physical Integrity and Informed Refusal: Just How Far does a Patient's Right to Refuse Medical Treatment Go?" 2016 *SAJBL* 9 at 74.

⁹⁶ See section 36 of the Constitution.

⁹⁷ *Ex Parte Minister of Safety and Security and Others* at para 28.

⁹⁸ Section 27(1) of the Constitution.

⁹⁹ Section 27(2) of the Constitution.



this right is not without limitations”.¹⁰⁰ The corollary negative obligation on the State is to desist from preventing or impairing the right of access to health care services.¹⁰¹

Submissions from political parties

[78] Political parties are vital stakeholders in any election, be it national, provincial or local elections. In recognition of that, the Inquiry invited written and oral submissions from political parties across the length and breadth of South Africa. Of these political parties, some are members of the National Assembly and the Liaison Committee.¹⁰² Other political parties, although not represented in the National Assembly or on the Liaison Committee, are participants and stakeholders in local government elections.¹⁰³ We do not distinguish between political parties at national government and those who are exclusively registered at local government level. It is thus unnecessary, for the purposes of this Inquiry, to set out the individual submissions of each political party.

¹⁰⁰ *Pharmaceutical Society of South Africa and Others v Tshabalala-Msimang and Another NNO; New Clicks South Africa (Pty) Ltd v Minister of Health and Another* 2005 (3) SA 238 (SCA) at para 42.

¹⁰¹ *New Clicks* at para 43. In *Minister of Health and Others v Treatment Action Campaign and Others (No 2)* 2002 (5) SA 721 (CC) at para 39 the Constitutional Court stated as follows regarding the positive and negative obligations arising from section 27:

“[S]ection 27(1) of the Constitution does not give rise to a self-standing and independent positive right enforceable irrespective of the considerations mentioned in section 27(2). Section 27(1) and 27(2) must be read together as defining the scope of the positive rights that everyone has and the corresponding obligations on the State to respect, protect, promote and fulfil such rights.”

¹⁰² These political parties include: African Christian Democratic Party; African Independent Congress; Al Jama-ah; African National Congress (ANC); African Transformation Movement; Congress of the People; Democratic Alliance (DA); Economic Freedom Fighters (EFF); GOOD; Inkatha Freedom Party; National Freedom Party; United Democratic Movement; Action SA; and the Freedom Front Plus.

¹⁰³ These political parties include: Abantu Integrity Movement; Active United Front; African Content Movement; African Covenant; African People First; African People's Convention; African Transformation Movement; Arusha Economic Coalition; Black and White Party; Black First Land First; Compatriots of South Africa; Fighting for Unemployment; Khoisan Revolution Party; Land Party; Moqhaka Community Forum; Northern Alliance; One South Africa Movement; Pan Africanist Congress of Azania; Party of Action; Patriotic Alliance; People's Democratic Movement; Plaaslike Besorgde Inwoners; Randfontein Peoples Party; Shosholoza Progressive Party; Thabazimbi Forum 4 Service Delivery; United Residents Front; and Us The People.

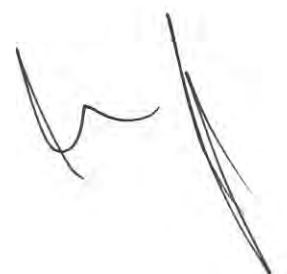


Should Elections be Postponed?

[79] Whether the 2021 local government elections ought to be postponed, and then the extent of such postponement, if any, remain highly contested issues among political parties. While several political parties have argued that the 2021 local government elections should be deferred, on the converse, numerous political parties have argued that the elections ought to proceed as scheduled, that is, on 27 October 2021.

[80] Political parties calling for a postponement raised varied concerns associated with proceeding with the elections in October. These concerns include the need to ensure free and fair elections, and the need to prevent further infections of Covid-19 and to protect lives and limbs. These proponents submit that the current circumstances are not conducive to having free and fair elections. This is so because the prevailing lockdown regulations restrict political parties from campaigning, and therefore deny the electorate the opportunity to make informed political choices. Furthermore, proceeding will prejudice relatively “smaller parties” as they do not have access to the media and other platforms through which they may relay their manifestos to the electorate. The fairness of the elections will thus be vitiated. Also, due to the fear of infection, there is a possibility of a low voter turnout which may, in turn, undermine the credibility and integrity of the electoral process. Because of this fear, there would also be voter apathy among the electorate. They submit that ensuring free and fair elections is more than “mere preparedness of [the Commission]”, it also envisage voters being free – without fear of infection and possible loss of life – to cast their votes.

[81] On the need to protect lives and limbs, these political parties submit that though the Constitution makes provision for both the right to vote and the right to life, the latter supersedes the former. To this end, these political parties noted, at the time of making submissions, that in South Africa, over 1.8 million people have been infected with the



virus and over 58 000 people had lost their lives. They argue that proceeding with the elections will expose not only the electorate to the risk of infection, but also political party agents and independent electoral monitoring officials. The fact that South Africa is now in a third wave of the virus, and infections are rising across the country, make it clear that both voter registration activities and the voting day may be massive “super spreader” events. This, viewed in light of the overburdened South African health care system, and the slow pace of the vaccine rollout, points to the need to postpone elections in order to save lives. In this regard, it is argued that “[e]lections come and go, a life lost cannot be regained”. Therefore, they contend that the forthcoming elections must be postponed.

[82] It is worth noting that, although these political parties agree that elections should be postponed, there are differences among these political parties on the extent of postponement. Some submit that a postponement to early 2022 will do, others submit that March, April or May 2022 will be most suitable. Additionally, some have suggested a postponement until such a time that community immunity is reached.

[83] Political parties advocating for the elections to proceed submit that the right to elect new government every five years is a fundamental principle of our Constitution. To this end, the Commission is seized with a duty to ensure that democratic rights are protected and advanced, and that the electorate can exercise these rights as guaranteed by the Constitution. Proceeding with elections will thus seek to acknowledge and endorse the founding value of “regular elections”, as enshrined in the Constitution. Also, they submit that South Africa’s democracy depends largely on regular elections. A postponement would therefore be extreme and undemocratic. For these reasons, a postponement of elections may lead to instability for reasons of “stolen voting rights”. Furthermore, these political parties submit that the state of local government clearly calls for the election of a new local government. This is particularly because since the 2016 elections, the state of local government has deteriorated and collapsed entirely,

leaving many communities, and the country at large, without satisfactory service delivery. In this regard, these political parties contend that the one way to cure the high levels of corruption, mismanagement and lack of service delivery within municipalities, is through the exercise of the constitutional right to vote.

- [84] These political parties submit that the measures suggested by the Commission are adequate to hold free and fair elections as evidenced by the by-elections held in the pandemic, which were not declared super spreaders; the social nature of elections has always been of social distancing, therefore, social distancing should not be a problem for holding elections; queuing during elections does not present a greater risk of infection than other daily activities, as citizens already queue for numerous basic services on a daily basis. As such, elections will not necessarily present a greater risk of infection. In addition, there is no suggestion that a third wave will still be in place, or uncontrollable, in October, as it will be the middle of the spring season. They further argue that the virus is unpredictable, and as such, a postponement would be premature, and may well lead the country to a more severe period of infections. In conclusion, these political parties submit that there is still sufficient time to prepare for the elections, therefore, the elections ought to proceed as scheduled.

Submissions on the postponement of elections

- [85] On this question as well, the Inquiry has received submissions from numerous political parties. Some take the view that postponing the elections is within the prescripts of the law. For instance, one political party submitted during oral argument that as much as terms of municipal councils may be terminated pre-emptively under certain circumstances, the Constitution should be read permissively to allow for the extension of councilors' terms under the current circumstances. Some take the view that the Constitution does not permit a postponement of elections, and that postponing



elections will require a constitutional amendment. The argue further that an amendment is not desirable because of the temporary nature of the pandemic. These political parties submit that even if that option was to be considered, it will constitute a limitation of the founding value of “regular elections”. In this regard, it is argued that the right to vote is a fundamental right and cannot be curtailed. Furthermore, these political parties contend that any extension of a term of office beyond the five-year and 90-day period is inherently undemocratic, and that a postponement is therefore not legally permissible.

- [86] Moreover, these political parties submit that, if the term of office expires and the incumbent councilors are permitted to continue occupying positions, it may give justification to an unelected autocratic system of public office bearers. They submit that the power given by the electorate may not be indefinitely or unilaterally extended.

Civil Society Organisations

- [87] The Inquiry has received submissions from various civil societies.¹⁰⁴ Some submitted that “nothing is as important as preserving the lives of South Africans” and thus, elections should be postponed. Some of these societies argue that regular elections for local government are a foundational value of our constitutional order and should not lightly be departed from. The argument continues that the right to vote has a direct impact on the enjoyment of other democratic rights, particularly socio-economic rights. The prevalent poor governance, lack of service delivery, unemployment, and ongoing maladministration and corruption, in the local government calls for the elections to be held as scheduled. These proponents submit that postponement of elections is a measure of last resort to be invoked in circumstances of extreme exceptionality. In any

¹⁰⁴ The World Economic Forum defines a “civil society” as a “wide array of organisations: community groups, non-governmental organisations [NGOs], labour unions, indigenous groups, charitable organisations, faith-based organisations, professional associations, and foundations” available at: <https://www.weforum.org/agenda/2018/04/what-is-civil-society/>.

event, they contend, any postponement at this stage is premature and will not cure the situation. This is so because the virus is unpredictable and may prevail for some time. That, viewed in light of the fact that the country is far from community immunity, it cannot be stated with certainty where at the country will be in October 2021. To this end, additional measures such as: introducing health guidelines; online voting; provision of voter education; extending voting days; encouraging more special votes; gazetting regulations specific to local government elections; provision of internet access at zero rates; discouraging disinformation during the election period; and the provision of mobile voting stations may be employed. With these measures, local government elections should proceed.

[88] During oral submissions, some of these civil society organisations submitted that there simply should not be any cause for concern around the contention that lockdown restrictions robbed political parties of an opportunity to campaign. This is so because political campaigns, by their nature, begin immediately after the previous elections, and political parties cannot cry foul at this stage.

[89] In addition, some of the proponents said that although the risk of infection cannot be excluded in an absolute manner, participating in elections does not carry a greater risk of infection than each person's normal daily activity. These include shopping, drawing money, public transport, queuing for social grants and many other activities.

[90] Proponents of a postponement argued that proceeding with elections under the current circumstances of a worldwide pandemic, will stifle, rather than promote democracy. Proceeding with elections under the current restrictions will deny not only political parties of an opportunity to campaign, but will also be "unfair for the voters not to have [a] fair opportunity to confront the candidates". They said that if scientific and medical grounds exist for local government elections to be held without placing lives at risk or threatening the health of the nation, then elections should proceed.

However, if scientific and medical experts take the view that holding local government elections in October 2021 threatens lives and may spark a devastating fourth wave, then the elections must be postponed. In conclusion, they argued that at the core of this Inquiry is the right to life, therefore the Inquiry should be guided by medical science and health experts rather than political preferences of politicians.

Blind SA

[91] On 13 July 2021, while in the process of drafting this Report, the Inquiry received written submissions from Blind SA¹⁰⁵ on the possible impact of the upcoming local government elections on blind and partially sighted people due to the Covid-19 pandemic. In their submissions, Blind SA put forward certain measures which could be taken by the Commission to ensure that blind and partially sighted people are able to cast their votes safely and in secret in the local government elections, scheduled to take place during the pandemic.

[92] Blind SA states that the following measures are required to ensure free and fair elections during Covid-19. These measures suggested by Blind SA, and which we embrace, entail the following:

- (a) All blind and partially sighted people must be fully vaccinated with the Covid-19 vaccine;
- (b) All the applicable Covid-19 regulations, policies, directions and protocols regarding health and security must be observed during elections; and

¹⁰⁵ Blind SA is a National Disable People's Organisation, established in 1946 to empower, advocate, promote and protect the human rights of blind and partially sighted people and to access equitable, affordable, safe and secure educational, social, cultural, economic and civic participation and services. Blind SA is made up of 30 member organisations and over 1 200 members throughout the country.

- (c) Blind and partially sighted people must have access to the following materials and facilities:
- i. Access to voter education programmes;
 - ii. Physical access to the built environment, namely, voter education venues and voting stations, including ablution facilities;
 - iii. Access to information, including voter education materials and election information leaflets, in accessible formats such as braille daisy audio, large print, and electronically;
 - iv. Access to information and communications technology, which includes ensuring that the Commission's website, online platforms, and interactive communication systems are accessible, and that videos, social media and digital media have audio descriptions; and
 - v. Adequate access to the Universal Ballot Template,¹⁰⁶ and ensuring that it is sanitised after every use.

National Economic Development and Labour Council

[93] The National Economic Development and Labour Council (Nedlac) is the statutory vehicle by which Government, labour, business, and community organisations seek to cooperate, through problem-solving and negotiation, on economic, labour and development issues and related challenges facing the country.¹⁰⁷ Thus, Nedlac is a vital stakeholder in our democratic project.

¹⁰⁶ The Universal Ballot Template is a voting aid, which was developed by the Commission and the South African National Council for the Blind, to assist blind and partially sighted people and people with special needs to have an independent and secret vote during elections.

¹⁰⁷ National Economic, Development and Labour Council Act, 1994.

[94] On 9 June 2021, the Inquiry held a meeting with the Covid-19 Nedlac Rapid Response Task Team.¹⁰⁸ The Nedlac delegation consisted of key stakeholders from organised business, civil society, and organised labour.

[95] Organised business considered it important that local government elections be held as scheduled but cautioned that exercising the right to vote must be done subject to appropriate protective measures. Organised business suggested that the Commission should be flexible and responsive to what the situation may require in October 2021. Organised business was of the view that the elections may proceed in October, subject to safety protocols being adhered to. The representatives for organised business spoke to the need to balance the electoral process, to curb the transmission of Covid-19 and ensuring stability in the economy. Organised business noted that while capacity to rollout vaccines might exist, the vaccination programme is largely dependent on the supply of vaccines. The supply of vaccines needed particular attention to ensure the protection of all citizens. It was encouraging to learn that organised business was part of the collaboration between public and private sectors to ensure the delivery of vaccines.

[96] In the effort to curb the spread of infection, organised business suggested that the preferred approach was to vaccinate as many people as possible and, at the same time, to limit the number of people who may gather. Organised business supported restrictions on gatherings especially electioneering events preceding voting day. It was suggested that indoor gatherings should be limited to a maximum of 50 people and outdoor gatherings to 100 people. Concern was expressed that the public was not consistently adhering to non-pharmaceutical interventions, for example: there was disregard for the limitations on social gatherings, and masks were not being worn, either at all, or correctly to cover the mouth and nose.

¹⁰⁸ The meeting was held virtually on the Zoom platform.



[97] The community constituency of Nedlac consists of several community-based sectors. The community constituency questioned the freeness and fairness of the upcoming elections if political parties were unable to campaign for votes. This constituency preferred a postponement of the elections for a period set with reference to expert scientific information and knowledge about the extent of the infections in coming months. The same standard of limitations, they emphasised, should apply to the politicians. In other words, if the population is to limit its social gatherings and attendance at funerals, politicians should not be given greater latitude to hold political gatherings.

[98] The community constituency was receptive to the possibility of new ways of conducting elections and supported the idea of the elections being staggered over a few days, to prevent congestion and long queues at voting stations. They cautioned that the postponement of the elections may result in municipalities being in limbo as there would have been no plans for the municipal officials to continue in office for the period of the postponement as the municipalities' integrated development plans would not have factored in any postponement of elections. The postponement of elections would have a negative impact by increasing service delivery problems in circumstances where many communities have already been expressing their dissatisfaction over the failure of municipalities to deliver basic services. Overall, the community constituency remains open to the elections being postponed.

[99] Organised labour expressed itself at the meeting, and in its written submissions. Organised labour also expressed itself on the feasibility of proceeding with the forthcoming local government elections in October 2021. They raised the need to abide by the Constitution, to hold local government accountable, and to hold elections timeously whilst at the same time saving lives and livelihoods. To this end, organised labour submitted that no principle can be more important than protecting and preserving



lives. Organised labour further submitted that the traditional approach of campaigning is not possible under the current disaster management restrictions. Therefore, there can be no free and fair elections because some political parties, particularly those with known influence and availability of resources, will have an advantage over those who do not necessarily have such influence and resources. This will be unfair to many stakeholders, including the electorate itself, as it will not be able to interact with candidates in a meaningful manner. In its view, proceeding under the current circumstances will “stifle rather than promote democracy”.

General public

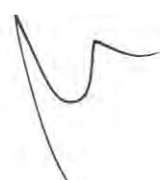
[100] The assignment of the Inquiry has sparked a great amount of public interest. The Inquiry has received about 3 000 written comments and voice notes from the public expressing their views on the local government elections earmarked to take place in October this year.¹⁰⁹

[101] Whether the local government elections ought to proceed in October or to be postponed until a later date is a highly contested issue, with strong views expressed by the public on both sides. It should be noted that the period for public comment closed on Friday, 18 June 2021, prior to the country being moved to Adjusted Alert Level 4.

[102] Members of the public advocating for postponement of the local government elections raise concerns about the risk of increased transmission of the virus in the run up to, and during the holding of elections, and the risk that this poses to lives and livelihoods.

¹⁰⁹ The majority of the general public who made comments, 63.3 per cent, supported proceeding with the local government elections in October 2021, while 27.8 per cent supported postponement and 8.9 per cent were unsure. A breakdown of the comments received through Dear South Africa is available at: <https://cdn.dearsouthafrica.co.za/wp-content/uploads/2021/06/20170714/IEClocal2021-web.pdf>.

- [103] In addition, they raise concerns about whether elections held during a pandemic and with Covid-19 restrictions in place would be free and fair. The concern is expressed that many South Africans would be unable to vote because they are in hospital, isolation or quarantine or would be deterred from voting because of the fear of infection. There is also concern that this would lead to low voter turnout, which may, in turn, delegitimise the elections. In addition, the concern is expressed that the restrictions on political gatherings and other political activities will diminish the freeness and fairness of the elections and will advantage larger and better-resourced political parties.
- [104] Members of the public advocating for postponement suggest that the local government elections should be postponed until they may be held safely, and many suggest postponing elections until South Africa has reached community immunity.
- [105] Members of the public advocating for the local government election to proceed in October highlight the importance of elections occurring regularly in line with the constitutionally prescribed time-limits. They raise a concern that postponing elections undermines the ability of the electorate to hold their public representatives to account, and thus undermines accountable and responsive governance. These concerns are often raised in the context of, or in relation to, corruption, maladministration, and poor service delivery at the local government level.
- [106] These members of the public point to the by-elections held in South Africa, and the numerous elections held around the world, as an indication that the Commission will be able to hold free, fair, and safe elections in October 2021. They consider the Covid-19 health protocols with which we are all familiar as being adequate to reduce the risk of transmission posed by the holding of elections. They also suggest additional risk reduction measures to reduce congestion at voting stations, including extending



voting days, extending voting hours, staggering the vote, and expanding the eligibility criteria for special votes.

[107] Those who advocate for the local government elections to proceed raise the concern that if the elections are postponed, they may have to be postponed multiple times or indefinitely, since it is unclear when the pandemic is likely to be behind us. Postponement is, thus, seen as a serious threat to our democratic project.

Public opinion survey

[108] The University of Johannesburg Human Sciences Research Council (the Research Council) conducted a Covid-19 Democracy Survey on the public's views on the postponement of the 2021 local government elections.¹¹⁰ Those being surveyed were throughout asked a particular question: Given the Covid-19 pandemic, would you support or oppose a postponement of the 2021 local government elections (currently announced to take place on 27 October 2021) to a later date. The responses were captured using a five-point scale, ranging from strongly support to strongly oppose postponement.¹¹¹ A report on this survey was shared with the Inquiry on 8 July 2021 by the Director for Centre for Social Change University of Johannesburg, Prof Carin Runciman, on behalf of UJ's Human Sciences Research Council. The Inquiry has, for two reasons, adopted a cautious approach towards the survey, and its subsequent report. First is that the report on the survey was not shared with us timeously.¹¹² Second is that other stakeholders did not have an opportunity to comment

¹¹⁰ See the University of Johannesburg Human Sciences Research Council Covid-19 Democracy Survey, available at: <https://www.research.net/r/TBVDFRW>.

¹¹¹ See the University of Johannesburg Human Sciences Research Council Covid-19 Democracy Survey Report on the Publics' Views on the Postponement of the 2021 Local Government Elections available at: <http://www.hsrc.ac.za/en/media-briefs/dces/survey-2021-local-government-elections>

¹¹² Timeously in the sense that it was submitted after the date scheduled for submissions.

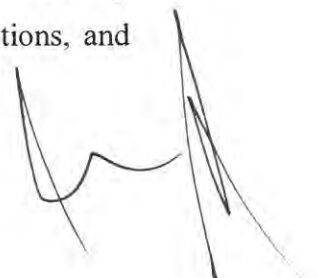
on the survey. Nonetheless, we appreciate the submission and the report may be accessed on the Inquiry's website.

[109] The online survey was conducted using the #datafree Moya Messenger App which is operated by Datafree. The app has 5 million monthly users, 800 000 of whom use the app every day. The survey was made available in six official languages: English, Afrikaans, isiZulu, isiXhosa, Setswana and Sesotho. Of the 4,728 participants who fully completed the survey, English was the common language used. It appears further that of those who participated, most used a smartphone. To bridge the gap between who has, and who does not have, access to smartphones, particularly between older and younger people, the Research Council weighted up quantitative findings to match statistical data of Statistics South Africa on race, education and age, as such, the survey can be regarded as broadly representative of the adult population at large.

[110] The survey reveals that nearly 61 per cent of South Africans favour a postponement with 52 per cent strongly supporting postponement. It further reveals that the consensus for postponement is largely consistent across a range of socio-demographic variables such as gender, age, race, education level, employment status and subjective poverty status.

[111] The survey indicates that notwithstanding political support, postponement is the most preferred option. This is evidenced by the highest support for postponement amongst ANC supporters. Though the EFF and DA's support for postponement was lower, it still represents just over half, 53 per cent, of supporters of other parties.

[112] In conclusion, the Research Council states that personal characteristics have virtually no statistically significant effect on views on electoral postponement. Instead, the basis of varying support for postponement appears to be influenced more by attitudes relating to political trust and performance, Covid-19 risk perceptions, and



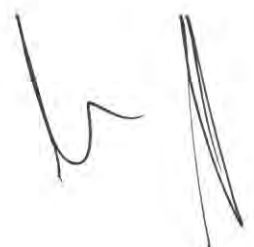
beliefs about acting in the collective interest of the health of all South Africans. In sum, the broad consensus is one that favours postponement.

Electoral Monitoring Bodies

[113] In its effort to achieve this task of constitutional significance, the Inquiry also invited submissions from electoral monitoring bodies. Two electoral monitoring bodies – the Electoral Institute for Sustainable Democracy in Africa (EISA) and the Institute of Election Management Services in Africa (EIMSA) – made written and oral submissions. Their expertise and experience in the electoral field is well acknowledged and this Inquiry is grateful for their participation.

[114] EISA submitted that, while experiences of holding elections during the pandemic have varied from one country to another, available data broadly indicates that, with sufficient precautions and mitigation measures in place, elections can take place without unduly and negatively impacting on either the health or democratic rights of citizens. From all available results in varied countries, no “post-campaign or post-election ‘surges’ or spikes in infection rates” were reported.

[115] EISA contended that under the Municipal Structures Act, the term of municipal councils is no more than five years, and elections must be held within 90 days of the date of expiry of the five-year period. Therefore, from a legal standpoint, and in compliance with the Constitution and existing legislation, the local government elections must be held in October 2021, as scheduled. This is so not only because that is what the law requires, but also because elections are a cornerstone of democracy, their postponement would set a bad precedent, and would result in an illegitimate government.



[116] EISA argued that while proceeding with elections clearly carries some risks from a health perspective, postponements to elections should be avoided wherever possible. It added that a decision to delay elections will be in hope as there is no valid method for accurately predicting future conditions of the virus. Of particular concern is that once the decision to delay an election is made on the basis of health and safety considerations, it becomes challenging later to justify that conditions have improved to the extent that elections may then be held. This, according to EISA, introduces its own set of risks, and leaves any decision to postpone elections even less credible. Additionally, as there exists no mechanism – particularly a constitutional mechanism – that allows for the postponement of an election, any decision to postpone would trigger legal proceedings. Consequently, such may cause misinformation, voter apathy, and in the extreme, lead to protests and violence. The decision to postpone elections should therefore be taken only if all other reasonable alternatives have been exhausted.

[117] Though EISA expresses its appreciation of potential health risks should the elections proceed as scheduled, it has also sought to outline numerous benefits that come with proceeding with the elections. These benefits include testing the Commission's recently introduced voter identification device and its updated voter register to include addresses, thwarting the ongoing perception that local government elections are less important, promoting accountability of political representatives, and reaffirming nationhood, common purpose and a sense of nation building.

[118] EISA recommends that, by invoking the doctrine of necessity, the elections could be postponed by six to eight months, provided an agreement is reached between the Commission and Parliament setting out the rationale, the period for the transitional mechanism, the time limits and a potential date for the elections.

[119] EISA recommends the deployment of Covid-19 ambassadors; temperature checks outside voter registration centres; mandatory mask wearing for voters, personal

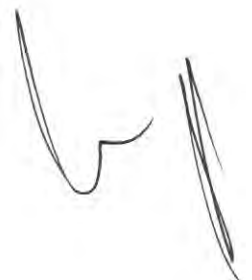


protective equipment kits for electoral monitoring staff and officials, use of alcoholic sanitiser hand wash, queue management outside centres, and fixed maximum numbers permitted inside registration and voting stations, clear and transparent communication about the procedures through the media and on posters around registration and voting stations.

[120] EIMSA, on the other hand, argued that the postponement of an election is not an act outside the confines of the law as it is anticipated by the Municipal Electoral Act. So, it argued, the law permits a postponement of elections under certain circumstances. It argued that the Commission has an obligation to ensure free and fair elections, and if the current circumstances do not allow for free and fair elections, a postponement is called for. EIMSA notes that the Commission has postponed by-elections before and should clearly do it now as it has indicated that the circumstances are not conducive for holding free and fair elections.

[121] Unlike EISA, EIMSA submits that elections should be postponed to early 2022. This – according to EIMSA – will allow sufficient opportunity for political parties to hold their campaigns and reach out to the electorate and enable the Commission sufficient time to carry out the election processes, including the training of electoral staff.

[122] EIMSA recommends that the Commission should halt the implementation of the draft election timetable. In its view, failure to do so, will render the recommendations of this Inquiry meaningless and irrelevant. Furthermore, EIMSA recommends that the Commission should (i) approach the Independent Communications Authority of South Africa to review the regulations on party elections broadcasts and political advertisement, and to ensure the equitable treatment of political parties by broadcasting licensees; and (ii) introduce support measures for community-based radio stations. In



sum, EIMSA contends that the period between March and May 2022 appears to be the most appropriate for holding local government elections.

Comparative electoral practice at home, on our continent and elsewhere

[123] Electoral monitoring bodies and other stakeholders have drawn our attention to elections that were held or postponed on our continent and in other countries around the world during the Covid-19 pandemic. The electoral experience during the pandemic is put up to bolster the standpoint that others have gone to the polls during the pandemic, and we should do so too, or that others have postponed their elections during the pandemic, and we should do so too. The Report briefly looks at the domestic experience first, and the comparison, thereafter, expands to other countries in Africa and in key electoral destinations.

Domestic by-elections

[124] From March 2020 until June 2021, the Commission approached the Electoral Court on eight occasions, to seek orders postponing the holding of by-elections. The Court granted the orders on each occasion.¹¹³ The Commission's first application was brought two days after the President announced that a national state of disaster was being proclaimed to deal with the Covid-19 pandemic. The remaining seven applications were brought when the country was placed under Alert Levels 2 to 5.¹¹⁴

¹¹³ Case number 001/2020, court order granted on 19 March 2020; Case number 002/2020, court order granted on 4 May 2020; Case number 003/2020, court order granted on 19 June 2020; Case number 004/2020, court order granted on 17 July 2020; Case number 005/2020, court order granted on 23 September 2020; Case number 001/2021, court order granted on 21 January 2021; Case number 002/2021, court order granted on 4 February 2021; and Case number 003/2021, court order granted on 30 June 2021.

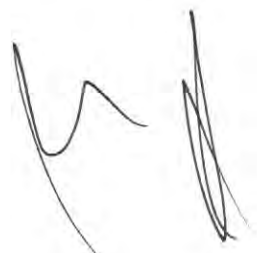
¹¹⁴ Case numbers 002/2020 and 003/2020 were brought under Alert Level 5; Case number 003/2021 was brought under Alert Level 4; Case numbers 004/2020, 001/2021 and 002/2021 were brought under, Alert Level 3; and Case number 005/2020 was brought under Alert Level 2.

[125] The Commission advanced four broad bases for seeking a postponement of by-elections under Alert Levels 2 to 5. First, the Commission was hindered from preparing for, and conducting by-elections in a free and fair manner. Second, the risk of infections spreading through the holding of election activities did not make it possible for the by-elections to be held safely. If the Commission proceeded to hold the elections, this would undermine Government's efforts to curb the spread of the infections. Third, Alert Levels 2 to 5 impose restrictions on gatherings and political activities. In addition, people are confined to their places of residence from specified hours of night until the early hours of the morning. These limitations adversely impact on the ability of political parties and candidates to campaign for votes. This would render the by-elections not free and fair. Fourth, as the population was more aware about the risk of infections, coupled with the existence of highly transmissible new variants of the virus, there was a real possibility that voters would stay away from the polls. This would have resulted in low levels of voter turnout and participation, which would undermine the credibility of the outcomes and the legitimacy of those who were elected to lead.

[126] The Commission proceeded with by-elections when the country was placed under Alert Level 1.¹¹⁵ When the alert level was subsequently changed to Alert Level 3, the Commission sought postponements of the by-elections that were scheduled to take place during January, February and March 2021, and again later when the country was placed on Adjusted Alert Level 4.

[127] What comes through clearly is that the Commission has successfully conducted by-elections during lockdown Alert Level 1, and there were no known indications that the by-elections turned out to be "super spreaders" of Covid-19 infections. However,

¹¹⁵ By-elections were held on 11 November 2020 and 9 December 2020.



each time the Government placed the country under lockdown restrictions between Alert Levels 2 to 5, the Commission has taken the view that the elections were likely not to be free and fair and has sought court orders that allowed it to postpone the by-elections concerned.

Global overview of elections held or postponed during Covid-19

[128] In the period from 21 February 2020 to 21 June 2021, at least 78 countries postponed elections due to Covid-19.¹¹⁶ At least 41 of these countries postponed national elections and referendums. However, at least 55 of the countries that initially postponed elections have now held elections. In the same period, at least 125 countries held elections notwithstanding Covid-19 concerns.¹¹⁷ At least 104 of these countries held national elections and referendums.

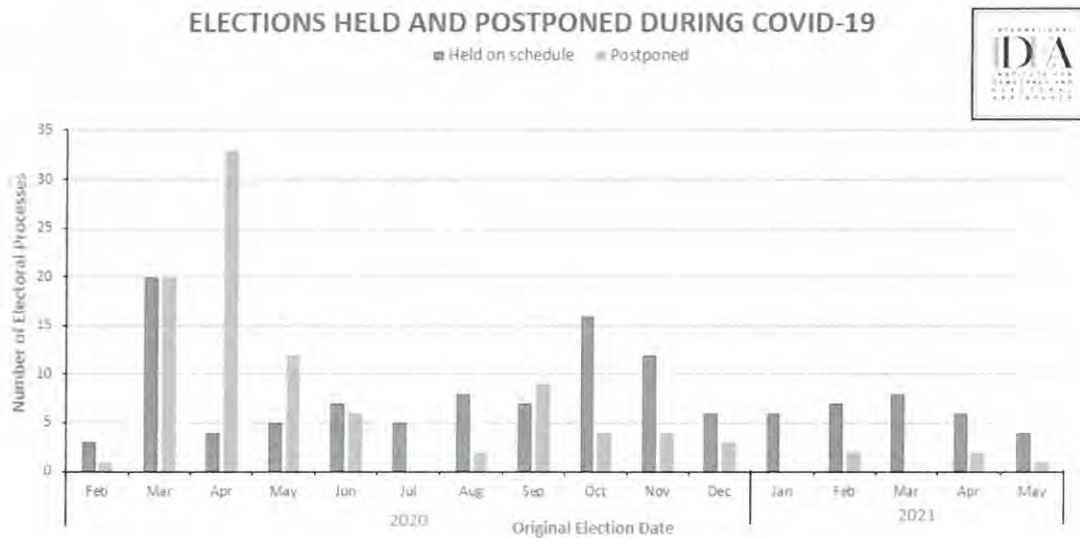
[129] Most elections postponed during Covid-19 were postponed in the first few months of the pandemic.¹¹⁸ While many countries experienced a decline in voter turnout, in many cases the decline was small, and some countries even experienced increases in voter turnout.¹¹⁹

¹¹⁶ The International Institute for Democracy and Electoral Assistance (IDEA) is a nongovernmental organisation based in Sweden whose objective is to facilitate democratic elections. IDEA has produced a Global Overview of the Covid-19 Impact on Elections, which provides information about countries that have postponed elections since the outbreak of Covid-19 and those that proceeded with elections despite concerns related to Covid-19. The data on the global overview of elections held or postponed during Covid-19 was retrieved from the website of the of IDEA, available at: <https://www.idea.int/news-media/multimedia-reports/global-overview-covid-19-impact-elections>.

¹¹⁷ Id.

¹¹⁸ Id.

¹¹⁹ Id.



Elections held or postponed in Africa during Covid-19

[130] Since the outbreak of Covid-19, in the period from 21 February 2020 to 21 June 2021, at least 14 countries and territories on the African continent have decided to postpone national and subnational elections due to Covid-19, and at least 28 countries decided to proceed with elections despite the Covid-19 pandemic – some of which had originally postponed elections due to the pandemic.¹²⁰

[131] Of the 14 countries and territories in Africa that decided to postpone elections, nine of them postponed national elections and referendums, including Zimbabwe, Kenya, Ethiopia, Somalia, Chad, Nigeria, Gabon, Liberia, and Somalia. While five countries, including South Africa, Botswana, Uganda, Libya, and Tunisia, postponed subnational elections.

¹²⁰ The data on the elections which were held and postponed in Africa from 21 February 2020 was retrieved from the website of IDEA, available at: <https://www.idea.int/news-media/multimedia-reports/global-overview-covid-19-impact-elections>.



National and Subnational Elections Postponed

[Go To Page 2](#)


Click on the chart for more information
(Double click to reset)

Estimated Proportion

14

Countries and Territories

Africa/Indo Europe Americas Middle East Asia Pacific



33.3%

17.9%

21.8%

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[132] As stated above, at least 28 countries and territories decided to hold national or subnational elections amid the Covid-19 pandemic. These countries and territories include South Africa, Cameroon, Guinea, Mali, Benin, Burundi, Nigeria, Malawi, Tunisia, Egypt, Uganda, Seychelles, Cape Verde, Tanzania, Côte d'Ivoire, Algeria, The Gambia, Burkina Faso, Namibia, Ghana, Liberia, Niger, Kenya, Central African Republic, Republic of the Congo, Somaliland, Algeria, and Ethiopia.

National and Subnational Elections Held

Africa/Indo Europe Americas Middle East Asia Pacific



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Estimated Proportion

125

Countries and Territories

30.4%

22.4%

24%

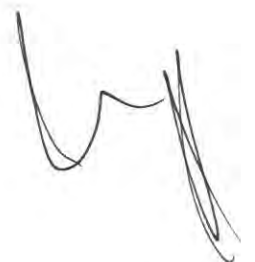
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**PANDEMIC
COVID-19
ELECTIONS**

[133] Of the countries and territories that held elections during Covid-19, at least 21 held national elections or referendums: Guinea, Mali, Benin, Burundi, Malawi, Egypt,

Uganda, Seychelles, Tanzania, Côte d'Ivoire, Algeria, Egypt, Burkina Faso, Ghana, Liberia, Niger, Central African Republic, Republic of the Congo, Cape Verde, Somaliland, and Ethiopia. At least 11 held subnational elections: South Africa, Cameroon, Nigeria, Tunisia, Cape Verde, Uganda, Egypt, The Gambia, Namibia, Niger, and Kenya.

[134] Information on whether the elections that occurred in specific countries and territories in Africa led to a spike in Covid-19 infections could not always be readily ascertained. This made it difficult to discern with any level of certainty whether the elections held on the continent could be categorised as “super spreader” events. The difficulty was compounded by the paucity of Covid-19 testing in certain countries, for example, Central African Republic, which meant that the real extent of the pandemic following the elections in those countries was only partially determined, if at all.



[135] Nonetheless, it can be gleaned from the available data that in countries such as South Africa,¹²¹ Egypt,¹²² and Ghana,¹²³ where mandatory Covid-19 protocols were put

¹²¹ In its preparations for the by-elections on 11 November 2020 (referred to as “Super Wednesday”), and 9 December 2020, the Commission, in consultation with the Liaison Committee, compiled Covid-19 voting protocols to ensure that the by-elections were not only free and fair, but also safe. The protocol, titled “Voting in the time of COVID-19: Voting Procedures to Minimise Contagion at the Voting Stations”, sets out a comprehensive list of measures and precautions to limit the risk of the spread of Covid-19 during the election process. The protocol provides as follows:

- a. Registered voters would be allowed to cast their votes.
- b. The queue walker voting officer would ensure that voters stand in the queue at a distance of at least 1.5 metres apart. Adhesive tape or any other voting station specific measure should be used to aid and enforce the distance to be observed by voters in the queue.
- c. Before entering the voting station door, the door controller should spray alcohol-based liquid hand sanitiser on both hands of each voter and explain to the voter the value and importance of the step.
- d. No voter may enter a voting station if the voter is not wearing a face mask or similar face cover.
- e. The barcode of the identity document or card of the voter is scanned by the voters’ roll officer to determine if the person is registered to vote at that voting station and their sequence number on the voters’ roll.
- f. The voting official should wear disposable latex gloves when handling identity documents or cards.
- g. The voter should adjust the face mask to enable the official to determine whether the voter is the person described in that identity document, while maintaining the requisite physical distancing.
- h. The name of the registered voter is marked off the voters’ roll, the ballot paper is stamped on the back and handed to the voter.
- i. The voter’s fingernail is marked by the inker voting official (who is wearing disposable rubber gloves) with indelible ink. The voter is asked to wait for at least five seconds at the inker table after applying ink to the nail. This is important to ensure that the bonding properties of the ink are not vitiated by the necessary use of hand sanitiser.
- j. The voter marks the ballots in secret at the voting booth, folds the ballots and deposits the marked ballots in the ballot boxes before exiting the voting station. The ballot box controller wipes each pen (voters may be encouraged to bring own pens) with disposable wipes after each voter has voted.
- k. Before exiting the voting station, the ballot box controller again sprays hand sanitiser on both hands of the voter. This is intended to assuage the concerns and risks emanating from touching surfaces in the voting station.
- l. Accredited political party agents, observers and the media are able to observe the voting process. This is an important part of ensuring the transparency of the voting process. Protocols on social distancing and sanitising of hands to apply to all party agents and observers that enter voting station. These categories of persons must provide their own personal protective equipment.
- m. All voting officials should be seated or standing at least 1.5 metres apart and must ensure that all voters inside of the voting station always maintain 1.5 metres.

¹²² The Covid-19 mitigation measures adopted by Egypt include the following:

- a. Voting was held over a two-day period to ensure proper social distancing;
- b. It was mandatory for all polling stations to provide voters with free masks, to be worn while voting, and disinfectants;

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 Covid-19 infections after the elections.

[136] Below is a brief survey of the approach of countries outside Africa to elections during Covid-19 and whose experiences might be instructive.

Elections held or postponed in countries outside Africa during Covid-19

[137] First, I consider countries that initially postponed elections due to the Covid-19 pandemic, but which later held elections after the period of postponement.

France

[138] Municipal elections were scheduled to take place in France in March 2020. France's electoral system makes provision for two rounds of voting – a second round of voting is held if there is no absolute majority after the first round. The first round of voting was scheduled for 15 March and the second for 22 March. France decided to proceed

- c. Poll workers were required to take voters' temperatures before they entered the voting stations; and
- d. Polling stations had to be fitted with sterilisation gates at their entrances to ensure proper sanitising.

¹²³ The Covid-19 mitigation measures in Ghana included:

- a. During campaigning, Ghana did not place a limit on the number of people permitted to gather at a venue, however, political parties adapted from large-scale mass events to several smaller outdoor events.
- b. During registration, a district nurse was stationed at each registration centre to advise and respond to emergencies (for example, high temperature checks). Voters with high temperatures were immediately referred to the nearest clinic or hospital and they could arrange to register later.
- c. Special voting accounted for 109 577 votes prior to voting day.
- d. The following health precautions were put in place at polling stations: sanitising; washing hands with soap and water; mask wearing; social distancing; temperature checks.
- e. "Covid ambassadors" were deployed to monitor and enforce compliance at voting stations on election day.

with the first round of voting as scheduled, at the very beginning of the pandemic. It did so trusting scientific advice that it was possible to hold elections, notwithstanding Covid-19, with modifications to voting procedures.¹²⁴

[139] At the time of the first round of voting there were over 5 000 cases and 127 deaths reported in France. There were some reports that the election facilitated transmission of the virus that causes Covid-19. However, a medical study suggests that the election did not accelerate the spread of the virus.¹²⁵

[140] There was, however, significantly reduced voter turnout in the 2020 municipal elections in France, which led to complaints about the legitimacy of the elections. Voter turnout in the first round was 44.66 per cent of registered voters, as compared to 63 per cent in the first round of the 2014 municipal elections.¹²⁶ Voter turnout was particularly low among groups more vulnerable to Covid-19. A study found that Covid-19 “depressed turnout by a substantial amount”.¹²⁷ The study, however, notes that the elections took place at the start of the outbreak in France and at a time when there was limited reliable information on the virus.

[141] Most municipalities (30 000) achieved an absolute majority after the first round of voting. However, 5 000 municipalities required a second round of voting. On 16 March 2020, France introduced new restrictions confining people to their homes. The Government decided, with the agreement of all political parties in Parliament, to

¹²⁴ Rambud “Holding or Postponing Elections During a COVID-19 Outbreak: Constitutional, Legal and Political Challenges in France” International Institute for Democracy and Electoral Assistance (15 June 2020), available at: <https://www.idea.int/sites/default/files/publications/holding-or-postponing-elections-during-a-covid-19-outbreak-v2.pdf>.

¹²⁵ Zeitoun et al “Reciprocal association between participation to a national election and the epidemic spread of COVID-19 in France: nationwide observational and dynamic modelling study” (2020) *medRxiv*.

¹²⁶ Noury et al “How does COVID-19 affect electoral participation? Evidence from the French municipal elections” (2021) 16 *PLoS ONE* 2 at 2.

¹²⁷ *Id.*

postpone the second round of voting because of exceptional circumstances.¹²⁸ However, the law in France was silent on the postponement of elections.

[142] On 23 March 2020, France passed new legislation creating a state of health emergency and permitting the postponement of the second round of voting for a short period.¹²⁹ The second round of voting was held on 28 June 2020. Voter turnout remained low in the second round of voting with 41.67 per cent of registered voters voting.¹³⁰ The number of daily new confirmed cases in June, when the second round of voting was held, appears to have been low.¹³¹

England

[143] England was scheduled to hold local government elections in the first week of May 2020. Considering the Covid-19 pandemic, the Government postponed the elections for a year to May 2021. English law was silent on the postponement of elections. The Government, therefore, introduced emergency legislation,¹³² to provide a legal basis to postpone the local government elections.¹³³

[144] The May 2021 local government elections were held under special conditions and with altered voting procedures to mitigate the risk of virus transmission.¹³⁴ The number

¹²⁸ Rambud above.

¹²⁹ Article 19 of the Emergency Response to the COVID-19 Epidemic Act, 2020.

¹³⁰ Noury above.

¹³¹ See World Health Organisation “Country situation: France” available at: <https://covid19.who.int/region/euro/country/fr>.

¹³² The Coronavirus Act 2020.

¹³³ Johnston “Coronavirus Act: Elections” House of Commons Briefing Paper No. 08856 (14 April 2021), available at: <https://commonslibrary.parliament.uk/research-briefings/cbp-8856/>.

¹³⁴ The measures adopted by England included:

a. Encouraging the use of postal and proxy votes;

of daily new confirmed cases in the United Kingdom was low and declining in May 2021, when the local government elections were held in England.¹³⁵

Brazil

[145] Brazil was set to hold local government elections on 4 October 2020, but decided to postpone the elections for a short period. The length of time between local government elections is prescribed in the Constitution of Brazil. Brazil, thus, passed a constitutional amendment to postpone the local government elections.¹³⁶ After a short postponement, Brazil held local government elections on 15 and 29 November 2020. Brazil has a system of compulsory voting.

[146] Brazil has adopted less restrictive measures in response to the pandemic than other countries. Nonetheless, Brazil did adopt some measures to reduce the risk of transmission of the virus during the election.¹³⁷

-
- b. The use of an emergency proxy if a voter is ill or self-isolating. The strict criteria for emergency proxies were temporarily relaxed;
 - c. Special safeguards at voting stations, including social distancing, the use of protective equipment and the wearing of face masks;
 - d. The Electoral Commission provided detailed guidance to election officers on how to conduct the elections, including on postal and proxy voting, voting stations and vote counting; and
 - e. England provided separate guidance on what was allowed during campaigning. The guidance allowed for two months of outdoor campaigning in the run up to elections. Door-to-door campaigning was permitted, but campaigners were not permitted to enter homes. Campaigners had to follow the existing guidance on how to prevent the spread (distancing, face masks, etc) and the relevant rules on gatherings.

¹³⁵ World Health Organisation “Country situation: United Kingdom” available at: <https://covid19.who.int/region/euro/country/gb>.

¹³⁶ Tarouco “Covid-19 and the Brazilian 2020 Municipal Elections Case Study” International Institute for Democracy and Electoral Assistance (19 February 2021) available at: <https://www.idea.int/sites/default/files/covid-19-and-the-brazilian-2020-municipal-elections.pdf>.

¹³⁷ The measures adopted by Brazil include:

- a. Online voter registration;
- b. Suspension of biometric identification;

[147] The voter turnout in Brazil was less than in previous years. In the first round of voting, 77 per cent of registered voters voted – 6 percentage points lower than the previous local government elections. A post-election poll found that 40 per cent of absent voters reported failing to vote because of their fear of infection.¹³⁸ However, voter turnout had been in decline in Brazil before the pandemic so the drop may not be fully attributable to the pandemic.

[148] There was a large increase in new confirmed Covid-19 cases following the campaigning period.¹³⁹ This is largely blamed on widespread in-person campaigning in defiance of Covid-19 restrictions.

[149] We now turn to look at countries that did not postpone their elections. To keep this Report within reasonable limits we have chosen only two, but instructive, electoral experiences in the United States of America and India.

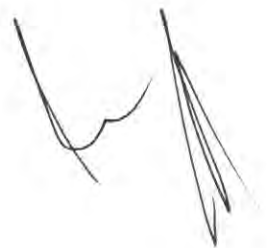
United States of America Presidential elections

[150] There was no unified response to the Covid-19 pandemic among states for the United States Presidential elections because the power to make laws and rules for

- c. Adoption of a health safety plan setting out rules to be followed in voting stations, including opening voting stations to the elderly an hour early, regular sanitising of hands and disinfecting of surfaces, social distancing, wearing face masks and encouraging voters to bring own pens; and
- d. Encouraging voters with Covid-19 to stay home and waiving their absence fine.

¹³⁸ DataSenado, Instituto de Pesquisa [Research Institute], 'Pesquisa DataSenado: Eleições municipais e coronavírus' [DataSenado research: municipal elections and coronavirus], Senado Federal, Brasil, 2020, available at: <https://www12.senado.leg.br/institucional/datasenado/%20publicacaodatasenado?id=apesar-da-pandemia-oito-em-cada-dez-brasileiros-votaram-%20em-eleicoes-municipais>.

¹³⁹ Borges and Souza "Governo de SP diz que campanhas eleitorais para prefeito e vereador ajudaram a disseminar o coronavírus" [SP Government says election campaigns for mayor and councillor helped spread coronavirus], G1 São Paulo (26 November 2020) available at: <https://g1.globo.com/sp/sao-paulo/noticia/2020/11/26/governo-de-sp-diz-que-campanhas-eleitorais-para-prefeito-e-vereador-ajudaram-a-disseminar-o-coronavirus.ghtml>.



elections is dispersed across all levels of government.¹⁴⁰ The Presidential elections in the United States took place on 3 November 2020. In the period between the outbreak of the coronavirus and the end of October 2020, the United States reported 9 105 230 cases and 229 932 deaths. The United States experienced a peak in October 2020 with a continued rise to the end of that month.¹⁴¹

[151] The United States President's term of office is set out in the United States Constitution. There is no mechanism in the Constitution for changing the date of expiry of the presidential term,¹⁴² and the United States did not postpone the Presidential election. Various states modified voting procedures to ensure safe elections.¹⁴³ These measures were frequently challenged in legal proceedings¹⁴⁴ and fed into complaints about the legitimacy of the elections.

[152] There was a record high voter turnout for the 2020 Presidential elections, with nearly two-thirds of eligible voters voting.¹⁴⁵ Covid-19 cases and deaths surged in the run up to the presidential elections.¹⁴⁶ The United States set a new record for daily new

¹⁴⁰ Sullivan "Impact of COVID-19 on the 2020 US presidential election Case Study" International Institute for Democracy and Electoral Assistance (20 November 2020), available at: <https://www.idea.int/sites/default/files/impact-of-covid-19-on-the-2020-us-presidential-election.pdf>.

¹⁴¹ Id.

¹⁴² Id.

¹⁴³ The measures adopted by some states in the United States include:

- a. Online voter registration;
- b. Increased use of early in-person voting and postal voting to reduce numbers at voting stations, and expanded days and times of early voting; and
- c. Use of personal protective equipment, social distancing, sanitising, requiring or encouraging mask wearing and encouraging voter to bring their own pens.

¹⁴⁴ See Stanford-MIT's COVID-related election litigation tracker, which contains 628 cases and appeals, available at: <https://healthyelections-case-tracker.stanford.edu/>.

¹⁴⁵ Desilver "Turnout soared in 2020 as nearly two-thirds of eligible U.S. voters cast ballots for president" (28 January 2021) available at: <https://www.pewresearch.org/fact-tank/2021/01/28/turnout-soared-in-2020-as-nearly-two-thirds-of-eligible-u-s-voters-cast-ballots-for-president/>.

¹⁴⁶ Chiwaya and Siemaszko "Covid-19 cases, deaths rising rapidly ahead of Election Day" (2 November 2020) available at: <https://www.nbcnews.com/news/us-news/covid-19-cases-deaths-rising-rapid-rate-ahead-election-day->

confirmed Covid-19 cases the day after the election was held, with 91 000 new cases.¹⁴⁷ The spike in cases has been linked to large outdoor rallies held by the Republican Party. A study has confirmed that 18 rallies resulted in 30 000 confirmed Covid-19 cases and likely led to more than 700 deaths.¹⁴⁸ In addition, in-person voting at voting stations has been linked to increased numbers of Covid 19 cases following the Presidential election in certain states.¹⁴⁹

India

[153] India has held several elections since the outbreak of the Covid-19 pandemic.¹⁵⁰ On 6 April 2021, India held State Assembly elections in four states and one union territory. These were one of the largest elections held during the pandemic, with 185 million eligible voters.

[154] There was increased voter turnout in the April 2021 elections compared to previous elections. Voter turnout was 57.05 per cent of registered voters, as compared to 56.66 per cent in the State Assembly elections held in 2015.

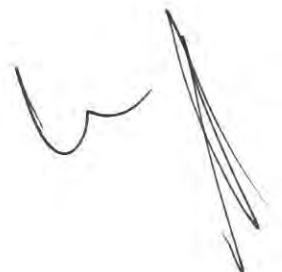
n1245780. See also World Health Organisation "Country situation: U.S.", available at: <https://covid19.who.int/region/amro/country/us>.

¹⁴⁷ Levin "Coronavirus: US sets record for daily new cases average one day after election" *The Guardian* (5 November 2020), available at: <https://www.theguardian.com/us-news/2020/nov/04/coronavirus-us-record-daily-new-cases-one-day-after-election>.

¹⁴⁸ Bernheim et al "The Effects of Large Group Meetings on the Spread of COVID-19: the Case of Trump Rallies" Stanford Institute for Economic Policy Research (SIEPR) Working Paper 20-043 (30 October 2020), available at: https://sebotero.github.io/papers/COVIDrallies_10_30_2000.pdf.

¹⁴⁹ "In-person voting really did accelerate covid-19's spread in America" *The Economist* (10 July 2021), available at: <https://www.economist.com/graphic-detail/2021/07/10/in-person-voting-really-did-accelerate-covid-19s-spread-in-america>.

¹⁵⁰ Tamang "Assam, West Bengal, Kerala, Tamil Nadu, Puducherry: Indian State Assembly Elections keep the Flame of Democracy Burning" International Institute for Democracy and Electoral Assistance (12 April 2021), available at: <https://www.idea.int/news-media/news/assam-west-bengal-kerala-tamil-nadu-puducherry-indian-state-assembly-elections>. See also Thakur "Conducting Elections during COVID-19: New Policy Guidelines Issued by the Election Commission of India" (2020) 1 HAPSC Policy Briefs Series 94.



[155] India adopted certain measures to reduce the risk of virus transmission.¹⁵¹ However, on 26 April 2021, India reported the highest daily tally of new confirmed infections recorded in the world up to that date, 360 960 infections.¹⁵² The surge in Covid-19 cases is attributed to eased restrictions, lack of compliance with Covid-19 measures such as mask wearing and social distancing, political campaigning and mass rallies for the State Assembly elections and religious gatherings.¹⁵³ This includes a religious gathering, the Kumbh Mela, where hundreds of thousands of Hindus gather at the Ganges River.

[156] India was criticised by experts for its response to Covid-19 and its handling of its second wave which coincided with the elections,¹⁵⁴ and for allowing large gatherings, including hundreds of mass political rallies and roadshows.¹⁵⁵ The Electoral Commission in India eventually banned roadshows and limited political rallies to a maximum of 500 attendees. However, these restrictions were perceived to be weak and too late.

¹⁵¹ The measures adopted by India included:

- a. All voting station workers were vaccinated;
- b. Postal voting eligibility was extended to people over 80 years of age, differently abled, Covid-19 patients and those in quarantine or self-isolation;
- c. Restrictions on political campaigning; and
- d. Safeguards and precautions at voting stations; including social distancing, thermal scanning, sanitising, the wearing of face masks.

¹⁵² Thiagarajan “Why is India having a covid-19 surge?” (2021) *BMJ* 373. See also World Health Organisation “Country situation: India”, available at: <https://covid19.who.int/region/searo/country/in>.

¹⁵³ *Id.*

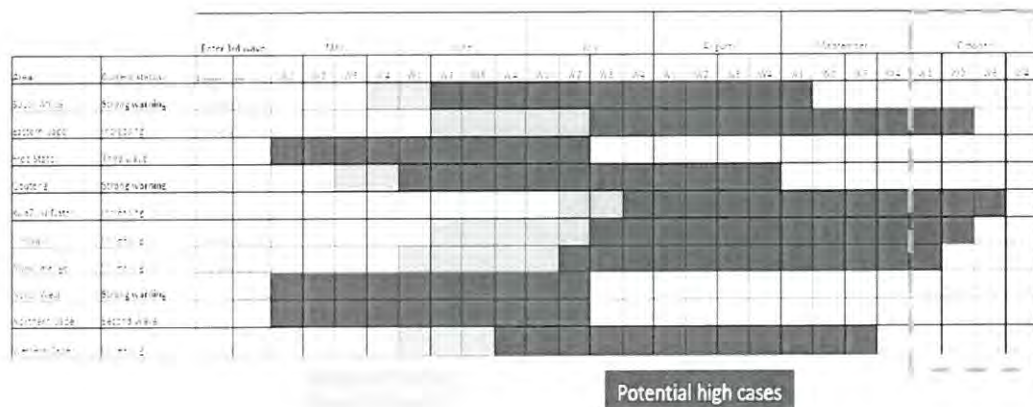
¹⁵⁴ Bhuyan “Experts criticise India’s complacency over COVID-19” (2021) 397 *The Lancet* 1611.

¹⁵⁵ *Id.*

Civil Society Organisations focused on health care

[157] We received written submissions from three health care non-governmental organisations, namely, Right to Care, and a joint written and oral submission by the Health Justice Initiative and the People's Health Movement South Africa.

[158] Right to Care presented modelling data to inform a possible long-term projection towards October 2021. Their projection is that as the provinces enter the third wave at different times from week 3 in May 2021 to week 3 in July 2021, and the infections thereafter move into an expected three month high, by week 4 of October 2021, there is a “potential for cases to be low in the October period, assuming the onset of the third wave in each province within the next month”. It is only in week 4 of October 2021 that no high cases are predicted in all provinces.



Source: SACMC 14 May

Assuming 3 months peak
after entering 3rd wave

Figure 5: Potential timeline for high COVID-19 cases

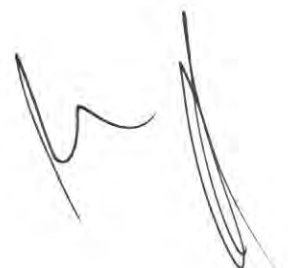
[159] Health Justice Initiative and People's Health Movement South Africa expressly point out that their submissions should not be construed as motivation for or against holding the local government elections in October 2021.

[160] Using the timeline of the first and second waves, Health Justice Initiative and People's Health Movement South Africa maintain that the third wave is likely to peak in the next 3 to 5 weeks (that is weeks 1 and 2 of July 2021). The 25-week gap between the peak of the first wave and the second wave is likely to be replicated between the second and third waves.

[161] As at 18 June 2021, South Africa had administered 1.8 million vaccine doses. The rate of vaccination at that stage was approximately 80 000 doses per day from Mondays to Fridays. About 1.3 million of the doses are Pfizer vaccines which require two doses to be administered. The two doses are usually administered 41 days apart. Eligible voters may not be fully vaccinated by the end of October 2021.

[162] South Africa's vaccine roll-out has been hindered by limited supplies of vaccines available to the country. Health Justice Initiative and People's Health Movement South Africa refer to this as "so-called vaccine apartheid". Most high-income countries are blocking the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights waiver and are not making knowledge and funds available to increase the manufacturing of vaccines. The supply that is available is being made available first to certain age groups (those over 60 years) and professional cohorts (for example health care workers). It may take months before everyone who is eligible may be vaccinated. Accordingly South Africa is unlikely to significantly increase its vaccination programme.

[163] South Africa's vaccination programme is slow as it is affected by global supply chains and there are global and regulatory issues as well. Even if the South African government increases the rate of vaccinations, it could be well into 2022 for South Africa to achieve community immunity from Covid-19 through vaccination.



Viewed from a continental perspective, as at 25 June 2021, Africa ranked the lowest in number of Covid-19 vaccinations.

[164] Health Justice Initiative and People's Health Movement South Africa point to two types of threats in relation to the holding of upcoming local government elections: the increased risk of transmission of the virus due to electioneering activities and the increased risk of transmission of the virus due to the election itself.

[165] There has been poor risk communication throughout the pandemic. This is exacerbated by serious allegations of the misuse of funds. One of the effects of poor risk communication is that the public do not wear masks properly – masks are often worn on chins and below noses. There is also misdirected emphasis on use of sanitisers rather than on ventilation. Political parties have also been responsible for spreading misinformation about Covid-19 treatments and vaccines.

[166] While lockdown regulations impose limitations on outdoor activities – for example, limitations on the number of people at gatherings, and the need for physical distancing and wearing of masks – there remains a real risk that political parties and voters may ignore these non-pharmaceutical interventions. Electioneering, by its nature, also contains aspects of close interaction in door-to-door visits and operating “campaigning and voter registration tables”. Health Justice Initiative and People's Health Movement South Africa caution that if there is no political will to enforce restrictions on gatherings, the gatherings could become “super spreader” events.

[167] Voters face increased risk of transmission of the virus during the act of voting itself. Health Justice Initiative and People's Health Movement South Africa are mindful that the Commission “goes some way” to address these risks, they highlight that the Commission's submissions remain silent on the critical issue of ventilation. The risk here is that the act of placing voters, the Commission's staff and officials, and agents

of political parties and independent candidates, indoors in a venue that is poorly ventilated exposes them to increased risk of transmission, even if physical distancing measures are followed. They also highlight that the Commission's guidelines are silent as to the steps to be taken if it becomes known that voters, officials or party agents were exposed to Covid-19 at a voting station. The two civil society organisations made several useful recommendations.¹⁵⁶

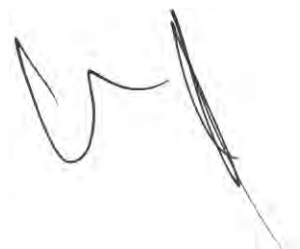
The Ministerial Advisory Committee on Covid-19

State of the pandemic in October 2021

[168] The Ministerial Advisory Committee on Covid-19 was established in March 2020 by the Minister of Health. The Advisory Committee, a non-statutory advisory body, consists of 21 experts with different skills and expertise. The Advisory Committee receives questions from the Minister of Health, and its members formulate "an advisory". Thereafter, the advisory is shared with various bodies, including the National Coronavirus Command Council. The Advisory Committee relies on data provided by the South African Covid-19 Modelling Consortium. The Advisory

¹⁵⁶ Health Justice Initiative and People's Health Movement South Africa propose the following recommendations:

- a. Consulting with the Africa Centres for Disease Control and Prevention and WHO considering the potential risk for the region and to have regard to best practices used in other jurisdictions;
- b. Preparation for the upcoming local government elections "should include specific risk communication campaigns aimed at encouraging 'good health' measures to reduce" the risk of infections;
- c. Specific measures must be put in place to ensure that political parties comply with measures aimed to reduce the risk of infections and these measures must include steps to ensure that parties refrain from spreading misinformation about the virus and vaccines; and
- d. The Commission's guidelines must address the need for good ventilation in all voting stations and there must be specific procedures in place to guide procedures that are to be followed if there is exposure to the virus. In this regard, the Health Justice Initiative and People's Health Movement South Africa point to the existing occupation and health guidelines developed by the National Institute of Occupational Health as a useful marker.



Committee's oral submissions were presented by Dr Jacqui Miot and Prof Sheetal Silal, with the assistance of an extensive slide presentation.

[169] The health scientists stated at the outset that, although the Advisory Committee has “modelers who work incredibly hard days, nights and weekends, it is not possible to predict what the pandemic will look like in October in South Africa, let alone the provinces and districts”. The waves of infection differ from one province to another. Within provinces and districts the waves happen at different times. The projection is made more uncertain because the population is displaying signs of “Covid-19 fatigue” and thus not adhering to non-pharmaceutical interventions. More so, the Advisory Committee does not have accurate data about the level of natural immunity of the population because it is unclear how many people were previously infected.

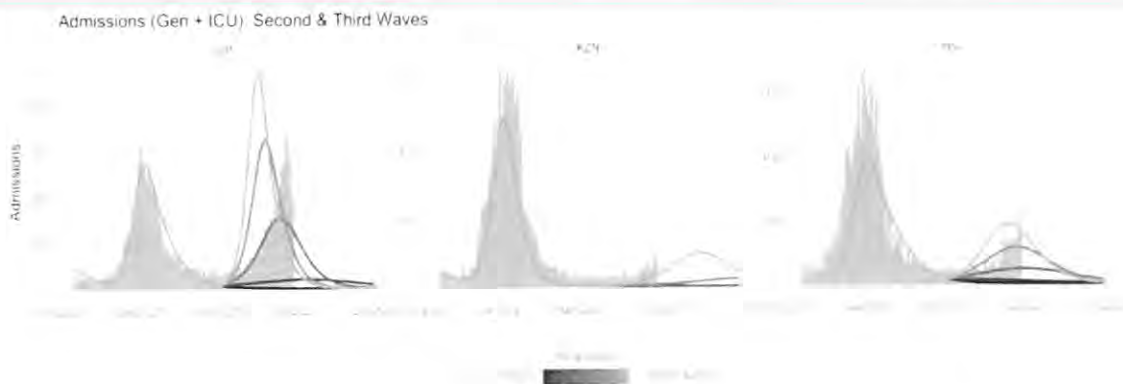
Impact of lockdown restrictions on the rate of infections

[170] Lockdown restrictions seek to curb transmission of the virus. The impact of lockdown restrictions can only be assessed in a few weeks after the lockdown restrictions have been implemented. The two-week period, or more accurately the 10-day period, is to cater for “the lag”, which comes about after infection. It takes 4 to 6 days for the virus to incubate and for symptoms to develop and, thereafter, a few days for the symptoms to be severe enough for the patient to seek hospital care. It will not be possible to see a decrease in all provinces across the country at the same time after a lockdown is imposed – the levels of infection will fluctuate.

[171] The Modelling Consortium generated a projection for the third wave on 29 April 2021. This projection shows a light blue line for slow or weak compliance by the population with non-pharmaceutical interventions or displays “Covid-19 fatigue”, coupled with increased contacts within the community. This is tracked against the

yellow bars which depict hospital admissions. The light blue line from April to June 2021 rises quite sharply to show slow or weak adherence to the non-pharmaceutical interventions. This is immediately followed, in July 2021, by a rise in hospital admissions. This points to an interpretation that the third wave possibly started in April or May 2021 because of increased contacts within the community and the new delta variant or some other factor came into play to push the pattern of hospitalisations out of the projected pattern. Significantly, the projection prepared by the Modelling Consortium on 29 April 2021 did not consider the new delta variant.

Tracking projections for the third wave



- While admissions tracked the 2nd (WC) and medium (GP) scenario until May, admissions rapidly exceeded the scenarios in June 2021

SACMC COVID-19 modelling update: Considerations for a potential third wave" (2021-04-29)

Vaccination programme

[172] By October 2021, those who are 50 years and older, and some who are 40 years and older, may be vaccinated. Some parts of the population will remain unvaccinated by October 2021. The age group 35 to 59 are a very "characteristic population" for two reasons: first, they constitute the largest number of admissions in hospitals in Covid-19

cases, and, second, this age group is a big portion of the voter population. It is this age group that will likely attend group rallies and other electioneering activities that are precursors to voting day, and are also likely to participate in high contact activities.

[173] The two scientists, Prof Silal and Dr Miot provided the Inquiry with evidence about the efficacy of two vaccines (Astra Zeneca and Pfizer) in the United Kingdom against the delta variant. The study reflects the efficacy of the vaccines against all symptomatic disease and against hospitalisation. In relation to all symptomatic disease, and with two doses, Astra Zeneca is 60 per cent effective, and Pfizer is 88 per cent effective. With one dose, Astra Zeneca and Pfizer are 33 per cent effective. In relation to hospitalisation, and with two doses, Astra Zeneca is 92 per cent effective and Pfizer is 96 per cent. With one dose, Astra Zeneca is 71 per cent effective and Pfizer is 94 per cent effective. Viewed holistically, these results demonstrate that these vaccines provide a high level of protection against all symptomatic disease and against hospitalisation.

Delta variant Vaccine Effectiveness

UK data – all symptomatic disease

Vaccine Lopez Bernal J, et al, medRxiv 2021	Vaccine effectiveness single dose		Vaccine effectiveness two doses	
	Alpha	Delta	Alpha	Delta
Astra Zeneca	51% (47-55)	33% (19-44)	66% (54-75)	60% (29-77)
Pfizer	49% (43-55)	33% (8-51)	93% (90-96)	88% (78-93)

Compared to Alpha, there was a modest reduction in effectiveness against symptomatic disease after a single dose, but very little difference after two doses

UK data – hospitalisation

Vaccine Stowe J, et al PHE preprint 2021	Vaccine effectiveness single dose		Vaccine effectiveness two doses	
	Alpha	Delta	Alpha	Delta
Astra Zeneca	76% (61-85)	71% (51-83)	86% (53-96)	92% (75-97)
Pfizer	83% (62-93)	94% (46-99)	95% (78-99)	96% (86-99)

These findings suggest high levels of protection (>70%) against hospitalisation with the Delta variant with one or two doses of either vaccine – levels of protection similar to the Alpha variant

T. de Oliveira et al. Update on Delta and other variants in South Africa

Community immunity

[174] Although the vaccination programme has been slow to start up, it is picking up now. As of 30 June 2021, around 3.5 million people have been vaccinated, which amounts to about 8 per cent of the population. However, even with the “best will in the world” and even if the country caught up to what the plans are for the vaccination programme, enough people would not have been vaccinated by October 2021 for the country to achieve community immunity.

[175] To achieve community immunity, 67 per cent of the population must be vaccinated. Dr Miot stated that “it is very unlikely that by the first of March [2022], we would have vaccinated 67 per cent of the population. I think we would have fallen short of that”. Dr Miot indicated that this was not based on any projection and was purely her personal view and speculation. She said that, considering the current pace of vaccinations, she does not think we will achieve community immunity by the end of February 2022. Prof Silal was unable to predict accurately the time by which 67 per cent of the population will have been vaccinated. Prof Silal added that the projection as to when community immunity may be achieved is dependent on the supply of vaccines, however, the supply keeps changing, as well as the agreements between different providers and the existence of new variants, all of which may have a cumulative effect.

Will the risk to life be less in March 2022 than in October 2021?

[176] Prof Silal responded that since the outbreak of the pandemic in South Africa, there has not been a period of no infection at all. Even during the periods between waves, statistics show a few thousand infections a day reported in different parts of the country. She stated that if the third wave is likely to be over by the end of August or September

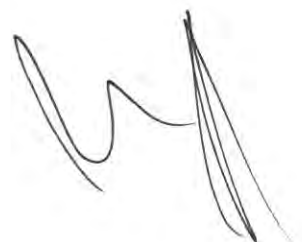
2021, there may be a period of about two to three months where there will be a low number of infections.

[177] Prof Silal elaborated that by the time we enter March 2022, the fourth wave may be over. In that sense, she states that the country may be in the same position in March 2022 as it would be in October 2021. However, she went on to say that we may be in a better position in March 2022, because more people would have been vaccinated and “even one more vaccine is . . . a wonderful bit of extra protection . . . and having gone through a third, and most likely a fourth wave by then, we will have had a greater build-up of natural immunity”.

[178] Dr Miot emphasised that people do not always comply with Covid-19 protocols, and that it is difficult to manage big groups of people and to monitor their compliance. She suggests that whatever it takes to reduce the number of people who are gathering, so that the incidence of transmission is reduced, then those steps must be taken until we reach a point where there is sufficient community immunity.

[179] Dr Miot offered the following concluding remarks in her personal capacity, and not as that of the Advisory Committee: In March 2022, the country will be better protected because more people would have been vaccinated and, “even if there is another variant that potentially does escape from the vaccine, and the vaccines are not as effective”, we will still have some people in the population with some protection.

[180] In a quest to receive the best available update on the applicable projections of figures on the viral infections, hospitalisations, and mortality, we invited Prof Silal to present to the Inquiry before the writing of this Report started. She was joined by Dr Harry Moultrie, who is based at the National Institute for Communicable Diseases. Both presented oral submissions, with the aid of slides, on the updated delta projections and further information on the age profile of hospitalisations and mortality.



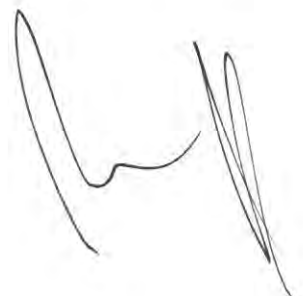
Further Submissions – Friday 9 July 2021

[181] In modelling the third wave, the Modelling Consortium notes that there has been a sparse rate of sampling from Mpumalanga, the North West, Northern Cape and Free State provinces. While sampling has not been done as extensively for these provinces, it does not follow that there are no transmissions. It is more accurate to proceed on the basis that it is likely that transmissions are taking place, but that the official records are not showing the complete information as it is not officially recorded yet.

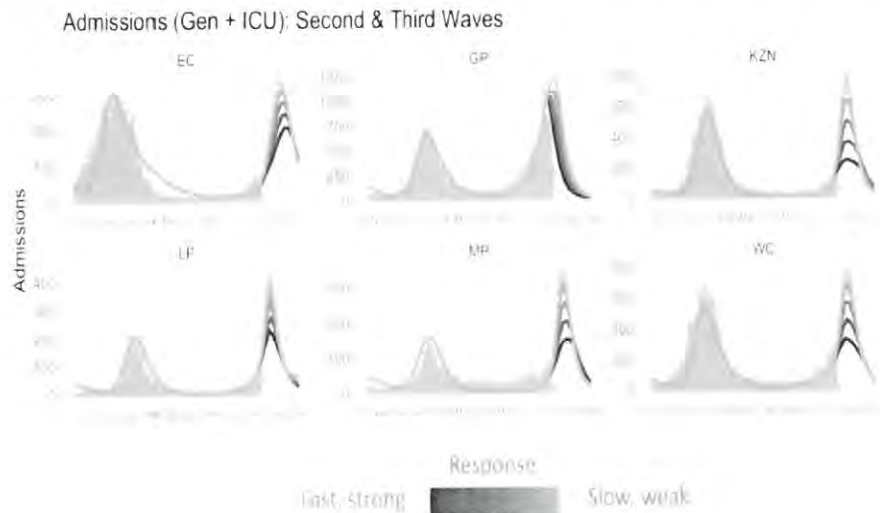
[182] In simulating the projection for the third wave, the model considers the interplay between the variants to date, namely the original “wild” variant, the beta variant, and the delta variant. The model also considers the way in which the Covid-19 infection has been manifesting itself, for example, asymptomatic, mild or severe infection. Importantly, the model also considers vaccinations to date.

[183] Except for the Free State, Northern Cape and North West provinces,¹⁵⁷ the third wave projection shows that the rate of infections is expected to decrease in August and September 2021. As the projection stands, from August to beginning of September 2021, the rate of infections decreases to the extent that it is close to the base of the trough. Between waves, the pattern shows that a few thousand new infections will arise. It must be remembered that the rate of infections fluctuates interprovincially and within districts.

¹⁵⁷ There is insufficient sampling at this stage to make a projection for these provinces.



The Third Wave: Projected Admissions (Province)



- Gauteng projected to reach its peak in the next two weeks.
- All scenarios for Limpopo and Mpumalanga project a similar or higher peak in the third wave.
- EC, KZN and WC are projected to experience waves at similar levels compared to the second wave, though some scenarios project third waves substantially higher than the second wave.

[184] In projecting the impact of the third wave, the numbers include excess deaths.

Depending on the population's compliance with non-pharmaceutical interventions, the hospital admissions, deaths in hospital, and all deaths are projected. If the population has a slow or weak compliance with the required non-pharmaceutical interventions, hospital admissions may be 150 000, hospital deaths may be a little above 50 000 and all deaths may be a little beyond 100 000. Dr Moultrie confirmed that excess deaths will have a high correlation with reported deaths.

[185] The projection concludes that by September 2021, new infections and hospital admissions are expected to reduce to low levels. The projection shows that the peak of the third wave will be like that of the second wave in most provinces. The impact of vaccinations has been "appreciable" and, as stated earlier, the vaccination estimates have been factored into the model.

[186] Prof Silal and Dr Moultrie were unable to say whether we are likely to be in a fourth wave in October 2021. Prof Silal is of the view that, on any scenario, the country will be better off, and there will be less infections, hospitalisations and lower mortality around March 2022 than in October 2021, because more people of voting age would have been vaccinated. Put otherwise, more lives are likely to be saved in March 2022 than in October 2021.

Director-General of the Department of Health

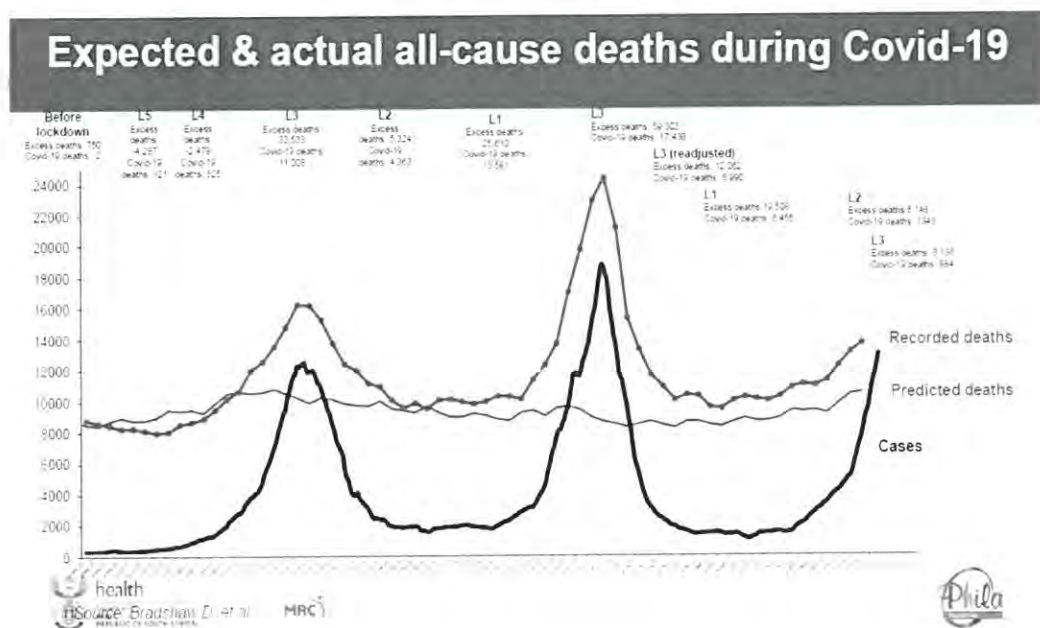
[187] In addition to the medical science experts who serve on the Advisory Committee, the Inquiry received written and oral submissions from the Department of Health (Health Department) through its Director-General, Dr Sandile Buthelezi.

Rising infections and mortality rate

[188] Dr Buthelezi informed the Inquiry that as at 30 June 2021 – the day before his appearance at the Inquiry – South Africa recorded 19 506 new infections in a 24-hour period, 11 000 of which occurred in Gauteng, which make up 57 per cent of the new infections. South Africa's cumulative figure of infections was 1.9 million and there were then 165 000 active cases in the country. Less than a month ago, South Africa had less than 20 000 active cases. Hospital admissions were at 20 893 and "these are accumulative mortality at 60 000" and, on 30 June 2021, South Africa reported 383 deaths. Tracking the progress of infections over June 2021, it is evident that new infections are on a steady increase throughout the country. By way of example, Dr Buthelezi noted that the recorded new cases per 1 000 per day showed that, on 7 June 2021, Gauteng had 17.4 new cases per 1 000 and, on 28 June 2021, it had 65.1 cases per 1 000.



[189] He continued that the recorded statistics demonstrate that, as the number of Covid-19 infections increased, the mortality rate increased, above and beyond the predicted death rate. Of particular concern, as voiced by Dr Buthelezi, is that the recorded deaths have continued to remain higher than the predicted deaths. Dr Buthelezi also confirmed that the excess deaths (namely deaths higher than the predicted deaths) have been linked to Covid-19 infections.¹⁵⁸ Dr Buthelezi confirmed that the “excess deaths”, “[have] been linked to above predicted deaths as more related to Covid-19”.



¹⁵⁸ By way of explanation, Dr Buthelezi referred to a slide titled “Expected and actual all-cause deaths during Covid-19”. The green line on the graph depicts the predicted deaths based on past trends. The predicted deaths refer to general, all-cause mortality. The red line depicts recorded deaths. Just before the first wave around mid-June 2020, as the number of Covid-19 infections increased, the recorded number of deaths “shot up above the green line. And we have literally stayed above this green line, even between the first and second wave . . . and it has never been below that [the green line showing the predicted deaths], which is a problem we can see it is on the increase. That is a worrying factor”.

The pandemic waves

[190] Using figures from the third week of June 2021, the Modelling Consortium prepared graphs that detail the provincial resurgence analysis. The graphs show that about a minimum of six provinces are in the third wave. In the next seven to 10 days, all provinces are expected to be in the third wave.

[191] The second wave was dominated by the beta variant of the virus in December 2020, January and February 2021. Around April 2021, the delta variant was detected in South Africa. The delta variant was first discovered in India in October 2020. The statistics show that from around 26 April to 7 June 2021, the delta variant has slowly increased its presence and has now displaced the beta variant. As of 7 June 2021, the delta variant is the dominant variant and the driver behind South Africa's third wave.

[192] Dr Buthelezi highlighted two significant factors about the delta variant. First, the delta variant is at least twice as infectious as the beta variant, and it is highly transmissible. This accounts for the rapid increase in infections in Gauteng. Second, the delta variant demonstrates that even those previously infected with the beta variant, may still be infected with the delta variant. In this way, the delta variant displays what is referred to as "immune escape".

Vaccination programme

[193] South Africa's vaccination programme has not progressed as fast as the Health Department had anticipated. This is attributable to constraints on vaccine supply. As at 30 June 2021, the Health Department had administered 3 026 636 vaccines nationally. As at 1 July 2021, the Health Department was administering a minimum of 100 000 vaccines a day. Vaccination supply has since improved and, by

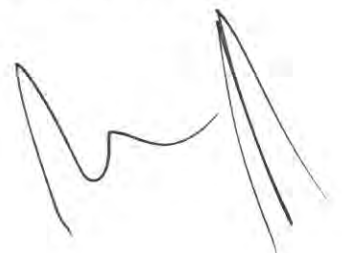
the end of October 2021, the Health Department expects to vaccinate more than 16.6 million people. The vaccination programme started with health care workers, followed by those over 60. As at 1 July 2021, the Health Department started registering those from 50 to 59 years old. About 1000 educators were already vaccinated by 5 July 2021, and the Health Department envisaged rolling out the vaccine programme to the police. Within two weeks – that is by mid-July 2021 – the Health Department planned to be vaccinating 200 000 per day at different vaccination sites throughout the country. There are currently more than 600 vaccination sites in the country, and this number was expected to increase to almost 1 000 by the first week of July 2021.

[194] By the beginning of October 2021, the Health Department expects to have vaccinated 16 million people. The Health Department is, nevertheless, aiming to increase vaccinations to about 300 000 per day, with the assistance of senior medical students and senior nursing students. If that is achieved, at least 1.5 million people will be vaccinated daily. As at 1 July 2021, the Health Department was of the view that the supply of vaccines had improved and the situation was “starting to get comfortable”.

Community immunity

[195] Based on guidance by the Advisory Committee, the Health Department is of the view that, for South Africa to achieve community immunity, 40 million people must be vaccinated. The Health Department expects this target to be reached by February 2022. Dr Buthelezi agreed that community immunity will not necessarily stop infections, but it will drop the mortality rate. Dr Buthelezi confirmed that the highest risk in achieving this target and timeline is the risk in the vaccine supply line.

[196] Currently South Africa is using only two vaccines. The Health Department is hopeful that the South African Health Products Regulatory Authority will license one



or two more new vaccines. The diversification of the “menu” will ensure that there is more stability in the supply, and that the country is not dependent on one supplier.

[197] In addition to immunity arising from vaccinations, the population will also develop natural immunity through infections and recovery. However, there is a possibility of reinfections, in which case natural immunity may no longer be a relevant factor. For example, the delta variant has been shown to reinfect people who have already been infected with the beta variant.

What will the state of the pandemic be in October 2021?

[198] Dr Buthelezi stated that it is difficult to predict the likely state of the pandemic in October 2021 for at least the following reasons: there are variants with different characteristics; the time lag for past infections shows that the fourth wave will be dependent on “community units”; it is difficult to predict when a province may come out of a wave; and new information comes up almost daily. The Modelling Consortium have advised the Health Department that, at the end of August 2021 and the beginning of September 2021, the country may still be in the third wave. If that comes to pass, it is reasonable to expect that the country may be placed under an alert level with severe restrictions, at the end of August and beginning of September 2021.

[199] The Health Department’s view is that the holding of elections in October 2021 will place the public at risk of contracting the virus during election activities such as “physical voter registration, the voting process itself when large numbers of people will gather at polling stations and will queue to complete their ballot, [and] large political gatherings”. The Health Department emphasised that the rollout of the vaccine programme will not have reached a sufficient proportion of people to reach community



immunity. If elections were held in October 2021, there would be a high likelihood of a high number of delta infections, hospitalisation and deaths.

Medical Science

[200] As we have seen, the question whether the scheduled local government elections of October 2021 should be held or deferred is fiercely contested within and amongst election stakeholders of varied kinds. Some stakeholders have urged us to find and follow medical science and others have scoffed at reliance on science. We chose to heed the science, and, to that end, solicited the assistance of no less than 9 leading medical and public health experts in South Africa. They are Dr Aslam Dasoo, Dr Fareed Abdullah, Prof Shabir Madhi, Dr Sandile Buthelezi, the Director-General of the Health Department, Prof Salim Abdool Karim, Dr Jacqui Miot, Prof Sheetal Silal, from the Advisory Committee (Health Department), Dr Harry Moultrie, from the National Institute for Communicable Diseases, and Prof Susan Goldstein.¹⁵⁹

[201] We are grateful for their appearance before the Inquiry and for their meticulous and instructive presentations on the medical science related to the Covid-19 pandemic. Their respective slide presentations and the transcripts of their oral presentations are well preserved on our website.

[202] The material presented by the scientists displayed substantial convergence. The differences amongst them are limited, in the main, to the likely trajectory of the virus and the resultant infections, hospitalisation and deaths in October 2021 compared to February-March 2022. We set out briefly the convergence, and later individualise the divergences, on their predictions.

¹⁵⁹ The Inquiry also received a joint written submission from Prof Elmien du Plessis, Ms Petronell Kruger and Ms Safura Abdool Karim.

Convergence – rising infections and the impact on hospitalisation and mortality

[203] The experts are at one that available data shows that the country is amid a third wave of Covid-19 infections. By the time the oral hearings were held,¹⁶⁰ the delta variant was the dominant strain of the virus in South Africa, and in the world. Hospital admissions and deaths tend to follow the rise in infections. However, it is difficult to predict the trajectory of the pandemic with any certainty for many reasons. The virus is constantly evolving, its variants are unpredictable, and they are not going away anytime soon. There are variable geographic areas of high infections as the infections spread. The uncertainty is also worsened by the population's "Covid-19 fatigue". That means that the population is not consistently adhering to the recommended non-pharmaceutical interventions. Whilst the rate of vaccination of different groups, including high-risk groups, could result in a reduction in hospitalisation and death, it may not prevent a resurgence of infections. And lastly, although all vaccines used in South Africa are shown to likely have "a high protection against severe disease and death, they are likely to vary significantly in protecting against infection and mild disease". The virus is not well understood. There is insufficient knowledge, even at this stage, about the transmission trends, the ability of the virus to cause an infection, and the changing nature of the virus.

[204] The experts started by drawing attention to rising infections and the impact on hospitalisation and mortality. The delta variant can spread much faster, and large numbers of people need hospitalisation and medical care. Similarly, during the second wave of the pandemic, hospitalisations rose rapidly. Prof Abdool Karim stated that

¹⁶⁰ From Monday, 28 June 2021, to Friday, 2 July 2021.

“anything that exacerbates the spread of these variants just makes matters so much worse”.

[205] Prof Abdool Karim compared the infection waves, observing that the seven-day moving average of cases per 100 000 population in the first wave was just over 20 cases per 100 000 population; the second wave, at its peak, was 32 cases; and the third wave, as it is still rising, was already at 27 cases per 100 000 population. In Gauteng, he added, the situation was dire because of a confluence of three factors: (a) the third wave that is driven by the delta variant, with an increasingly high rate of cases per day; (b) Charlotte Maxeke Hospital, which is the biggest and most important hospital in the province, with the highest number of ICU beds, is “out of action”;¹⁶¹ and (c) there is no Covid-19 field hospital as the Nasrec facility is not operational.¹⁶²

[206] Prof Madhi made identical observations of a rising third wave. Around 7 June 2021, 5 of the 9 provinces were experiencing the third wave. In provinces where the third wave was yet to start, namely the Eastern Cape, Western Cape and KwaZulu-Natal, it may happen that the infection rates may be lower because over the course of the first two waves, the population in these provinces could possibly have developed natural immunity. However, natural immunity may not be relevant if there are further variations of the virus that makes it resistant to immunity from past infections.

Capacity of the health system and excess mortality

[207] In dealing with the rising third wave, Dr Abdullah reflects on the ability of the health services to respond to Covid-19. He measures the responses of the health services

¹⁶¹ The Charlotte Maxeke Hospital was closed because of damage caused by a fire which broke out in April 2021.

¹⁶² The Nasrec field facility was commissioned by the Gauteng Department of Health to be used for isolation and quarantine of Covid-19 positive patients. The Nasrec field hospital was closed down in January 2021.

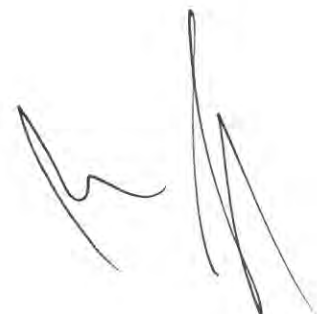


during the first, second and third waves and, using this information, considers the capacity of health services to deal with the fourth and future waves.

[208] Gauteng, Western Cape and KwaZulu-Natal may be able to meet the minimum capacity required for a “substantial health system response” (especially having regard to the private sector health care facilities) but other provinces do not have the benefit of a similar response. This mainly accounts for the high mortality rate in the Eastern Cape during the second wave.

[209] Dr Abdullah agrees with Dr Dasoo that there is significant undercounting of Covid-19 deaths. Underreporting is extensive. Deaths are underreported because hospitals are often remarkably busy, or they are not very well organised. The hospitals do not report daily, and people may not make it to a hospital and the hospital reports will not account for these patients. A more accurate database for excess death reporting is that of the South African Medical Research Council (the Medical Research Council). In our country, a burial cannot take place without a death notification. The data collected from the death notifications is downloaded and provided to the Medical Research Council on a weekly basis and they produce a report on excess death reporting. The excess death reports produced by the Medical Research Council provide a good lens through which one can observe the trends of the pandemic through the mortality rates. The effect of the underreporting of excess deaths, is that the threat to life and limb is much larger than the official number of Covid-19 deaths suggests.

[210] The country’s health care system has not been able to create special capacity to manage the third wave and it is unlikely that it will be able to do so in a fourth wave. The national response reveals “deep dysfunction in governance”, and “poor state capacity” in “what should be regarded as a public health emergency”.



[211] Dr Dasoo prefers the excess mortality rates compiled by the Medical Research Council. Their data takes into account fatalities recorded by health facilities and mortuaries, and in police reports, and it therefore presents a more accurate reflection of the number of excess deaths in our country. The official mortality rate from Covid-19 is reported as 58 000. The excess mortality rate from the Medical Research Council, however, records the figure as 180 000. On this account of excess mortality, it seems that the actual figures of Covid-19 mortality are about three times higher than the official reports of deaths. Dr Dasoo added that it was “common cause” amongst the scientific community. Comparable excess mortality figures were presented to the Inquiry by Prof Silal and Dr Moultrie of the Modelling Consortium.

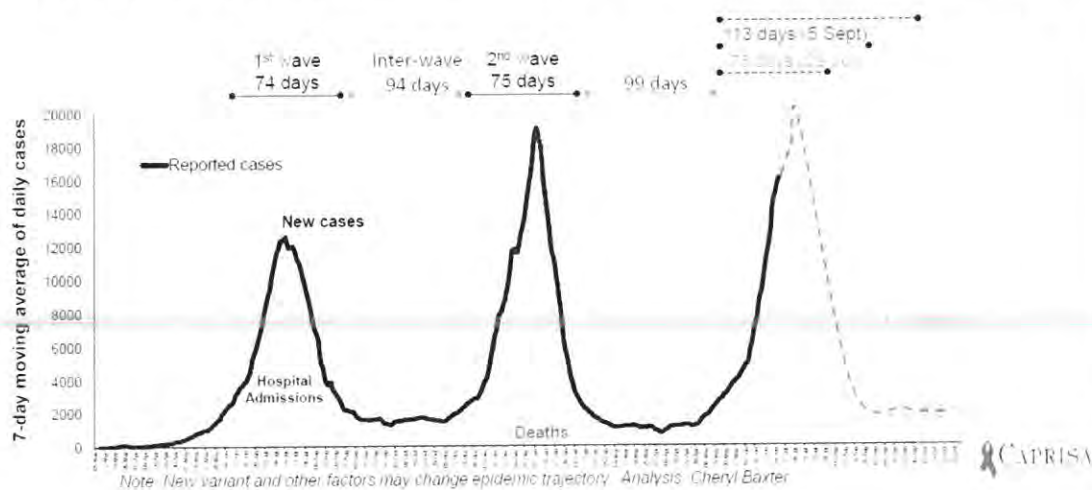
Convergence: similar trajectory of waves of infection

[212] Another constant common position of the experts, is that patterns or subsequent waves of infection will be similar, and follow a similar trajectory, to that of infections in the first and second waves in South Africa. In the effort to project the trajectory of the virus, the modelling data presented by the experts is based on some assumptions. The primary assumption is that there will be no new variant that would arise in the projected period. On the assumption that no new variant will emerge from now until then, October 2021 will be a period of low infections. This means the present delta-driven third wave is predicted to peak and thereafter decline during August and September 2021, depending on when a particular province would reach its peak.

[213] Prof Abdool Karim relied on similar trajectories to inform the projection of what the state of the pandemic is likely to be in October 2021. He relied on the patterns and figures of the past waves. The duration of the first wave was 74 days and the gap between the first and second waves was 94 days. The second wave lasted 75 days and

the interval between the second and third wave was 99 days". If this pattern holds, October will be a period of low transmission.

Cases numbers in October? Estimations of end of 3rd wave, based on duration of 1st and 2nd waves in SA



Convergence: vaccination and community immunity

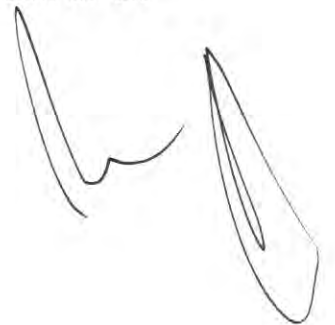
[214] Vaccines are better at protecting against severe disease and death than at protecting against mild symptomatic illness. If one makes one important assumption, that the virus does not change, then it will be worthwhile to try to get some level of community immunity, which will substantially reduce the risk of hospitalisation and death.

[215] However, as Dr Dasoo points out, currently South Africa has one of the lowest vaccination rates in the world and the highest rates of Covid-19 fatalities. With varying emphasis, the experts agree that it is necessary to strive for community immunity and that, given the vaccination rate, it will not be possible for South Africa to achieve community immunity by October 2021.

[216] Dr Abdullah made the point that natural immunity and vaccination coverage will contribute to the size and shape of the future spread of the virus. However, these factors have not been particularly useful for understanding the way in which the third wave manifested itself. Importantly, he said that “the ability of variants of concern (VOC) to partially escape both natural and vaccine-induced immunity is difficult to estimate and weakens the predictive value of prior Covid-19 infection and vaccination status”.

[217] All experts agreed with Prof Madhi that there is a level of natural immunity derived from previous infections with the beta and delta variants, and this will play a role in what happens going forward. The Pfizer and Johnson and Johnson vaccines are both good vaccines and have protection against severe disease and death. The United Kingdom is having another surge in infections, but the death rate is flat. South Africa must get to that stage. South Africa must reach a stage where there is a decline in deaths and this can be achieved by vaccinating the most “at risk” population, namely those who have comorbidities and are above a certain age. South Africa should aim to administer 300 000 doses of vaccines daily.

[218] In response to the Health Department’s estimate of vaccinating 40 million people by February 2022, Prof Abdool Karim says that the Health Department’s calculations are based on the chosen target of vaccinating 67 per cent of the population to reach community immunity. While he agrees that 67 per cent was the benchmark a few months ago, at this stage, his view is that there is a need for a higher proportion than 67 per cent to be vaccinated to achieve community immunity. He puts up two reasons for his view: first, countries like Seychelles and Israel who have vaccinated two thirds of their population are still experiencing “outbreaks”. Second, the efficacy of the vaccines currently being used, is much lower than the vaccines that Government intended to use when it settled on 67 per cent as being the required percentage. In Prof Abdool Karim’s view, Government’s goal of vaccinating 67 per cent of the



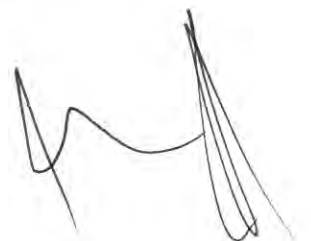
population by February 2022 is “probably on target” but he is not convinced that this will lead to community immunity.

[219] South Africa is behind the global rate of vaccination. Although there will be an increase in vaccination rates in the next 2 to 3 months as more vaccines become available, it is unlikely that there will be coverage outside high-risk groups. The target of vaccinating 40 million people by March 2021 set by the Health Department already shows slippages.

Risks associated with elections

[220] The experts are agreed that large gatherings are super spreader events. This is particularly true in closed spaces of low ventilation. They are agreed that such events are likely to be ‘seeding events’ and ‘wave triggers’ that are dangerous. This threat to life and limb cannot be emphasised enough. Prof Madhi notes that gatherings cannot be allowed during the run up to elections and on voting day – this is non-negotiable. He urged strongly that no gatherings should be allowed. Elections are likely to cause a resurgence of infections, and any resurgence will be difficult to manage. As a mitigatory measure, when elections do proceed, he suggests that voting stations should be located outdoors as the preferred option.

[221] Prof Abdool Karim speaks to five risks of transmission that arise with election activities: occupational exposure for the Commission’s staff and campaign staff; door-to-door visits; small group meetings; large group rallies and marches; and voting day queues and polling booth risks. There are three principal risks associated with these activities, namely: gatherings, especially those indoors; movement of people; and the level of adherence to non-pharmaceutical interventions. Large group rallies and marches are super spreader events.

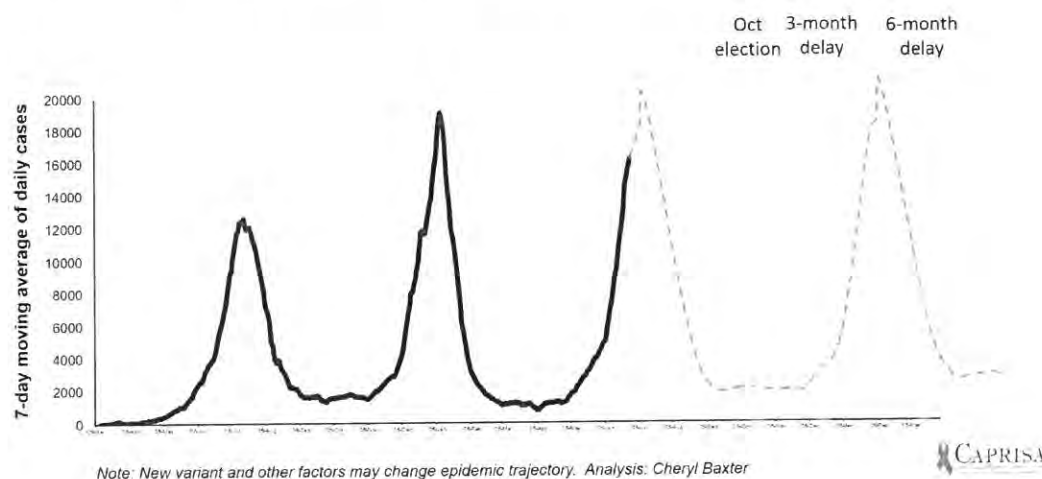


[222] Dr Abdullah is aware that the limitation on gatherings translates to restrictions on electioneering. He cautions that if the scale tilts in favour of electioneering activities, when the transmission rates of the delta variant are high, the events will become seeding events, and will lead to cluster outbreaks and in turn trigger another wave. Ordinarily, gatherings have been shown to be super spreader events.

Divergence: October 2021 vs February-March 2022

[223] There is divergence amongst the experts on the likely state of the pandemic and levels of infections during October 2021, and later around February-March 2022. This difference has implications on the question whether the state of the pandemic will be more conducive to holding elections during October 2021, or say 3 to 4 months later. Prof Abdool Karim presented that if the elections were delayed by three months, South Africa will be in low transmission, but will be in the “very early stages” of a fourth wave. Relying on a useful graph, he displayed projections of likely virus infections during October 2021, then during a three-month delay and a six-month delay. Based on the projections, Prof Abdool Karim maintains that the best time to hold local government elections “is now”, meaning October 2021, rather than 3 months later.

Estimated case numbers if elections delayed by 3 or 6 months (assuming 3rd wave is 1.5 x as long as 1st and 2nd waves)



[224] Prof Abdool Karim is of the view that “we are likely to see several new variants” by March 2022. He believes that at some stage there is going to be a variant that escapes immunity and once that variant arrives, everyone who has been vaccinated will be back to “square one”. Prof Abdool Karim said he had no firm view about whether elections should be held in October 2021 or at another time. He only presents the data and says that support can be found in the data for either of the two options.

[225] Prof Madhi pointed out that it is difficult to predict the trajectory of the virus, particularly for October 2021. He said the major risk lies in the period leading to election day. Electioneering, especially large outdoor gatherings, and any indoor gatherings of more than 20 people will have a major impact on the resurgence of infections. Based on past patterns with waves 1 and 2, it may be that October is a period of relative calm, with a resurgence in December 2021 onwards.

[226] Dr Abdullah is of the view that continuing with current plans to hold elections in October 2021 puts thousands of lives at risk. The country or parts of it will remain at different stages of a wave for the foreseeable future. He recommends that elections be postponed until the mortality rate declines. The country must reach a stage where there is a flattening of the hospitalisation and mortality curve. Conducting elections in February-March 2022 will certainly save more lives than in October 2021, because of the higher levels of vaccination and related immunity.

[227] It will be remembered that in their submissions, Prof Silal, Dr Miot and Dr Moultrie expressed their personal opinions – not representing the Advisory Committee or Modelling Consortium – that the more people who are vaccinated at the time of holding elections, the more lives will be saved. In that sense, they said, February-March 2022 will always be better and safer than October 2021. This will be true even if February-March 2022 might be a period of the fourth wave, if any.



The Minister of Cooperative Governance and Traditional Affairs

[228] On 20 June 2021, the Minister provided the Inquiry with written submissions containing the regulatory interventions imposed to curb the spread of Covid-19, an assessment of the impact of the Covid-19 pandemic and the regulatory interventions on the holding of free and fair elections, and proposed measures to be put in place to ensure free and fair elections.

[229] The Minister is the convenor of the Inter-Ministerial Committee on Municipal Elections, established by Cabinet to oversee the arrangements for the 2021 local government elections.¹⁶³ The Minister has informed the Inquiry that the Inter-Ministerial Committee is meeting regularly and that the Ministry of Health will be added to the Committee to ensure that the impact of Covid-19 on the holding of the local government elections is effectively monitored.

[230] The Minister has promulgated the Disaster Management Regulations,¹⁶⁴ which impose several non-pharmaceutical interventions, including the mandatory wearing of masks when in public, physical distancing, sanitisation, curfews and limitations on gatherings. The Regulations also require those infected with Covid-19, or exposed to someone infected with Covid-19, to isolate or quarantine. The Minister submits that these non-pharmaceutical interventions are likely to remain in place in the run up to, and at the time earmarked for, the holding of the local government elections.

¹⁶³ The Inter-Ministerial Committee consists of the Ministry of Cooperative Governance and Traditional Affairs, Ministry of Home Affairs, Ministry of Justice and Correctional Services, Ministry of Finance, Ministry of Police, Ministry of State Security, Ministry of Communications, the Chairperson of the Commission, the President of the South African Local Government Association and the Chairperson of the Municipal Demarcation Board.

¹⁶⁴ The Regulations have been amended numerous times since first promulgated.

[231] While many non-pharmaceutical interventions are generally applicable, the severity of some restrictions may be relaxed or intensified depending on the alert level in application at the time. The Minister said that it is unable to predict the alert level that will be in application in the run up to, and at the time earmarked for, the holding of local government elections since “unpredictable and unknown factors” may emerge in the period. However, the Minister submits that it would be possible to hold free and fair elections under Alert Level 2, the alert level that was in application at the time of its written submission.

[232] The Minister is concerned that the restrictions imposed under the Regulations may impact on the ability of voters to register, to vote, and to exercise their right to vote. The Minister also notes that some more vulnerable voters may be deterred from visiting voting stations because of fear of exposure to the virus.

[233] The Minister proposes a number of measures to ensure free and fair elections to be considered by the National Coronavirus Command Council.¹⁶⁵

[234] In addition, the Minister proposes amendments to the Regulations to assist with the conduct of free and fair elections, including excluding queuing at voting stations from the definition of a “gathering” and amending the curfew to align with the operational hours of voting stations and to allow for travelling time to and from voting stations.

¹⁶⁵ These proposals include:

- a. increasing registration measures to allow for more people to register to vote, including the use of online self-registration;
- b. expanding special votes to more people and extending the period for application for special votes;
- c. extending the vote over more than one day, extending the operation hours of voting stations and staggering the vote in order to reduce the numbers of voters at voting stations at one time;
- d. creating special accommodations and priorities in queues for at-risk voters; and
- e. providing any voter who arrives at a voting station without a mask with a mask instead of turning them away.

[235] The Minister notes that the contravention of certain provisions in the Regulations is a criminal offence and that the presence of members of the South African Police Service at voting stations may deter voters from attending voting stations. The Minister submits that the police must enforce Covid-19 restrictions at voting stations, where necessary, but must ensure that “there is no chilling effect on the right to vote”. However, no suggestions are made as to how to avoid a chilling effect.

[236] In addition to these proposals, the Minister also outlines the measures that will be put in place by the Department of Cooperative Governance and Traditional Affairs to ensure free and fair elections during Covid-19. These measures include the development and implementation of the 2021 Local Government Elections Disaster Management Contingency Plan, and ensuring “well-coordinated and integrated planning with clear roles and responsibilities by all organs of state”.

[237] These events have been bypassed by the present context. As we have seen the trajectory of the virus, and so too of the infections, hospitalisation and death is difficult to predict. The measures issued by the Minister have placed the entire country under Adjusted Alert Level 4. These submissions were made with Alert Level 2 in mind. It would have been helpful to know what the Minister’s submissions would have been under the more adverse restrictions that now prevail, or that may prevail in the run up to and at the time of elections.

Findings, recommendations and conclusion

Introduction

[238] It will be remembered that this Report has been commissioned by the Commission in terms of section 14(4), read together with section 5(2)(a), of the Electoral Commission Act. These provisions authorise the Commission to publish a report on

the likelihood or otherwise that a pending election will be free and fair. The need for the Report was triggered by the onset of the Covid-19 pandemic.

[239] The outcome of the Report is not binding on the Commission which retains its constitutional and legislative mandate and, indeed, duty to decide on the conduct of elections in our country. It is appropriate to acknowledge that this Report was prepared with the diligent and professional support of Ms Molebogeng Kekana, Ms Catherine Kruyer, Ms Faathima Mahomed and Mr Thabang Mabina.

[240] The Report was prepared in haste in part because of the tight electoral timetable of the Commission. Even so, the current Report runs through 120 pages and traverses considerable material on the contextual background, applicable law on local government elections, the Covid-19 pandemic, its likely impact on free and fair elections, and the rights to life, bodily and psychological integrity, and the right of access to health care, which are self-evidently threatened by the ominous rate of infections, hospitalisation and deaths associated with the different and recurrent waves of the Covid-19 pandemic.

[241] The Report carefully records and examines the submissions of the Commission and stakeholders, including: political parties; the public; civil society organisations and organised media; organised business, labour, and civil societies under the purview of the National Economic Development Labour Council; and a public opinion survey. The Inquiry went on to receive and hear submissions from independent electoral monitoring bodies whose submissions, amongst others, prompted the Inquiry to study and compare electoral practice in our country, the rest of our African continent and elsewhere in the world in the wake of the Covid-19 pandemic.

[242] The Inquiry went on to receive written and oral submissions from organisations focused on health care, independent medical experts, and from government



functionaries that included the Director-General of the Health Department, medical experts and scientists related to or serving within a Ministerial Advisory Committee on Covid-19 established by the Minister of Health, and from the Minister of Cooperative Governance and Traditional Affairs.

[243] The central issue that this Inquiry was tasked to report on is whether the local government elections that are scheduled for October 2021 are likely to be held in a free and fair manner. The political parties and civil society organisations that made submissions to the Inquiry are fiercely divided on whether the elections, if held, are likely to be free and fair. In this Report we represent these divergent views and have preserved the submissions in their original form on our website.

[244] Whilst submissions by political parties, civil society and members of the public are instructive and important, this Report does not make any factual findings on or assess cogency of the positions advanced by these stakeholders. This is so because the respective political views are not susceptible to a fact-finding process. They are often driven and animated by their partisan and subjective world views, or even by self-interest. To that extent, the Inquiry heeded and respected all views and deemed each to carry equal force whatever the size or pedigree of the political party concerned.

[245] The Inquiry sought to find an objective and dependable standard that is suited to measure whether the pending elections are likely to be free and fair in the face of the threat to life and limb and access to health care posed by infections, hospitalisation and deaths spawned by the pandemic on our country and its population.

[246] The outcome the Inquiry has reached is not, and must not be, driven by positions and preferences of political actors or entities of civil society, important as all these views are and must be. Public opinion too is divided. We have rather turned to our Constitution and other electoral law. First, we have looked at the electoral response to

the pandemic in our own country, and thereafter in the rest of the African continent, and in other significant electoral destinations abroad.

[247] Thereafter we have sought to be guided by the science related to the Covid-19 pandemic. That explains why we have heard submissions and presentations from no less than 9 medical experts and scientists, including State functionaries tasked with curbing the impact of the pandemic. This Report carefully records the core presentations of these experts and delineates their convergences and divergences on the research data, projections and expert opinions they have tendered.

May local government elections be postponed?

[248] The first question to probe is whether local government elections may ever be postponed. The starting point must be our Constitution. It tells us that ours is a democratic state founded on universal adult suffrage and regular elections. What is telling is that regularity of elections, like our democratic form of governance, is a founding value so highly cherished that it may not be amended except by a super majority of 75 per cent of members of the National Assembly and the supporting vote of at least six provinces.¹⁶⁶

[249] In plain language, our Constitution commands that a term of a municipal council may be no more than five years and, when its term expires, an election must be held within 90 days of the date of expiry. As we have earlier recorded in this Report, electoral legislation accords with this constitutional stricture on the term of a municipal council. Local government elections may be postponed if they are likely not to be free and fair but to a date within the mandatory term of five years and 90 days.

¹⁶⁶ Section 74(1)(a) and (b) of the Constitution.

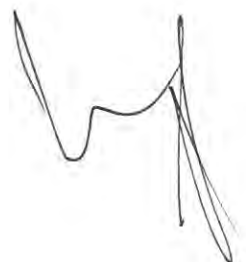
[250] However, in sharp contrast, the Constitution and other law do not provide for an extension of the term of a municipal council. This is consistent with the tenor of our Constitution which tends to hold public office bearers to fixed terms of office.

[251] The first order answer to the initial question is that local government elections must be held within 90 days of the expiry of the fixed term of five years and the Constitution does not contemplate a deferment.

[252] Well, we also know that in our democratic order, elections must not only be regular, but they must also be free and fair.¹⁶⁷ The Constitution does not create an optional binary that says elections must be regular but need not be free and fair or that they must be free and fair even if they are not regular. Elections that are not free and fair, even if held regularly, are not democratic elections at all. They are a nullity. The two requirements must co-exist and be co-present at every election held under our jurisdiction.

[253] It seems to us there are two ways to approach the fixed term set by the Constitution and other law for a municipal council. The first option that suggests itself, is to seek to amend the Constitution and the applicable legislation. The provisions concerned are section 1(d), which is especially entrenched as a founding value, and section 159(2) of the Constitution. It seems plain that an amendment of section 159(2), which seeks to remove the regularity of elections, in effect, undermines section 1(d) and may not be done without a super majority of 75 per cent. It may also be said that it is an undesirable democratic practice to amend the Constitution on an ad hoc basis or to solve a short-term challenge.

¹⁶⁷ Section 19(2) of the Constitution.



[254] Then the question must follow: May a court of competent jurisdiction grant or permit the extension or relaxation of a fixed term deliberately set by the Constitution? Happily, our current assignment does not require us to answer that difficult question which we respectfully leave for the courts to decide. It may be argued that a court of competent jurisdiction may want to assume jurisdiction to extend the limited term of office of a municipal council to a finite date if it is shown that exceptional and compelling circumstances warrant the extension. Such circumstances could include elections that are likely to be a nullity because they were not free and fair, or dire circumstances like a pandemic that massively threaten life or limb, or other considerations of necessity that render compliance with the constitutional dictate impossible or exceptionally hazardous.

Would local government elections in October 2021 be free and fair?

[255] What our current assignment requires us to answer is whether the local government elections set for October 2021 are likely to be free and fair.

[256] Having considered all the submissions of stakeholders, applicable law, research on electoral practices during the Covid-19 pandemic, and the related science, we conclude that it is not reasonably possible or likely that the local government elections scheduled for the month of October 2021 will be held in a free and fair manner, as required by the peremptory provisions of the Constitution and related legislation. And we go further to find that the scheduled elections are likely to be free and fair if they were to be held not later than the end of the month of February 2022.

Grounds for the decision

[257] The decision and recommendations we have arrived at are supported by grounds which are all foreshadowed in the Report. The decisive and dominant reasons are

drawn from agreed scientific data and prognosis tendered by medical experts and scientists.

The election timetable of the Commission

[258] When an election has been called, the Commission must prepare a timetable for the election.¹⁶⁸ Any act required to be performed in terms of the Municipal Electoral Act must then be performed by no later than the time stated in the election timetable.¹⁶⁹ The Commission is entitled to amend the timetable, if it considers it necessary for a free and fair election.¹⁷⁰ On the current draft timetable the voter registration is now scheduled for 31 July and 1 August 2021 and only thereafter may “elections be called”. It is planned that the Minister will call the elections not later than 6 August 2021. The scheduled voter registration weekend is 6 days from the end of the current Adjusted Alert Level 4 restrictions, whose currency may be extended beyond that date (being 25 July 2021). This Report describes in some detail the nature and extent of the restrictions on movement, gatherings and activities of political parties and other hopeful independent candidates.

[259] We conclude that, if the elections were to proceed as scheduled, most of the acts required to be performed in accordance with the draft timetable will not be reasonably possible, starting with the face-to-face registration of voters who do not have access to electronic registration, the provisional and final certification of the voters’ roll, and the finalisation of the nomination processes for registered parties and independent candidates. This is so because the subsisting lockdown restrictions will stand in the

¹⁶⁸ In terms of section 11 of the Municipal Electoral Act and Schedule 3 thereto.

¹⁶⁹ Section 11(3) of the Municipal Electoral Act. Clause 1 of Schedule 3 specifies that an act required in terms of the Municipal Electoral Act and the Municipal Electoral Regulations, 2000, must be performed by no later than 17:00 on the date stated in the election timetable.

¹⁷⁰ Section 11(2) of the Municipal Electoral Act.

way of parties and independent candidates of accomplishing acts prescribed by the timetable and electoral laws.

Electoral conduct of the Commission during the pandemic and lockdown restrictions

[260] This ground for concluding that scheduled elections cannot possibly be conducted in a free and fair manner relates to the previous one. Our study of the electoral conduct of the Commission, since the onset of the pandemic, is that it has conducted by-elections but only when the country was placed under Alert Level 1.

[261] From March 2020 until June 2021, the Commission approached the Electoral Court on eight occasions, to seek orders postponing the holding of by-elections. The Court granted the orders on each occasion. The Commission's first application was brought two days after the President announced that a national state of disaster was being proclaimed to deal with the Covid-19 pandemic. The remaining seven applications were brought when the country was placed under Alert Levels 2 to 5.

[262] The Commission advanced four broad bases for seeking postponements of by-elections under Alert Levels 2 to 5. First, the Commission was hindered from preparing for, and conducting, the by-elections in a free and fair manner. Second, the risk of infections spreading through the holding of election activities did not make it possible for the by-elections to be held safely. If the Commission proceeded to hold the by-elections, this would undermine Government's efforts to curb the spread of the infections. Third, Alert Levels 2 to 5 impose restrictions on gatherings and political activities. In addition, people are confined to their places of residence from specified hours in the night to the early hours of the morning. These limitations, the Commission stated, adversely impact on the ability of political parties and independent candidates to campaign for votes. This would render the by-elections not free and fair. Fourth, as the population was more aware about the risk of infections, coupled with the existence



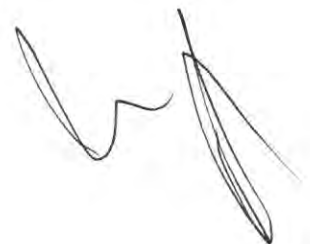
of highly transmissible new variants of the virus, there was a real possibility that voters would have stayed away from the polls. This may have resulted in low levels of voter turnout and participation, which would have undermined the credibility of the outcomes and the legitimacy of those who were elected to lead.

[263] The Commission proceeded with by-elections when the country was placed under Alert Level 1. When the Alert Level was subsequently changed to Alert Level 3, the Commission sought postponements of the by-elections that were scheduled to take place during January, February, and March 2021, and again later when the country moved to Adjusted Alert Level 4.

[264] This Report finds no fault in the attitude of the Commission. Much as the Commission has often proclaimed that it is technically ready to conduct elections, historically it has also made the correct call that the measures promulgated by the Government to curb the continued spread of the pandemic had an adverse impact on the likelihood of the by-elections being free and fair.

[265] The concern of the Commission is justified that under a state of national disaster, and with restrictions in place on the movement of persons and gatherings, political parties and independent candidates will not be able to freely participate in the forthcoming local government elections and voters will not have the opportunity to exercise rights that are essential to the conduct of free and fair elections. The concern is heightened if South Africa is placed under an alert level that imposes more severe restrictions during the run up to, and at the time earmarked for, the local government elections.

[266] Freedom to participate in elections is an element fundamental to the conduct of free and fair elections. This includes the “freedom to canvass; to advertise; and to engage



in the activities normal for a person seeking election”.¹⁷¹ While the Constitution and the law are not prescriptive as to the manner in which parties should campaign and advertise, the activities “normal for a person seeking election” in South Africa include the holding of large political rallies, the holding of smaller political gatherings, and door-to-door campaigns. However, the freeness and fairness of the local government elections must be evaluated in context, which includes the “new normal” imposed upon all of us by the Covid-19 pandemic.

[267] What is important is that political parties and independent candidates must be able to participate in elections “fully and effectively”.¹⁷² This means that they must be able to get their political message to their chosen electorate. If political parties and independent candidates are restricted in the ability to convey their messages to voters, this limits their rights to contest elections,¹⁷³ to campaign,¹⁷⁴ and to freedom of expression,¹⁷⁵ and diminishes the freeness and fairness of the election.

[268] Although the restrictions on movement of persons and gatherings under the Disaster Management Regulations apply to all political parties and candidates, there is likely to be a disproportionate impact of the Covid-19 restrictions on smaller less-resourced political parties and independent candidates. Larger well-resourced political parties will more easily be able to advertise widely and shift to digital platforms to engage with voters. In addition, incumbents are advantaged in terms of broadcasting opportunities to share their political messaging under the principle of proportionality applied by the Independent Communications Authority of South Africa.

¹⁷¹ *Kham* at para 86.

¹⁷² *Kham* at para 85.

¹⁷³ Section 19(3) of the Constitution.

¹⁷⁴ Section 19(1)(c) of the Constitution enshrines a right to campaign for a political party or cause.

¹⁷⁵ Section 16 of the Constitution. *Kham* at para 103. See also *Democratic Alliance v African National Congress and Another* [2015] ZACC 1; 2015 (2) SA 232 (CC) at para 135.

[269] The restrictions on the ability of political parties and independent candidates to campaign, in turn, diminishes the rights of the electorate, including the right to vote. It has long been established that the effective exercise of the right to vote requires access to information.¹⁷⁶ If voters are unable to receive political messaging from political parties and independent candidates, they will be hindered in their ability to make political choices and to vote. In addition, the rights of the electorate to participate in political activities,¹⁷⁷ and to freedom of assembly,¹⁷⁸ are limited by Covid-19 restrictions. This diminishes the freeness and fairness of the election, since free and fair elections require that every person can exercise their fundamental rights.

[270] A legitimate question may be asked: What if the lockdown restrictions higher than Alert Level 1 were removed? The ready answer is that, on all medical expert predictions, during October 2021 infections, hospitalisation and mortality will remain a significant threat to physical wellbeing and life until a substantial number of our population has been vaccinated.

Medical expert data and predictions

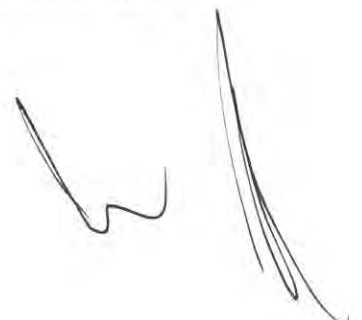
[271] We now turn to deal with the submissions on expert data and predictions.

[272] As we have seen, the question whether the scheduled local government elections of October 2021 should be held or deferred is fiercely contested within and amongst election stakeholders of varied kinds. Some stakeholders have urged us to find and follow medical science and others have scoffed at reliance on science. We chose to

¹⁷⁶ *My Vote Counts II* at para 35, quoting with approval Ngcobo CJ in *President of the Republic of South Africa v M & G Media Limited* [2011] ZACC 32; 2012 (2) SA 50 (CC) at para 10.

¹⁷⁷ Section 19(1)(b) enshrines a right to participate in the activities of a political party.

¹⁷⁸ Section 17 of the Constitution.



heed the science, and, to that end, solicited the assistance of no less than 9 leading medical and public health experts in South Africa.

[273] They are Dr Aslam Dasoo, Dr Fareed Abdullah, Prof Shabir Madhi, Dr Sandile Buthelezi, the Director-General of the Health Department, Prof Salim Abdool Karim, Dr Jacqui Miot, Prof Sheetal Silal, from the Advisory Committee (Health Department), Dr Harry Moultrie, from the National Institute for Communicable Diseases, and Prof Susan Goldstein.¹⁷⁹

[274] The material presented by the scientists displayed substantial convergence. The differences amongst them are limited, in the main, to the likely trajectory of the virus and the resultant infections, hospitalisation and deaths in October 2021 compared to February-March 2022. We set out briefly the convergence, and later individualise the divergences, on the predictions.

[275] The experts are at one that available data shows that the country is amid a third wave of Covid-19 infections. By the time the oral hearings were held,¹⁸⁰ the delta variant was the dominant strain of the virus in South Africa and in the world. Hospital admissions and deaths follow the rise in infections. It is difficult to predict the trajectory of the pandemic with any certainty for many reasons. The virus is constantly evolving, its variants are unpredictable, and they are not going away anytime soon. There are variable geographic areas of high infections as infections spread. The uncertainty is also worsened by the population's "Covid 19 fatigue". That means that the population is not consistently adhering to the recommended non-pharmaceutical interventions. Whilst the rate of vaccination of different groups, including high-risk groups, could result in a reduction in hospitalisation and death, it may not prevent a resurgence of

¹⁷⁹ The Inquiry also received a joint written submission from Prof Elmien du Plessis, Ms Petronell Kruger and Ms Safura Abdool Karim.

¹⁸⁰ From 28 June 2021 to 2 July 2021.

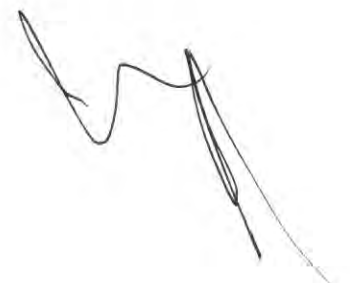
infections. And lastly, although all vaccines used in South Africa are shown to likely have a high protection against severe disease and death, they are likely to vary significantly in protecting against infection and mild disease. The virus is not well understood. There is insufficient knowledge, even at this stage, about the transmission trends, the ability of the virus to cause infections, and the changing nature of the virus.

[276] The experts drew attention to rising infections and the impact on hospitalisation and mortality. The delta variant can spread much faster, and large numbers of people need hospitalisation and medical care. Similarly, during the second wave of the pandemic, the hospitalisations rose rapidly. Prof Abdool Karim stated that “anything that exacerbates the spread of these variants just makes matters so much worse”.

[277] Prof Madhi made identical observations of a rising third wave. Around 7 June 2021, 5 of the 9 provinces were experiencing the third wave. In provinces where the third wave was yet to start, namely the Eastern Cape, Western Cape and KwaZulu-Natal, it may happen that the infection rates may be lower because over the course of the first two waves, the population in these provinces could possibly have developed natural immunity. However, natural immunity may not be relevant if there are further variations of the virus that makes it resistant to immunity from past infections.

Capacity of the health system and excess mortality

[278] In dealing with the rising third wave, Dr Abdullah reflected on the ability of the health services to respond to Covid-19. He measured the responses of the health services during the first, second and third waves and, using this information, considered the capacity of health services to deal with the fourth and future waves. Gauteng, the Western Cape and KwaZulu-Natal may be able to meet the minimum capacity required for a “substantial health system response” (especially having regard to the private sector health care facilities), but the other provinces do not have the benefit of a similar



response. This mainly accounts for the high mortality rate in the Eastern Cape during the second wave.

[279] Dr Abdullah agrees with Dr Dasoo that there is significant undercounting of Covid-19 deaths. Underreporting is extensive. Deaths are underreported because hospitals are often remarkably busy, or they are not very well organised. The excess death reports produced by the Medical Research Council provide a good lens through which one can observe the trends of the pandemic through the mortality rates. The effect of the under-reporting of excess deaths, is that the threat to life and limb is much higher than the official number of Covid-19 deaths suggest. The official mortality rate from Covid-19 is reported as 58 000. The excess mortality rate from the Medical Research Council, however, records the figure as 180 000. On this account of excess mortality, it seems that the actual figures of Covid-19 mortality are about three times higher than the official reports of deaths. Dr Dasoo added that it was “common cause” amongst the scientific community. Comparable excess mortality figures were presented to the Inquiry by Prof Silal and Dr Moultrie of the Modelling Consortium.

[280] Dr Dasoo added that the country’s health care system has not been able to create special capacity to manage the third wave and it is unlikely that it will be able to do so in a fourth wave. The national response reveals “deep dysfunction in governance”, and “poor state capacity” in “what should be regarded as a public health emergency”.

Similar trajectory of waves of infection

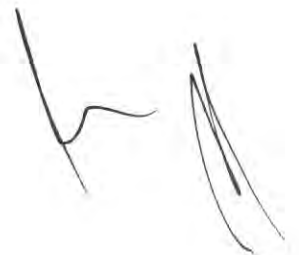
[281] Another common position of the experts is that patterns or subsequent waves of infection will be similar, and follow a similar trajectory, to that of infections in the first and second waves in South Africa. In the effort to project the trajectory of the virus, the modelling data presented by the experts is based on certain assumptions. The primary assumption is that there will be no new variant that would arise in the projected

period. On the assumption that no new variant will emerge from now until then, October 2021 will be a period of low infections. This means the present delta-driven third wave is predicted to peak and thereafter decline during August and September 2021, depending on varied trajectories of the different provinces. If this pattern holds, October 2021 will be a period of low transmission.

Community immunity and vaccines

[282] Vaccines are better at protecting against severe disease and death than at protecting against mild symptomatic illness. If one makes one important assumption, that the virus does not change, then it will be worthwhile to try to get some level of community immunity, which will substantially reduce the risk of hospitalisation and death. Currently South Africa has one of the lowest vaccination rates in the world and the highest rates of Covid-19 fatalities. With varying emphasis, the experts agree that it is necessary to strive for community immunity and that, given the vaccination rate, it will not be possible for South Africa to achieve community immunity by October 2021.

[283] All experts agreed with Prof Madhi that there is an extent of natural immunity derived from previous infections with the beta and delta variants, and this will play a role in what happens going forward. The Pfizer and Johnson and Johnson vaccines are both good vaccines and have protection against severe disease and death. The United Kingdom is having another surge of infections, but the death rate is flat. South Africa must get to that stage. South Africa is behind the global rate of vaccination. South Africa must reach a stage where there is a decline in deaths and this can be achieved by vaccinating the most “at risk” population, namely those who have comorbidities and are above a certain age. South Africa should aim to administer 300 000 doses of vaccines daily. The target of vaccinating 40 million people by March 2021 set by the Health Department already shows slippages.



Risks associated with elections

[284] All experts expressed themselves on the risks associated with elections and are agreed. Large gatherings are super spreader events. This cannot be emphasised enough. Prof Madhi notes that gatherings cannot be allowed during the run up to elections and on voting day – in his words, “this is non-negotiable”. He urged strongly that no gatherings should be allowed. Elections are likely to cause a resurgence of infections, and any resurgence will be difficult to manage. As a mitigatory measure, when elections do proceed, he suggests that voting stations should be located outdoors as the preferred option.

[285] Prof Abdool Karim speaks to five risks of transmission that arise with election activities: occupational exposure for the Commission’s staff and campaign staff; door-to-door visits; small group meetings; large group rallies and marches; and voting day queues and polling booth risks. There are three principal risks associated with these activities, namely: gatherings, especially those indoors; movement of people; and the level of adherence to non-pharmaceutical interventions. Large group rallies and marches are super spreader events.

[286] Dr Abdullah is aware that the limitation on gatherings translates to restrictions on electioneering. He cautions that if the scale tilts in favour of electioneering activities, when the transmission rates of the delta variant are high, the events will become seeding events, and will lead to cluster outbreaks and, in turn, trigger another wave. Ordinarily, gatherings have been shown to be super spreader events.

October 2021 vs February-March 2022

[287] There is difference of opinion among the experts on when it would be less risky, and safer, to hold elections between October 2021, and later around February-March

2022. Prof Abdool Karim presented that if the elections were delayed by three months, South Africa will be in low transmission, but will be in the “very early stages” of a fourth wave. Relying on a useful graph, he displayed projections of likely virus infections during October 2021, then during a three-month delay and a six-month delay. Based on the projections, Prof Abdool Karim maintained that the best time to hold local government elections “is now”, meaning October 2021, rather than three months later.

[288] Prof Abdool Karim is of the view that “we are likely to see several new variants” by March 2022. He believes that at some stage there is going to be a variant that escapes immunity and, once that variant arrives, everyone who has been vaccinated will be back to “square one”. Prof Abdool Karim said he had no firm view about whether elections should be held in October 2021 or at another time. He only presents the data and says that support can be found in the data for either of the options.


[289] Prof Madhi pointed out that it is difficult to predict the trajectory of the virus, particularly for October 2021. He said the major risk lies in the period leading to voting day. Electioneering, especially large outdoor gatherings, and any indoor gatherings of more than 20 people will have a major impact on the resurgence of infections. Based on past patterns with waves 1 and 2, it may be that October 2021 is a period of relative calm, with a resurgence in December 2021 onwards.

[290] Dr Abdullah is of the view that continuing with current plans to hold elections in October 2021 puts thousands of lives at risk. The country or parts of it will remain at different stages of a wave for the foreseeable future. He recommends that the elections be postponed until the mortality rate declines. The country must reach a stage where there is a flattening of the hospitalisation and mortality curve. Conducting elections in February-March 2022 will certainly save more lives than in October 2021, because of the higher levels of vaccination and related immunity.

[291] It will be remembered that in their submissions, Prof Silal, Dr Miot and Dr Moultrie expressed their personal opinions – not representing the Advisory Committee or the Modelling Consortium – that the more people that are vaccinated at the time of holding elections the more lives will be saved. They took the view that there will be many more people vaccinated in February-March 2022, and expected less hospitalisation and mortality. This expert view, it will be remembered, accords with that of Dr Buthelezi of the Health Department who warned against election gatherings and campaigning during October 2021, and that community immunity through vaccination will have been reached by February 2022 when approximately 40 million of the population would have been vaccinated.

[292] The foregoing paragraphs are a fair summation of the science that ought to guide us. Whilst the delta variant may have subsided somewhat during October 2021, the risk to our population of infection, serious illness and the consequential hospitalisation and death will remain remarkably high. Our public health care system is inadequate for the health demands spawned by the pandemic. Our death or mortality rate appears to be nearly three times more than the official statistics of death. That means the threat to life posed by the pandemic is much higher than meets the eye. All experts tell us that by holding elections in October 2021 or in February-March 2022 there is a potential risk of infection or of even a fourth wave. The real difference will be made by community immunity through vaccination. Even if community immunity, at 67 per cent of our population, is not reached in February-March 2022, there will be far less risk of hospitalisation and death than there will be in October 2021.

[293] Before we turn to our recommendation on when, if deferred, elections should be held, we draw attention to the section on the electoral experience in other countries on our continent and in other significant electoral destinations. We commend our research recordal in this Report to sticklers for detail. What is plain is that many countries around the world have postponed their presidential, national, and subnational elections



due to the pandemic and others have held elections despite the pandemic. It is indeed difficult to make helpful comparisons from country to country because of the diversity of the context within which the decision to defer or to go ahead with the elections was made. Let it suffice to draw attention to the studies on the Presidential elections in the United States of America, State Assembly elections in India, and local government elections in Brazil during the pandemic. The recorded estimates of deaths associated with each of these elections run into staggering numbers – something we should not wish for ourselves.

Why February 2022?

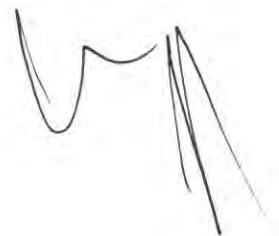
Prevent the slippery slope

[294] We have readily conceded that deferring elections might be an unwelcome dent to our nation's democratic resolve and psyche. And yet we hope we have shown that we are in exceptional circumstances that pose a real, direct and collective threat to our lives, bodily and psychological well-being and, might we add, to our livelihoods.

[295] Some have argued that deferment may encourage or initiate a slippery slope that might undermine the democratic project. We think that this argument has considerable force. Only the most compelling of reasons should justify the deferment of a term of elections set in the supreme and other law of the country. For that reason, our recommendation is that the elections be deferred only once, and to the earliest possible date, to be determined as the safest and shortest time within which local government elections may be held without excessive loss of life.

Reset municipal governance speedily

[296] Key constitutional objects of local government are to provide democratic and accountable government for local communities and the provision of services in a



sustainable manner. It is so, that it will be extremely hard to find a governance injunction more compelling than the one which our Constitution imposes on local government. First, local governments wield authority only because they are so authorised by the people who vote them into power. Second, once they assume office, their term of office is not only finite for five years, but they must ensure accountable government and the provision of services in a sustainable manner.

[297] Many stakeholders in their submissions drew attention to the governance devastation to be found within the ranks of most municipalities in our country. They rightly pressed that the current municipal councillors should be given not one day more in office if citizens are to be spared more bouts of unaccountable government, inept and dishonest financial accounting, and downright failure to observe the law that governs municipalities. The consequence of this has been repeated service delivery protests in the face of dysfunctional and totally inept municipal councils.

[298] On 30 June 2021, the Auditor-General, Ms Tsakane Maluleke, released her annual report on the audit outcomes of 257 municipalities for the financial year 2019-2020. She records that the decline in the affairs of local government has been consistently reported by the Auditor-General over the past four years of the current administration. The Auditor-General bemoans the fact that there has been little evidence that the messages of the Auditor-General have been taken to heart. It is saddening that the Auditor-General finds that most municipalities are in a worse position than at the beginning of this administration's term in 2016-2017. The Auditor-General's report concludes with a clarion call for ethical and accountable leadership to drive the desired changes to bring about an improved local government.

[299] These are powerful considerations that ordinarily should militate against deferment of elections. At a local government level, South Africa is due for a reset and, ordinarily, local government elections would be that reset button. We acknowledge that elections

should be held soon. But it cannot be at any cost. On all expert medical evidence, many, many lives are likely to be lost unless we reach a certain level of community immunity. The nearest point of safety will be February 2022, when there is likely to be a high level of community immunity. The postponement should be no longer than is strictly and reasonably necessary to save lives and limbs.

[300] Lastly, the additional benefit to keeping the deferment as short as four months, to February 2022, is that it will allow the newly elected municipal councils to approve the annual budget for the new financial year. Although the annual budgetary cycle will commence before elections are held in February 2022, the benefit of a short postponement is that the newly elected municipal councils will be in place to consider the annual budget to be tabled in April 2022, and to approve the annual budget before the start of the new financial year on 1 July 2022. The incumbent municipal councils will need to commence the budgetary process and should do so in accordance with the Integrated Development Plans of their municipalities.¹⁸¹

Recommendations for holding free, fair and safe elections during Covid-19

Introduction

[301] The assignment with which we have been tasked includes indicating additional measures that the Commission may have to implement to realise free and fair elections

¹⁸¹ The position is set out in the Municipal Finance Management Act, 2003 (MFMA), the Municipal Budget and Reporting Regulations, GN 393, GG 32141, 17 April 2009, and various Treasury Municipal Budget Circulars. Municipal councils are required to approve an annual budget for each financial year for the municipality in which they serve. The integrated development plan is integral to this, since it forms the “policy framework and general basis” on which the annual budget of the municipality must be based. The municipal council must approve the annual budget before the start of the municipal financial year, which is 1 July. The mayor of a municipality must table, in the municipal council, a time schedule with key deadlines for the preparation, tabling and approval of the annual budget at least 10 months before the start of the new financial year. The relevant legislation requires that the annual budget must be tabled before the municipal council by the mayor at least 90 days (that is in April 2022), and considered by the municipal council for approval at least 30 days (that is in June 2022), before the start of the municipal financial year.

within the Covid-19 context. The measures we suggest are in line with our recommendation that local government elections be deferred to February 2022. We have drawn upon international best practices¹⁸² and adapted them, where necessary, to the South African context in developing recommendations regarding measures to mitigate the health risks that may be posed by the local government elections. These measures are in addition to those already adopted by the Commission.

Electoral campaigning

[302] In order to safeguard lives, restrictions ought to be placed on campaigning in the run up to the local government elections. People that may attend in-person political gatherings must adhere to Covid-19 health protocols.

[303] In addition, political parties and independent candidates must ensure adherence with Covid-19 health protocols at all political campaign activities, including physical distancing, sanitisation and the mandatory wearing of masks.

[304] The Electoral Code of Conduct,¹⁸³ which forms part of the Electoral Act and applies to political parties and independent candidates, should be amended to include issues relevant to Covid-19. Compliance with the Electoral Code of Conduct, and in particular

¹⁸² The African Commission on Human and Peoples' Rights has published a statement on Elections in Africa during the COVID-19 Pandemic, 22 July 2020, which draws upon best practices adopted in the continent and provides valuable guidance on the measures that should be taken to ensure free, fair and safe elections. In addition, a number of international organisations, including the Election Management Network, the International Institute for Democracy and Electoral Assistance and the International Foundation for Electoral Systems, have published advisories on how to conduct elections safely during the Covid-19 pandemic. In particular, Buril et al "IFES COVID-19 Briefing Series: Safeguarding Health and Elections" available at: <https://www.ifes.org/publications/ifes-covid-19-briefing-series-safeguarding-health-and-elections>.

¹⁸³ Contained in Schedule 2 of the Electoral Act.

provisions intended to curb the spread of Covid-19, should be monitored and any non-compliance therewith sanctioned in terms of the Electoral Act.¹⁸⁴

[305] Measures should be put in place to ensure equal opportunities for political parties and independent candidates to contest the local government elections in light of the restrictions that may be in place on traditional methods of campaigning. These measures should include coordination between Independent Communications Authority of South Africa and public and private broadcasters to provide all political parties and candidates with increased and equitable access to broadcasting opportunities to disseminate their political messaging to the electorate.

Electoral planning

[306] All electoral staff who will be present at voting stations or conducting home visits should be vaccinated prior to the elections in order to reduce the occupational risk faced by electoral staff.

[307] Special focus should be given to procuring voting stations that allow for physical distancing and natural ventilation; and

[308] Masks should be procured to be provided to voters who arrive at voting stations without masks.

¹⁸⁴ Contravention of the Electoral Code of Conduct is an offence in terms of section 94, read with section 97, of the Electoral Act. Any person convicted of the offence of contravening the Electoral Code of Conduct is liable to a fine or a period of imprisonment not exceeding 10 years.

Voter registration

[309] Although voter registration poses less risk of spreading Covid-19 than voting, measures should be adopted to reduce congestion at voting stations during voter registration:


- (a) First, the period for voter registration should be extended to avoid congestion at voting stations during voter registration. The Commission should give consideration to holding two voter registration weekends.
- (b) Second, eligible voters should be encouraged to register, and registered voters should be encouraged to check and confirm their registration details and to update their details where necessary, using online platforms, instead of attending a voting station in person.

[310] In addition, the same Covid-19 protocols adopted by the Commission for voting stations on voting day must be applied to voter registration.

Voting

[311] Measures should be adopted to reduce congestion at voting stations on voting day, including:

- (a) extending the operational hours for voting stations;
- (b) staggering voting times by dividing the electorate by surname initials; and



- (c) creating special accommodations and priorities in queues for more vulnerable voters to reduce the length of time that they spend in queues as well as their exposure to the risk of virus transmission.

Special votes

[312] Special voting should be expanded and extended to ensure that no one is disenfranchised:¹⁸⁵

- (a) eligibility for a special vote should be expanded to include those who are ill, in isolation or quarantine and those who are at-risk of more severe illness from Covid-19;
- (b) alternatively, if some of these groups of voters are already eligible for a special vote, use of special voting by these groups should be encouraged;
- (c) the period for application for special votes should be extended to allow for more people to apply and emergency applications should be introduced for those who fall ill or are in isolation or quarantine at the time earmarked for the holding of elections; and
- (d) voters applying for a special vote should be encouraged to submit their applications on online platforms or by SMS rather than by hand.

¹⁸⁵ Section 55 of the Municipal Electoral Act makes provision for special votes and special votes are regulated under the Municipal Electoral Regulations, 2000 published under GN R848 in GG 21498, 22 August 2000.

Voter Education

[313] Information about the Covid-19 protocols that will be in place at voting stations must be widely disseminated and easily accessible in all South African languages.

[314] The spreading of disinformation related to Covid-19 with the intention of influencing the conduct or outcome of the local government elections should be carefully monitored and sanctioned in terms of the Electoral Act¹⁸⁶ or the Disaster Management Regulations.¹⁸⁷

Election observation and agents for political parties and candidates

[315] In order to ensure transparency, election observers and agents for political parties and candidates must be allowed to observe activities at voting stations with proper adherence to all Covid-19 protocols, including physical distancing, sanitisation and mandatory wearing of masks.

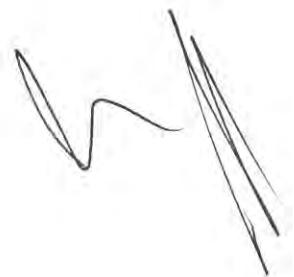
[316] In addition, consideration should be given to virtual election observation through broadcasting or livestreaming of activities at voting stations, including counting, to enhance the transparency of elections conducted under Covid-19 conditions.

After voting

[317] If the number of days for special voting is extended, then additional measures may be required to ensure the security of the ballots and legitimacy of the elections.

¹⁸⁶ Section 89(2), read with section 97, of the Electoral Act.

¹⁸⁷ Regulation 14(2) of the Disaster Management Regulations.



Modernisation project – introducing alternative methods of voting

[318] Since the Covid-19 pandemic is likely to be with us for a long time, consideration should be given to the introduction of alternative methods of voting that do not require voters to visit voting stations in person, such as electronic voting.

[319] The electoral legislative scheme does not currently make provision for electronic voting. The voting procedure for local government elections is set out in the Municipal Electoral Act,¹⁸⁸ and requires voters to vote at voting stations.¹⁸⁹

[320] It is therefore recommended that a legislative process be undertaken to introduce electronic voting. However, a change to the voting method requires a substantial legal change in the electoral framework and should not be introduced within six months of a scheduled election. Less than six months is insufficient time for the public to gain familiarity with and develop trust in a new voting method. Rapid introduction of new voting methods may impact upon the *perceived* legitimacy of the elections.

Conclusion

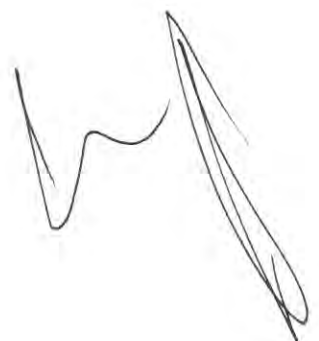
[321] Having considered all the submissions of stakeholders, applicable law, research on electoral practices during the Covid-19 pandemic, and the related science, we conclude that it is not reasonably possible or likely that the local government elections scheduled for the month of October 2021 will be held in a free and fair manner, as required by the peremptory provisions of the Constitution and related legislation. We find that the scheduled elections are likely to be free and fair if they were to be held not later than

¹⁸⁸ Section 47 of the Municipal Electoral Act.

¹⁸⁹ Section 47(1)(a) of the Municipal Electoral Act.

the end of February 2022. We have also made recommendations on how free, fair and safe elections may be held in February 2022.

[322] Should the Commission accept and seek to implement the outcome of this Inquiry it is self-evident that it must approach, with deliberate speed, a court of competent jurisdiction to seek a just and equitable order to defer the local government elections to not later than the month of February 2022 and on such terms the court may grant.

A handwritten signature in black ink, consisting of a stylized 'W' followed by a large, sweeping flourish.

"FA2"**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA****CASE NO:** _____

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS AND OTHERS**

Respondents

CONFIRMATORY AFFIDAVIT

I the undersigned

PHATUDI SIMON MAMABOLO

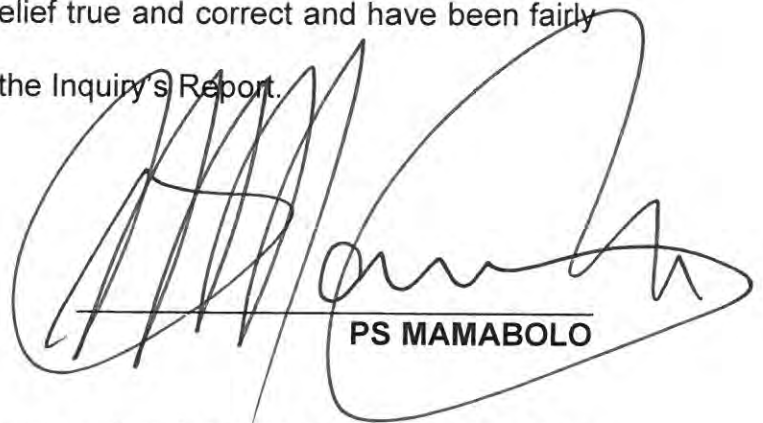
do hereby make oath and say as follows:

1. I am the Chief Electoral Officer of the Electoral Commission of South Africa, duly appointed as such in terms of section 12(1) of the Electoral Commission Act, 1996.
2. I depose to this affidavit in my official capacity. The facts that I depose to are true and correct and are within my personal knowledge.
3. On 4 June 2021 I made a written submission to the Justice Moseneke



Inquiry on Free and Fair Local Government Elections during COVID ("the Inquiry") in my aforesaid capacity, as appears on the Inquiry's website (<https://www.elections.org.za/freeandfair/lge2021/Submissions-Received>). I annex hereto a copy of my covering letter to the Inquiry and the written submissions (without annexures), marked "FA2.1". I do not attach the annexures to my written submissions in order to avoid burdening this application unnecessarily but will make such annexures available to the Court if required.

4. On 28 June 2021 I presented oral submissions before the Inquiry, together with a PowerPoint presentation, as appears on the Inquiry's website (<https://www.elections.org.za/freeandfair/LGE2021/oral-submissions>). A copy of this presentation is attached hereto marked "FA2.2".
5. I am the author of the written submission and the presentation.
6. I depose to this affidavit to confirm under oath that the contents of the attached documents and the oral submissions which I made before the Inquiry are to the best of my belief true and correct and have been fairly and accurately summarised in the Inquiry's Report.



PS MAMABOLO

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of his knowledge both true and correct. This

affidavit was signed and sworn to before me at **Centurion** on this the 4th day of **August 2021**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

LEFANYANA WILLIAM MASWENENG
PRACTISING ATTORNEY OF
THE HIGH COURT OF RSA
COMMISSIONER OF OATHS, EX OFFICIO
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COMMISSIONER OF OATHS

Full names:

Address:

Capacity:

PS

"FA2.1"

**SOUTH AFRICA**

Retired Justice Dikgang Moseneke
Johannesburg

PER ELECTRONIC MAIL: freeandfair@elections.org.za

Dear Retired Justice Moseneke,

**SUBMISSION BY THE ELECTORAL COMMISSION'S CHIEF ELECTORAL
OFFICER TO THE MOSENEKE INQUIRY ON ENSURING FREE AND FAIR
LOCAL GOVERNMENT ELECTIONS DURING COVID**

- 1 I refer to the above matter and advise that in terms of item 8 of the Proposed Timetable dated 2 June 2021, together with the Terms of Reference, please find attached hereto the Submission, in my capacity as the Chief Electoral Officer of the Electoral Commission of South (IEC), together with the annexures thereto.
- 2 The salient themes traversed in the Submission are as follows:
 - 2.1 The Electoral Commission's authority to cause a report of this nature to be produced and published; and
 - 2.2 A perspective on the considerations taken in making a determination on the freeness and fairness of an election, also taking into consideration the novel context the 2021 Local Government Elections will be held due to the Coronavirus epidemic.
 - 3.3 A demonstration of the IEC's state of readiness to administer the elections within the extant constitutional scheme as well as on a technically and mechanically thereby ensuring it administers free, fair and safe elections.

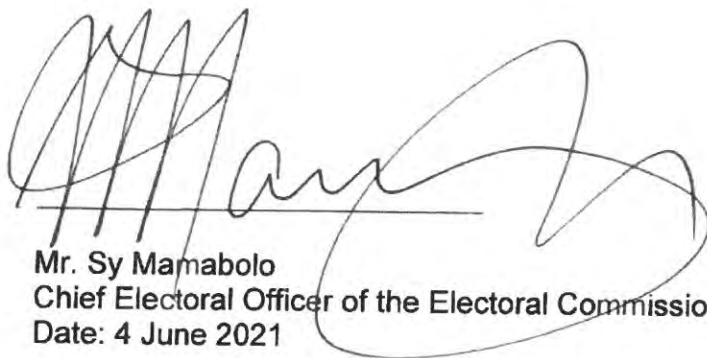
I trust that the above is in order.

Electoral Commission

Ensuring Free and Fair Elections

Commissioners: Mr V.G. Mashinini (Chairperson) | Ms J.Y. Love (Vice-Chairperson) | Dr N.P. Masuku | Mr M. Moepya | Judge D. Pillay
National Office: Election House, Riverside Office Park, 1303 Heuwel Avenue, Centurion, 0157 | P/Bag X112, Centurion, 0048
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Tel (+27) 12 622 5700 | Fax (+27) 622 5784

PS



Mr. Sy Mamabolo
Chief Electoral Officer of the Electoral Commission of South Africa
Date: 4 June 2021





SOUTH AFRICA

**SUBMISSION BY THE CHIEF ELECTORAL OFFICER TO THE MOSENEKE INQUIRY
INTO ENSURING FREE AND FAIR LOCAL GOVERNMENT ELECTIONS DURING THE
COVID-19 PANDEMIC**

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A. INTRODUCTION

- 1 According to section 159(2) of the Constitution,¹ when the term of a municipal council expires, an election must be held within 90 days of the date that council's term expired. In terms of section 24(2) of the Local Government: Municipal Structures Act, 1998² ("Structures Act"), whenever necessary, the Minister responsible for local government ("Minister"), after consulting the Electoral Commission ("Commission"), must, by notice in the *Government Gazette*, call and set a date for an election of all municipal councils, which must be held within 90 days of the date of the expiry of the term of municipal councils.
- 2 Since the last general local government elections took place on 3 August 2016, the current term of all municipal councils in the Republic will terminate by effluxion of time on 3 August 2021, and general local government elections will have to be held by 1 November 2021 to elect new municipal councils.
- 3 The Constitution requires the Commission to manage elections of national, provincial and municipal legislative bodies in accordance with national legislation, to ensure that those elections are free and fair, and to declare the results of those elections within a period that must be prescribed by national legislation and that is as short as reasonably possible.³
- 4 On 21 April 2021, following consultations with the Minister and the executive branch of government, the President announced that the 2021 general local government elections will be held on 27 October 2021. It is expected that the Minister will formally call and set a date for the 2021 general local government elections by 2 August 2021.
- 5 In the discharge of its constitutional and legislative obligations to conduct the general local government elections by 1 November 2021, the Commission is at an advanced stage of preparation. This submission deals with the various facets of the Commission's preparations for the forthcoming elections.
- 6 For the first time since its establishment, the Commission is faced with the prospect of conducting general elections in the midst of a global pandemic. In late 2019, a novel coronavirus first detected in the People's Republic of China triggered a global outbreak of a severe respiratory disease which has now been detected in 219 countries and territories internationally, including in South

¹ Constitution of the Republic of South Africa, 1994.

² Act No. 117 of 1998

³ Section 190(1) of the Constitution



Africa. The virus has been named "SARS-CoV-2" and the disease it causes has been named "coronavirus disease 2019", abbreviated as "COVID-19".

- 7 Concerns have been expressed by some political parties represented on the party liaison committee in the national sphere of government ("NPLC") that the forthcoming general elections may not be free and fair given the impact of the COVID-19 and the measures taken by the government in terms of the Disaster Management Act, 2002,⁴ to curb the continued spread of the pandemic.
- 8 Cognisant of its obligation to ensure that the elections are free and fair, the Commission has commissioned the Inquiry into Ensuring Free and Fair Local Government Elections During COVID-19 ("Inquiry") led by Retired Deputy Chief Justice Dikgang Moseneke to:
 - 8.1 enquire into, make findings, report on, and make recommendations concerning the likelihood that the Commission would be able to ensure that the forthcoming 2021 general local government elections 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; and
 - 8.2 indicate additional measures that the Commission may be required to implement in order to realise free and fair elections within the context of the COVID-19 pandemic.
- 9 In the context of the Inquiry, Retired Deputy Chief Justice Moseneke has requested the chief electoral officer to make submissions to the Inquiry regarding the Commission's state of readiness for the forthcoming elections. This submission is made by the chief electoral officer in his capacity as the head of the administration of the Commission and its accounting officer,⁵ and the person vested with original legislative functions concerning the registration of parties,⁶ as well as the custodian of the national common voters' roll⁷ and the Electoral Code of Conduct.⁸

B. LEGAL AUTHORITY FOR THE INQUIRY

- 10 This assignment is without precedent since the enactment of the Electoral Commission Act, 1996,⁹ as are the circumstances that have necessitated the conduct of the assignment. It is intended to present the Commission with an independent and unvarnished picture of whether or

⁴ Act No. 57 of 2002

⁵ See section 12(2) of the Electoral Commission Act

⁶ Sections 15 – 17 of the Electoral Commission Act

⁷ Section 5 of the Electoral Act, 73 of 1998

⁸ Section 77 of the Local Government: Municipal Electoral Act, 2000

⁹ Act No. 51 of 1996

not the forthcoming elections are likely to be free and fair. The intention is that the Commission will consider the resultant report for purposes of determining the likelihood of free and fair elections and publish the report (with or without its comments) in terms of section 14(4) of the Electoral Commission Act.

- 11 Section 14(4) of the Electoral Commission Act provides that:

"(4) The Commission may, if it deems it necessary, publish a report on the likelihood or otherwise that it will be able to ensure that any pending election will be free and fair."

- 12 Section 14(4) contains no restrictions of who should prepare a report contemplated therein. It follows in my submission that the Commission is at large to decide who should prepare such a report, whether that person or persons are on the Commission's staff establishment or not.
- 13 In addition, the Electoral Commission Act provides that the Commission must, for the purposes of the achievement of its objects and the performance of its functions acquire the necessary staff, whether by employment, secondment, appointment on contract or otherwise.¹⁰
- 14 In my respectful submission, there is clearly sufficient authority for the Commission to appoint a Judge discharged from active service to conduct the Inquiry and prepare the envisaged report.

C. STANDARD FOR FREE AND FAIR ELECTIONS

- 15 Free and fair elections are the lifeblood of democracy.¹¹ They allow people to select their leaders and then to hold them accountable.¹²
- 16 The Constitution requires the forthcoming general local government elections to be held by 1 November 2021. At the same time, it guarantees the right of every citizen to free, fair and regular elections for any legislative body established in terms of the Constitution.¹³
- 17 In New National Party,¹⁴ the Constitutional Court considered the intersection between the right to vote and the right to free and fair elections:

"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

¹⁰ Section 5(2)(a)

¹¹ Donald J. Trump for President, Inc. and Others v Secretary Commonwealth of Pennsylvania and Others, available at <https://www2.ca3.uscourts.gov/opinarch/203371np.pdf>

¹² Steven L. Taylor, Matthew S. Shugart, Arend Lijphart, and Bernard Grofman, *A Different Democracy* (Yale University Press, 2014).

¹³ Section 19(2) of the Constitution

¹⁴ *New National Party of South Africa v Government of the Republic of South Africa and Others* 1999 (3) SA 191 (CC) (1999 (5) BCLR 489; [1999] ZACC 5) para 12.

importance of the exercise 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.”

- 18 It follows in my submission that there is no binary choice between timeously holding the forthcoming general elections and ensuring that they are free and fair. The Constitution requires both, hence the need for this Inquiry.
- 19 In Kham,¹⁵ the Constitutional Court considered the meaning of free and fair elections in the context of municipal by-elections. The unanimous court, *per* Wallis AJ, held that:

“[34] There is no internationally accepted definition of the term ‘free and fair elections’. Whether any election can be so characterised must always be assessed in context. Ultimately it involves a value judgment. The following elements can be distilled as being of fundamental importance to the conduct of free and fair elections. First, every person who is entitled to vote should, if possible, be registered to do so. Second, no one who is not entitled to vote should be permitted to do so. Third, insofar as elections have a territorial component, as is the case with municipal elections where candidates are in the first instance elected to represent particular wards, the registration of voters must be undertaken in such a way as to ensure that only voters in that particular area (ward) are registered and permitted to vote. Fourth, the Constitution protects not only the act of voting and the outcome of elections, but also the right to participate in elections as a candidate and to seek public office.”

(references omitted)

- 20 The requirement that elections must be free and fair is a single requirement, not a conjunction of two separate and disparate elements.¹⁶ The expression “free and fair elections”:

“ . . . highlights both the freedom to participate in the electoral process and the ability of the political parties and candidates, both aligned and non-aligned, to compete with one another on relatively equal terms, so far as that can be achieved by the IEC. As to the former, from the perspective of a political party or an individual candidate seeking election in a municipal ward, it demands the freedom to canvass; to advertise; and to engage in the activities normal for a person seeking election. Phenomena like ‘no go’ areas; the denial of facilities for the conduct of meetings; disruption of meetings; the destruction of advertising material or the intimidation of candidates, workers or supporters, could all prevent an election from being categorised as free and fair.”

- 21 As regards the Commission’s responsibility in this regard, the court in Kham held:

¹⁵ Kham and Others v Electoral Commission and Another 2016 (2) SA 338 (CC)

¹⁶ Kham, *supra*, para [86]

"[The Commission's] concern in modern parlance is to try to ensure a 'level playing field', in which all the participants can compete without any undue hindrance or obstacle occasioned by the manner in which the preparations for the election have been undertaken or the way in which the election has been conducted."¹⁷

- 22 From this it can be distilled that the enquiry into whether elections are or will be free and fair involves a multiplicity of factors, some of which are:
- 22.1 Every citizen who is entitled to vote should, if possible, be registered to do so,¹⁸ and no person who is not entitled to vote should be permitted to do so.
 - 22.2 Insofar as elections have a territorial component, as is the case with municipal elections, the registration of voters must be undertaken in such a way as to ensure that only voters in that area are registered and permitted to vote.
 - 22.3 Every eligible citizen should have the right to participate in elections as a candidate and to seek public office.
 - 22.4 Political parties and candidates should be able to compete with one another on relatively equal terms.
 - 22.5 Political parties and candidates should be free to canvass, to advertise, and to engage in the activities normal for a person seeking election.
 - 22.6 Voters should have access to reliable information about the elections and the parties and candidates contesting the same and must be able to vote free from intimidation and similar hindrances.
 - 22.7 The Commission should apply the relevant electoral laws to all participants without fear or favour and should ensure that all the participants can compete without any undue hindrance or obstacle occasioned by the manner in which the preparations for the election have been undertaken or the way in which the election has been conducted.
- 23 In what follows I address those issues identified in New National Party and Kham as being of fundamental importance to the conduct of free and fair elections, together with additional factors that are considered to be relevant to this enquiry. But first I lay the ground by examining historical voter participation figures over the past 20 years, which will provide some context.

¹⁷ At para [87]

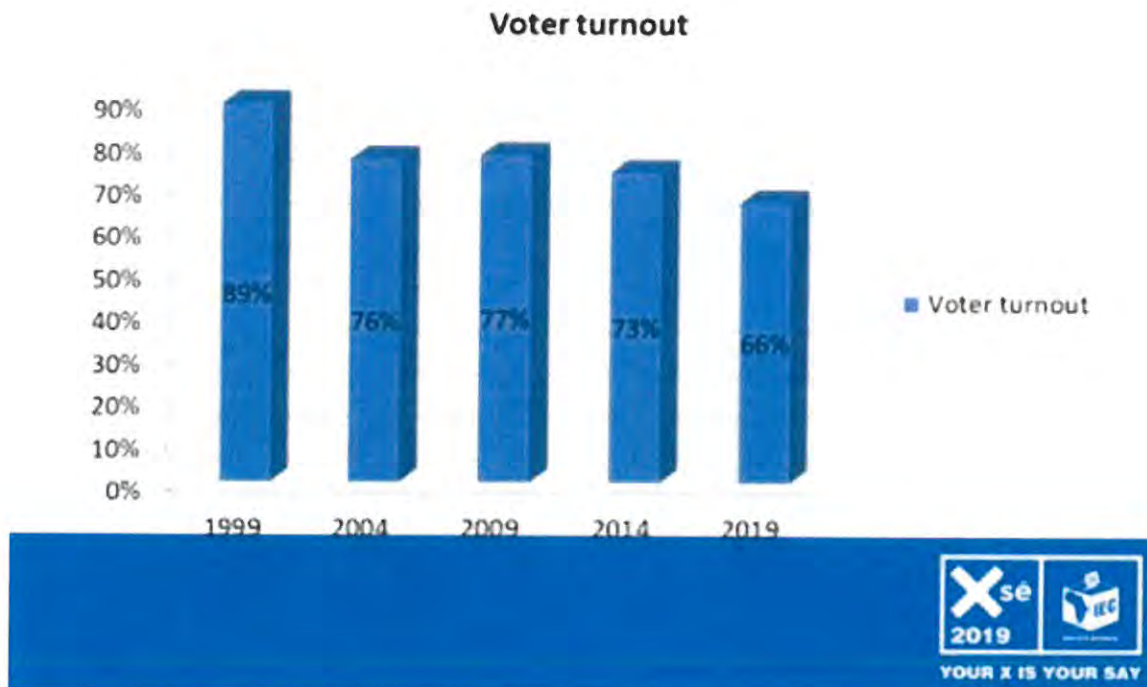
¹⁸ See also *August and Another v Electoral Commission and Others* (CCT8/99) [1999] ZACC 3; 1999 (3) SA 1; 1999 (4) BCLR 363 (1 April 1999), para [16]

D. HISTORICAL PARTICIPATION FIGURES

- 24 Voter participation in general elections has varied widely in the 20 years between the 1999 and the 2019 general elections for the National Assembly and provincial legislatures, as well as the general local government elections in between.
- 25 The graph below charts the voter participation statistics in the 1999, 2004, 2009, 2014 and 2019 general elections for the National Assembly and provincial legislatures. It shows that voter participation was at its highest during the 1999 general elections at 89% and, except for a slight surge in 2009, has declined steadily to 66% of the registered population in 2019, constituting a decline of 23% in the 20-year period. However, the average voter participation figures over that period are at 76.2% of the total number of registered voters, which can be considered to be relatively a high voter turnout.

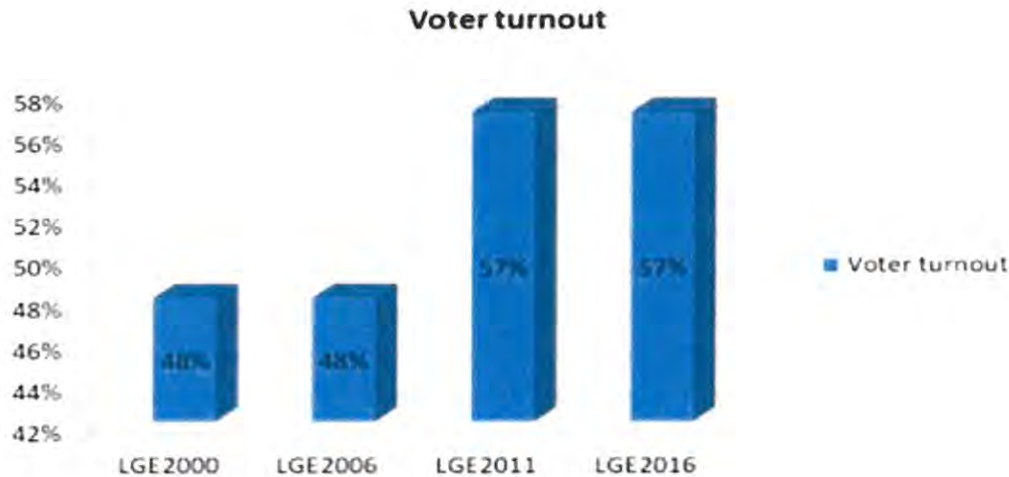
National and Provincial Elections

VOTING



- 26 However, the voter participation figures for general local government elections look markedly different. The graph below charts the voter participation statistics in the 16 years between the 2000 and 2016 general local government elections. It illustrates that the voter participation in the 2000 and 2006 general elections was at a low 48%, despite there being an increase in the number of registered voters. The voter participation figures for 2011 increased by 9% to 57% and stayed the same for the 2016 general elections.

RS

Local Government Elections**VOTING & RESULTS**

- 27 I attach hereto for further consideration the voter participation reports for the years 2000, 2004, 2006, 2009, 2011, 2014, 2016 and 2019, marked "PSM1" to "PSM8", respectively, which will provide a breakdown of voter participation for each province.

E. ELECTION READINESS**Introduction**

- 28 Preparations for general local government elections generally start quite some time before the end of the term for municipal councils, especially as these preparations are co-dependent on other institutions such as the Municipal Demarcation Board ("MDB"). This is required to ensure that the Commission is ready to conduct the elections should the Minister call the elections for the earliest possible date, in this case 4 August 2021.
- 29 The forthcoming general elections will elect proportional representation members of 213 municipal councils, i.e., 8 metropolitan councils, 205 local councils and 44 district councils, as well as 4, 468 ward councillors.
- 30 Because of the localised nature of general local government elections, the Commission will in effect be conducting 4, 725 separate elections made up of 8 proportional representation elections for the 8 metropolitan municipalities, 205 proportional representation elections for the local municipalities, 44 proportional representation elections for the district municipalities and 4, 468 wards.

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- 31 Accordingly, the process of preparing for general elections has “a lot of moving parts”, making it important to have a coherent plan for various activities. In this regard I annex hereto a copy of the Commission’s draft election timetable for the forthcoming elections, marked “**PSM9**”. Once the forthcoming elections have been formally called, the Commission will finalise and publish the election timetable in the *Government Gazette* as required by section 11(1) of the Local Government: Municipal Electoral Act, 2000¹⁹ (MEA).
- 32 I also annex hereto a high-level summary of the Commission’s readiness for the forthcoming elections, marked “**PSM10**”, being a PowerPoint presentation prepared by the Commission during May 2021 and titled “Preparations for the 2021 Local Government Elections”. In view thereof and in my capacity as the chief electoral officer, I am satisfied that the Commission has taken reasonable steps to ensure the delivery of free and fair elections and that the measures currently underway are on track for that purpose.

Legislative environment

- 33 The Constitution requires that the Commission administer elections in terms of national legislation. That legislation included the Electoral Commission Act, the Electoral Act, the Structures Act, the MEA and the various regulations promulgated in terms thereof.
- 34 In the discharge of its obligations to continually review electoral legislation and proposed electoral legislation and to make recommendations in connection therewith,²⁰ the Commission (via the Minister of Home Affairs) piloted the Electoral Laws Amendment Bill, 2020,²¹ through Parliament. The Bill has been passed as the Electoral Laws Amendment Act, 2021,²² and has been assented to by the President.
- 35 The purpose of the Electoral Laws Amendment Act, 2021 is to amend certain provisions of the electoral legislation referred to above in preparation for the forthcoming elections and the 2024 general elections for the National Assembly and provincial legislatures.
- 36 In consequence of these legislative amendments, the Commission has also caused draft amendments to the various affected regulations to be prepared and these will be promulgated by the Commission as soon as the Electoral Laws Amendment Act, 2021 comes into force.

¹⁹ Act 27 of 2000

²⁰ Section 5(1)(j) of the Electoral Commission Act

²¹ B22-2020

²² Act No. 4 of 2021



Ward and Voting District Delimitation

- 37 The Electoral Act, 1998,²³ requires the chief electoral officer to compile and maintain a national common voters' roll.²⁴ To facilitate this, the Commission delimits voting districts for the whole of the territory of the Republic.²⁵ The voting district delimitation process entails the creation of manageable geographic entities in order to facilitate registration and electoral processes. A voter is required to register to vote in a voting district within the ward in which she or he is ordinarily resident.²⁶ Each voting district is serviced by one voting station.²⁷ A registered voter will only find her or his name on the voting district segment of the voters' roll at which she or he applied to register to vote.
- 38 Voting district delimitation is undertaken to:
- 38.1 ensure that voters have reasonable access to voting stations and are not required to wait at their voting station for unreasonable periods of time to vote;
 - 38.2 ensure that voters do not vote more than once in an election;
 - 38.3 align voting district boundaries to both municipal and ward boundaries;
 - 38.4 assist the Commission with elections staff and material planning; and
 - 38.5 make it easier to consult with political parties on the configuration of the voting district boundaries and on the choice and location of voting stations.
- 39 Ahead of the 2021 general local government elections ("LGE 2021"), the MDB handed the final ward boundaries to be used for the elections to the Commission in two batches: the first batch in September 2020 and the second on 1 December 2020. As a result of the ward delimitation process, 1, 123 voting district boundaries were bisected by the 2021 ward boundaries and needed to be geographically aligned to the 2021 wards before the Commission would be in a position to undertake voter registration ahead of LGE 2021. In addition, the network of voting districts and voting stations was updated in accordance with changes to human settlements since the 2019 general elections for the National Assembly and provincial legislatures ("NPE 2019").
- 40 The delimitation work was concluded following consultations with political parties in the municipal party liaison committees on the choice and location of voting stations as well as the configuration

²³ Act No. 51 of 1996

²⁴ Section 5 of the Electoral Act

²⁵ Section 60(1) of the Electoral Act

²⁶ Section 8(3) of the Electoral Act

²⁷ Section 64(1) of the Electoral Act

of the voting district. The consultations culminated in parties signing off on delimitation maps which are used to update the voting district data.

- 41 The table below summarises the outcome of the delimitation process.

DELIMITATION PROGRESS								
Province	Munic Count	2016 Ward Count	2020 VD Count	2021 Ward Count	2021 VD Count	New VDs	Deleted VDs	Ward Split VDs
Eastern Cape	33	705	4792	710	4809	29	12	63
Free State	19	309	1529	319	1564	42	7	86
Gauteng	9	529	2771	529	2816	55	10	159
KwaZulu-Natal	44	870	4885	901	4940	57	2	161
Mpumalanga	17	400	1772	400	1788	18	2	247
Northern Cape	26	204	707	232	728	24	3	72
Limpopo	22	566	3157	568	3186	36	7	45
North West	18	407	1733	403	1743	17	7	117
Western Cape	25	402	1579	406	1577	18	20	171
TOTAL	213	4392	22 925	4 468	23 151	296	70	1121

- 42 The salient points to be garnered from this table are that there are 76 more wards than the wards contested during the 2016 general local government elections and that the number of voting districts has increased from 22, 925 during the NPE 2019 to 23,151.

Voter registration

- 43 There are currently 25, 789, 566 registered voters whose names appear on the national common voters' roll, of which 55.21% are female and the remaining 44.79 are male. This does not compare favourably with the number of citizens eligible to vote. According to the national population register, 40 263 709 citizens are eligible to vote, meaning that 25 789 566 of eligible voters are registered to vote.
- 44 According to section 6(1A) of the MEA, only a voter who applied for registration prior to the proclamation of an election date may vote in the election concerned. Accordingly, the elections will only be formally called after the registration weekend in order to afford eligible citizens maximum opportunity to register to vote or change their registration details. Given the steps that have to be taken prior to voting day, the elections must be proclaimed by not later than 2 August 2021.
- 45 By not later than a date stated in the timetable for an election, the chief electoral officer must certify the segments of the voters roll for the voting districts to be used in the election and make such segments available for inspection at the Commission's head office, the office of the Commission's provincial representative in the province in which the election will take place and

the office of the Commission's local representative in the municipality in which the election will take place.²⁸

- 46 Customarily, the Commission arranges two voter registration weekends before the date on which a general election is called. During these voter registration weekends the Commission opens all its voting stations across the country (which number 23, 151 for the forthcoming elections) to enable eligible citizens to apply to register to vote and for registered voters to check and/or update their registration details, including details of their respective places of ordinary residence where these have either changed or are not on record.
- 47 Due to budgetary constraints which are dealt with in more details below, the Commission is planning to hold only one (instead of the usual two) registration weekend prior to the elections, which is currently scheduled for 17 and 18 July 2021.
- 48 Once the elections have been called, the chief electoral officer must make a provisionally compiled voters' roll available for inspection between Wednesday, 4 August 2021 and Wednesday, 11 August 2021. Interested persons, including political parties, may lodge any objections in terms of section 15 of the Electoral Act in respect of the provisionally compiled voters' roll and the Commission will consider and decide these objections by Wednesday, 18 August 2021.
- 49 All reasonable measures to allow eligible voters to register as voters and to vote have been taken by the Commission. In addition, since the decision in *Mhlope*,²⁹ the Commission has made significant strides in cleaning up the voters' roll so as to ensure that voters are registered in the correct wards where they are ordinarily resident and nowhere else.

Voting Station Procurement

- 50 Voting stations provide an essential platform for the delivery of elections. They are a prism through which the voting public formulates perceptions about the performance of the Commission. 23, 151 voting stations will be in use over the registration weekend and on election day.
- 51 Fixed and permanent structures, especially schools, are preferred venues to serve as voting stations. In cases where permanent structures are not available to the Commission, temporary facilities such as tents or gazebos are arranged and erected to serve as voting stations.
- 52 Each of the 23, 151 voting stations will be inspected in advance of an electoral event to confirm the presence of key infrastructure and facilities, including electricity, telecommunications, water,

²⁸ Section 6(2) of the MEA

²⁹ Electoral Commission v Mhlope and Others 2016 (5) SA 1 (CC) (2016 (8) BCLR 987; [2016] ZACC 15)

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sanitation, furniture and disability-friendly access. Following the assessment, lease agreements are generated and contracts concluded with individual landlords. The project to assess and conclude lease agreements was activated on 1 May and will conclude on 30 June 2021. The table below illustrates the progress that has been recorded.

2021 Reg weekend and LGE Voting Stations Breakdown										
	Voting Station Types			TOTAL Stations	Contracts Generated			Lease Captured		
Province	MOBILE (M)	PERMANENT (P)	TEMPORARY (T)	Grand Total	No	YES	Percentage Leases Generated	No	Yes	Percentage Leases Not Captured
Eastern Cape	8	4696	105	4809	17	4792	99,65%	3592	1217	74,69%
Free State		1407	157	1564	20	1544	98,72%	418	1146	26,73%
Gauteng		2551	265	2816	275	2541	90,23%	2538	278	90,13%
KwaZulu-Natal	7	4804	129	4940	837	4103	83,06%	3972	968	80,40%
Limpopo		3047	139	3186	30	3157	99,09%	1643	1544	51,57%
Mpumalanga	13	1709	66	1788	22	1766	98,77%	669	1119	37,42%
North West	1	1621	121	1743	2	1741	99,89%	16	1727	0,92%
Northern Cape	1	724	3	728	24	704	96,70%	209	519	28,71%
Western Cape		1547	30	1577	29	1548	98,16%	797	780	50,54%
Grand Total	30	22106	1015	23151	1256	21896	94,58%	13854	9298	59,84%

- 53 The voting station procurement project is on track to be concluded by the project deadline. As at the date of this submission, the Commission has concluded over 9 000 lease agreements in respect of voting stations.

Logistics

- 54 The Commission operates a computerised system known as the Logistics Information System ("LIS"). The LIS is the base that underpins the planning, monitoring, management and control of electoral materials in the Commission. A comprehensive Bill of Materials ("BoM") is created for each electoral event. By registering the BoM on the LIS, detailed Material Requirement Plan ("MRP") lists are produced to enable the accurate procurement, distribution and allocation of electoral materials per province, municipality and voting district.
- 55 The BoM has been finalised as part of preparations for the forthcoming elections. The table below illustrates the different electoral materials and indicates that most of the materials are in hand or will be delivered to the Commission imminently.

ES No	Item Description	Procurement status	Comment
ES230	Voting Station Arrow Signs	Delivery completed	
ES162	Document Storage Boxes	Delivery completed	
ES193	Box Files A4 SIZE	Delivery completed	
ES120	ID Stickers – Combo Pack	Delivery in progress	To be completed on 04 June 21
ES121	Stationery Packs	Delivery completed	
ES856	REC 1 Forms	Auction in progress	Delivery scheduled for 15 June 21
ES293	Label Rolls	In stock	
Other Materials			
ES212	Banners PVC	Delivery completed	
ES999	Voter Management Device	Delivery in progress	

ES900	Eziskan (Zip-zip) unit	In stock	
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- 56 The Commission's Logistics Department has already approved the BoM for the voter registration weekend and voting day (including the two special voting days). Copies of both BoMs are attached hereto, marked "**PSM11-A**" and "**PSM11-B**", respectively.
- 57 The Commission currently operates in a minimum of 213 municipal electoral offices, nine provincial offices and warehouses and the national office and warehouse in Pretoria.

Outreach

- 58 It is important to galvanise the nation and build awareness of the forthcoming elections to reach each and every eligible citizen and encourage them to register to vote and to vote on voting day. The mass media plays an integral role in this regard.
- 59 The Commission has historically commissioned a series of voter participation surveys from the Human Sciences Research Council ("HSRC"), the latest of which is dated 20 March 2019, i.e., just before the 2019 NPE. One of the areas explored in this survey was how members of the public receive information about the Commission and elections. The results of the survey indicate that 73% of respondents received this information via television, 57% via radio, 43% via newspapers and posters, and 23% through their contacts. The Commission has taken the results of the survey into account in deciding how to split its media placement budget in order to reach as many people as possible.
- 60 In this regard, the Commission has set aside a media placement budget of R34, 500, 000. 33% of this budget has been allocated to television placements, 22% to radio placements, 17% for outdoor advertising (including 184, 112 street-pole posters), 6% to print advertising and 19% to digital advertising, including social media.
- 61 Newer communication technologies have increased the possibilities for how people can send and receive information. Like many other persons and entities, the Commission has not been oblivious of the shift from traditional media to digital and social media as a source of news and information, especially among the youth who, as I indicate elsewhere, are disproportionately underrepresented on the national common voters' roll. In addition, as the COVID-19 protocols applied across the world have increasingly restricted people to their homes, digital and social media has gained increasing prominence. As society evolves, the Commission must keep step with developments and has had to adapt its Outreach strategy to take account of these developments, hence it has directed more of its media spend towards digital and social media platforms.
- 62 Stakeholders other than political parties consist of persons or groups who are directly or indirectly affected by the electoral and democracy project, as well as those who may have interests or stakes in a project and/or the ability to influence its outcome, either positively or negatively.

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Stakeholders may include locally affected communities or individuals and their ~~formal and~~ informal representatives, national or local government authorities, politicians, labour unions, religious leaders, civil society organizations and groups with special interests like academics, business associations, organised labour, persons with disabilities, etc.

- 63 Key stakeholders can play a pivotal role to assist the Commission in strengthening electoral democracy and civic education programmes, and to entrench a culture of democracy and human rights. Sustainability and collective responsibility for entrenching constitutional democracy is promoted through fostering ongoing collaboration with stakeholders, diverse target audiences and partners. Sustainability causes programmes to continue for an extended period or without interruption; meeting the electoral and educational needs of the South African public in all its diversity, without putting at risk an election management body's capacity to continue meeting these needs.
- 64 Certain stakeholders and partners merit a special focus which include women, children, youth and Persons with Disabilities ("PWDs"), to mention a few. This will assist to institutionalise and track increasing access to the vote by those that are eligible from these groups.
- 65 Stakeholder engagements can happen at all functional spheres and levels of the organisation being the national, provincial and municipal levels. The three spheres of the Commission will engage with stakeholders within their jurisdiction for the outlined objectives and purpose. The national programme will outline the timing for the focus on a stakeholder for uniformity and high impact. Each sphere of the Commission meets with representatives at that level and the civic education activities may follow this priority for the broader membership of the stakeholder.
- 66 The table below illustrates the Commission's stakeholder consultation plan for the forthcoming elections and progress with these initiatives.

Stakeholder	Proposed Period/s	Status
Youth Engagement and Briefing sessions	April, May and June 2021	Conducted provincially and locally
Women formations briefing engagement	July 2021	Date to be confirmed
Disability Sector Briefing: Deaf	May 2021	The national briefing was conducted on 1 June 2021. The Commission's provincial offices are also engaging locally
Traditional Leaders Briefing	July 2021	Date to be confirmed but continuous at local level
Briefing with Agricultural Unions (farmers and workers)	Continuous	Agriculture Business Chamber met on 8 February 2021
CSOs, FBOs, NGOs, etc.	July 2021	Date to be confirmed
Organised labour and unions	May 2021	The national briefing was conducted on 1 June 2021. The Commission's provincial offices are also engaging locally

Business sector	Continuous	The Commission briefed NAFCOC on 23 January 2021, the Black Business Council on 18 February 2021 and the SACCI on 10 February 2021
Government departments	Continuous	Continuous engagement with COGTA, DoH, DBE, etc., at both national and provincial levels

Voter Education

- 67 The Electoral Commission Act requires the Commission to promote voter education.³⁰ The Commission takes a multi-modal approach to this function in an attempt to reach all eligible citizens across the country.
- 68 One of the voter education modalities employed by the Commission for the forthcoming elections is the production of short videos to be posted on social media platforms. The production of these videos is in process and is divided into three phases.
- 68.1 In the first phase, expected to be completed by 15 June 2021, the Commission will disseminate information on "How to register to vote"; this will be used to mobilise and encourage the youth to register to vote during the voter registration weekend planned for 17 and 18 July 2021.
- 68.2 The mainstay of the second phase will be the video on "Voting in Covid times" which is aimed at assuring voters of their safety during both registration and voting day or times. This video will briefly explain measures (set out below) taken by the Commission to ensure the safety of voters during registration and voting. The same phase will cover three other topics, i.e., "Implementation of VMDs", "Electoral Fraud and Offences" and "Electoral Code of Conduct". These videos will be ready by the end of June 2021 so that they are released before the voter registration weekend.
- 68.3 The third and final phase will concentrate on "Free and fair elections", "Special Votes" and "Voting in local government elections". These are planned to be ready by the end of July 2021.
- 69 The table below illustrates the delivery map for this video content.

Topics	Expected Delivery Date		
	End June 2021	End of July 2021	End of Aug 2021
Register to vote: Why it matters	✓		
Covid-19 Protocols		✓	
Implementation of VMD		✓	
Electoral Fraud and Offence		✓	
Electoral Code of Conduct		✓	
Free and Fair Elections			✓
Special Votes			✓

³⁰ Section 5(1)(k) of the Electoral Commission Act

Voting in LGE (to be updated as VMD progresses)			✓
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- 70 All of the above material is planned to be translated into other official languages so that they are accessible to the wider community.
- 71 In addition, the Commission's civic and democracy education ("CDE") project for the forthcoming elections has already commenced in some provinces with community radio programmes. The community radio programmes vary between 30 minutes to an hour at least, having a member of the Commission's staff as the guest presenter of the CDE content. The topics to be covered during these broadcasts include how to register to vote, free and fair elections, being a candidate in municipal elections, code of conduct for voters and contestants, special votes, voting and the establishment of municipal councils.
- 72 Thus far the Commission has arranged for 195 radio slots across all the provinces commencing on 1 May 2021. The table below illustrates the status as at 1 June 2021.

Province	Status 1 June 2021	Number of Radio Stations
Eastern Cape	Complete starts 1 June	29
Free State	Incomplete expected to start 15 June	15
Gauteng	Complete; started 1 May	28
KwaZulu-Natal	Complete started 1 April 2021	32
Limpopo	Incomplete expected to start 7 June	34
Mpumalanga	Complete; started 1 May	15
Northern Cape	Incomplete expected to start 15 June	7
North-West	Incomplete expected to start 15 June	13
Western Cape	Incomplete expected to start 15 June	22
Total		195

- 73 The community radio station programmes are expected to be live till end of October 2021 so that they cover all the important electoral phases.
- 74 These programmes are normally regional in an attempt to cover all the language groups and the fact that the Commission's research referred to above indicates that radio often have a larger listenership in the communities they serve, though some will have simulcast broadcasting for a variety of radio stations.

Launch of the elections

- 75 It has become customary for the Commission to host an election launch event ahead of general elections. The election launch event is part of the Commission's communication strategy. Its purpose is to unveil the logo for the elections and the communication message associated with it to the nation, as well as notify the public of the various communication campaigns they can anticipate in the build up to the 2021 general local government elections.

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- 76 As part of the Commission's plans, the election launch event for the forthcoming elections will take place on 9 June 2021 at the Sandton Convention Centre.
- 77 Given the current restrictions on gatherings due to the Adjusted Alert Level 2 Regulations, this will be a hybrid event, with a limited number of persons physically present at the venue and the remainder of the attendees joining the event via virtual platforms. As is customary, the election launch is expected to be broadcast live on certain television channels and radio stations.

Staffing arrangements

- 78 Electoral staff is indispensable to the registration of voters and the administration of the actual voting, counting and collation of election results. They are the Commission's personal interface with registrants, voters, candidates, observers and agents.
- 79 When an election has been called, the Commission must appoint, for the area of the municipality in which the election will be held, an employee or other person as its representative for the purpose of the election.³¹ The local representative is also known as the Municipal Electoral Officer ("MEO"). In this regard the Commission has already activated its MEO expansion model. The details are set out in the table below:

Province	Current MEO Positions	Appointed MEO's	MEO Vacancies
Eastern Cape	33	29	4
Free State	19	12	7
Gauteng	9	8	1
KwaZulu-Natal	44	40	4
Limpopo	22	22	0
Mpumalanga	17	17	0
Northern Cape	26	22	4
North West	18	13	5
Western Cape	25	23	2
TOTAL	213	186	27

- 80 On voting day, each voting station must be staffed by the presiding officer and deputy presiding officer appointed for that voting station, as well as the voting officers appointed for that voting

³¹ Section 12(1) of the MEA

station.³² The voting station layout attached to this submission indicates the usual roles and functions of different voting officers.

- 81 The Commission is in the process of recruiting 52, 090 voting officers for the forthcoming registration weekend. The provincial breakdown is set out in the table below.

Province	Number of electoral officers
Eastern Cape	10, 820
Free State	3, 519
Gauteng	6, 336
KwaZulu-Natal	11,115
Limpopo	7, 169
Mpumalanga	4, 023
Northern Cape	1, 638
North West	3, 922
Western Cape	3, 548

- 82 The Commission is on track to complete this undertaking by mid-June 2021, well in time for the registration weekend referred to elsewhere in this submission.
- 83 The Commission has conducted provincial train-the-trainer sessions between 21 May 2021 and 3 June 2021. The purpose of the sessions is to provide training for the Commission's staff who are responsible for training registration staff. The table below illustrates the provincial breakdown.

PROVINCIAL BOOTCAMPS					
Provinces	Date	Venue	NUMBER OF DELEGATES	IT SUPPORT	Training Support
EC	21-23 May	Mpekweni Resort, Port Alfred	100	Dakalo	Ndoweni
FS	31 May - 3 June	Khaya Ibhubezi, Parys	46	Linda	N/A
GP	26-28 May	Kievitskroon	120	Setfree	Ndoweni
KZN	26-28 May	Elangeni Hotel Durban	124	Shaun	N/A
LIM	24-26 May	Warmbaths Forever Resort Bela-Bela	93	Bokang	N/A
MP	24-26 May	Country Boutique Hotel, White River	60	Dolphin	Aaron
NC	1-3 June	Protea Hotel Upington	55	Simphiwe	N/A
NW	24-26 May	Anew Hunters Rest - Rustenburg	52	Shimane	N/A

³² Section 44 of the MEA

WC	26-28 May	Protea Hotel Breakwater Lodge	110	Nkonzo	N/A
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- 84 The training of registration staff is expected to commence on 4 June 2021 and conclude on 15 July 2021. The table below illustrates the provincial breakdown.

REGISTRATION TRAINING ROLL OUT		
Province	Start Date	End Date
Eastern Cape	04-Jun-21	14-Jul-21
Free State	15-Jun-21	03-Jul-21
Gauteng	07-Jun-21	09-Jul-21
KZN	07-Jun-21	07-Jul-21
LIM	12-Jun-21	15-Jul-21
MP	10-Jun-21	10-Jul-21
NC	14-Jun-21	11-Jul-21
NW	07-Jun-21	11-Jul-21
WC	07-Jun-21	11-Jul-21

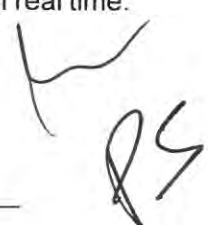
- 85 The training programme for registration staff is on track to be completed well before the voter registration weekend of 17 and 18 July 2021.

Technology

- 86 One of the Commission's functions is to develop and promote the development of electoral expertise and technology in all spheres of government.³³
- 87 Due to the increasing movement of information to digital platforms, the Commission commissioned a complete redesign of its official website (www.elections.org.za) to conduce to easier navigation. The new and improved website went live on 1 May 2021 and contains information for voters, registrants, political parties and candidates, as well as information about elections.
- 88 The Commission is currently implementing technological innovation in respect of the new voter management devices which will be used for the first time in the upcoming elections.
- 89 Portable devices have been used at voting stations by the Commission to support the process of voter registration. Up to the present time this has taken the form of a Programmable Barcode Scanning Unit ("PBSU") which scans and saves, to internal memory, the details contained in the

³³ Section 5(1)(i) of the Electoral Commission Act

barcode of the South African national identity document. The specific PBSU presently in use is the *eZiskan* unit, which was purpose-built for the Commission in 2007.

- 90 When in use at a voting station, the current PBSU records the barcode of a unique voting district map (thereby linking it to the specific voting station) and also scans and records the identity documents of voters. A receipt in the form of an adhesive label is printed by the PBSU at the time of the identity document scanning, to provide evidence of the transaction. The PBSU is subsequently transported to an office of the Commission, there it is connected to a computer, and the stored data is uploaded from the PBSU internal memory to the Commission's voters' roll database.
- 91 The current PBSU units are also used for voters' roll management during voting, when all segments of the national voters' roll are loaded onto the unit's memory. When the unique voting station map and the identity barcode of a prospective voter are scanned, a report is printed to confirm the presence, or otherwise, of that person on the relevant voters' roll segment, and the data is stored.
- 92 These current PBSU units ("zip-zip"), have now reached the end of their useful technological lifespan. In addition, the elementary approaches used to date are in the context of *Mhlope* and the elevated role of an address in free and fair elections inadequate to respond to current challenges and future purpose of a voter registration device. Nonetheless, the zip-zip will be retained as a risk mitigation measure and for use in emergency situations to support the voter registration weekend.
- 93 It is for these reasons that the Commission has procured 40, 000 new voter management devices ("VMDs") to support electronic voter registration and voters' roll management at voting stations on voting day. These new VMDs are in the form of a customised, portable rugged tablet format, with a built-in operating system. All 40, 000 VMDs are expected to be deployed during the voter registration weekend and on voting day. As on the date of the submission the Commission has taken delivery of approximately 7000 VMD units. The production is on schedule.
- 94 In addition to their capability to scan identity document barcodes, the VMDs are able to pinpoint, identify and record address locations of voters applying to register. They have sufficient on-board memory and storage for the necessary data logging and processing to permit the storage of the complete national voters roll details, substantial mapping data, data capturing during voter registration and voting activities and the transmission of that data in real-time mode to a central point.
- 95 Most importantly, the new VMDs have both WI-FI and mobile cellular modules, which will enable them to transmit voter registration and participation data to the Commission's servers in real time.
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Party Liaison

- 96 One of the Commission's statutory functions is to establish and maintain liaison and co-operation with parties.³⁴ To this end the Commission has made the Regulations on Party Liaison Committees, 1998,³⁵ which establish a single party liaison committee in the national sphere with not more than two representatives from every registered party represented in the National Assembly, a provincial party liaison committee for each province and municipal party liaison committees for a single municipality or a group of municipalities.
- 97 Party liaison committees serve as vehicles for consultation and co-operation between the Commission and the represented parties on all electoral matters, aimed at the delivery of free and fair elections.³⁶
- 98 For this reason, the question whether the conditions are conducive to holding free and fair elections has been exercising the collective minds of the Commission and the parties represented on the NPLC. The Commission has also held ongoing consultations with political parties represented in the NPLC for no less than 12 months.
- 99 This is clear from minutes of meetings of the NPLC held on 17 September 2020, 3 December 2020, 4 January 2021, 18 February 2021, 18 March 2021, 15 April 2021 and 27 May 2021, copies of which are annexed hereto, marked "PSM12" to "PSM18", respectively.
- 100 As part of its ongoing consultations with political parties, the Commission held a pre-arranged meeting with the leaders of political parties represented in the NPLC on 22 April 2021. It was at this meeting that some leaders of the represented political parties fortified their concerns that the elections may not be free and fair for the reasons already related above.

Political Party Registration

- 101 In my capacity as chief electoral office, I am empowered by section 15 of the Electoral Commission Act to consider applications for the registration of political parties and to duly register such political parties. The registration of political parties is a continuous process. Currently there are 605 political parties that have been registered. Of these, 287 political parties are registered on a national level and 318 political parties are registered on a municipal level that are distributed within the nine provinces as follows:

³⁴ Section 5(1)(g) of the Electoral Commission Act

³⁵ Published under GN R824 in GG 18978 of 19 June 1998

³⁶ Item 6 of the Regulations on Party Liaison Committees

24
Statistical Summary Report
 As at 4 June 2021

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Province	Parties Registered
<u>Nationally Registered</u>	287
<u>Eastern Cape</u>	27
<u>Free State</u>	14
<u>Gauteng</u>	25
<u>KwaZulu-Natal</u>	27
<u>Mpumalanga</u>	25
<u>Northern Cape</u>	28
<u>Limpopo</u>	49
<u>North West</u>	29
<u>Western Cape</u>	94
Total Registered	605

- 102 The onus remains on political parties who wish to contest LGE 2021 to ensure that their application is lodged with the chief electoral officer timeously and that the political party is duly registered before the process for candidate nomination for LGE 2021 commences.

F. ANTI – COVID-19 MEASURES ADOPTED BY THE COMMISSION

Introduction

- 103 It is now well-established that people can contract COVID-19 from others who have the virus, even if the infected person is asymptomatic. According to the World Health Organisation (“WHO”), the virus can spread from person to person through respiratory droplet transmission, which occurs when a person is in close contact (within 1 metre) with an infected person who has respiratory symptoms (e.g. coughing or sneezing) or who is talking or singing; in these circumstances, respiratory droplets that include virus can reach the mouth, nose or eyes of a susceptible person and can result in infection.³⁷

Measures introduced by the government

- 104 On 15 March 2021, the Minister declared a national state of disaster in terms of section 27(1) of the Disaster Management Act as part of government’s measures to combat the global outbreak of COVID-19. Since then, the government has promulgated various regulations and directives

³⁷ Source: <https://www.who.int/news-room/commentaries/detail/transmission-of-sars-cov-2-implications-for-infection-prevention-precautions>


introducing various measures to combat the continued spread of the virus. The salient features, which have been common throughout the various alert levels, are:


- 104.1 The mandatory wearing of masks in public spaces.
- 104.2 Limitations on the number of persons who can be present at various gatherings.
- 104.3 Encouragement to take preventative steps to limit the transmission of the virus through:
 - 104.3.1 Frequent washing of hands with soap and water for at least 20 seconds or the use an alcohol-based hand sanitiser.
 - 104.3.2 Avoid touching one's eyes, nose, and mouth with unwashed hands.
 - 104.3.3 Avoid close contact with people who are sick.
 - 104.3.4 Stay at home when you are sick and try and keep a distance from others at home.
 - 104.3.5 Cover your cough or sneeze with a flexed elbow or a tissue, then throw the tissue in the bin.
 - 104.3.6 Clean and disinfect frequently touched objects and surfaces.³⁸
- 105 The above measures have been in place for over 15 months now and the population has become accustomed to implementing them, although there may be complacency at times from a small group of the population. In the majority, people have adhered to these measures as they are governed by law but also from having experienced the devastating impact of losing someone to the virus or knowing someone who has lost someone as a result to the virus.
- 106 In the initial stages of the outbreak and the lockdown, the Commission was constrained to approach the Electoral Court to authorise the postponement of scheduled by-elections beyond the period of 90 days from when each vacancy arose as contemplated in section 25(4) of the Structures Act.
- 107 Once the government adopted the risk adjusted strategy intended to ease the hard lockdown restrictions and the country was placed on Alert Level 1 from 21 September 2020,³⁹ the Commission took steps to urgently conduct all the by-elections that had been delayed in excess of the 90-day statutory period. This resulted in the largest number of by-elections that the Commission had ever conducted at once on 11 November 2020 (colloquially named "Super Wednesday") in which 95 wards were contested across 55 municipalities in all of South Africa's

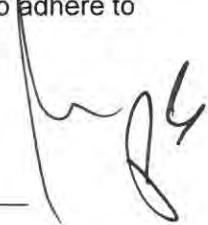
³⁸ <https://sacoronavirus.co.za/information-about-the-virus-2/>

³⁹ See GN 998 in GG 43719 of 18 September 2020

provinces, using 455 voting stations. This followed by another set of by-elections on 9 December 2020.

- 108 In preparing for the Super Wednesday by-elections the Commission, in consultation with the NPLC, compiled COVID-19 voting protocols to ensure that not only free and fair elections are held, but that they are also held in a safe and healthy manner in order to ensure that voters and officials take the necessary precautions during the voting process to limit their risk of exposure to the virus. A copy of the document containing these protocols, titled "*Voting in the time of COVID-19: Voting Procedures to Minimise Contagion at the Voting Stations*" is annexed, marked "PSM19". The salient provisions of these voting protocols are that:
- 108.1 Registered voters would be allowed to cast their votes.
- 108.2 The queue walker voting officer would ensure that voters stand in the queue at a distance of at least one and a half meters apart. Adhesive tape or any other voting station specific measure should be used to aid and enforce the distance to be observed by voters in the queue.
- 108.3 Before entering the voting station door, the door controller should spray alcohol based liquid hand sanitiser on both hands of each voter and explain to the voter the value and importance of the step. No voter may enter a voting station if the voter is not wearing a face mask or similar face cover.
- 108.4 The barcode of the identity document or card of the voter is scanned by the voters' roll officer to determine if the person is registered to vote at that voting station and their sequence number on the voters' on the roll. The voting official should wear disposable latex gloves when handling an ID document. The voter should adjust the face mask to enable the official to determine whether the voter is the person described in that identity document, while maintaining the requisite physical distancing.
- 108.5 The name of the registered voter is marked off the voters' roll, the ballot paper is stamped on the back and handed to the voter.
- 108.6 The voter's fingernail is marked by the inker voting official (who is wearing disposable rubber gloves) with indelible ink. The voter is asked to wait for at least five seconds at the inker table after applying ink to the nail. This is important to ensure that the bonding properties of the ink are not vitiated by the necessary use of hand sanitiser.
- 108.7 The voter marks the ballots in secret at the voting booth, folds the ballots and deposits the marked ballots in the ballot boxes before exiting the voting station. The ballot box controller wipes each pen (voters may be encouraged to bring own pens) with disposable wipes after each voter has voted.
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- 108.8 Before exiting the voting station, the ballot box controller again sprays hand sanitiser ~~on the~~ hands of the voter. This is intended to assuage the concerns and risks emanating from touching surfaces in the voting station.
- 108.9 Accredited political party agents, observers and the media are able to observe the voting process. This is an important part of ensuring the transparency of the voting process. Protocols on social distancing and sanitising of hands to apply to all party agents and observers that enter voting station. These categories of persons must provide their own personal protective equipment.
- 108.10 All voting officials should be seated or standing at least one and a half meters apart and must ensure that all voters inside of the voting station always maintain a distance of one and a half meters apart.
- 109 The efficacy of these measures was successfully tested during the Super Wednesday by-elections of 11 November 2020 and those held on 9 December 2020, before the second wave of the pandemic in December 2020 forced an adjustment of the alert level to Alert Level 3, leading to the postponement of by-elections scheduled for January, February and March 2021.
- 110 These voting protocols have since been adjusted as new lessons are learnt, and the current protocols are:
- 110.1 In the morning before voting starts, the presiding officer must defog the voting station venue;
- 110.2 An hour prior to the commencement of voting the presiding officer must sanitise the voting station, including all tables, chairs and pens;
- 110.3 Voting officers will be provided with PPE for use at the voting station and during special vote home visits;
- 110.4 Voters are encouraged to bring their own pens for marking the ballot papers in order to avoid the sharing of pens. However, pens provided by the Commission will be sanitised after each single use;
- 110.5 The queue walker must ensure social distancing is kept at 1.5 meters apart. Adhesive tapes or any voting specific measures to be used to enforce social distancing. She must also ensure that all voters in the queue are wearing face masks and make regular checks along the queue and offer assistance where necessary;
- 110.6 The door controller must ensure that every voter entering the voting station is wearing a face mask, must sanitise each voter's hands prior to entering the station and upon exit, controls the access of voters into the voting station to limit the number of persons in the voting station at any given time, and checks the voter's identity document and directs the voter to the next step;
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- 110.7 The inkler checks the ID of the voter for any stamp of that elections, whereafter the finger of the voter is marked without touching the voter using a disposable bud, which is immediately thereafter discarded in the disposable bag provided.
- 110.8 Protocols on social distancing and sanitising of hands applies to all party agents and observers that enter voting station.
- 110.9 Officials must ensure that all voters inside of the voting station maintain a distance of 1.5 metres apart at all times. Use of demarcation tape to mark the floor surface is peremptory where the voting stations enables same.
- 110.10 While counting procedures remain unchanged, officials and party agents need to observe social distancing at all times, make use of a new set of rubber gloves for the count, as well as sanitise hands at the end of voting/start of counting, and at end of counting process – together with wiping of all surfaces prior and after use.
- 110.11 Each party or candidate is allowed two agents per voting station and one party agent per home visit team. In the event where the voting station cannot accommodate two agents per party, the presiding officer, in consultation with the parties, must agree on one agent per party on a rotational basis.
- 111 These revised protocols appear from the PowerPoint presentation titled “By-Election Training” which has hitherto been used to train voting officials for by elections. The presentation is annexed, marked “PSM20”.
- 112 In addition to the above, we also attach hereto, marked “PSM21”, a schematic illustration of the voting station layout and the COVID-19 voting process which clearly illustrates the voting process from start to finish and indicates that:
- 112.1 the required social distance of 1.5 metres between voters at entry and exit of the voting station.
- 112.2 the position of the que walker and security relative to the voters in the queue.
- 112.3 the position and of agents, observers, presiding officers and other personnel within the voting station, all maintaining the required social distance of at least 1.5 metres.
- 112.4 The requirement that every person entering the voting station be sanitised and wears a mask.
- 113 Taking into consideration the measures to be applied during the LGE2021 as detailed above, I submit that all the reasonable measures have been taken in ensuring not only that a free and fair LGE2021 will be held but that they will be held in a manner that safeguards the health of all voters and personnel who will be in attendance, as long as they too are willing participates to adhere to the measures in place.
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- 114 In conclusion, the measures to be used are not out of the ordinary and if anything simpler than those that are currently regulated and/or were regulated under a different Alert-level under the Disaster Management Act over the past year, save for the measure where only 1 (one) party agent for each political party may be present where the voting station's size does not allow for 2 agents thereby compromising the social distance requirement of 1.5 meters.


G. FUNDING

- 115 The Commission has not been immune to the austerity measures adopted by the government in the past few years. The Commission's 2020/21 and 2021/22 baseline budgets were cut by R118, 4 million and R174, 7 million, respectively, during the 2021 Adjustment Budget and medium-term strategic framework ("MTEF") processes. This has required that the Commission "cut its coat according to its cloth" to conduct the forthcoming elections within its reduced budget. The principal casualty of these budget cuts has been the cancellation of one of the two registration weekends which customarily take place prior to an election.
- 116 These budget cuts could not have come at a worse time. The COVID-19 pandemic has resulted in additional unbudgeted costs such as personal protective equipment ("PPE") for voting officials and other protective aids to ensure that interaction between voters, personnel and stationery and equipment are kept to a bare minimum and which all have a financial implication which will be added to an already limited pool of financial resources.
- 117 In this regard, the procurement cost of PPE for the voter registration weekend is R40, 111, 570.00, while the cost of PPE for voting day is estimated at R89, 238, 794.00, resulting in estimated PPE total expenditure of R129, 350, 364.00. This procurement is in line with the "*Guidelines on Personal Protective Equipment for Government Employees and the Public*" published by the Gauteng Department of Health on 6 April 2020 annexed hereto, marked "PSM22".
- 118 The R174, 7 million budget cut was more than what the Commission could absorb by simply cancelling the second registration weekend. In addition, the Commission has to put the appointment of Democracy Education Fieldworkers on hold, while the contract term of other expansion staff categories have been reduced to seven months to absorb the full budget cut. There were no funds remaining to fund PPE in 2021/22, with the result that PPE procurement remains unfunded at this stage.
- 119 As it does each year, the Commission submitted its MTEF annual database and narrative to the National Treasury on 31 August 2020, which *inter alia* detailed the negative impact the budget cuts would have on the Commission's ability to execute its responsibilities and mandate. The Commission's concerns in respect of the budget cuts were again addressed during a virtual meeting it held with National Treasury on 16 September 2020.



- 120 On 15 February 2021 the Commission alerted the National Treasury that it intends to apply for further funding through the 2022 Adjustment Estimates process. This matter will form the subject of a bilateral meeting scheduled with National Treasury for 30 June 2021.
- 121 Assuming that the Commission will receive approval from the National Treasury to retain and roll-over all its cash surpluses from 2020/21, PPE procurement is currently the only unfunded project for the forthcoming elections. However, should the approval not be granted to retain the full surplus, additional funding pressures may arise.
- 122 Customarily two days prior to voting day in general elections are set aside for special votes, one for home visits and another for special votes to be cast at the voting station. One of the suggestions put forth in the Commission's consultations with stakeholders was to extend special voting days to three to lighten congestion. Such an extension would have cost implications for the Commission's already strained budget. It would require an estimated additional R66, 000, 000.00 comprising R45, 000, 000.00 to cover electoral staff subsistence, R20, 000, 000.00 for voting station rental and infrastructure, and R1, 000, 000.00 for materials, which would bring the total cost of unfunded projects to R195, 350, 364.

H. CONCLUSION

- 123 The submission has sought to illustrate that an election arises out of a confluence of a number of factors:
- 124 The first is that an election is a huge logistical undertaking. In this regard the submission has demonstrated that electoral supplies, logistics and infrastructure have been arranged and are or will be in place to support the voter registration weekend on 17 and 18 July as well as the election day in October.
- 125 The second is that an election process is a legally defined and regulated undertaking. The submission makes it clear that the necessary legal framework for the proper conduct of elections has been put in place, authorised by Parliament and assented to by the President. The regulations supporting the legal framework have also been drafted and consultation with the NPLC have commenced which will culminate in the Commission issuing amended regulations.
- 126 The third is that an election is an involved administrative enterprise. In this regard the submission has demonstrated the activities attendant to the recruitment and training of electoral staff to administer the registration activities as well as election day activities in 23 151 voting stations. Similarly, the submission has confirmed that the political boundaries have been determined by the MDB and the Commission has in turn aligned its election administrative boundaries to these new political boundaries for purposes of registering voters and administering elections.
- 127 Fourth and perhaps most importantly is that an election is about people. The submission has illustrated the measures that the Commission will employ to engage citizens in a changed
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environment. The first message is intended to reassure the eligible voters that their participation either in the registration drive or on voting day will not expose them to increased risk. This is achieved by the use of short video content explaining the measures implemented in voting stations to safeguard public health in the context of Covid-19. Secondly, is to continue to share information on the value of participation in elections and the mechanisms of such participation using non- traditional face to face platforms. In this regard the Commission has had to place reliance on social media, radio, digital platforms and television to compensate for limitations imposed by Covid-19 on contact and communal type platforms for information dissemination.

- 128 In spite of the constrained fiscal position of the state, and the associated budget cuts, the Commission has been able to reprioritise resources to support the delivery of elections. There are ongoing engagements with National Treasury on additional funding for Covid-19 induced and unforeseeable expenditure.
- 129 In the final analysis it is submitted that the Commission has made proper arrangements to honour the regularity of election impulse in the Constitution.
- 130 The inquiry should assist the Commission to arrive at a determination on whether the elections will meet the standard for freeness and fairness. In the event the trajectory of the pandemic turns for the worse, the Commission will probably approach a court of competent jurisdiction for authorisation to conduct the elections outside of the constitutionally prescribed timelines. Of necessity the period of postponement should be as short as reasonable possible to stave off further infections.



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**CHIEF ELECTORAL OFFICER'S SUBMISSION TO THE
MOSENEKE INQUIRY INTO ENSURING FREE AND FAIR LGE
2021 DURING THE COVID-19 PANDEMIC**

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Contents

1. Constitutional and Legal context
2. Standard for Free and Fair Elections
3. Preparations for 2021 Local Government Elections
4. Voting Protocols under Covid-19
5. Concluding Remarks

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INTRODUCTION AND CONSTITUTIONAL CONTEXT

- The Republic of South Africa is a sovereign and democratic state founded on a number of values, including universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.
- The Bill of Rights guarantees the right of every citizen to free, fair and regular elections for any legislative body established in terms of the Constitution, in this case 213 Municipal Councils across the country.

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INTRODUCTION AND CONSTITUTIONAL CONTEXT – CONTINUED

- The Constitution requires the Commission to manage elections of municipal legislative bodies in accordance with national legislation, to ensure that those elections are free and fair, and to declare the results of those elections within a period that must be prescribed by national legislation and that is as short as reasonably possible.

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INTRODUCTION AND CONSTITUTIONAL CONTEXT - CONTINUED

- Properly construed, the Constitution and the Municipal Structures Act require that a general election of all Municipal Councils must be held within 90 days of the date of the expiry of the term of Municipal Councils.
- Since the last general local government elections took place on 3 August 2016, the current term of all municipal councils in the Republic will expire on 3 August 2021, and general local government elections will have to be held by 1 November 2021 to elect new municipal councils.

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COVID-19 AND POSSIBLE IMPACT ON LGE 2021

- For the first time since its establishment, the Commission is faced with the prospect of conducting general elections in the midst of a global pandemic, i.e., the Covid-19 pandemic currently ravaging the world.
- Concerns have been expressed by some political parties that the LGE 2021 may not be free and fair given the impact of Covid-19 and the measures taken by the government, to curb the continued spread of the pandemic.
- It is for this reason that the Commission has appointed Justice Moseneke to inquire into, report on and make recommendations regarding the likelihood that the Commission will be able to ensure that LGE 2021 will be free and fair in view of the challenges posed by the pandemic and the measures promulgated by the Government to curb the spread thereof.

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FREE AND FAIR ELECTIONS

- There is no binary choice between timeously holding the forthcoming general elections and ensuring that they are free and fair. The Constitution requires both, hence the need for this Inquiry.
- The most important elements of a free and fair election include the following:

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FREE AND FAIR ELECTIONS – CONTINUED

- Every citizen who is entitled to vote should, if possible, be registered to do so, and no person who is not entitled to vote should be permitted to do so.
- Insofar as municipal elections have a territorial component, the registration of voters must be undertaken in such a way as to ensure that only voters in that area are registered and permitted to vote.
- Every eligible citizen should have the right to participate in elections as a candidate and to seek public office.
- Political parties and candidates should be able to compete with one another on relatively equal terms.

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FREE AND FAIR ELECTIONS – CONTINUED

- *Political parties and candidates should be free to canvass, to advertise, and to engage in the activities normal for a person seeking election.*
- *Voters should have access to reliable information about the elections and the parties and candidates contesting the same and must be able to vote free from intimidation and similar hindrances.*
- *The Commission should apply the relevant electoral laws to all participants without fear or favour and should ensure that all the participants can compete without any undue hindrance or obstacle occasioned by the manner in which the preparations for the election have been undertaken or the way in which the election has been conducted.*

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THE COMMISSION'S PREPARATIONS FOR LGE 2021

In the discharge of its obligations to conduct the 2021 General Local Government Elections ("LGE 2021"), the Commission has been hard at work preparing to ensure that it is able to conduct LGE 2021 within the constitutional time frame.

The Commission is doing everything within its power to ensure that it is technically ready to discharge its obligation in respect of regularity of municipal elections.

Some of these measures are highlighted below.

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LEGISLATIVE ENVIRONMENT

- In the discharge of its obligations to continually review electoral legislation and proposed electoral legislation and to make recommendations in connection therewith, the Commission was instrumental in the passing of the Electoral Laws Amendment Act, 2021, intended to amend certain legislative provisions in preparation for LGE 2021.
- In consequence to the Electoral Laws Amendment Act, 2021, the Commission has caused draft amendments to the various affected regulations to be prepared and these will be promulgated by the Commission contemporaneously with the Act's commencement notice

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WARD AND VOTING DISTRICT DELIMITATION

- The Commission delimits voting districts for the whole of the territory of the Republic, thus creating manageable geographic entities in order to facilitate registration and electoral processes.
- A voter is required to register to vote in a voting district within the ward in which she or he is ordinarily resident. Each voting district is serviced by one voting station.
- A registered voter will only find her or his name on the voting district segment of the voters' roll at which she or he applied to register to vote.
- The MDB handed the final boundaries to be used for the elections over to the Commission on 1 December 2020.
- Consequently, the Commission has delimited 23,151 voting districts, as increase of 226 since NPE 2019.

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VOTER REGISTRATION

- There are currently 25,789,566 registered voters whose names appear on the voters' roll.
- Only a voter who applied for registration prior to the proclamation of an election date may vote in the election concerned.
- Accordingly, the elections will only be formally called after the registration weekend in order to afford eligible citizens maximum opportunity to register to vote or change their registration details.
- Given the steps that have to be taken prior to voting day, the elections must be proclaimed by not later than 2 August 2021.

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VOTER REGISTRATION – CONTINUED

- Due to budgetary constraints the Commission is planning to hold only one registration weekend prior to the elections, which is currently scheduled for 17 and 18 July 2021.
- Once the elections have been called, the CEO must make a provisionally compiled voters' roll available for inspection between 4 and 11 August 2021.
- Interested persons may lodge objections in terms of section 15 of the Electoral Act in respect of the provisionally compiled voters' roll and the Commission will consider and decide these objections by 18 August 2021.

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VOTING STATION PROCUREMENTS

- 23 151 voting stations will be in use over the registration weekend and on voting day.
- The Commission's project to assess the suitability of voting stations and the conclusion of lease agreements in respect of these voting stations commenced on 1 May and will conclude on 30 June 2021.

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ELECTION LOGISTICS

- The Commission operates a computerised system known as the LIS, which underpins the planning, monitoring, management and control of electoral materials.
- Using the LIS, a Bill of Materials (“BOM”) is created for each electoral event and detailed material requirement plan lists are produced to enable the accurate procurement, distribution and allocation of electoral materials per province, municipality and voting district.
- The Commission has finalised the BOM for the registration weekend and elections.
- The Commission is on track to have all the required materials at hand for the registration weekend.

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OUTREACH

- It is important to galvanise the nation and build awareness of LGE 2021 to reach each and every eligible citizen and encourage them to register to vote and to vote on voting day. The mass media plays an integral role in this regard.
- A survey conducted by the HSRC at the Commission's behest indicates that 73% of respondents received information relating to elections via TV, 57% via radio, 43% via newspapers and posters and 23% through their contacts.
- The Commission has not been oblivious of the shift from traditional media to digital and social media as a source of news and information, especially among the youth who are disproportionately underrepresented on the voters' roll.

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OUTREACH – CONTINUED

- The Commission has had to adapt its Outreach strategy to take account of these developments, hence it has directed more of its media spend towards digital and social media platforms.
- Taking the results of the survey into account, the Commission has segmented its media spent on the following basis: 33% has been allocated to TV placements, 22% to radio placements, 17% for outdoor advertising, 6% to print advertising and 19% to digital advertising, including social media.
- The Commission has been meeting with key electoral stakeholders in preparation of LGE 2021. These meetings are ongoing.

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VOTER EDUCATION

- The Commission takes a multi-modal approach to discharging its obligation to promote voter education in an attempt to reach all eligible citizens across the country.
- One of the voter education modalities adopted for LGE 2021 is a series of short videos to be posted on social media platforms.
- These videos will cover such topics as “how to register to vote”; “Voting in Covid times” intended to assure voters of their safety during registration and voting by explaining the measures taken by the Commission to ensure the safety of voters during these processes.

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VOTER EDUCATION – CONTINUED

- In addition, the Commission's civic and democracy education ("CDE") project for the forthcoming elections has already commenced in some provinces with community radio programmes, where a member of the Commission's staff acts as the guest presenter of the CDE content.
- The community radio station programmes are expected to be live until end of October 2021 so that they cover all the important electoral phases.

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LAUNCH OF LGE 2021

- The election launch event was conducted successfully on 9 June 2021 at the Sandton Convention Centre.
- The event was well attended and went according to plan.

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RECRUITMENT OF ELECTION OFFICERS

- The Commission has completed the process of recruiting Municipal Electoral Officers for each of the 213 municipalities.
- It has also completed the recruitment of 52 090 voting officers for the registration weekend.
- The training of registration staff commenced on 4 June and will conclude on 15 July 2021.

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TECHNOLOGY

- Due to the increasing movement of information to digital platforms, the Commission commissioned a complete redesign of its official website (www.elections.org.za) to conduce to easier navigation. The new and improved website went live on 1 May 2021 and contains information for voters, registrants, political parties and candidates, as well as information about elections.
- The portable eZiskan (Zip-zip) units hitherto used by the Commission for voter registration and elections have reached the end of their useful lifespan.
- The Commission has procured 40 000 new VMDs (which have the ability to transmit voter registration and participating data to the Commission's servers in real time) to support voter registration and voters roll management at voting stations on voting day.
- Delivery of these VMD is in time for the registration weekend and on schedule.

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PARTY LIAISON

- The Commission has established party liaison committees for the national, provincial and municipal spheres.
- Party liaison committees serve as vehicles for consultation and co-operation between the Commission and the represented parties on all electoral matters, aimed at the delivery of free and fair elections.

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PARTY REGISTRATION

- Only appropriately registered parties may contest LGE 2021 by way of party lists. Registered parties are also able to nominate ward candidates.
- The registration of political parties is a continuous process.
- There are currently 605 registered political parties, of which 287 are registered on a national level and 318 on a municipal level.
- The onus remains on political parties who wish to contest LGE 2021 to ensure that their application is lodged with the chief electoral officer timeously and that the political party is duly registered before the process for candidate nomination for LGE 2021 commences.

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ANTI- COVID-19 MEASURES ADOPTED BY THE COMMISSION

- Once the virus was detected in South Africa, the Commission suspended all by-elections until government eased the lockdown restrictions to level 1 wef from 21 September 2020.
- On 11 November 2020 ("Super Wednesday") the Commission conducted all the by-elections that had been delayed by the pandemic, in which 95 wards were contested across 55 municipalities in all provinces, using 455 voting stations.
- In preparing for the Super Wednesday by-elections the Commission, in consultation with the NPLC, compiled COVID-19 voting protocols to ensure not only the free and fair elections are held, but that they are also held in a safe and healthy manner by ensuring that voters and officials take the necessary precautions during the voting process to limit their risk of exposure to the virus.

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ANTI- COVID-19 MEASURES ADOPTED BY THE COMMISSION - CONTINUED

- The efficacy of these measures was successfully tested during the Super Wednesday by-elections of 11 November 2020 and those held on 9 December 2020, before the second wave of the pandemic in December 2020 forced an adjustment of the alert level to Alert Level 3, leading to the postponement of by-elections scheduled for January, February and March 2021.

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CURRENT COVID-19 PROTOCOLS

- These voting protocols have since been adjusted as new lessons are learnt, and the current protocols are:
- In the morning before voting starts, the presiding officer must defog the voting station venue;
- Voting officers will be provided with PPE for use at the voting station and during special vote home visits;
- Voters are encouraged to bring their own pens for marking the ballot papers in order to avoid the sharing of pens. However, pens provided by the Commission will be sanitised after each single use;

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CURRENT COVID-19 PROTOCOLS - CONTINUED

- The queue walker must ensure social distancing is kept at 1.5 meters apart.
- Adhesive tapes or any voting specific measures to be used to enforce social distancing.
- She or he must also ensure that all voters in the queue are wearing face masks and make regular checks along the queue and offer assistance where necessary;
- The door controller must ensure that every voter entering the voting station is wearing a face mask, must sanitise each voter's hands prior to entering the station and

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CURRENT COVID-19 PROTOCOLS - CONTINUED

- Door controller must also control access of voters into the voting station to limit the number of persons in the voting station at any given time
- and checks the voter's identity document and directs the voter to the next step;

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CURRENT COVID-19 PROTOCOLS - CONTINUED

- The fingernail of the voter is marked without touching the voter using a disposable bud, which is immediately thereafter discarded in the disposable bag provided.
- Protocols on social distancing and sanitising of hands applies to all party agents and observers that enter voting station.
- While counting procedures remain unchanged, officials and party agents need to observe social distancing at all times

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CURRENT COVID-19 PROTOCOLS - CONTINUED

- Furthermore, officials must make use of a new set of rubber gloves for the count, as well as sanitise hands at the end of voting/start of counting, and at end of counting process – together with wiping of all surfaces prior and after use.
- Each party or candidate is allowed two agents per voting station and one party agent per home visit team.
- In the event where the voting station cannot accommodate two agents per party, the presiding officer, in consultation with the parties, must agree on one agent per party on a rotational basis.

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ELECTION FUNDING

- The Commission has not been immune to the austerity measures adopted by the government in the past few years. The Commission's 2020/21 and 2021/22 baseline budgets were cut by R118, 4 million and R174, 7 million, respectively, during the 2021 Adjustment Budget and MTEF processes.
- The principal casualty of these budget cuts has been the cancellation of one of the two registration weekends which customarily take place prior to an election.
- The pandemic has resulted in additional unbudgeted costs such as PPE for voting officials and other protective aids, with a total cost of R129 350,364,00.

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ELECTION FUNDING - CONTINUED

- Consultations between the Commission and National Treasury regarding additional funding are underway.
- One of the suggestions put forth during the Commission's consultations with stakeholders was to extend special voting days to three to lighten congestion.
- Such an extension would require additional financial resources

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CONCLUSION

- Conducting a general election is a huge logistical undertaking involving many moving parts.
- This submission indicates that the Commission has pulled out all the stops to ensure that it will be technically ready to conduct LGE 2021.
- In this regard, electoral supplies, logistics and infrastructure have been arranged, the necessary legal framework for the orderly conduct of elections is in place, political boundaries have been determined, electoral staff has been recruited and are undergoing training.
- An election is ultimately about people. The Commission has set out the measures that it will undertake to ensure that voter participation in the registration drive and on voting day will not expose them to increased risks, and the measures envisaged to re-assure voters that this is in fact the case.

FREE**FAIR** 35

✓
pg

"FA3"**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA****CASE NO:** _____

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS AND OTHERS**

Respondents

CONFIRMATORY AFFIDAVIT

I, the undersigned,

SANDILE BUTHELEZI

do hereby make oath and state that:

- 1 I am a medical doctor and public health practitioner serving as the Director-General of the Department of Health.
- 2 The facts in this affidavit fall within my personal knowledge and are true and correct to the best of my knowledge.
- 3 I confirm that on 1 July 2021 I made oral submissions on behalf of the Department of Health to the Justice Moseneke Inquiry on Free and Fair Local

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Government Elections during COVID ("the Inquiry") together with a PDF presentation as appears on the Inquiry's website (<https://www.elections.org.za/freeandfair/LGE2021/oral-submissions>). A copy of my presentation is attached hereto marked "**SB1**".

- 4 I depose to this affidavit to confirm under the oath that the contents of the attached document and the oral submissions which I made before the Inquiry are to the best of my belief true and correct and have been fairly and accurately summarised in the Inquiry's Report.
- 5 In addition to the above, I also wish to place before this Court the latest figures regarding South Africa's vaccine roll out as these vary from the figures presented to the Inquiry at the time of my submissions.
- 6 As of 1 August 2021,
 - 6.1 The cumulative number of vaccines administered (excluding vaccination records captured on paper in the preceding 24 hours) is 7, 567, 757.
 - 6.2 This has resulted in 2, 982, 952 people being fully vaccinated (either with a single dose of the Johnson & Johnson vaccine or a double dose of the Pfizer vaccine).
 - 6.3 Therefore approximately 4.9% of South Africa's population is fully vaccinated.
 - 6.4 In the past week the average number of doses administered daily was 220, 000. This rate results in the vaccination of one million people every four days.

- 6.5 With the expected vaccine batches coming from Johnson & Johnson and Pfizer in the coming days, the Department is expecting to reach 400 000 vaccinations per day by 6 August 2021. By reaching this target, we will be able to vaccinate one million people every three days.
- 6.6 Assuming the best trajectory of vaccinating one million people every three days, in the next 87 days this would achieve vaccinating an additional 29 million people.
- 6.7 Therefore, if this highest target is met 36.5m doses will have been administered by 27 October 2021. This does not equate to 36.5 fully vaccinated individuals as the Pfizer vaccine requires two doses and is being administered with a 42-day interval between the first and second dose.
- 6.8 There is also a lag period before the immune response elicited by the vaccine is effective. For Johnson & Johnson there is some response two weeks after vaccination but the vaccine is really properly effective after four weeks. For Pfizer it is two weeks after the second dose of the vaccine. This would mean to have the most effective immune response by 27 October 2021 a person would need to have received the Johnson & Johnson vaccine by the start of October, or the second dose of the Pfizer vaccine by mid-October.
- 7 In light of the above factors, it does not appear that South Africa will have achieved community immunity and/or the vaccination of at least 67% of the population in time for a 27 October 2021 local government election date.



- 8 The country does look on track to reach community immunity and/or the vaccination of at least 67% of the population by, or before, February 2022.


DR SANDILE BUTHELEZI

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's both true and correct. This affidavit was signed and sworn to before me at Sandton on this the 03 day of **August 2021**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

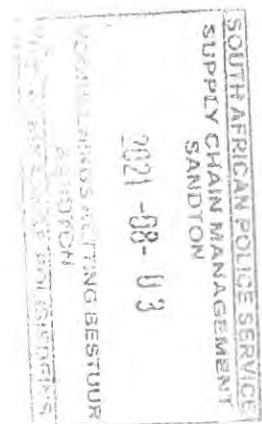
SANDTON 2021-08-03 12:45
James Mthembu

Mthembu 24

James Mthembu SPS

SPS

SPS



"SB1"

IEC HEALTH PRESENTATION

COVID RESPONSE

01 July 2021

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24

Presentation Outline



- Epidemiology and Surveillance
- Delta variant
- Vaccination Update
- Health inputs considerations on elections

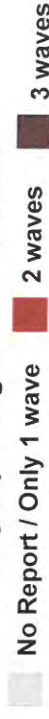


health

Department:
Health
REPUBLIC OF SOUTH AFRICA

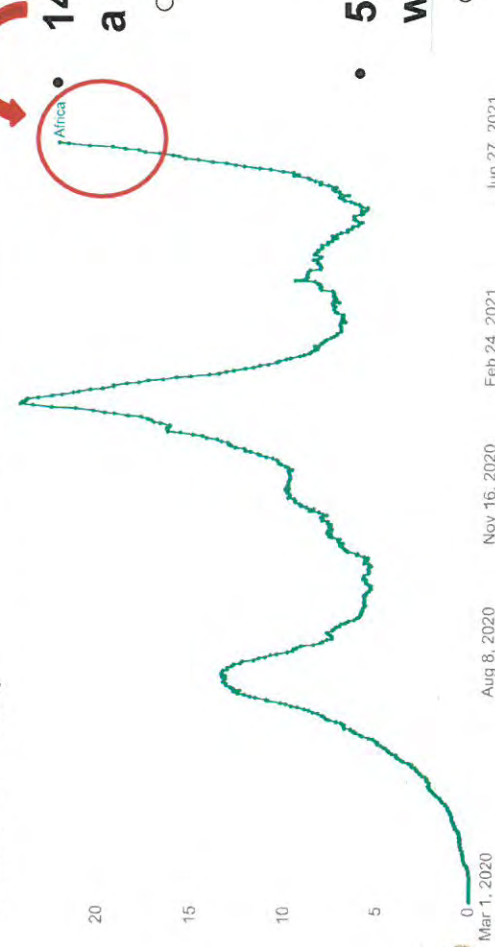
- **5.4 million** cumulative cases (3.0% of global cases - up to 27 June 2021)
- **141,649** deaths (CFR: 2.6%; ~3.4% of global deaths in 15% of world's population)

Key: Country reporting COVID-19 cases



Daily new confirmed COVID-19 cases per million people
 Shown is the rolling 7-day average. The number of confirmed cases is lower than the number of actual cases; the main reason for that is limited testing.

Daily new confirmed Covid-19 cases per million people

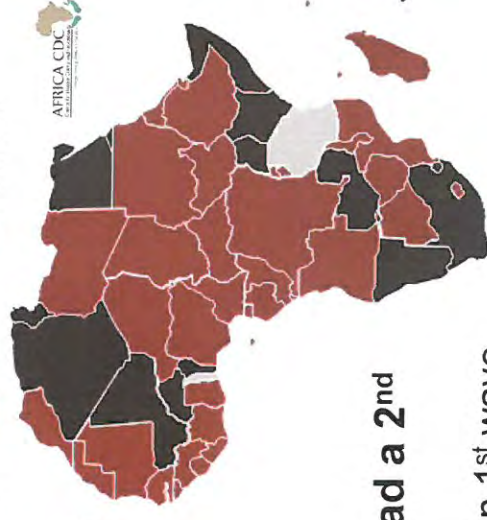


14 (25%) countries in a 3rd wave

○ 64% more severe

• **53 (96%) countries had a 2nd wave**

○ 74% more severe than 1st wave



AFRICA CDC

Phila
Support to life

Jun 27, 2021

Feb 24, 2021

Nov 16, 2020

Aug 8, 2020

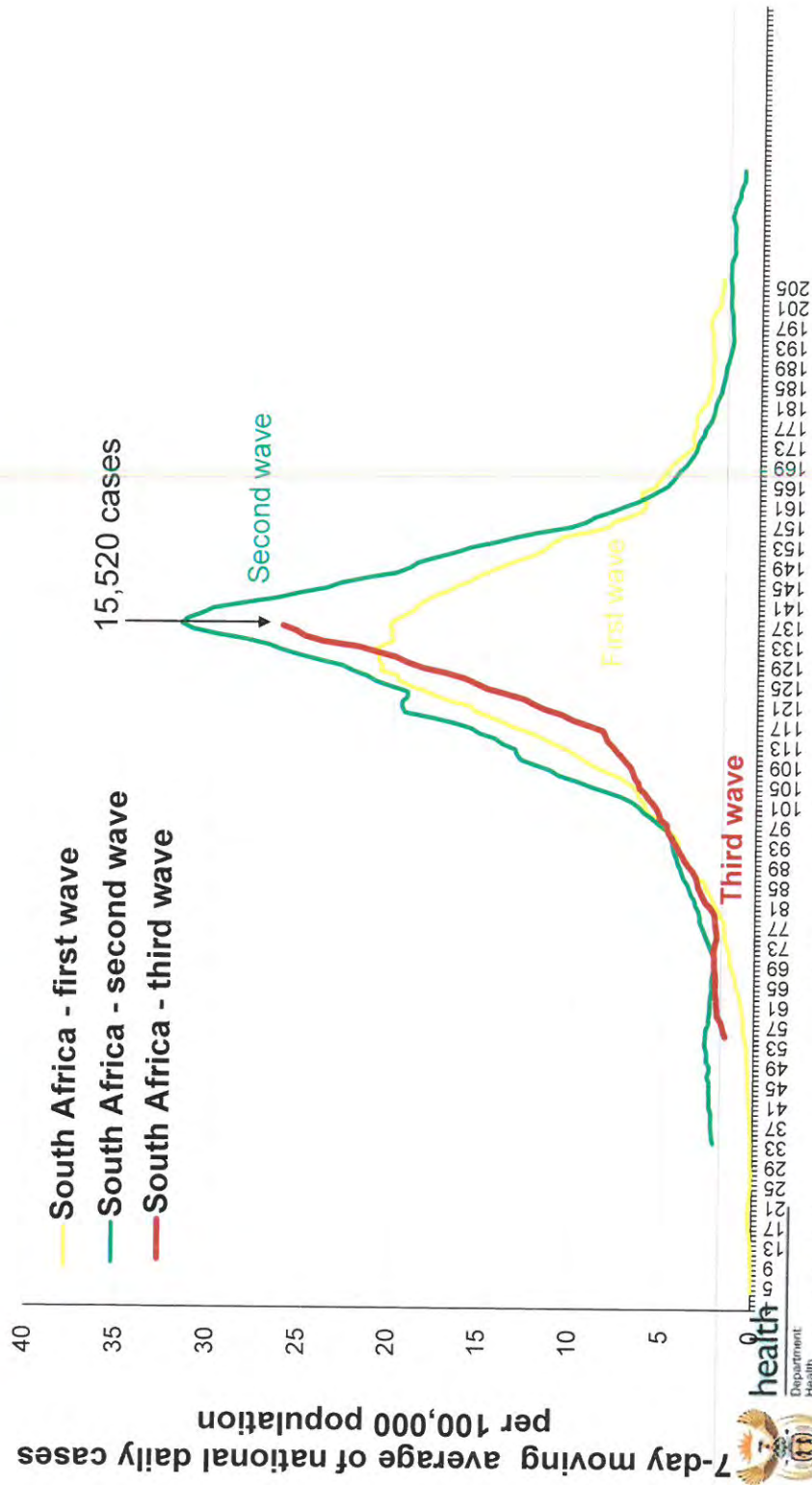
Mar 1, 2020

Source: Johns Hopkins University CSSE COVID-19 Data

CC BY

SARS-Cov-2 cases in 1st, 2nd & 3rd waves in SA

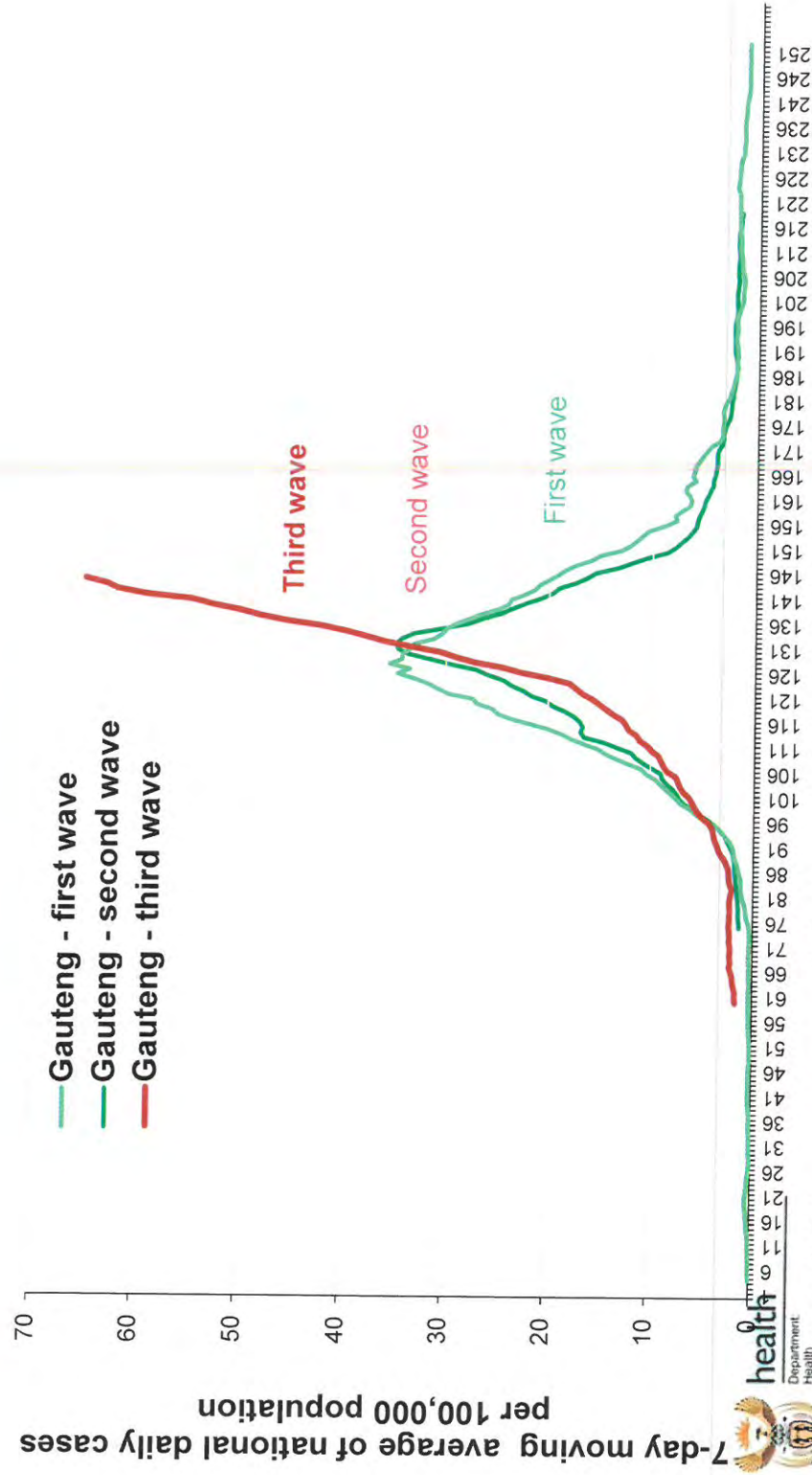
(7-day moving average cases per 100,000 population – up to 28 June)



Data source: Department of Health; Analysis: Cheryl Baxter

SARS-Cov-2 cases in 1st, 2nd & 3rd waves in Gauteng

(7-day moving average cases per 100,000 population – up to 28 June)



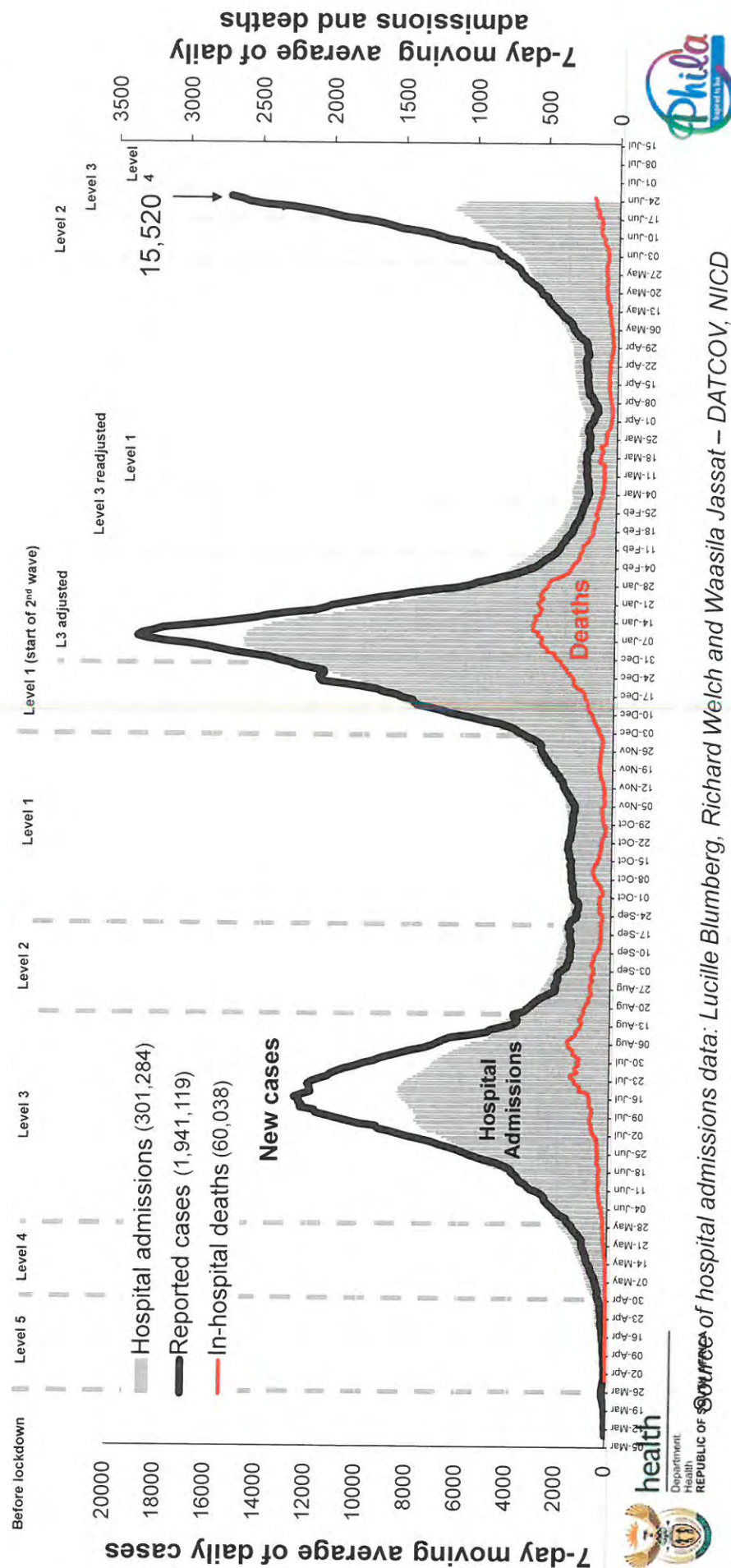
Data source: Department of Health; Analysis: Cheryl Baxter



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Covid-19 in South Africa

7-day moving average of new cases, hospital admissions and in-hospital Covid-19 deaths – 28 June 2021





24
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Estimate of the effective reproduction rate (R) of COVID-19



The reproduction rate represents the average number of new infections caused by a single infected individual. If the rate is greater than 1, the infection is able to spread in the population. If it is below 1, the number of cases occurring in the population will gradually decrease to zero.

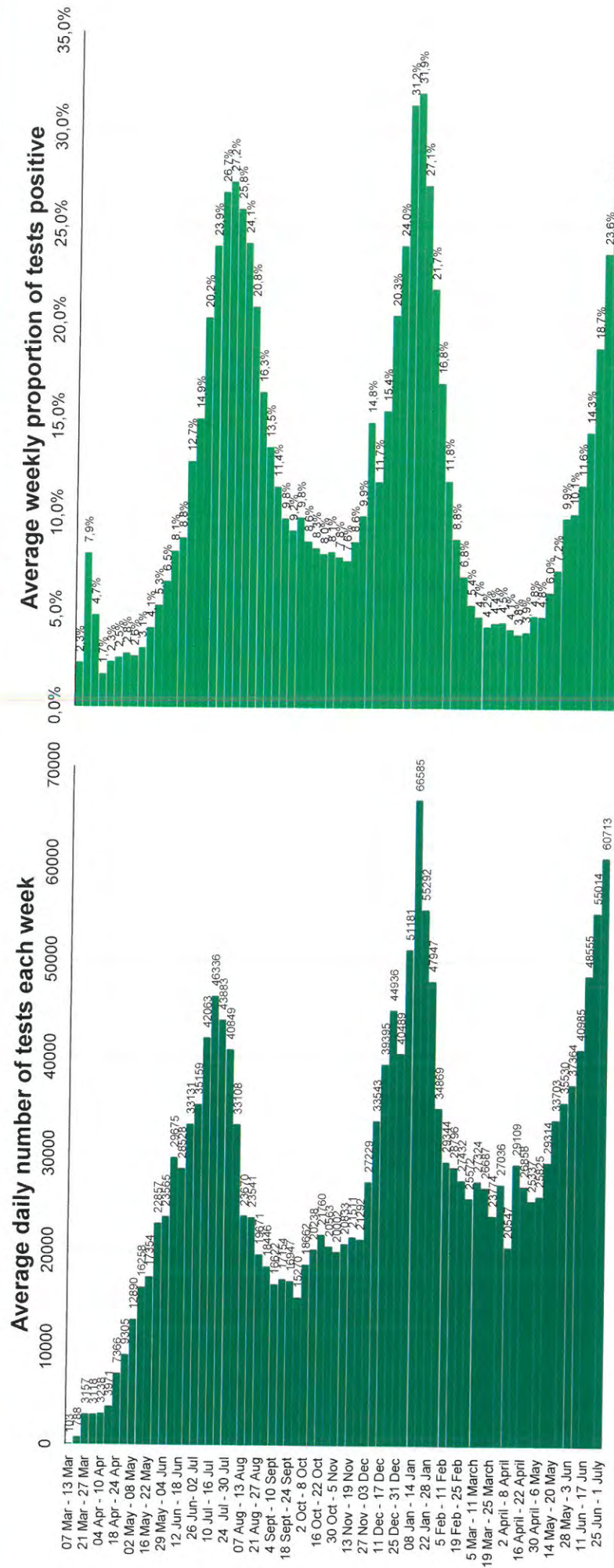


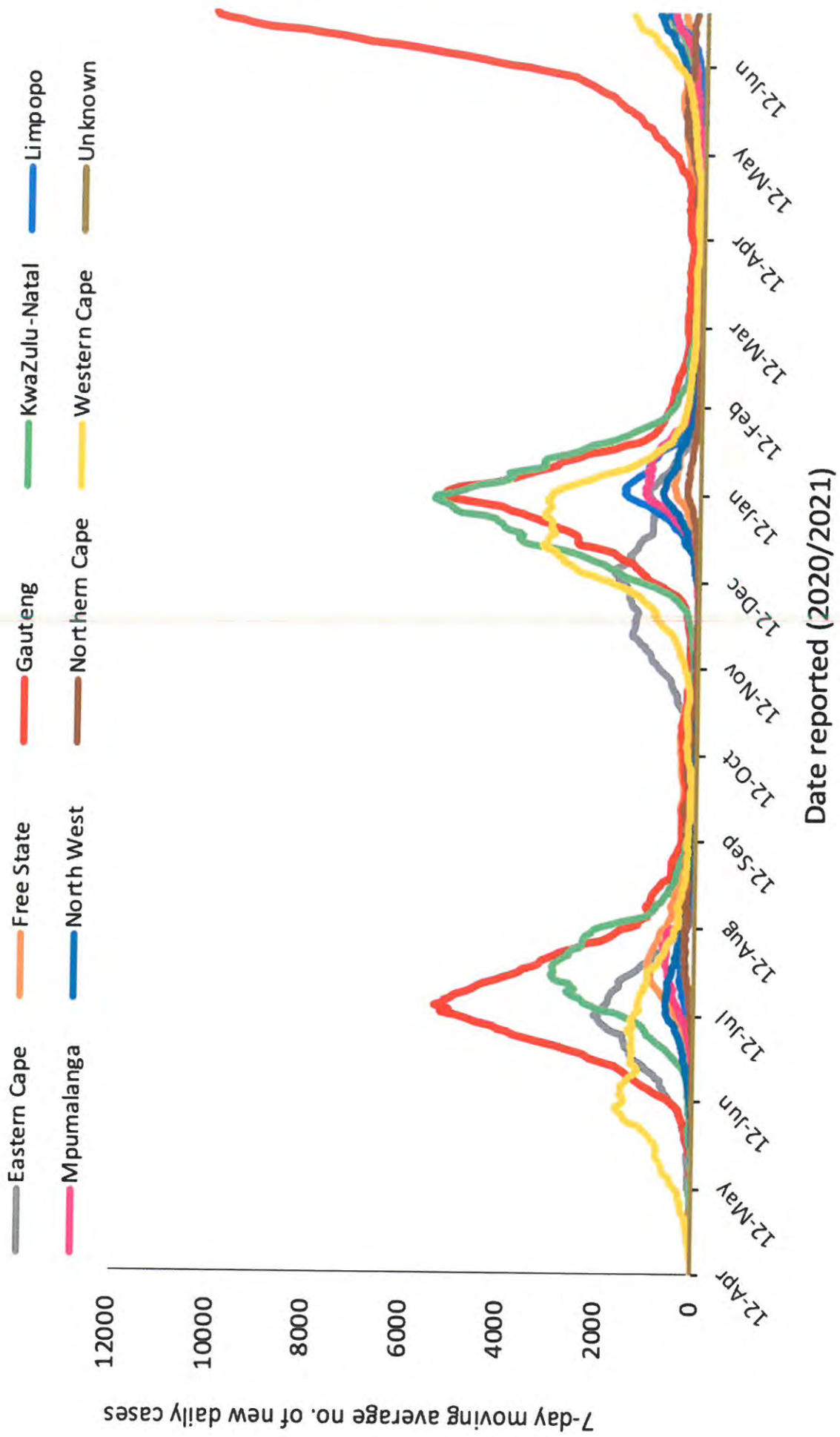
Mar 19, 2020 Aug 8, 2020 Nov 16, 2020 Feb 24, 2021 Jun 22, 2021

Source: Arroyo-Marroli F, Bullano F, Kucinskis S, Rondón-Moreno C (2021) Tracking R of COVID-19: A new real-time estimation using the CC BY Kalman filter.



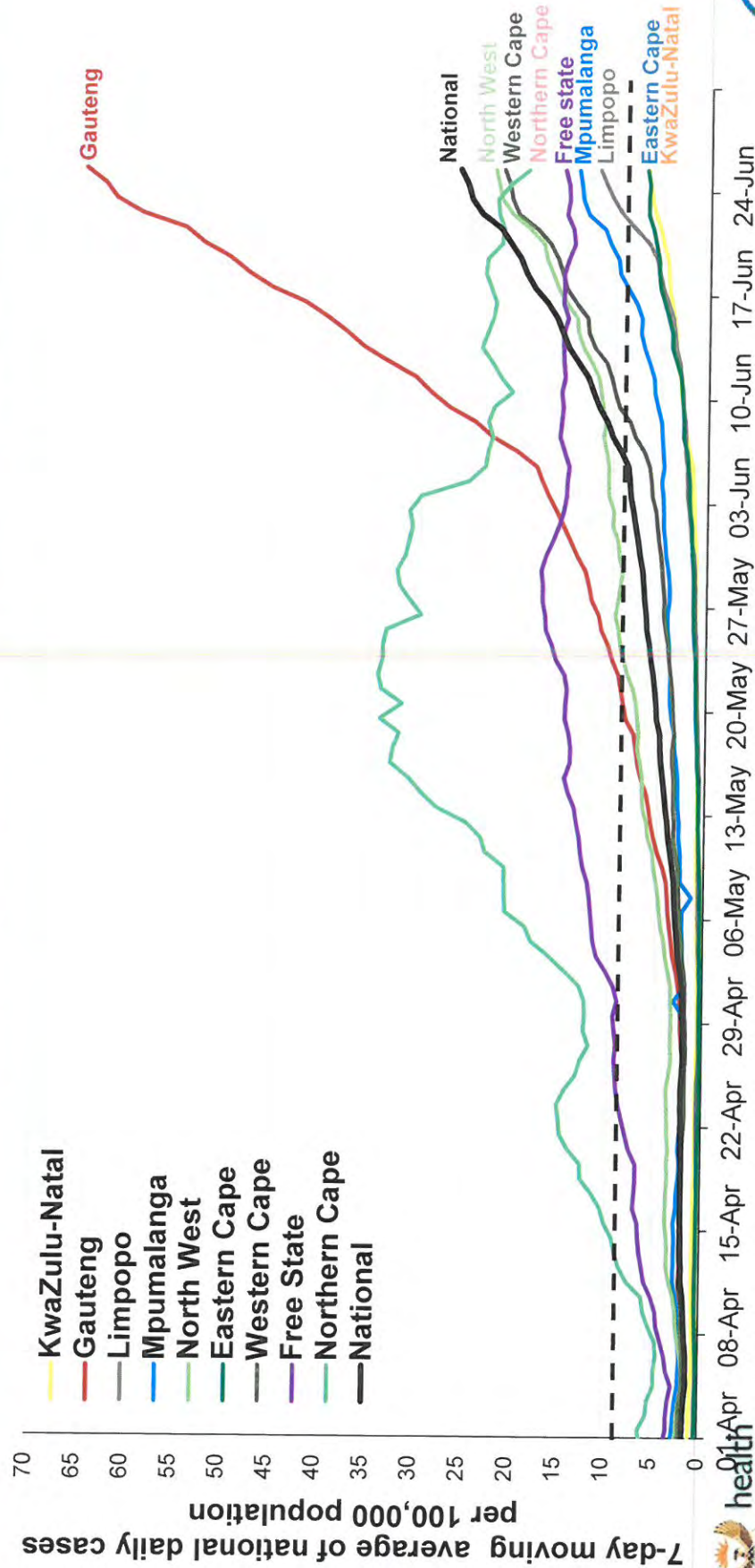
Average daily tests & proportion of positive tests



22
53

Confirmed SARS-Cov-2 cases by province

(7-day moving average cases per 100,000 population – up to 28 June 2021)



Department of Health
REPUBLIC OF SOUTH AFRICA

Data source: Department of Health; Analysis: Cheryl Baxter



SS

COVID-19 in South Africa: Daily Epidemiology and Surveillance

As of the 30th June 2021



- The cumulative number of cases reported in South Africa on 29th June 2021 is **1 973 972** reflecting a **1% increase**, with **19 506 new cases** reported over the past 24 hours. The majority of cases today were recorded in **Gauteng at 11 160** (57,2%).
- There are currently **165 283 active cases** in the country, reflecting a **7,17% increase in active cases** over the past 24 hours.
- The **total admissions** in both public and private hospitals is **12 893**, which represents a 2,66% increase over the past 24 hours.
- The national **case fatality rate (CFR)** as of 30th June 2021 is **3,1%**. The total cumulative number of deaths **60 647** reflecting an increase of **383 reported deaths** as of 17:00.
- Of the reported deaths **30,8% (118)** occurred in the past 48 hours.

Tests	Cumulative tests	13,133,428
COVID-19 Cases	New tests reported on 29/06/2021	50,932
	New tests reported on 30/06/2021	70,593
	% change over 24hrs	38.6%
Cases	Percentage testing positive	27.6%
	Cumulative Cases on 29/06/2021	1,954,466
	Cumulative Cases on 30/06/2021	1,973,972
Deaths	New cases recorded in past 24hrs	19,506
	% change in past 24hrs	1.00%
	Cumulative deaths on 29/06/2021	60,264
Recoveries	Cumulative deaths on 30/06/2021	60,647
	Deaths reported in past 24 hrs	383
	National Case Fatality Rate	3.1%
Active Cases	Cumulative recoveries on 29/06/2021	1,739,976
	Cumulative recoveries on 30/06/2021	1,748,042
	% change past 24 hrs	0.46%
Hospitalisations	National recovery rate	88.6%
	Cumulative active cases on 29/06/2021	154,226
	Cumulative active cases on 30/06/2021	165,283
Hospitalisations	% change past 24 hrs	7.17%
	Hospitalisations on 29/06/2021	12,559
	Hospitalisations on 30/06/2021	12,893
Hospitalisations	% change past 24 hrs	2.66%

COVID-19 in South Africa: Daily Epidemiology and Surveillance

As of the 30th June 2021



- The majority of cases reported today are from **Gauteng** which accounted for **57,2% (11 160)** of all new positive cases followed by the **Western Cape** with 10,6% (2 059); **North West** with 7,3% (1 428); **KwaZulu Natal** with 6,5% (1 265); and **Limpopo** with 6,3% (1 234).
- Provinces with the lowest proportion of new cases today were **Mpumalanga** with 4,7%; **Free State** with 3,2%; **Eastern Cape** with 3,0% and **Northern Cape** with 1,2%.

Province	Updated Cases Post Harmonisation	New Cases 30 June 2021	% New Cases 30 June 2021	Total Cumulative Cases 30 June 2021	% Total Cases 30 June 2021	Total Deaths 30 June 2021	Case Fatality Rate	Total Recoveries 30 June 2021	Recovery Rate 30 June 2021	Active Cases 30 June 2021	New Case Incidence per 100k Population
Eastern Cape	206364	582	3.0%	206,946	10.5%	11882	5.7%	190,841	92.2%	4,223	8.6
Free State	113986	626	3.2%	114,612	5.8%	5027	4.4%	98,106	85.6%	11,479	21.4
Gauteng	638334	11160	57.2%	649,494	32.9%	12887	2.0%	551,199	84.9%	85,408	72.1
KwaZulu-Natal	353344	1265	6.5%	354,609	18.0%	10702	3.0%	330,325	93.2%	13,582	11.0
Limpopo	75114	1234	6.3%	76,348	3.9%	2600	3.4%	67,322	88.2%	6,426	21.1
Mpumalanga	93906	913	4.7%	94,819	4.8%	1517	1.6%	87,212	92.0%	6,090	19.5
North West	94258	1428	7.3%	95,686	4.8%	2286	2.4%	79,502	83.1%	13,898	34.8
Northern Cape	58775	239	1.2%	59,014	3.0%	1386	2.3%	50,694	85.9%	6,934	18.5
Western Cape	320385	2059	10.6%	322,444	16.3%	12360	3.8%	292,841	90.8%	17,243	29.4
Unknown	0	0	0.0%	0	0.0%	0	0.0%	0	0	0	0.0
Total	1,954,466	19,506		1,973,972		60,647	3.1%	1,748,042	88.6%	165,283	34.8



health
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Health
REPUBLIC OF SOUTH AFRICA



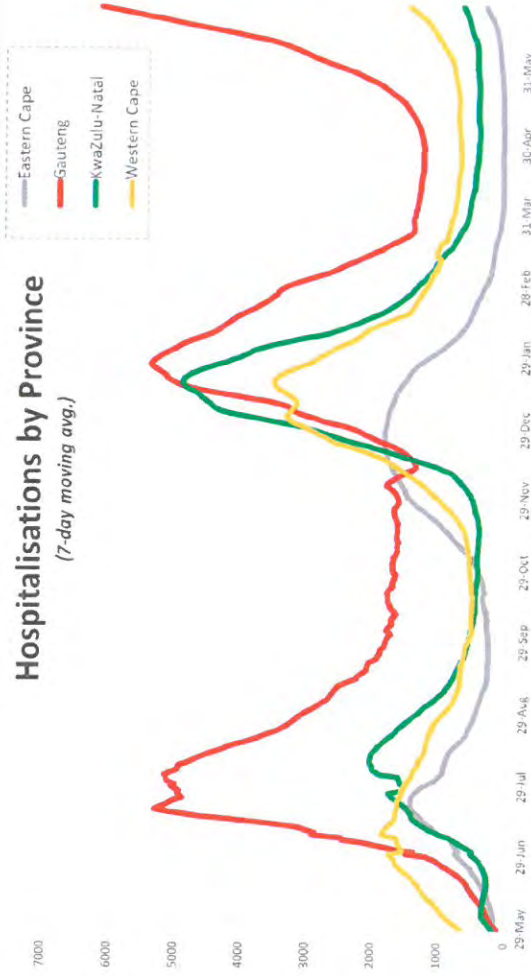
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COVID-19 Trends: Hospitalisations by Province

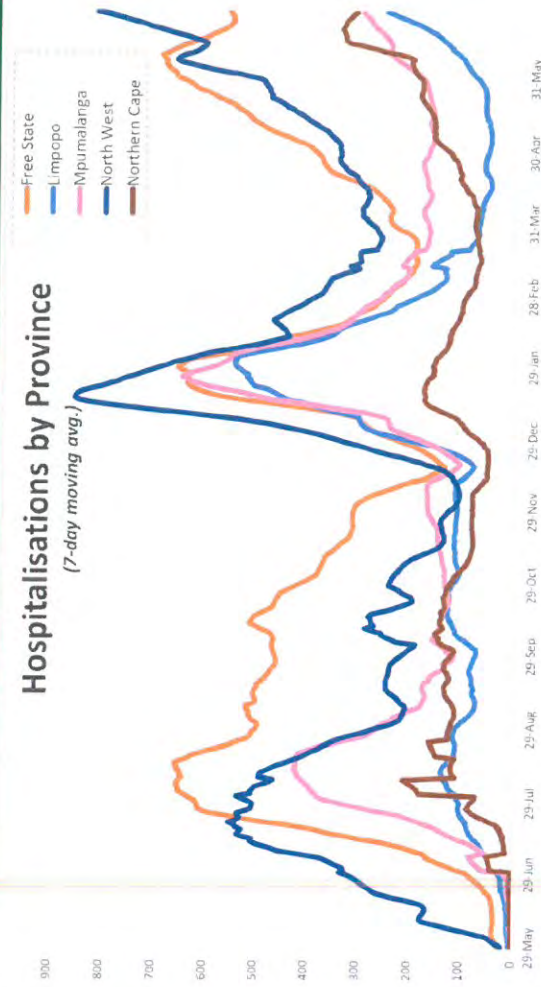
As of the 30th June 2021



Hospitalisations: Higher Burdened Provinces



Hospitalisations: Lower Burdened Provinces



- Gauteng currently reports the highest number of hospitalized patients per 100 000 population at 46,8; followed by the **Western Cape** at 26,4; **Northern Cape** at 23,7; **North West** at 20,8; and the **Free State** at 20,3 hospitalisations per 100 000 population.



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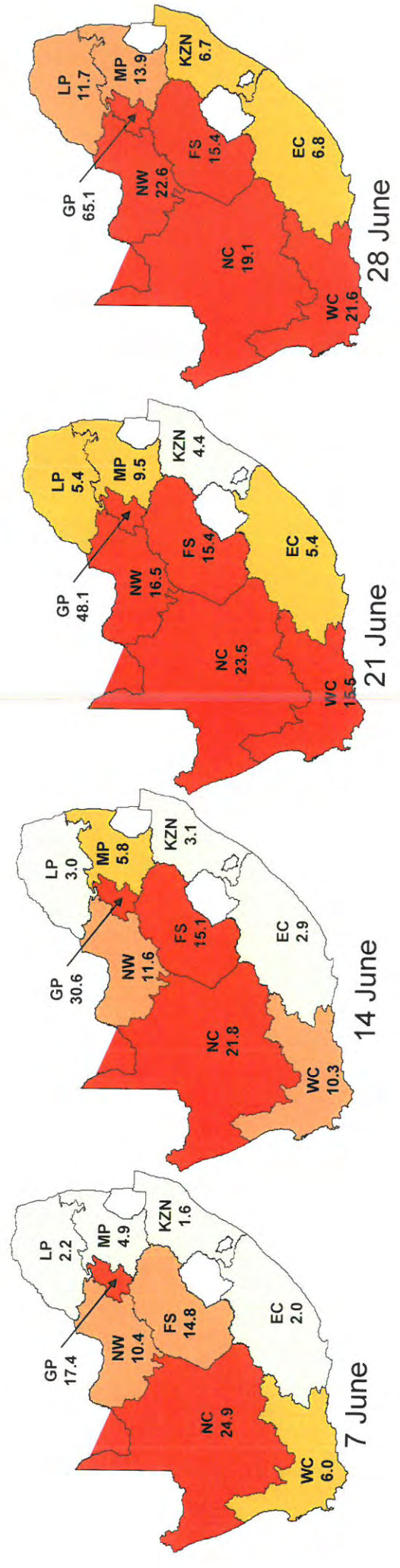
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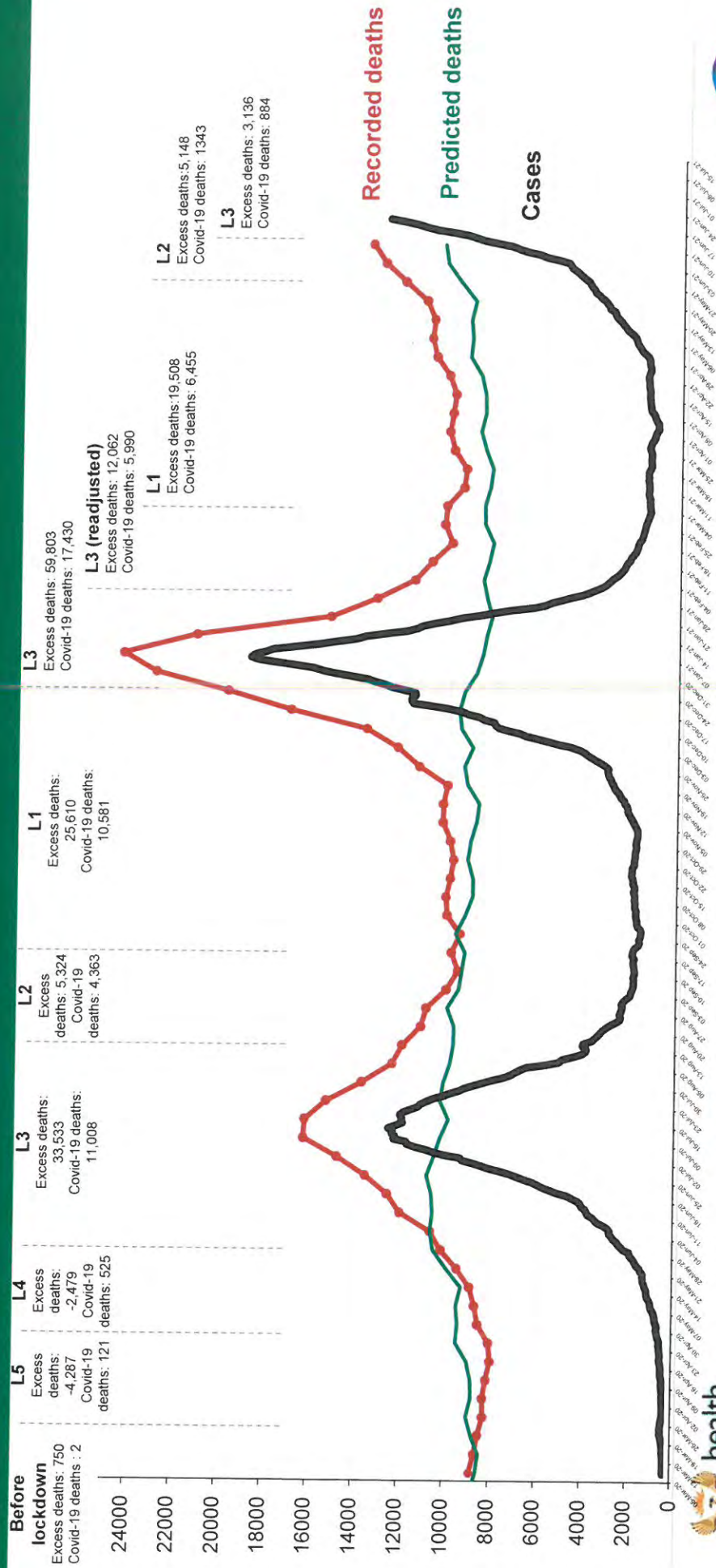
Data source: SA DoH; Analysis: Cheryl Baxter

Cases /100,000 /day

- 0-4.99
- 5 - 9.99
- 10 - 14.99
- >15



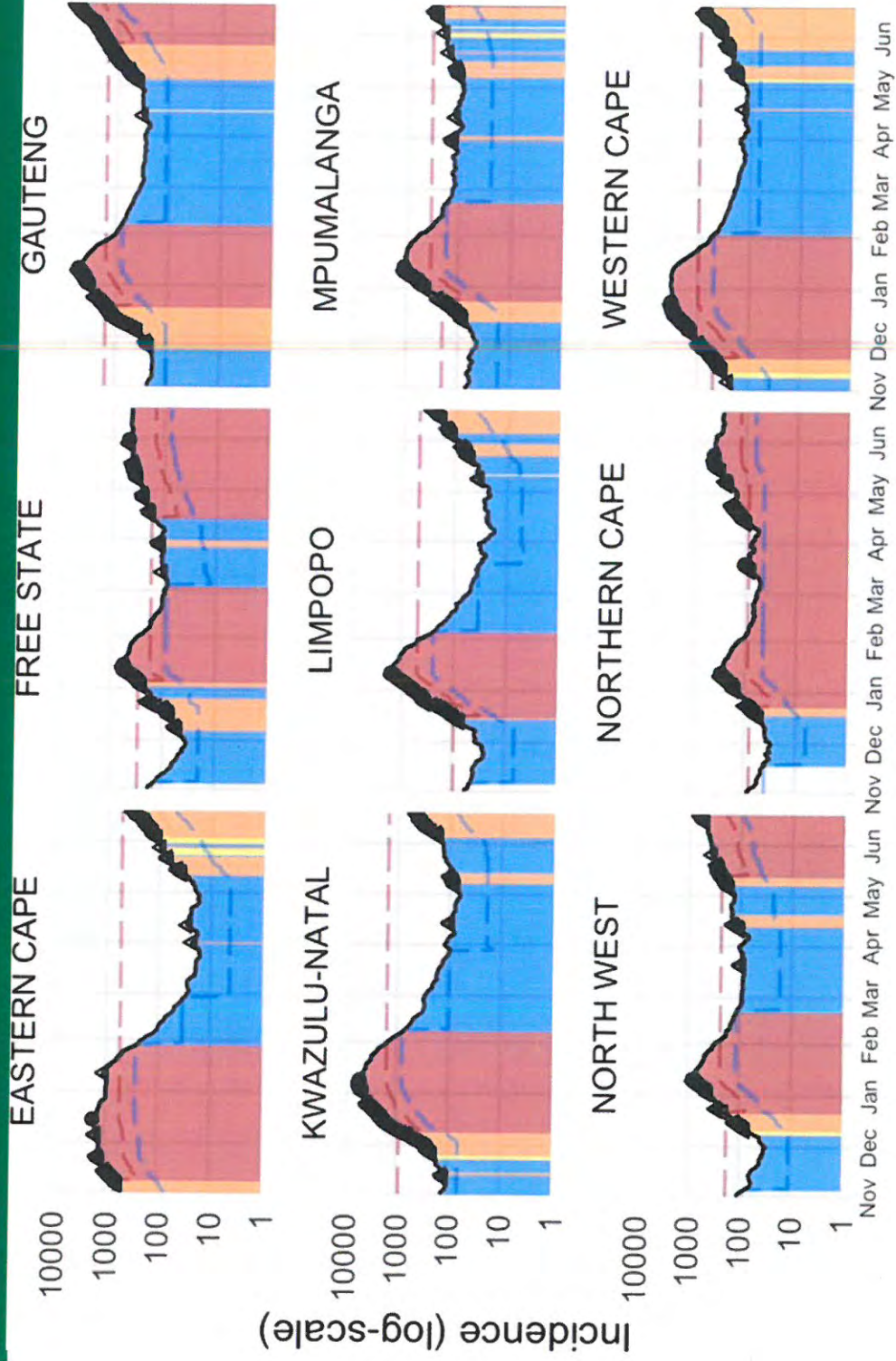
Expected & actual all-cause deaths during Covid-19



health
Bradshaw D, et al
REPUBLIC OF SOUTH AFRICA

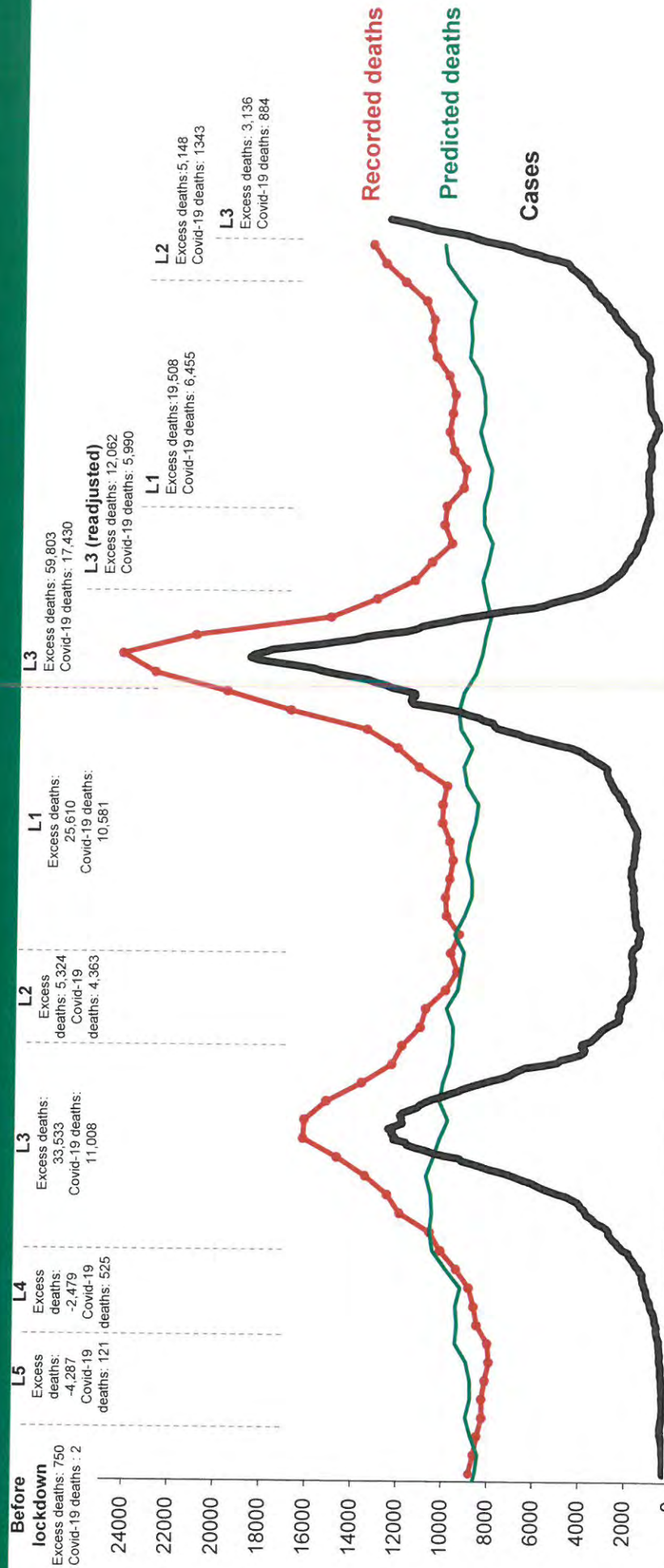
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PROVINCIAL RESURGENCE ANALYSIS



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Expected & actual all-cause deaths during Covid-19

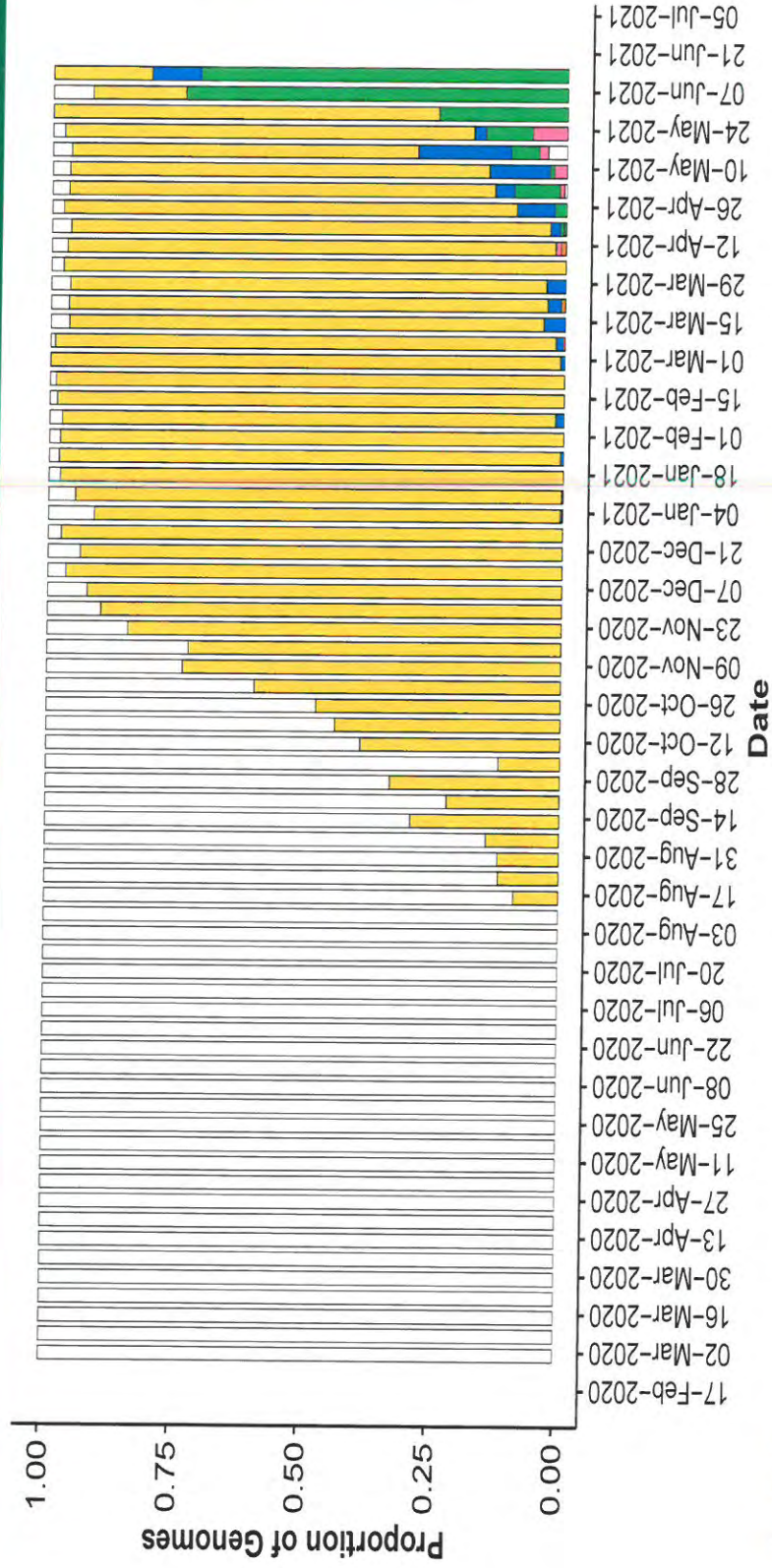




WHAT IS DRIVING THE THIRD WAVE?

25/5

Detection of Delta in South Africa



health

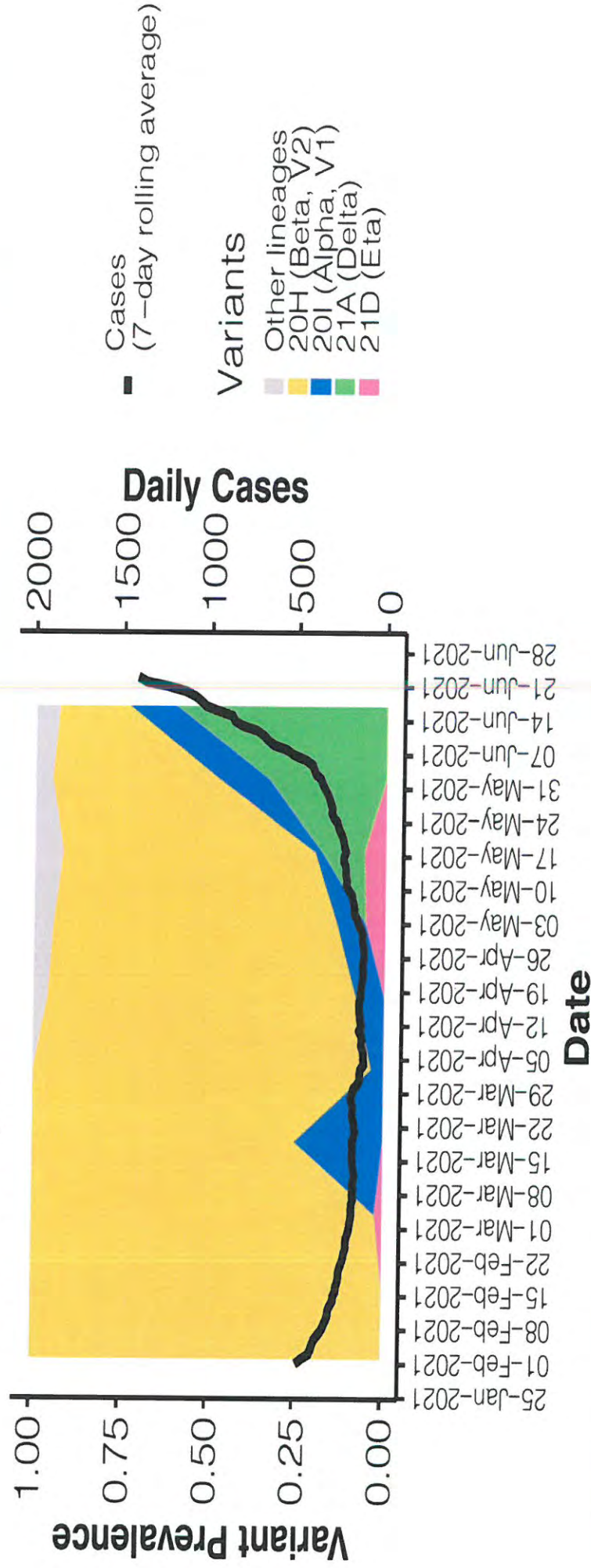
Department:
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Delta also detected in Western Cape



Western Cape



Department of Health
REPUBLIC OF SOUTH AFRICA

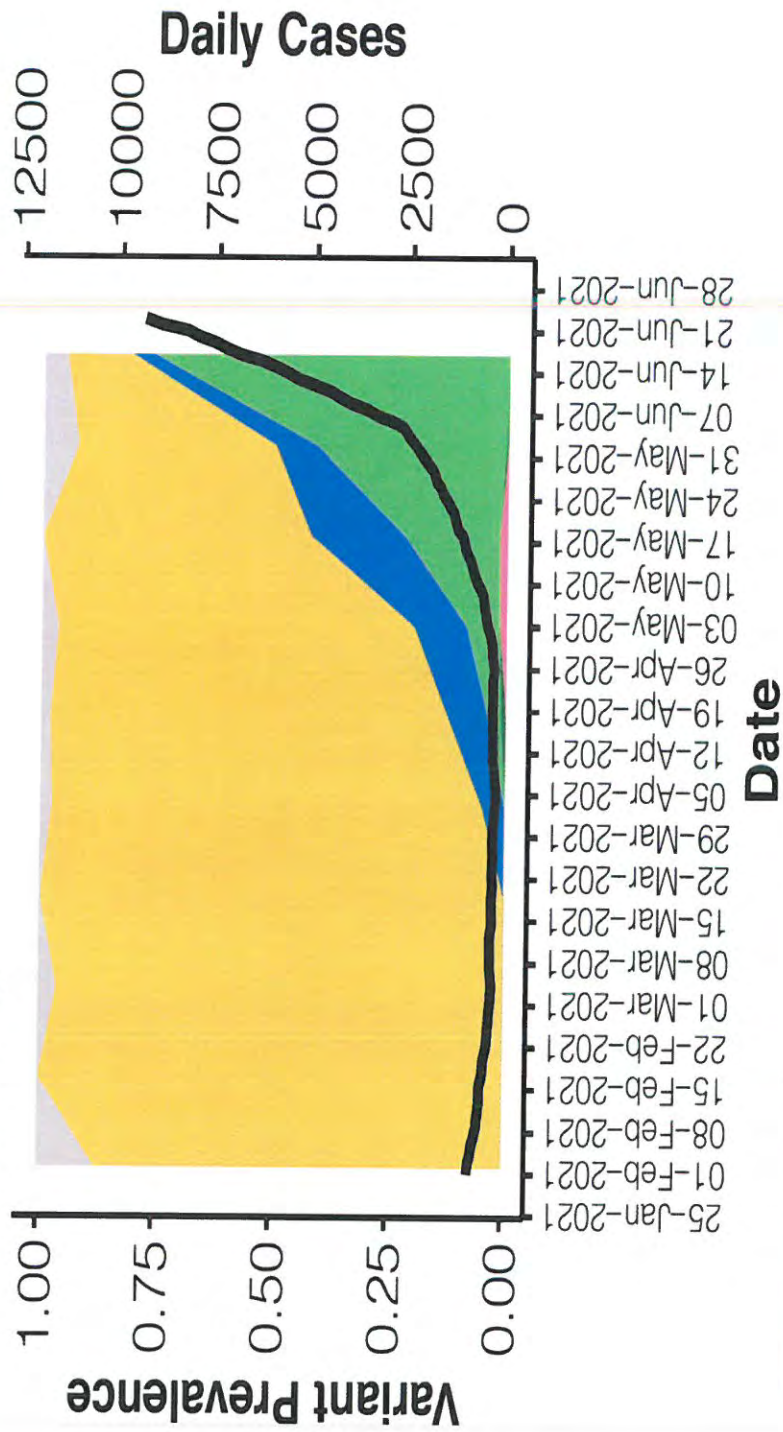


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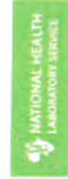
Gauteng



Gauteng



Department of Health
REPI
science & innovation
Department of Health
REPUBLIC OF SOUTH AFRICA

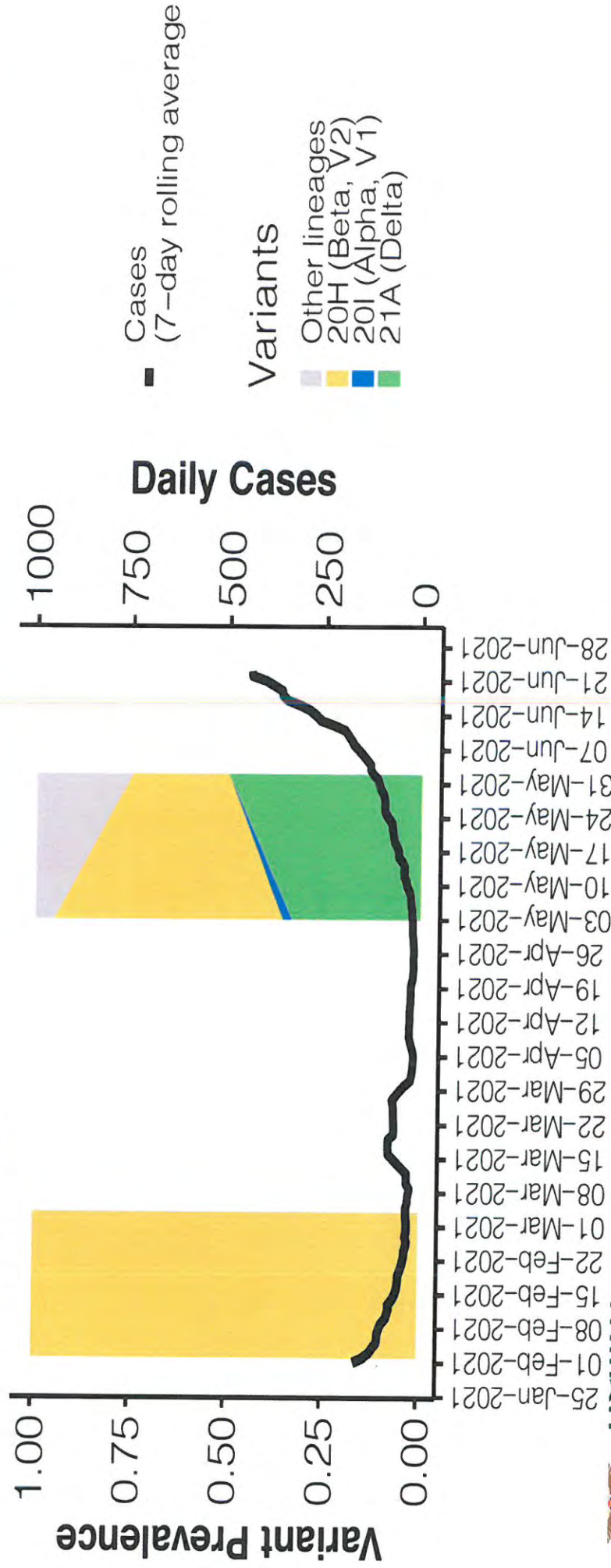


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Eastern Cape



Eastern Cape



Department of Health
 Republic of South Africa

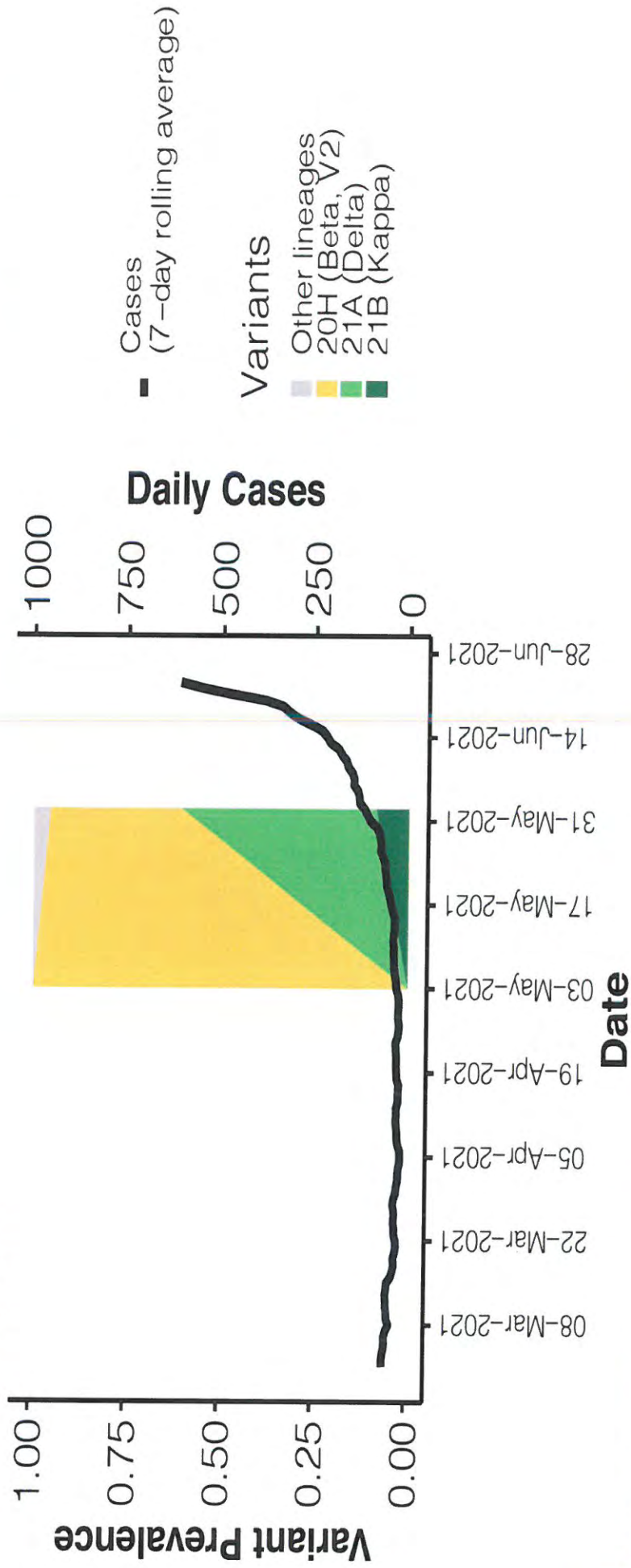


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Limpopo



Limpopo

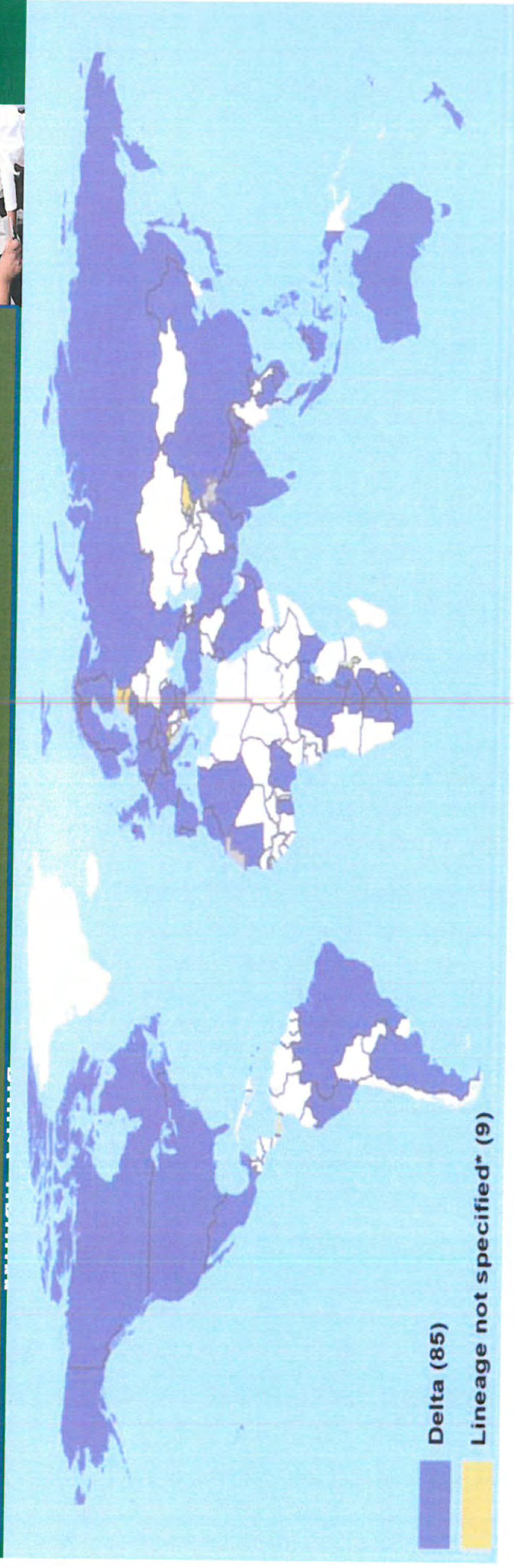


science & innovation
Department of Science and Innovation
REPUBLIC OF SOUTH AFRICA



SSS 24

DELTA GLOBAL DISTRIBUTION



First sampled in India October 2020

Now detected in 85 countries, including several in Africa, and rapidly becoming dominant in many countries

<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/situation-reports>



health

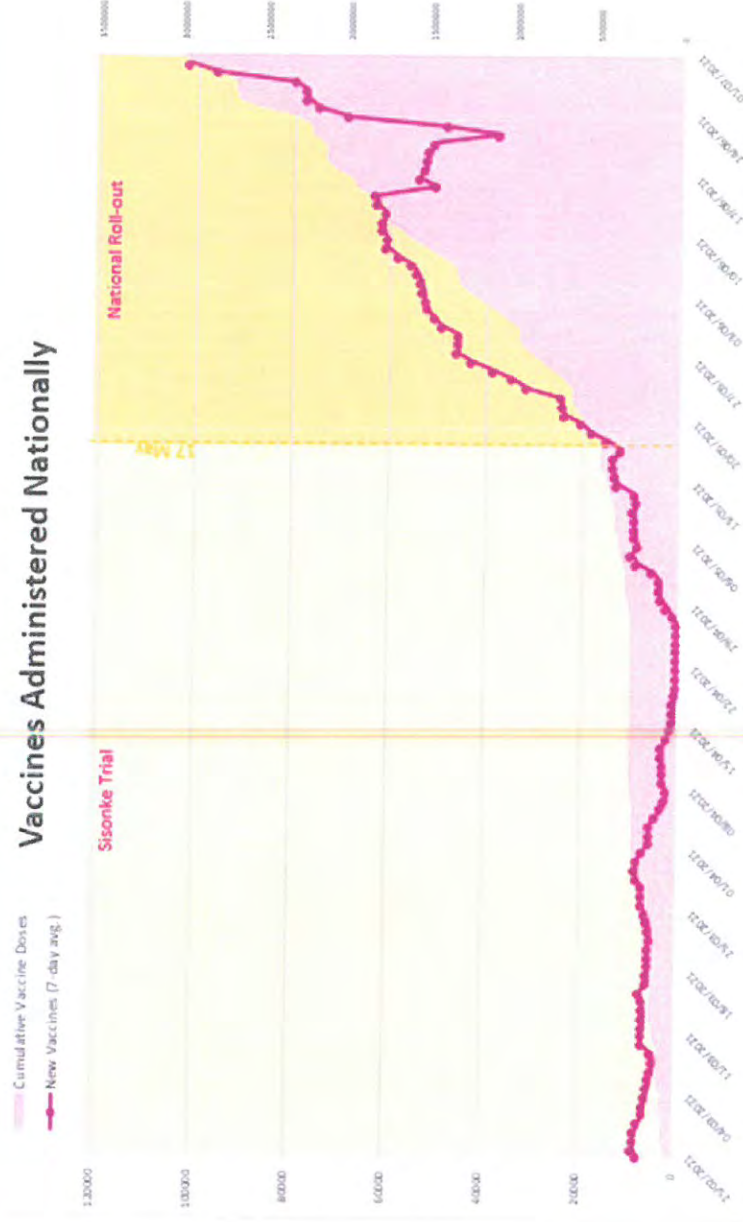
Department:
Health
REPUBLIC OF SOUTH AFRICA

COVID-19 Trends: Vaccination Trends

As of the 30th June 2021



Vaccines Administered Nationally



As of the 30th June,
South Africa has
administered 3 026 636
vaccines.

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Health concerns



1. Country is currently experiencing a high number of COVID-19 cases with high community transmission rates
2. The holding of the elections could put members of the public at risk of contracting COVID-19 during one of various activities, such as:
 - 2.1. physical voter registration
 - 2.2. voting process itself, where large numbers gather at polling stations and queue to complete their ballots
 - 2.3. Large political gatherings, especially in venues that are difficult to manage or limit (such as sports stadia)
3. The rollout of the vaccine program may not have reached sufficient people to have achieved population protection



health

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Health
REPUBLIC OF SOUTH AFRICA

SS

Recommendations



1. Any decision to delay the elections should take into consideration the uncertainty around the timing and magnitude of the Third Wave;
2. The Alert Level regulations are intended to protect the health of the population. Although the regulations may change in response to the epidemic situation, political gatherings must be subject to the same restrictions as other gatherings, and the restrictions should be enforced consistently;
3. COVID-19 protocols were developed and implemented to facilitate the municipal elections in November 2020. These protocols should be reviewed to ensure they are adhered to and implemented during the election process at campaign events and at voting stations;
4. Consider spreading out the voter registration weekends so as to ensure strict compliance with COVID-19 preventions protocols coupled with targeted public messages advising citizens on how to safely participate in different stages of the electoral processes irrespective of the current alert level;
5. Efforts should continue to be made to insist on, and enforce, ventilation, social distancing, sanitising of hands, use of masks, and other NPIs in any indoor and outdoor settings. This should also include emphasis on contact tracing, quarantine and isolation where required; and
6. Continued communication regarding the requirement for people to still adhere to all the NPIs and regulations, irrespective of whether a member of the public has been vaccinated or not.

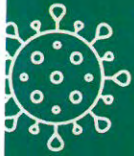


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THANK YOU



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MEMO

Date:	14 th June 2021		
To:	Honorable Deputy Chief Justice Dikgang Moseneke	From:	Ministerial Advisory Committee (MAC) on COVID-19

INDEPENDENT ELECTORAL COMMISSION (IEC) REQUEST FOR INPUTS REGARDING SCHEDULING OF THE MUNICIPAL ELECTIONS

Memo on updated information related to the MAC on COVID-19 Independent Electoral Commission (IEC) Advisory (17 May 2021 – refer to Appendix I) and response to request from the Office of the Commission of Inquiry into Ensuring Free and Fair Local Government Elections During COVID-19, Chief Justice Dikgang Moseneke dated 1 June 2021.

Request for Information

Information on the current status and expected trajectory of the COVID-19 epidemic in South Africa as well as the likelihood of reaching vaccination herd immunity by October 2021 is contained in the attached South African COVID-19 Modelling Consortium (SACMC) report (refer to Appendix II).

Additional responses by the MAC on COVID-19 to the issues raised in the letter of 1 June 2021 are below:

- 1. The nature, extent and features of the vaccination efforts being undertaken in South Africa.** Current immunization efforts have been hampered by a slower than expected roll out. It is unlikely the targets will be met for vaccinating all healthcare workers and people of 60 years of age or older by the end of July 2021, and people 40 years of age or older by mid-October 2021.
- 2. The risk that might be posed to the lives and health of people in South Africa if the local government elections were to proceed in October 2021.** As per the MAC on COVID-19 IEC Advisory, election activities that involve gatherings of large numbers of people may increase the risk to the population if COVID-19 protocols are not maintained and adhered to, particularly in events such as political rallies where it is a challenge to monitor adherence to protocols.
- 3. Any additional measures that may be undertaken to reduce the risk posed to the lives and health of people in South Africa, in the event that the local government elections were to take place during October 2021.** There are no further recommendations beyond what is already in the MAC on COVID-19 IEC Advisory. It is worth emphasizing that for any IEC related activities, efforts should continue to be made to insist on, and enforce,

ventilation, social distancing, sanitizing of hands, use of masks, and other non-pharmaceutical interventions (NPIs) in any indoor and outdoor settings. This should also include emphasis on contact tracing, quarantine and isolation where required.

IEC COVID-19 protocols have been developed and implemented to facilitate recent municipal elections in November 2020 as well as April and May 2021. These protocols should be reviewed to ensure they are adhered to and implemented during the election process.

Thank you for consideration of this response.

Kind regards,



PROF MARIAN JACOBS



PROF KOLEKA MLISANA

CO-CHAIRPERSONS: MINISTERIAL ADVISORY COMMITTEE ON COVID-19

DATE: 14 June 2021



health

Department:
Health
REPUBLIC OF SOUTH AFRICA



Date:	17 May 2021		
To:	Minister ZL Mkhize, Honorable Minister of Health	From:	Ministerial Advisory Committee (MAC) on COVID-19

INDEPENDENT ELECTORAL COMMISSION (IEC) REQUEST FOR INPUTS REGARDING SCHEDULING OF THE MUNICIPAL ELECTIONS

Problem Statement

The IEC has been asked to consider postponing the upcoming municipal elections scheduled for 27th October 2021. A meeting was held by the IEC on Thursday 22nd April 2021 with stakeholders to discuss this. The Minister of Health has been asked by the IEC to give input on the health-related implications to holding the municipal elections as scheduled.

Implications

There are 3 health-related concerns regarding holding the municipal elections as scheduled:

1. The country may be experiencing a high number of COVID-19 cases or a rise in cases may be detected at the time of the elections or in the run-up to the elections necessitating a postponement of the elections at the last minute.
2. The holding of the elections could put members of the public at risk of contracting COVID-19 during one of various activities, such as:
 - Voter registration with the anticipated need to facilitate large numbers of citizens in voter registration stations;
 - The voting process itself, where large numbers gather at polling stations and queue to complete their ballots;
 - Large political gatherings, especially in venues that are difficult to manage or limit (such as sports stadia); these are potentially high risk super-spreading events;
 - Increased person-to-person contact during door-to-door campaigning.
3. The rollout of the vaccine program may not have reached sufficient people to have achieved population protection, or even protection of higher risk populations.

It would be difficult to manage or limit participation as well as ensure NPIs are adhered to in mass events.

Background/Current Information

1. The South African COVID-19 Modelling Consortium has developed possible 3rd wave scenarios, which have been presented to the Minister and MAC¹. In brief:
 - The timing of a third wave is not predictable, though the time from an initial increase in cases to the peak is on average 2-3 months.
 - In the absence of a new variant, the peak of a 3rd wave is likely to be lower than the peak of the 2nd wave across all age groups and most provinces, though there is substantial uncertainty. The behavioral response of the population to increasing case numbers will be a key determinant of the severity of a 3rd wave.
 - The emergence of new variants is unpredictable. A new variant could produce a 3rd wave that meets or exceeds the levels of the 2nd wave.
2. The vaccine rollout program is expected to have reached all healthcare workers and people of 60 years of age or older by the end of July 2021. The program will be in the process of vaccinating members of the general public who are older than 50 years of age (by end August 2021), 40 years of age (by mid-October 2021) as well as workers aged 40 years or older. It is expected that people in congregate settings will be included in this process. The rollout is expected to move to vaccinating the rest of the population (18 years or older) in October 2021. This information is as per the National Department of Health implementation plan as presented to the MAC on 15th April 2021 and implementation plans may change². In addition, there is a possibility of disruptions in the supply of either of the two vaccines.
3. Limitations on the size of gatherings is one of the most effective measures to reduce SARS-CoV-2 transmission. Brauner *et al.* estimated that restricting gatherings to 100 people or less resulted in a 34% reduction in transmission³. Political rallies and similar gatherings generally include far greater numbers of people with less likelihood of maintaining adherence to NPIs.
4. Current Level 1 restrictions allow for: “Social, political and cultural gatherings are permitted but limited to 250 persons or less for indoor venues and 500 persons or less for outdoor venues and if the venue is too small to hold the prescribed number of persons observing a distance of at least one and a half metres from each other then not more than 50 percent of the capacity of the venue may be used, subject to strict adherence to all health protocols and social distancing measures”⁴.
5. Municipal Elections were held in November 2020 and April 2021 where COVID-19 protocols were in place and implemented by the IEC. These were catch-up elections and involved only 455 and 14 elections respectively³.
6. The proposed elections in October 2021 are anticipated to include 4 725 unique elections, comprising 4 468 ward elections, eight metropolitan council elections, 205 local council elections and 44 district council elections⁵.

Recommendations

1. Any decision to delay the elections should take into consideration the uncertainty around the timing and magnitude of the potential Third Wave. It is not possible to predict the number of cases in the months leading up to the elections or at the time of the elections with the current Third Wave modelling estimates. It is also not possible to state with certainty what the epidemic situation will look like at potential future dates if voting is postponed.
2. The Alert Level regulations are intended to protect the health of the population. Although the regulations may change in response to the epidemic situation, political gatherings

must be subject to the same restrictions as other gatherings, and the restrictions should be enforced consistently.

3. COVID-19 protocols were developed and implemented to facilitate the municipal elections in November 2020. These protocols should be reviewed to ensure they are adhered to and implemented during the election process at campaign events and at voting stations.
4. Consider spreading out the voter registration weekends so as to ensure strict compliance with COVID-19 preventions protocols coupled with targeted public messages advising citizens on how to safely participate in different stages of the electoral processes irrespective of the current alert level.
5. Efforts should continue to be made to insist on, and enforce, ventilation, social distancing, sanitising of hands, use of masks, and other NPIs in any indoor and outdoor settings. This should also include emphasis on contact tracing, quarantine and isolation where required.
6. Continued communication regarding the requirement for people to still adhere to all the NPIs and regulations, irrespective of whether a member of the public has been vaccinated or not.

Footnotes:

1. As per Third Wave Modelling presented to the MAC on 8th April 2021.
2. As per presentation to the MAC by Dr Bamford, NDoH on COVID-19 vaccination rollout. 15th April 2021
3. J. M. Brauner *et al.*, *Science* 10.1126/science.abd9338 (2020).
4. Mail and Guardian, Local government elections: COVID-19 add to IEC's challenges. 16 March 2021
5. Adjusted Alert Level 1 restrictions as per regulation 72.3(ii) – 30 March 2021.

Thank you for consideration of this request.

Kind regards,



PROF MARIAN JACOBS



PROF KOLEKA MLISANA

CO-CHAIR CHAIRPERSONS: MINISTERIAL ADVISORY COMMITTEE ON COVID-19

DATE: 17 May 2021

CC:

- » **Dr S Buthelezi (Director-General)**
- » **Dr T Pillay (Deputy Director-General)**
- » **Incident Management Team**

Memo: Epidemiological assessment in relation to timing of municipal elections

2021-06-07

Preamble

The South African COVID-19 Modelling Consortium (SACMC) has been contacted by multiple parties with requests for epidemiological information needed to inform their contributions to the Inquiry into Ensuring Free and Fair Local Government Elections During COVID-19 being conducted by Justice Moseneke on behalf of the Electoral Commission of South Africa. This document summarizes relevant information as of the date above.

Current status and expected trajectory of the COVID-19 epidemic in South Africa

South Africa is expected to officially enter the third wave of its COVID-19 epidemic in mid-June, and several provinces have already entered a third wave. Based on the first two waves of the epidemic in South Africa, epidemic waves tend to last 5-8 weeks, though there is substantial variation among provinces (Table). The current rate of epidemic growth suggests that the third wave may have a lower peak incidence but longer duration than the previous two waves.

It is also worth noting that:

- Transmission continues to occur during inter-wave periods. For example, the country had an average of 1,625 new cases per day between 2020-09-15 and 2020-11-15 (between waves 1 and 2) and an average of 1,325 new cases per day between 2021-03-15 and 2021-05-15 (between waves 2 and 3).
- There is substantial uncertainty regarding the potential for new variants, particularly the B.1.1.7 / Alpha and B.1.617.2 / Delta variants of concern, to alter the trajectory of the epidemic in the coming months. Both of these variants appear to be more transmissible than the B.1.351 / Beta variant that drove South Africa's second wave.

	<i>Weeks with incidence† above the half-peak</i>		<i>Weeks from new wave declaration to end of wave declaration‡</i>
	Wave 1	Wave 2	Wave 2
<i>South Africa</i>	6.3	5	9.4
<i>Eastern Cape</i>	5.1	9.2	11.6
<i>Free State</i>	4.9	7.6	8
<i>Gauteng</i>	5.1	3.7	7
<i>KwaZulu-Natal</i>	5	5.1	8.6
<i>Limpopo</i>	5.1	3.3	7.1
<i>Mpumalanga</i>	4.3	4.1	8.3
<i>North West</i>	5	3.7	8.3
<i>Northern Cape</i>	10.6	1.1	—*
<i>Western Cape</i>	9.1	6	10.6

† 7-day moving average

‡ Based on the definitions given in the MAC Advisory on the Second Wave

* Northern Cape has not met the end-of-wave criterion following the declaration of the second wave

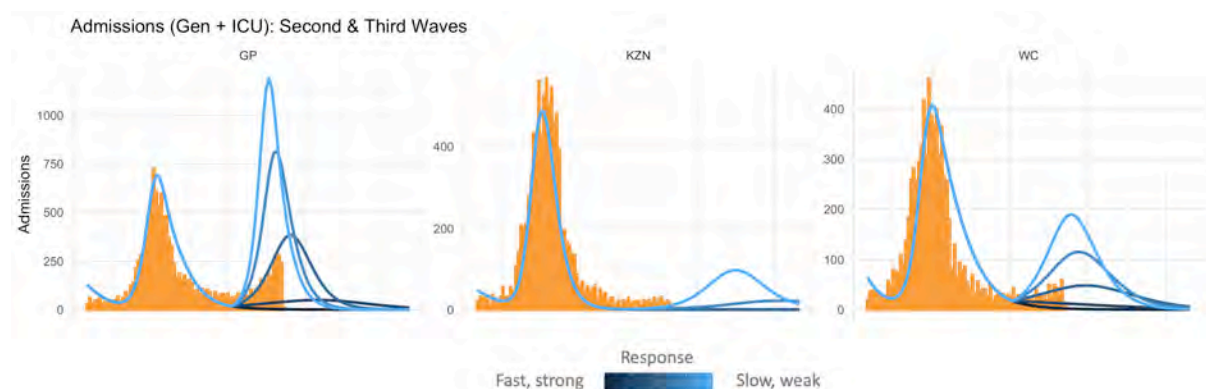
Likelihood of reaching community (“herd”) immunity by October 2021

Based on the initial estimates of the reproduction number in South Africa, the Ministerial Advisory Committee on COVID-19 Vaccines estimated that 67% of the population would need to be immune to infection for community (“herd”) immunity to be reached. The emergence of variants of concern that are more transmissible than the originally circulating variants suggests that reaching community immunity will require an even higher percentage of the population to be immune. Combined with the slow pace of vaccine roll-out to date and ongoing supply constraints, the probability of reaching community immunity by October 2021 is considered low.

Other relevant epidemiological considerations

Aside from the potential for emergence of new variants, an increasing contact rate between susceptible and infectious individuals is expected to be the primary driver of the third and subsequent waves of the COVID-19 epidemic, and this must be taken into account in determining the size of gatherings (including political gatherings) permitted under COVID-19 regulations.

The SACMC’s report entitled “COVID-19 modelling update: Considerations for a potential third wave” (2021-04-29)¹ considered a range of potential scenarios for a third wave that reflected different behavioral patterns, ranging from a slow response to rising infections with weak adherence to measures that reduce transmission (“slow, weak”) to a fast response with strong adherence (“fast, strong”). The projections clearly indicated that the height and duration of resurgences are highly dependent on behavioral factors. Current hospital admissions in Gauteng and Western Cape are approximately in line with an intermediate scenario (Figure). Campaign activities, if not carefully implemented, could alter the trajectory as a result of increased contact rates.



Contact

Inquiries should be directed to Dr. Harry Moultrie at <harrym@nicd.ac.za>.

¹ Available at: <https://www.nicd.ac.za/wp-content/uploads/2021/05/SACMC-Third-wave-report-290421.pdf>

“FA4”**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA****CASE NO:** _____

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS AND OTHERS**

Respondents

CONFIRMATORY AFFIDAVIT

I the undersigned

MAHOMED FAREED ABOOBAKER ABDULLAH

do hereby make oath and say as follows:

1. I am a medical practitioner, a specialist in public health medicine and Fellow of the College of Public Health Medicine of South Africa (FCPHM(SA)).
2. I am currently the Director of the Office of AIDS and TB Research at the South African Medical Research Council and hold a part-time appointment as a public health specialist and HIV clinician at the Steve Biko Academic Hospital in Pretoria, where I am a member of the Hospital Outbreak



Response Team working as clinician in the COVID-19 wards. A copy of my curriculum vitae is annexed hereto, marked "**MFA1**", and I confirm the contents thereof to be true and correct.

3. The facts that I depose to are true and correct and are within my personal knowledge.
4. On 28 June 2021 I delivered written submissions to the Justice Moseneke Inquiry on Free and Fair Local Government Elections during COVID ("the Inquiry"), as appears on the Inquiry's website (<https://www.elections.org.za/freeandfair/LGE2021/submissions>). A copy of these submissions is attached hereto marked "**MFA2**". I am the author of these submissions.
5. I point out that the annexure "MFA2" contains two errors, none of which are material to the substance of the opinions I expressed in the written submission:
 - 5.1. The reference to "excess death rate" in second line of the first sentence at the top of page 6 should be "reported death rate"; and
 - 5.2. The reference to "excess deaths per 100 000 population" in the title of Figure 3 on page 7 should be "Reported Deaths per 100 000 Population".
6. On 29 June 2021 I presented oral submissions before the Inquiry together



with a PowerPoint presentation, as appears on the Inquiry's website (<https://www.elections.org.za/freeandfair/LGE2021/oral-submissions>). A copy of this presentation is attached hereto marked "MFA3". I am the author of this presentation.

7. I depose to this affidavit to confirm under oath that the contents of the attached documents (save for what I have indicated in paragraph 5 above) and the oral submissions which I made before the Inquiry are to the best of my belief true and correct and have been fairly and accurately summarised in the Inquiry's Report.



DR MFA ABDULLAH

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of his knowledge both true and correct. This affidavit was signed and sworn to before me at Pretoria on this the 03rd day of **August 2021**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

LEFANYANA WILLIAM MASWENENG
PRACTISING ATTORNEY OF
THE HIGH COURT OF RSA
COMMISSIONER OF OATHS, EX OFFICIO
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CURRICULUM VITAE**PROFESSIONAL EXPERIENCE****Current Positions*****South African Medical Research Council (SAMRC)******Director: Office of AIDS and TB Research******Division of Infectious Diseases, Steve Biko Academic Hospital***

- HIV Clinician (part time)

Global Fund Technical Review Panel

- TRP Member, HIV Expert

Honorary Lecturer

- University of Pretoria, Department of Internal Medicine

South African National TB Think Tank

- Co-chairperson

Previous Positions***PEPFAR EQUIP Project***

- Deputy Chief of Party (February – May 2017)

South African National AIDS Council

- Chief Executive Officer (2012 – 2017)

The Global Fund, Geneva, Switzerland

- Director: Africa Unit (2008 – 2011)

International HIV/AIDS Alliance, Brighton, UK

- Director: Technical Support (2006 – 2008)

Department of Health, Western Cape Province, South Africa

- Deputy Director-General (2001 – 2006)
- Chief Director: Health Care (1996 – 2000)
- Head: Strategic Management Team (1994 – 1995)




EDUCATIONAL QUALIFICATIONS

Colleges of Medicine (SA)	Diploma in HIV Management	2018
University of Cape Town	DSc (Med) (honoris causa)	2005
Colleges of Medicine (SA)	Fellow of the College of Public Health Medicine (FCPHM)	2003
University of Cape Town	Diploma in Health Management	1997
University of Cape Town	BSc (Hons)(Epidemiology)	1994
University of the Witwatersrand	Diploma in Occupational Health	1991
University of Natal	MBChB	1987

PROFESSIONAL AFFILIATIONS AND BOARDS

Health Professions Council of South Africa	Medical Practitioner
Colleges of Medicine of South Africa	Public Health Specialist
General Medical Council, UK	Medical Practitioner
Southern Africa HIV Clinicians Society	Member
International AIDS Society	Member
Treatment Action Campaign (HIV CSO)	Deputy Chair Board of Directors
ANRS MIE (France)	Scientific Advisory Board Member
Strategic Health Innovation Partnerships	Steering Committee Member

PEER REVIEWED PUBLICATIONS

*The Scientists Collective 10 Point Proposal for Equitable and Timely Access to COVID-19 vaccine in South Africa. Glenda Gray, Alex van den Heever, Shabir Mahdi, James McIntyre, Bवेश Kana, Wendy Stevens, Ian Sanne, Guy Richards, **Fareed Abdullah**, Marc Mendelson, Aslam Dasoo, Jeremy Nel, Adrienne Wulfsohn, Lucille Blumberg, Francois Venter. South African Medical Journal. Published online 14 December 2020.

*A risk measurement tool for targeted HIV prevention measures amongst young pregnant and lactating women in South Africa." Trisha Ramraj; Nada Abdelatif; Witness Chirinda; Fareed Abdullah; Gurpreet Kindra; Ameena Goga. AIDS and Behaviour (submitted March 2021)

*Knowledge I seek because culture doesn't work anymore ... It doesn't work, death comes": The experiences of third-generation female caregivers (gogos) in South Africa discussing sex, sexuality and HIV and AIDS with children in their care. Jane Simmonds, Charles Parry, Fareed Abdullah, Nadine Harker Burhams, Nicola Christofides. BMC Public Health, March 2021.

*Associations between patterns of alcohol use and viral load suppression amongst women living with HIV in South Africa. Bronwyn Myers, **Fareed Abdullah**, et al. Journal of Acquired Immune Deficiency Syndromes (submitted October 2020).

*HIV care coverage among HIV-positive adolescent girls and young women in South Africa: results from the HERStory Study. Cathy Matthews, **F Abdullah**, et al. South African Medical Journal (accepted for publication October 2020)

*Jennifer A Smith, Leo Beacroft, **Fareed Abdullah**, Buyile Buthelezi, Manala Makua, Chelsea Morroni, Gita Ramjee, Claudia Velasquez and Timothy B. Hallett. Responding to the ECHO trial results: modelling the potential impact of changing contraceptive method mix on HIV and reproductive health in South Africa. Journal of the International AIDS Society 2020, 23: e25620.

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- *Building capacity for advances in tuberculosis research; proceedings of the third RePORT international meeting. Yuri F. van der Heijdena, **Fareed Abdullah**, Bruno B. Andrade, Jason R. Andrews, Devasahayam J. Christopher, Julio Croda, Heather Ewing, David W. Haas, Mark Hatherill, C. Robert Horsburgh Jr., Vidya Maves, Helder I. Nakaya, Valeria Rolla, Sudha Srinivasan, Retna Indah Sugiyono, Cesar Ugarte-Gil, Carol Hamilton. Tuberculosis 113 (2018), 153-162.
- ***Abdullah F**. Evolution of HIV Financing since Durban 2000 and its impact on South Africa's Response to the Epidemic. Ngcaweni, B (eds) Africa Institute of South Africa. 2016.
- *W D F Venter, B Kaiser, Y Pillay, F Conradie, G B Gomez, P Clayden; M Matsolo; C Amole, L Rutter, **F Abdullah**, E J Abrams, C P Casas, M Barnhart, A Pillay, A Pozniak, A Hill, L Fairlie, M Boffito, M Moorhouse, M Chersich, C Serenata, J Quevedo, G Loots. Cutting the cost of South African antiretroviral therapy using newer, safer drugs. S Afr Med J 2017;107(1):28-30.
- *Goga AE, Singh Y, Singh M, Noveve N, Magasana V, Ramraj T, **Abdullah F**, Coovadia A, Bhardwaj S, Sherman G. Enhancing HIV Treatment Access and Outcomes Amongst HIV Infected Children and Adolescents in Resource Limited Settings. Maternal and Child Health Journal. Vol. 20 Number 8.
- *Mark Blecher, Gesine Meyer-Rath, Calvin Chiu, Yogan Pillay, **Fareed Abdullah**, Aparna Kollipara, Jonatan Davén, Michael Borowitz, Nertila Tavanxi. HIV and AIDS financing in South Africa: sustainability and fiscal space. South African Health Review. HST. 2016.
- *Alexandra Jones, Ide Cremin, **Fareed Abdullah**, John Idoko, Peter Cherutich, Nduku Kilonzo, Helen Rees, Timothy Hallett, Kevin O'Reilly, Florence Koechlin, Bernhard Schwartlander, Barbara de Zaldoondo, Susan Kim, Jonathan Jay, Jacqueline Huh, Peter Piot, Mark Dybul. Transformation of HIV from pandemic to low-endemic levels: a public health approach to combination prevention. www.thelancet.com Published online April 14, 2014.
- ***Abdullah F** and Squire C. Technologies of Treatment: Scaling up ART in the Western Cape, South Africa. HIV Treatment and Prevention Technologies in International Perspective. Davis M and Squire C (edits). Palgrave Macmillan. 2010.
- *David Bourne, Mary Thompson, Linnea Brody, Mark Cotton, Beverly Draper, Ria Laubscher, **Fareed Abdullah**, Jonny Myers. Emergence of a peak in early infant mortality due to HIV/AIDS in South Africa. AIDS 2009, 22:1-6.
- *Najma Shaikh, **Fareed Abdullah**, Carl J Lombard, Lynette Smit, Debbie Bradshaw, Lindiwe Makubalo. Masking through averages – intra provincial heterogeneity in HIV prevalence within the Western Cape. SAMJ. June 2006, Vol. 96, No. 6.
- ***Abdullah F**. Antiretroviral Treatment in the Western Cape. Continuing Medical Education. Vol. 23. No. 5. May 2005.
- ***Abdullah F**. The Complexities of Implementing Antiretroviral Treatment in the Western Cape Province of South Africa. Development Update. Vol. 5 No. 3. December 2004.
- *Andrew Boulle, Christopher Kenyon, **Fareed Abdullah**. A Review of Antiretroviral Costing Models in South Africa. Economics of AIDS and Access to HIV/AIDS Care in

Developing Countries. Issues and Challenges. Moatti, Jean-Paul et al (eds). ANRS. Paris. 2003.

***Abdullah MF**, Young T, Bitalo L, Coetzee N, Myers J, Public Health Lessons from a Pilot Programme to Reduce Mother to Child Transmission of HIV-1 in Khayelitsha. SAMJ Vol. 91 July 2001.

Popular Publications

*Daily Maverick Op-Ed: Khayelitsha: Key battleground in the fight Against Aids denialism. Fareed Abdullah, 28 October 2020.

*Daily Maverick Op-Ed: Vaccines for South Africa. Now. Aslam Dasoo, Glenda Gray, Guy Richards, Marc Mendelsohn, Fareed Abdullah, Francois Venter, James McIntyre, Adrienne Wulfsohn, Alex van den Heever.

*Daily Maverick Op-Ed: When it comes to HIV, no need to embellish our achievements or to diminish our challenges. Fareed Abdullah, 5 April 2017.

Mahomed Fareed Aboobaker Abdullah
Pretoria, 02 August 2021

"MFA2"

SUBMISSION TO THE INQUIRY INTO ENSURING FREE AND FAIR LOCAL GOVERNMENT ELECTIONS DURING COVID-19 (INQUIRY)

INTRODUCTION

Though much is known about SARS-CoV-2 since it was first described in Wuhan at the end of 2019, there is insufficient knowledge of the evolution of transmission trends, infectivity and the changing pathophysiology of the COVID-19 disease that it causes. Emergency Use Authorization of multiple vaccine candidates and their rapid deployment in many regions of the globe provide some insights into the possibilities of controlling the spread of the disease and reducing rates of severe manifestations of the disease, hospitalizations and death.

Any exercise to predict the future trends of the transmission of infection, the evolution of transmissibility (contagiousness) and the changing pathogenesis and presentation of COVID-19 in population subsets must be done with both caution and spades of humility.

Many factors influence the way in which we navigate our way through figuring out what we are likely to face over the coming period. Host, pathogen and environmental factors all contribute to the evolution of the pandemic in the local context.

Natural immunity and vaccination coverage are critical host factors. Whilst both these factors will contribute to the size and shape of future spread, they have not been sufficiently enlightening for our third wave experience. Natural immunity in Gauteng resulting from the second wave varies considerably from 5-43% (Mahdi) across the provincial locales and there is some evidence of sub-district variation (up to 71%) arising out of prior natural immunity from the first wave (Myers). The ability of variants of concern (VOC) to partially escape both natural and vaccine-induced immunity is difficult to estimate and weakens the predictive value of prior COVID-19 infection and vaccination status.

Age, co-morbidities and body mass index (BMI) are other important host factors to take into account in efforts to forecast disease severity. Unfortunately, outside of the Western Cape Province and the medical schemes members, almost no systematic data exists to fathom their effect. Social class is likely to feature as a factor in health status, agency to control exposure and health care options including access to home-based treatment alternatives such as oxygen concentrators, and even access to vaccination.

Population density, mobility and modes of transport are also important factors that fuel transmission. It is difficult to measure the impact of these factors on transmission dynamics though a common wisdom is emerging that indoor gatherings and nighttime movement are important factors in driving new infections. Hence, the focus on gatherings and the curfew in the recent Alert Lockdown Level 4 announcement.

What is more difficult to fathom are seeding events and wave triggers. Seeding events that lead to cluster outbreaks in the home, shopping centres or congregant settings are due both to chance and to human behavior. The sequence of events that lead clusters to coalesce to a critical tipping point that

then sets of a wave is less well understood. What triggered the second wave in the Eastern Cape? And why did the Northern Cape come first in the third wave? Factors such as population density and the geographic spacing of small towns in rural provinces and regions are likely to affect the height of the peak, the rate of its rise and fall and the duration of the wave. It is likely that the Delta variant that is more transmissible than other variants shows a rapid rise to a high peak and a precipitous fall as seen in the India second wave or the second wave in Portugal (due to the Alpha variant which was similarly more transmissible than the ancestry virus). We have not yet seen the peak in Gauteng yet but the rise is clearly due to the Delta variant based on the latest genomic analysis reports.

Winter and summer were initially expected to play a role in the timing of waves in the way that seasonal changes drive the annual influenza epidemic; but this is no longer believed to have any influence on the timing of waves, which seem to be bi-annual every 6 months with low levels of NPIs or more protracted across many months of the year if strict NPIs are possible. All of this gives rise to serious unpredictability even though there might be some knowns which may be summed up as the pandemic continuing everywhere until substantive vaccine coverage is achieved.

Having stated the shortcomings of our knowledge and know-how in the introduction, we are able to turn our attention to what we have learned about this pandemic, in an attempt to figure out what is likely to unfold over the medium term. The analysis of available data and a discussion explaining how we may use this analysis is set out below.

METRICS OF ANALYSIS - CASE AND DEATH RATES

There are numerous measures used by the NICD and other institutions and individuals to track the pandemic. These include the daily absolute number of cases, the yield or positivity rate, the rolling 7-day average, the 3-day rolling average, official hospital admission reports, daily reports of hospital deaths and weekly excess death reports from death notifications.

In this submission, we propose to mainly use a combination of two measures to monitor the pandemic trends over time at the national and provincial level. For ease of comparison across provinces we are using rates as opposed to absolute numbers. These are the daily case rate per 100 000 population and the excess death rate per 100 000 population. In the case of the daily case rate the temporality of the wave form is easily observed, and deductions can be made about when a wave commences, when it peaks and when it declines. The case rate is biased by the volume of testing and the rate is undercounted in provinces and municipalities where the testing rates are low.

The excess death rate per 100 000 population is a more accurate measure of the scale of the pandemic as it records all deaths whether these occurred in a health facility or at home in the community. This death rate lags behind the case rate by between two to three weeks and provides a later shifted death wave. This is a more accurate measure of the wave severity for both duration and peak. These two measures provide an integrated estimate of both the temporality and intensity of the pandemic in a wave. Cumulative excess deaths also provide the most accurate measure of the severity of impact of the pandemic.

The source of the case rates is that reported by the NDOH daily reflecting both public and private sector tests. The excess deaths are from the weekly report of the SAMRC Excess Mortality report. These data have been uploaded to STATA 16 by Professor Jonny Myers who has then very kindly generated these images of LOWESS smoothed rates for this submission. There are other measures used to track cases such as the 7-day rolling average and the official statistics of COVID related deaths are monitored by the NICD from death reports from public and private hospitals. With cases the estimates are skewed by the level of testing. The higher the number of tests performed the higher will be the number of positive tests or cases per population so provinces that test more will have higher rates. The case rates will need to be adjusted for the positivity yield to get one closer to the case rates. The most recent positivity yield reported by the NICD was 25%, meaning that the number of untested positives is likely to be much higher.

Having reflected on the case and excess death rates by province over the first, second and third waves we suggest that the following should be considered in navigating possible current and future trends for the pandemic in our country.

THE FOURTH WAVE - WHEN?

Global experience over the last 18 months has shown that only draconian lockdowns as seen in Wuhan, international isolation as seen in New Zealand and high levels of vaccination coverage as seen in Israel, have been able to control future waves of the pandemic. A fourth wave, and even possible future waves, is inevitable until vaccine coverage has reached a point where new infections and the risk of new mutations is severely reduced. As South Africa is unlikely to reach the levels of vaccine coverage required, there is no reason to believe that we will not experience a fourth wave before the year is over.

Figure 1a below shows the peaks and troughs and the inter-wave periods over waves one, two and three for the country as a whole. If the regularity of the first three waves recurs, then a fourth wave can be expected in the fourth quarter of the year.

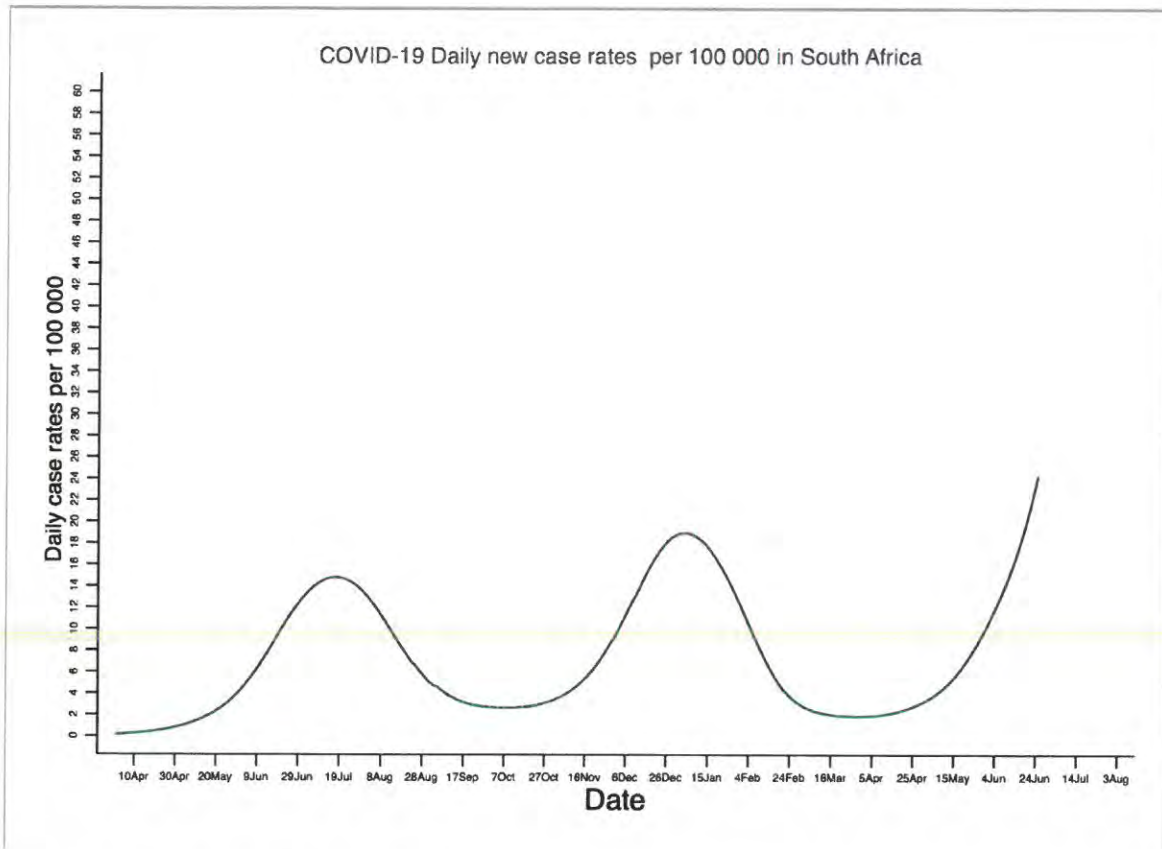


Figure 1a. South African National Case Rate

The peaks of previous waves appear to be about six months apart and once there are signs of when the third wave will peak, we will be able to confirm the pattern. It is difficult to explain the regularity of this pattern so this is merely an observation of the pattern that is emerging. This is not necessarily the pattern in all countries and there are countries with a completely different pattern. It would also appear that the time between the end of the first and second waves and the beginning of the next wave was between 8 and 10 weeks. If this pattern were to continue between the third and the fourth wave, then the latter could be expected to commence in the first two weeks of October and would be well established in the exponential phase by the last week of October. There is also a strong possibility that the third wave could end a few weeks later and the fourth wave would start closer to the end of October as shown in Figure 1b.

MM

~

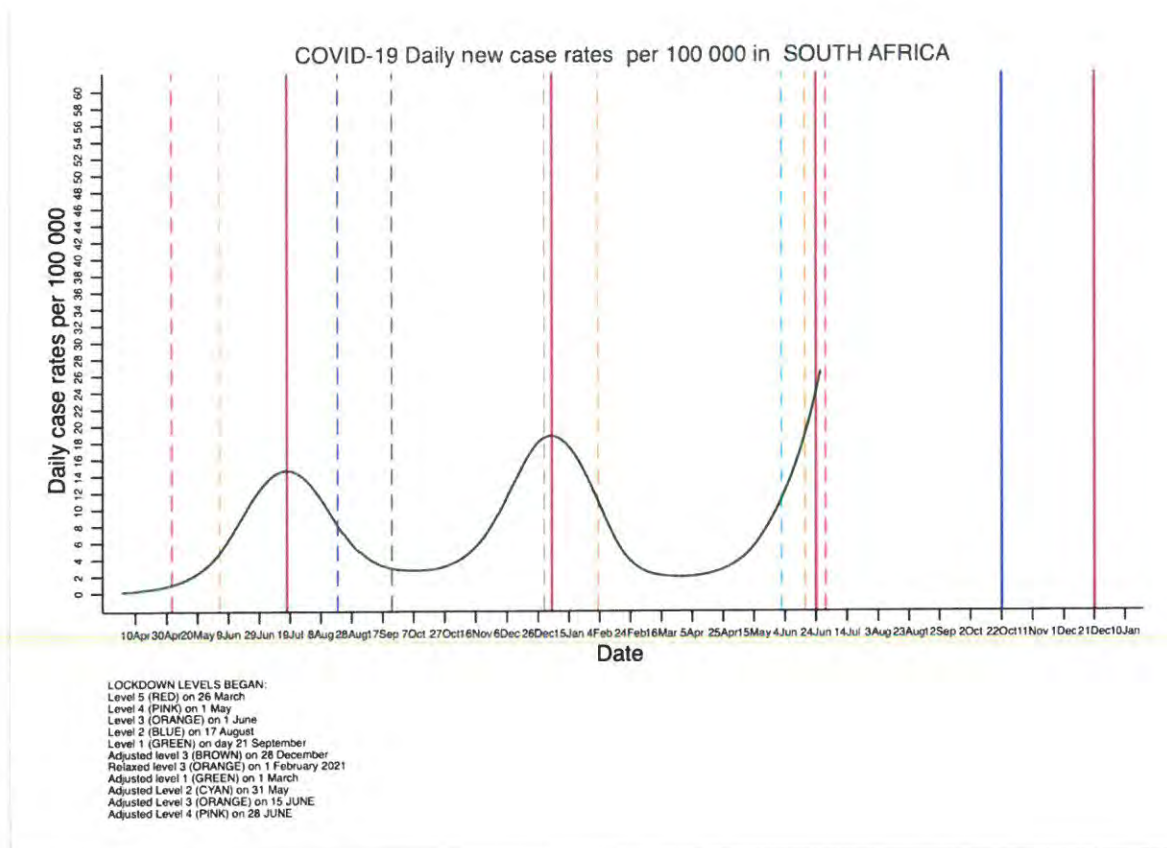


Figure 1b. National Case Rate 0 Straight Line Projection

If the fourth wave were to set off at the end of October, then a host of gatherings across the country will play a major role in triggering the fourth wave and possibly increasing its size by seeding new infections throughout the country.

INTERPROVINCIAL AND LOCAL VARIABILITY

The national picture masks local variation in the trajectory of the first, second and third waves. A review of the provincial breakdown of the first, second and third waves will offer insights into the likely local scenarios for the pandemic during the expected fourth wave. From Figure 2 below, it is evident that there is substantial inter provincial variation in the trend lines for cases and excess deaths. The Northern Cape and Free State are interesting to observe. In the case of the Northern Cape the timing of the peaks and troughs are completely out of kilter with the national trend line and provinces such as Gauteng and the Western Cape. In the case of the Free State both the case rates and the excess death rates show an undulating pattern that does not have the distinct peaks and troughs of provinces such as the Eastern and Western Cape. The northern rural provinces of North West, Mpumalanga and Limpopo showed very small first waves, larger second waves and will perhaps see much larger third waves.

Mkl

Figures 2 and 3 below provide a graphic description of the inter provincial variability for both the case rate and the excess death rate. At no point does the trough of all provinces align with the national average and this is even more evident in the death rates.

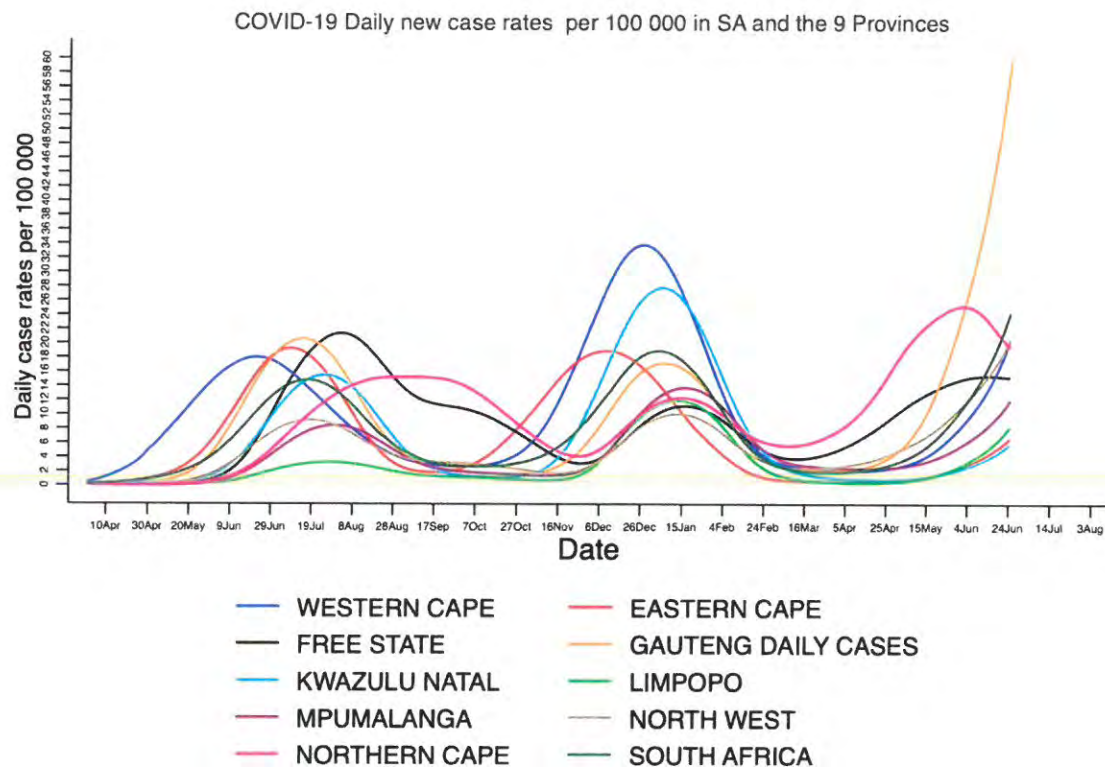


Figure 2. Case Rates per 100 000 population, South Africa and Provinces (JM)

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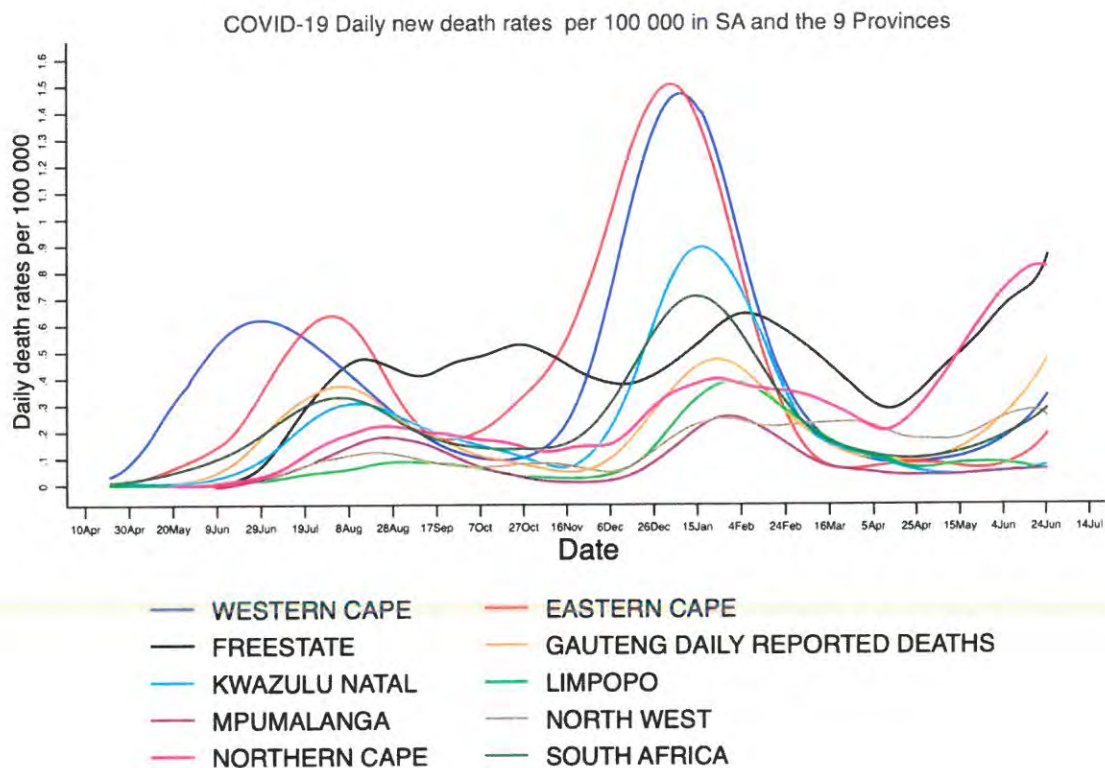


Figure 3. Excess Deaths per 100 000 population, South Africa and Provinces

Drilling down further to the metro municipalities one sees a similar variation (see attached figures for metro excess death rates across all three waves). One can see the wide variation in the wave patterns across the metros when comparing eThekweni and Nelson Mandela Bay which have had two peaks, with Johannesburg which has three very distinctive peaks. The wave pattern for Mangaung is remarkably different and could be said to have had two double waves with only a single trough in the last two months of 2020.

MJH

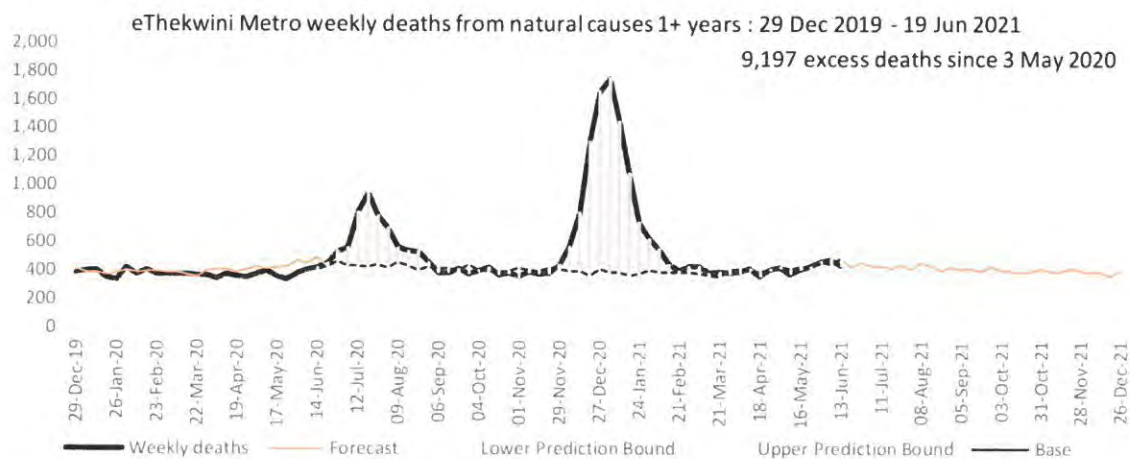


Figure 4. Excess Deaths eThekweni Municipality (SAMRC Weekly Report)

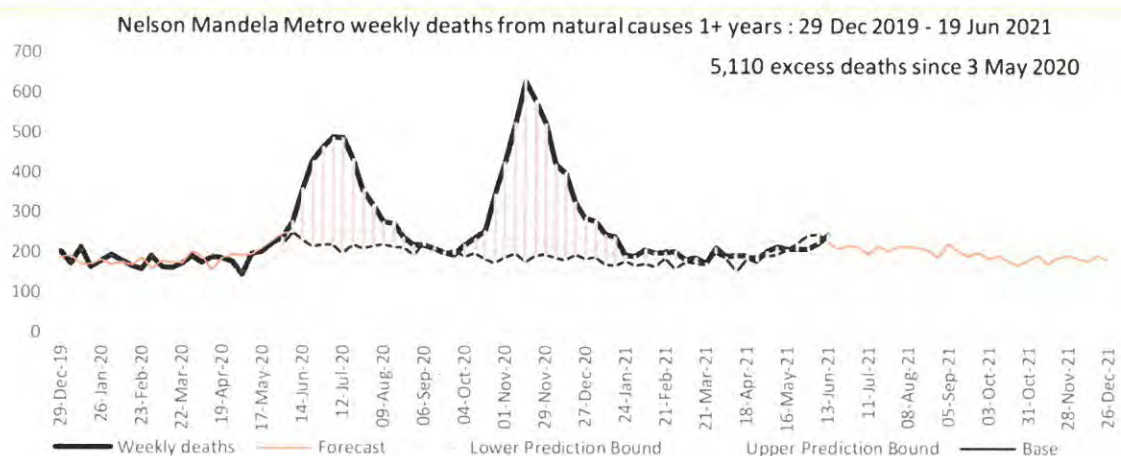


Figure 5. Nelson Mandela Bay Municipality (SAMRC Weekly Report)

A comparison of the eThekweni and Nelson Mandela Bay Municipalities in Figures 4 and 5 above, show an overall similar pattern with slight differences in the heights of the peaks. The most important difference is temporal in that the NMB is already peaking (second wave) before the eThekweni has even started.

Figure 6 below shows the Johannesburg Municipality is experiencing a significant third wave that is already higher than the first and second waves. Figure 7 below is remarkable in its difference when compared to the distribution of excess deaths shown in Figures 4, 5 and 6.

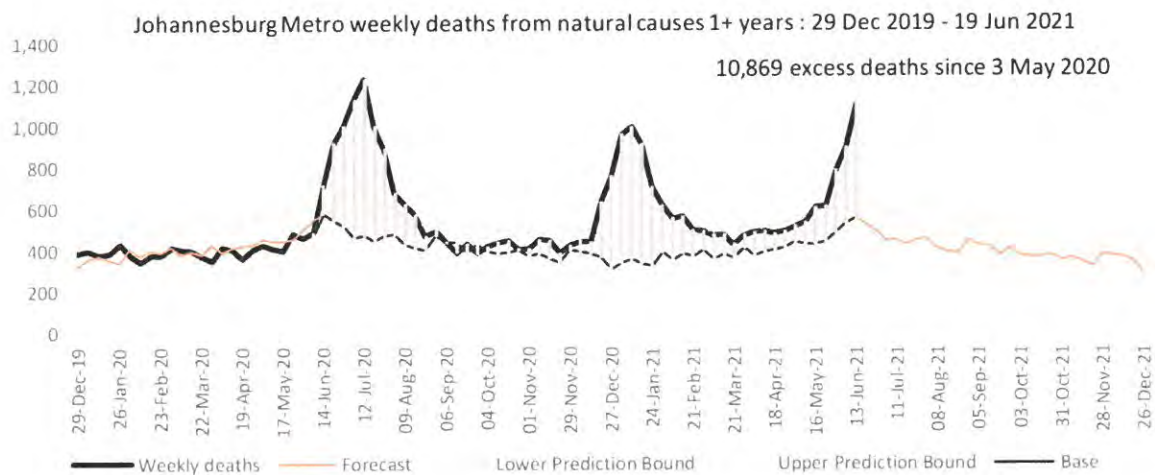


Figure 6. Johannesburg Metro Municipality (SAMRC Excess Deaths Weekly Report)

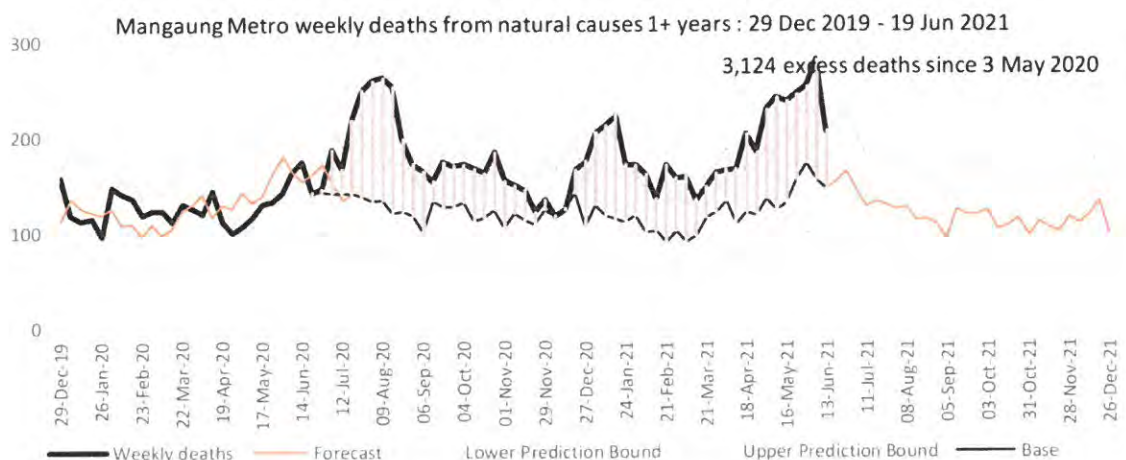


Figure 7. Mangaung Metro Municipality Excess Deaths (SAMRC Excess Deaths Weekly Report)

The conclusion that we draw from these data is that the inter provincial and local variation of transmission dynamics across the country will mean that there will always be some parts of the country which will be at a point in the trajectory of the fourth wave where it is experiencing an exponential rise.

This will trigger a higher degree of the spread of infections or voluntary or involuntary limitation of movement of individuals as they adjust their behavior. This could disproportionately affect turnout at the polls on election day.

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VACCINES AND VARIANTS

The impact of the vaccination programme on future trends of the pandemic in the last quarter of this year are an essential consideration in determining the public health risks of holding an election on 27 October 2021. The currently available J&J and Pfizer vaccine have reduced efficacy against the Beta variant for mild and moderate illness, but the Delta variant now appears to be dominant in most provinces and will soon be dominant nationally. Recent evidence from the UK shows that there is excellent AstraZeneca and Pfizer vaccine efficacy for severe COVID, hospitalization and death for the Delta variant. As J&J is the same type of vaccine as AZ, it can be expected to perform similarly well. A single shot of the J&J vaccine may be less efficacious against the Delta variant and the US CDC is considering boosting the J&J with a second shot or a booster with another vaccine. The jury is still out on whether J&J will need a booster against the Beta or Delta variants and more evidence is imminent.

In light of the low vaccine coverage, the reduced efficacy of the vaccines against the Beta and Delta variants for mild to moderate disease, the inability of vaccines to prevent infection and transmission, and the very likely slow down of the vaccine rollout due to the very high third wave we are experiencing in Gauteng, North West, Western Cape and Limpopo and potentially other provinces, the vaccine rollout is likely to be of limited immediate impact. Even in countries such as the UK, there is a surge in infections even though vaccine coverage is among the highest in the world. The limited supply of vaccines and the onerous registration requirements of the EVDS system will mean that the country is unlikely to vaccinate sufficient numbers of adults to impact significantly on the transmission dynamics of a fourth wave. In addition, there is always the likelihood of a new mutation. So far, we have had three different strains in each of our three waves. With so many regions of the world under-vaccinated we could very easily see a new strain that more fully escapes both vaccine induced and natural immunity during a fourth wave.

HEALTH SERVICE CAPABILITY

It is important to reflect on the ability of the health services during the first, second and third waves and how this would impact on their performance in the fourth and future waves. Whilst Gauteng, the Western Cape and KZN may meet the minimum capacity requirements for a substantial health system response, especially in their respective private sectors, many of the other provinces may not have the capacity to respond adequately to a bigger wave as is currently seen in Gauteng. This was seen in the Eastern Cape in the second wave and is reflected in the high mortality seen in that province in the second wave. Events such as election rallies, local party branch meetings and door to door campaigns with groups of party electioneers must be considered extremely high risk for super spreader events.

We have unfortunately not displayed the ability to optimize our health services to create a special capacity to manage the third wave and are unlikely to be able to do so in the fourth wave. The private sector is constrained by its high and rigid fee structure that limits how many more patients it could absorb.

The public sector has really struggled to rapidly increase its capacity to accommodate a flood of patients in all three waves and especially in regions or provinces where the case rates were much higher than expected. There are structural weaknesses in the public sector and rigidities which limited its agility. Managing capacity and leadership were often inadequate when extraordinary measures were required.

In provinces such as Gauteng in the third wave, even provinces with a strong public sector infrastructure were unable to cope. Any notion that risks can be taken as the public sector hospitals will be able to respond are unwise.

CONCLUSION

The peaks and troughs of the national wave have taken on a regular pattern, even while the underlying sub-national trends display significant diversity as shown in the figures above. There is no guarantee that the fourth wave will follow the same pattern, only a reasonable expectation that whatever is driving this regular pattern in South Africa will not have changed between now and the next two quarters. The third wave has shown more interprovincial variability than the first and second waves as evidenced by the Northern Cape declining rapidly and the Free State peaking whilst all other provinces are rising. The Gauteng 'skyrocket' is a completely new phenomenon. It is most likely that this is driven by the Delta variant and it is therefore likely we will see these steep peaks in other provinces soon or in the fourth wave. The idea that an election can be held in a trough window between the third and fourth waves seems like wishful thinking.

Any decision to proceed with an election will have to be taken with the full understanding that there will be significant risk of super spreader events either across entire provinces or within municipalities and smaller localities.

The enforcement of regulations governing social distancing and gatherings will require public policing and crowd control policing at levels never seen before in the country. The EFF march on SAHPRA last week is a warning that parties will not be able to enforce social distancing whilst campaigning for the vote in the local government elections.

In light of the limited impact of natural immunity on the prevention of new infections and the cyclical nature of the rise and fall of new infections, we think it is common cause that there will be a fourth wave in South Africa when one takes into account the averages of the national dataset. Other countries such as India and Portugal have also experienced a similar cyclical wave pattern.

The fourth wave could be smaller than the third wave in provinces such as Gauteng that are experiencing a large third wave or it could be large if new variants become dominant in the country or in some provinces. If the pattern of the first three waves is repeated in the fourth wave, it is likely to begin during October and peak in December or early January 2022 as was the case with the second wave.

Provinces such as the Northern Cape and Free State that are starting to see senescence in their third wave could start their fourth waves even earlier. The slow rollout of the national vaccination effort means that there will be insufficient coverage of the adult and adolescent populations to significantly impact on the number and rate of new infections when a fourth wave establishes itself in multiple provinces.

The main benefit of the vaccination programme will be the reduction in moderate to severe disease resulting in fewer admissions and deaths in the fourth wave; but the reductions are likely to be marginal as this is dependent on vaccination coverage achieved by the end of September.

The capacity created in public and private hospitals that results from these reductions are likely to be taken up by the category of people that were not admitted to hospitals in previous waves and had to fend for themselves with home oxygen and home care; or succumbed to COVID-19 without any care or before reaching the hospital. In essence, it is our submission that the hospitals will experience the same pressure in the fourth wave as in the third and previous waves.

All in all, any gatherings or events at which people will congregate in small or large groups, is likely to rapidly multiply the seeding of cluster outbreaks and contribute to increasing the size and distribution of fourth waves in provinces and municipalities. Given the limitations and rigidities both the public and private hospitals systems this could lead to high rates of disability or death in the fourth wave on the scale of any of the previous waves seen in the country.

In conclusion, we recommend that the elections be postponed to a time in the future when there is a demonstrable decrease of severe disease, hospital admissions and deaths as a result of high coverage of effective vaccinations. If government plans to scale up the vaccination rollout to 300 000 vaccinations a day materialize, the possibilities exist for proceeding with an election sooner rather than later. And if government diversifies its vaccination strategy to allow companies to vaccinate their employees and also bring on stream mass vaccination sites, a safe date for an election could be brought even nearer.

An unprecedented vaccination drive powered by a well-oiled machinery that ensures efficient and effective execution is needed if there is any hope of allowing an election to happen next year along with the resumption of normal life.

Proceeding with elections now, as things stand and as we know them to be will put the lives of thousands of South Africans at risk.

Dr Fareed Abdullah
Pretoria
28 June 2021

<end>

ANNEXURES

ANNEXURE 1

Case Rates per 100 000 Population – South Africa and Provinces

ANNEXURE 2

Excess Death Rates per 100 000 Population – South Africa and Provinces

ANNEXURE 3

Excess Deaths Absolute Numbers – South Africa, Provinces and Metro Municipalities

ANNEXURE 4

Cumulative Death Rates – Crude and Age Adjusted – South Africa and Provinces

ANNEXURE 5

Abdullah Profile

Dr MFA Abdullah is a medical doctor and a specialist in public health medicine. At the present time, he holds the position of Director: Office of AIDS and TB Research at the South African Medical Research Council and holds a part-time appointment as a public health specialist and HIV clinician at the Steve Biko Academic Hospital.

Since April 2020, he has been a member of the Steve Biko Academic Hospital Outbreak Response Team working as clinician in the COVID-19 wards and assisting with fundraising and the provision of COVID-related equipment, staffing and infrastructure. He was part of the COVID-19 vaccination team at SBAH.

Previously, he has been a senior manager in the Western Cape Health Department for 12 years and he was CEO of the South African National AIDS Council from 2012 to 2017. Currently, he is co-chair the SA National TB Think Tank.



"MFA3"

**Inquiry into Ensuring Free and Fair Local Government Elections During
COVID-19**

**Dr Fareed Abdullah
Steve Biko Academic Hospital
South African Medical Research Council**

29 June 2021

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AFFILIATIONS

- Director: Office of AIDS and TB Research (SAMRC)
- Public Health Specialist and HIV Clinician, Division of Infectious Diseases, Steve Biko Academic Hospital
- Steve Biko Academic Hospital Outbreak Response Team
- GDOH Project Leader for Solidarity Fund Equipment and Nursing Support Projects
- Honorary Lecturer, Division of Infectious Diseases, Health Sciences Faculty, University of Pretoria



INTRODUCTION

- Many factors influence the evolution of the pandemic
- Host, pathogen and environmental factors
- Host factors include natural and vaccine-induced immunity
- Age, comorbidities and BMI
- NPIs, Human behavior and lockdown restriction levels
- Social class, mobility, modes of transport



INTRODUCTION

- Pathogen factors are not well understood and include contagiousness, severity of disease caused and age distribution
- Mutations are the pathogen enigma
- Environmental factors include population density, geographic spread

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PATTERNS OF SPREAD

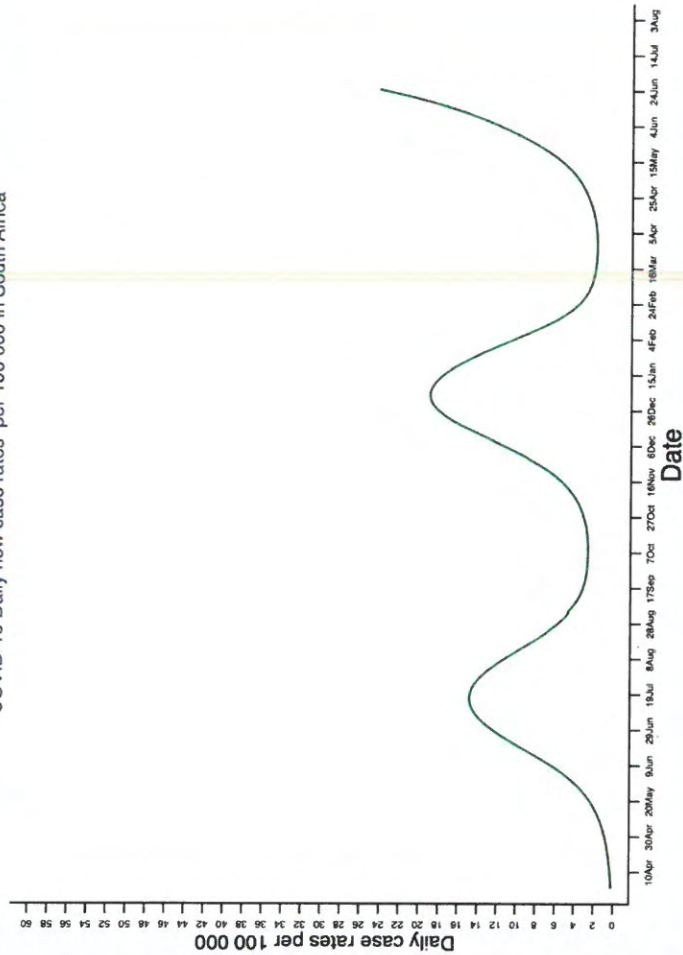
- Wave forms
- Size and shape of waves
- Exponential growth, peaks and troughs
- Inter-wave period and inter-peak periods
- Seeding events, cluster outbreaks and wave triggers

3



THE FOURTH WAVE - WHEN

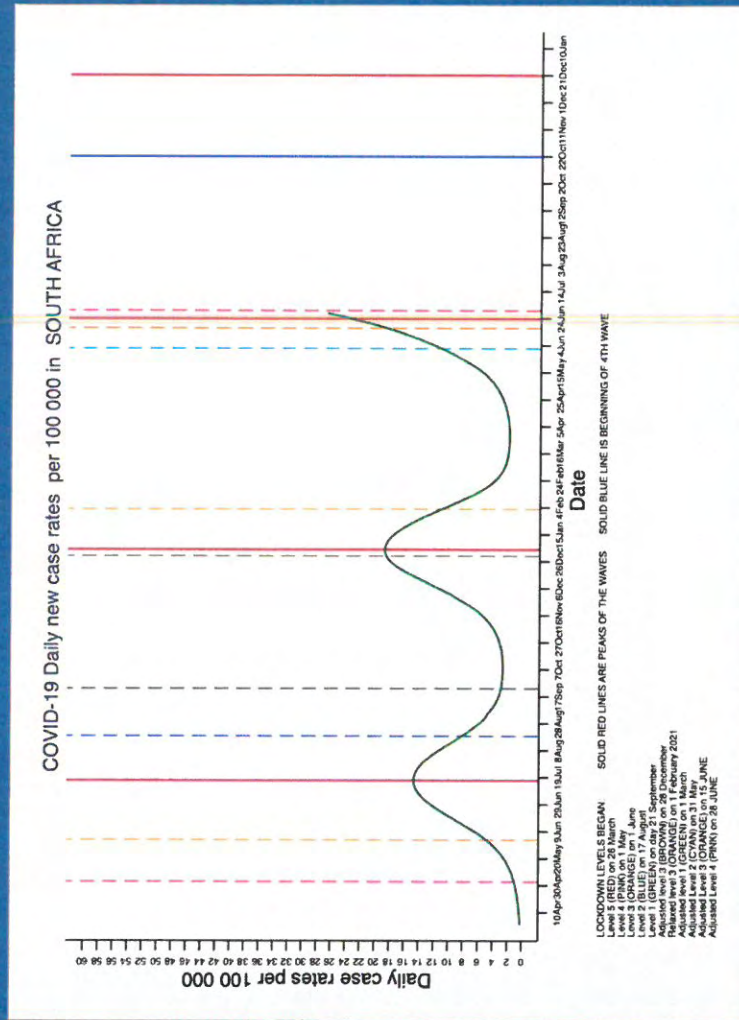
COVID-19 Daily new case rates per 100 000 in South Africa



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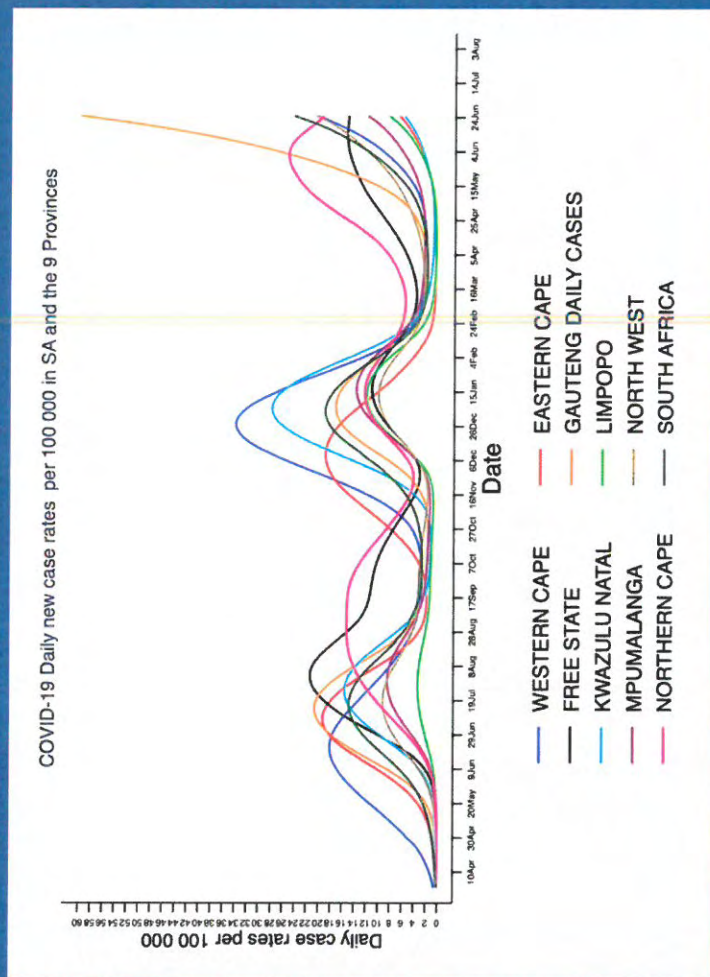


FOURTH WAVE – WHEN?



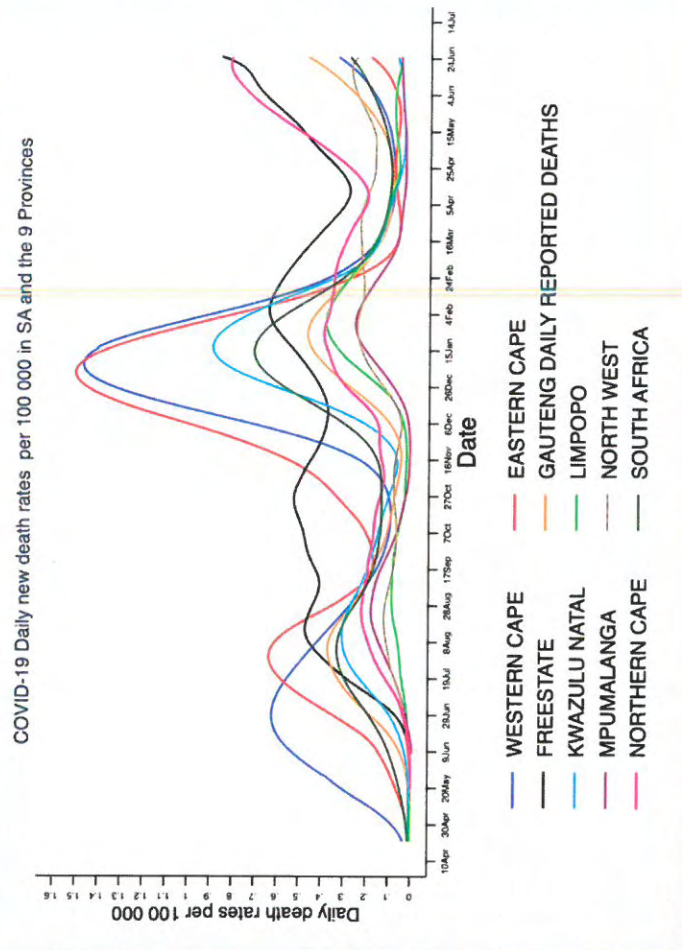


INTERPROVINCIAL AND LOCAL VARIABILITY



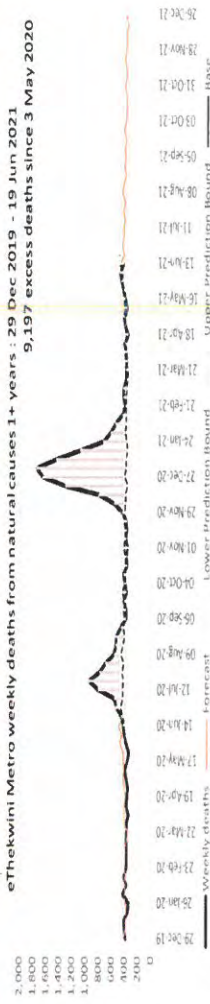
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INTERPROVINCIAL AND LOCAL VARIABILITY

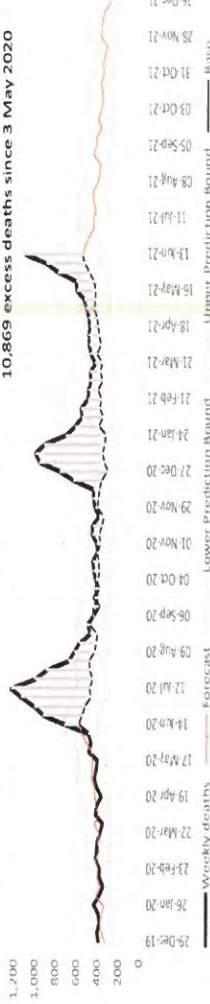


VARIABILITY ACROSS MUNICIPALITIES

eThekweni Metro weekly deaths from natural causes 1+ years : 29 Dec 2019 - 19 Jun 2021
9,197 excess deaths since 3 May 2020



Johannesburg Metro weekly deaths from natural causes 1+ years : 29 Dec 2019 - 19 Jun 2021
10,869 excess deaths since 3 May 2020



Mangaung Metro weekly deaths from natural causes 1+ years : 29 Dec 2019 - 19 Jun 2021
3,124 excess deaths since 3 May 2020



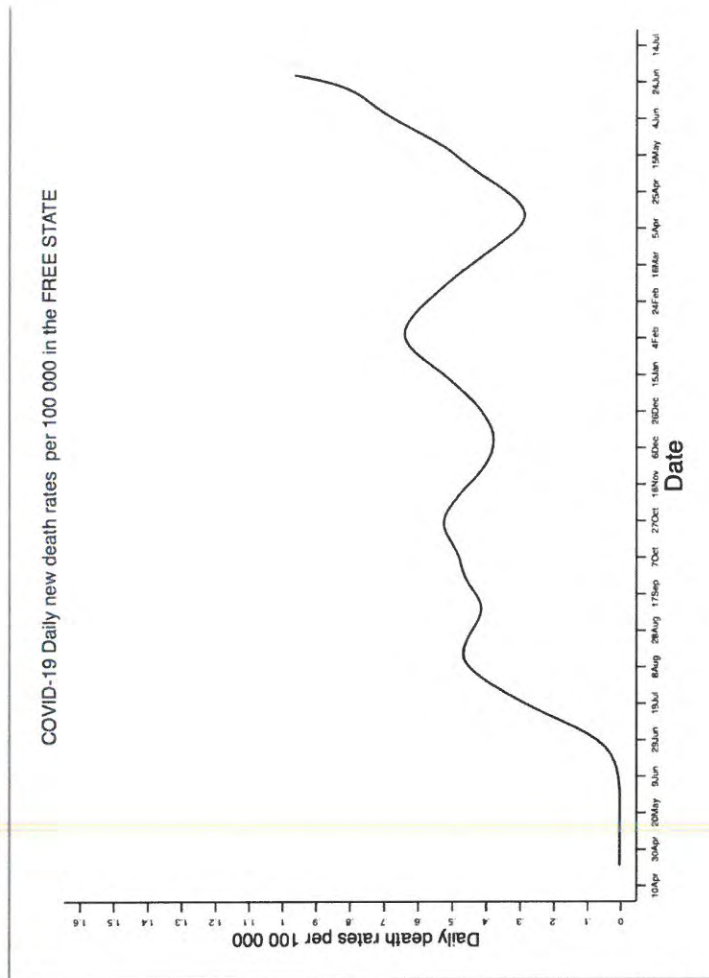
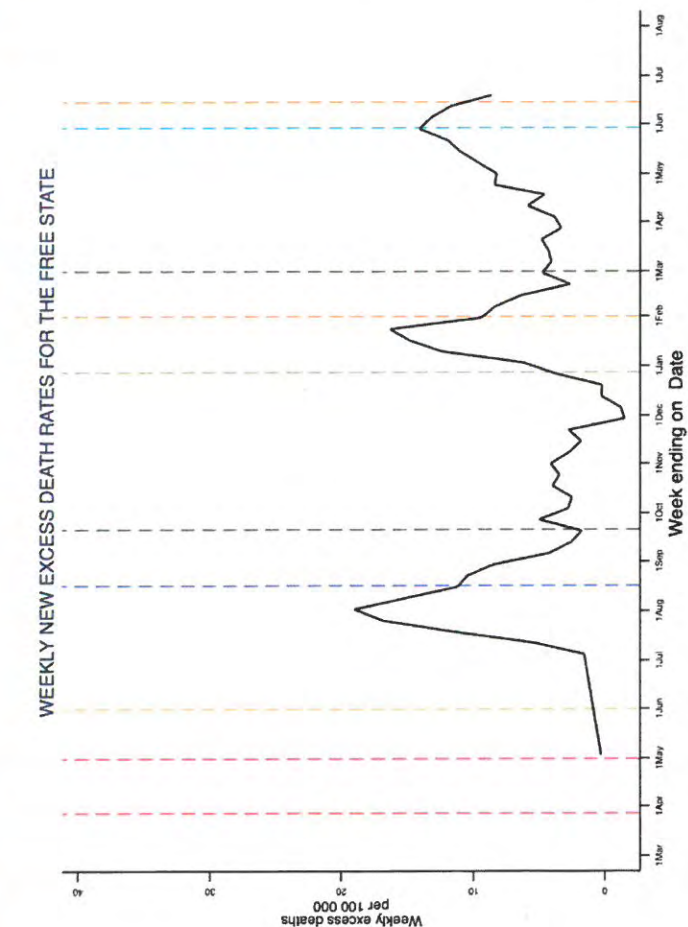
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CELEBRATING
50
YEARS



DEATHS VARIABILITY FREE STATE



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VACCINES AND VARIANTS

- Delta and Beta natural immunity
- JNJ and Pfizer vaccine induced immunity
- New mutations
- Contagiousness
- Vaccine coverage
- Mild disease, severe disease, death

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CONCLUSION

- All or parts of the country will be in a wave for the foreseeable future
- With a monumental effort vaccine coverage could be achieved next year
- Must see flattening of the mortality curve
- Postpone elections till declines in mortality are achieved
- Continuing with current plans put thousands of lives at risk

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THANK YOU FOR YOUR TIME AND ATTENTION



ACKNOWLEDGEMENTS

- Prof Jonny Myers (UCT)



IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CASE NO: _____

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS AND OTHERS**

Respondents


CONFIRMATORY AFFIDAVIT

I the undersigned

ASLAM KHALIL AHMED DASOO

do hereby make oath and say as follows:

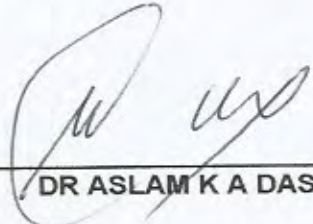
1. I am a medical practitioner and convenor of the Progressive Health Forum ("PHF"), a voluntary association of health experts from the private and public sectors.
2. The facts that I depose to are true and correct and are within my personal knowledge.
3. On 21 June 2021 I delivered written submissions on behalf of the PHF to



K. S.

the Justice Moseneke Inquiry on Free and Fair Local Government Elections during COVID ("the Inquiry"), as appear on the Inquiry's website (<https://www.elections.org.za/freeandfair/LGE2021/submissions>). A copy of these submissions is attached hereto marked "AD1". I am the author of these submissions.

4. On 28 June 2021 I presented oral submissions before the Inquiry on behalf of the PHF.
5. I depose to this affidavit to confirm under oath that the contents of the attached document and the oral submissions which I made before the Inquiry are to the best of my belief true and correct and have been fairly and accurately summarised in the Inquiry's Report.


 DR ASLAM K A DASOO

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of her knowledge both true and correct. This affidavit was signed and sworn to before me at Norwood on this the 4th day of **AUGUST 2021**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

K.S

Dec 18 2021
[Signature]

COMMISSIONER OF OATHS

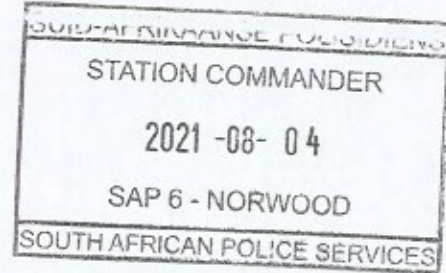
Full names:

Lawson Maseke

Address:

12 PATTERSON ROAD NORWOOD

Capacity:

Deputy

[Signature]

"AD1"



INQUIRY INTO ENSURING FREE AND FAIR LOCAL GOVERNMENT ELECTIONS DURING COVID-19

ATT: JUSTICE DIKGANG MOSENEKE

JUNE 21, 2021

Sir

We are pleased to respond to your request for comment related to the subject of your inquiry and thank you for the opportunity to provide expert medical and scientific opinion relevant to holding the local government elections in October 2021.

We understand the concerns and the exigencies attending the holding of elections during the COVID-19 pandemic and hope that the information provided goes some way towards creating greater understanding of the risk matrix for the event.

At the outset, we make common cause with the need to hold elections with regularity and in consonance with the Constitution of the Republic. The IEC has an obligation to conduct these elections and appears to have preparations well in hand.

SITUATION ANALYSIS

1. The pandemic has roiled societies around the world for the last eighteen months and, barring a few developed nations, the overwhelming majority of the planet remains firmly in the grip of the pandemic at this time. Consequently, our views and forecasts are shaped by the scientific, epidemiological and healthcare implications of the pandemic and the measures required to attenuate its impact.
2. Of course, necessary societal functions have to continue during the pandemic and these elections fall into that category. In the event, it is necessary to juxtapose the conduct of the elections against the known and forecast effects of transmission of the viral pathogen, SARS-CoV-2, during the period, especially its designated Variants of Concern.
3. The national response has revealed deep dysfunction in governance, poor state capacity and an overweening political interference in what should be regarded as a public health emergency. On these metrics, SA's response is a cause of great concern.
4. While lockdown restrictions are ostensibly based on a "risk-adjusted strategy", the predominantly inchoate nature and enforcement of these restrictions have had the unfortunate effect of causing severe collateral economic and social harm. An ineffective communication strategy has led, in many areas, to poor compliance with personal protective measures and behavioural modification.
5. Of greatest concern is the lackadaisical approach to the most important intervention, viz. vaccination at scale, to protect the population and move the country beyond the emergency phase of the pandemic. Currently, SA has one of the lowest rates of vaccination in the world and of the highest rates of C19 fatalities, an alarming correlation that has major human rights implications.

K. S.

6. The official estimates and reports of cases of infection, hospitalisation and deaths are based on reports from health facilities and collated daily by the National Institute of Communicable Diseases (NICD). These numbers do not include deaths and cases of the illness that have not been laboratory tested, resulting in a significant undercount. The registration of deaths by the Department of Home Affairs has a two-year backlog, making an accurate assessment of mortality from specified causes inordinately difficult.
7. **Excess Mortality:** The SA Medical Research Council has a reliable and long-standing surveillance programme which measures mortality rates and projects these rates for an impending year, based on historical data and corrected for demographic changes.

In normal times, the total number of deaths from natural and non-natural causes do not change much year-on-year, unless events occur or large movement in the age or demographic profiles of the population are altered significantly. The difference is expressed as Excess Mortality rates, being the number of deaths that occur above the projected estimates for the period.

Because the MRC counts all fatalities from facilities, mortuaries, undertakers, police reports, etc, it has a fairly accurate picture of the number of excess fatalities at any given time. Ascribing the cause of these fatalities to an identifiable change in the expected environment, such as during sudden widespread conflict or an epidemic is fairly straightforward in the absence of any other legitimate causes.

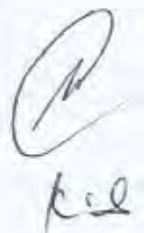
The official mortality rate from C19 for the period currently stands at just over fifty-eight thousand (58,000). Excess natural deaths for the period of the pandemic are approximately one hundred and eighty thousand deaths (180,000).

The advent of COVID-19 is the only identifiable cause of these deaths above the projected norm, corrected for other causes of deaths. It is extrapolated that at least 80% of the excess fatalities can be ascribed to C19.

The remaining numbers are ascribed to the increased mortality among those afflicted with AIDS, TB and other communicable and non-communicable diseases during the period of the pandemic, which revealed significant reductions in health-seeking behaviour or unavailability of healthcare services, resulting in higher mortality rate in this cohort. However, the significant reduction in deaths from seasonal influenza and other diseases due to the non-pharmaceutical interventions imposed during C19 offsets the increase in the number of natural deaths from the aforementioned causes.

It can, therefore, be stated with a high degree of certainty that the overwhelming number of excess fatalities of one hundred and eighty thousand can be positively ascribed to C19 and that this number reflects the true rate of mortality from C19.

8. SA is currently experiencing the resurgence, or 'Third wave', of transmission of the virus. The rate of increase of positive cases, illness, hospitalisation and fatalities is consistent with a sustained resurgence of the pandemic. Best estimates currently point to the magnitude of this resurgence exceeding the previous two waves. As of even date the third wave has already delivered higher numbers of cases than the preceding waves. The correlated death rates lag infection by about two weeks and can be expected to follow a similar trajectory, although greater accessibility of oxygen, more experience in treatment and possible immunity from previous infection may attenuate this.



9. The major characteristics of this resurgence are related to, inter alia, the cyclical, mainly seasonal, surge and ebb of waves of viral respiratory infection; the emergence of variants of the virus that demonstrate greater transmissibility and virulence; the degree of waxing and waning immunity from previous infection; protective personal and state-mandated non-pharmaceutical interventions; and, of course, the rate of vaccination of the population.
10. Surges during colder seasons is typical of respiratory viruses such as SARS-CoV-2, mainly due to greater indoor confinement, with more crowding and greater proximity providing increased opportunity for airborne transmission of the virus. In warmer months, there is a significant ebb in transmission, with distinctly lower levels of circulating virus.
11. This is by no means the only variable, however. In the case of this novel coronavirus, which has often upended orthodox expectations, seasonal symmetry is by no means absolute. SA's so-called 'Second Wave', occurred during the height of summer, from late November 2020 to early February 2021.
12. This was the consequence of two drivers of infection, each playing a significant and inter-related role. The first was the emergence of the viral variant 501Y.V2, or the Beta variant, which has proved to increase transmissibility, both due to more efficient transmission, as well as an increased ability to evade neutralising antibodies from previous infection and reduced vaccine efficacy (this latter effect was not significant because SA had not yet begun its vaccination programme).
13. The second driver of infection during the second wave was the numerous gatherings during the festive period, which created the ideal conditions for the Beta variant to spread exponentially. These 'super-spreading events' were widely distributed, resulting in large and simultaneous outbreaks throughout the country's coastal provinces initially, spreading later to the more inland provinces. By all measures, this second wave was more severe and debilitating to the healthcare system than the first wave during the winter months of 2020.
14. Given that the major circulating strain of SAR-CoV-2 in SA currently is the Beta variant, the third wave shows every sign of matching the amplitude (height) and wavelength (duration) of the second wave. The circulation of the Alpha strain, first identified in the UK, was fairly low during SA's second wave, but is showing signs of slightly greater prominence in SA during this wave, but it is unknown at this time whether it may be contributing to the resurgence.
15. The Delta variant, recently identified in India, has shown alarming rates of transmissibility and virulence and is now the dominant strain in the UK, eclipsing both the Alpha and Beta variants there. The Delta strain is also presently circulating in SA, albeit at low levels. This is particularly important to note, in that it may increase in dominance in SA later this year.
16. There are early indications that, in inland provinces at least, the peak of this Third Wave may exceed that of the Second Wave, with its attendant consequences for the population, the healthcare system and the economy.

On this last matter, it should be noted that the government has little or no room to further restrict economic activity without causing great financial and material distress to people and lasting economic harm. This accounts for its fairly light touch restrictions currently, which may well have to be revisited should healthcare services be overwhelmed.


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17. Current restrictions limit gatherings to fifty persons indoors and one hundred persons outdoors. In order to attenuate the effects of this resurgence, our view is that, for the duration of the surge, there should be a blanket prohibition on all non-essential gatherings, including religious, sport, cultural and similar events where there are more than twenty people present.
18. This does not apply to C19-compliant workspaces, public transportation or schools. That being said, current policy on allowing full occupancy in taxis poses a material risk to both commuters and drivers, more so during the winter months when air circulation and ventilation in vehicles are curbed.
19. As for schools, the scientific consensus is that children are mostly asymptomatic if infected, are very poor transmitters of the virus and do not pose a risk to adult staff, provided that personal protective measures are diligently applied. Infection in pupils and adult teaching staff occurs overwhelmingly in community settings, not at school. This points to the need for greater adherence to personal protective measures by teachers and greater parental control over children gathering with others outside of school. School closures may be necessitated if the surge in infection is so excessive that a broad limitation on all movement becomes necessary.
20. While many countries have held elections at various times during the pandemic, their experiences of creating a risk of greater transmission is mixed. This is primarily reflected through the different socio-economic conditions of different countries, their relative rates of vaccination, the prevalence of Variants of Concern (Alpha-UK, Beta-SA, Gamma-Brazil, Delta-India), size and homogeneity of populations, percentage turnouts, electronic voting and the efficiency of in-person voting.

COVID-19 RISK MATRIX FOR LOCAL GOVERNMENT ELECTIONS

From the foregoing, we can extrapolate the following risks attending the holding of elections in October 2021.

A. To The Hustings

The current levels of lock down and attendant restrictions are likely to remain in place for at least four to six weeks, up to end-July, at least. Political parties engaging in electioneering are likely to do so during the months of August, September and October, when, it is hoped, the rate of infection will be much lower and restrictions will be eased.

It is very difficult to predict with any level of certainty that circulating virus during this period, with a forecast based on historical trends, will be at the level of previous troughs. Even though October is the beginning of the summer months, the natural seasonal abatement of circulating virus may be confounded by the emergence of new variants with greater transmissibility (the Delta variant is 64% more transmissible than the Alpha variant in the UK and both of these are currently in circulation in SA, where the Beta variant remains dominant for now).

Moreover, the resumption of non-essential activity and gatherings, which will follow the lifting of restrictions during this period, has previously been shown to be a proximate cause of non-seasonal resurgence, as witnessed during the last wave. (cf. Points 10-13).

The voter registration programme planned for July 16 and 17 is going to fall squarely during the peak or cresting of the current wave and poses a material risk, if not from the registration venues, then from the concomitant movement of people during that time.

It is to be expected that the pressure from political parties to undertake political activity such as rallies and community mobilisation during August, September and October will be high. These events are virtually certain to be direct causes of greater transmission.

B. Voting on October 27

If the run-up to the plebiscite will increase the likelihood of greater transmission, then the actual act of voting will have its own itinerant risks. Getting to voting stations will necessitate the use of public transport for most voters and the mingling of people prior to arriving at voting stations creates a higher probability of transmission.

The IEC has, reportedly and in its submission, rightly confined its responsibility to ensuring that voting stations are oriented towards proper C19 compliance. We are confident that the IEC has the wherewithal to ensure the venues are safe.

However, on the balance of probability, having uniform adherence across twenty-three thousand-odd voting stations will not be possible and, even if any lack of adherence is confined to a minority of stations, these may well be sites of accelerated transmission.

C. Post-election Pandemic Resurgence

Given that in the majority of elections held internationally there was viral resurgence, to greater or lesser extent, depending on the factors mentioned in points 9 and 20 above, in the period following elections, there is absolutely no reason to believe that SA will escape such a fate.

Even with the expected uptake of vaccinations following the error-prone effort thus far, by the time elections are held there will be insufficient viral suppression to escape the high probability of a post-election surge.

In this regard, the high number of breakthrough infection among vaccinated people is a function of an understandable but false belief among many that being vaccinated means that one may dispense with personal protective measures and minimising contact with others. Indeed, the current generation of vaccine candidates provides strong protection against severe disease, hospitalisation and death, but is much less efficacious in preventing mild or moderate disease.

While those who have been vaccinated may escape serious illness, they will remain prone to infection and transmit the virus to others. This means that, to all intents and purposes, those who have received at least one inoculation will have to continue with taking all the necessary precautions.

While it is possible that SA may experience such a low level of circulation that any post-election resurgence will be negligible, this has not been documented elsewhere. It is, therefore, not a reasonable expectation, all else being equal, in South Africa.

A handwritten signature, possibly 'P. S.', is located in the bottom right corner of the page.

The following are responses to the specific queries outlined in the invitation for submission:

- The challenges posed by the COVID-19 pandemic have been outlined in broad terms in the foregoing sections. Much detail, epidemiological, clinical and sociological, is available to support the contentions made and will be provided at your request.

The current measures promulgated by the government require, first, a high degree of compliance in the population and, second, a highly effective vaccination programme.

As the evidence shows, SA is a low-trust society and the state's exhortations to the populace to comply is, more often than not, observed in the breach. This is a long-term problem and significant behaviour change is not likely in the short term.

The lethargic vaccination drive will eventually pick up pace with the arrival of greater vaccine supply but will not have a material impact on transmission due to both lower efficacy against mild and moderate illness and insufficient population-level immunity by the time of the elections.

- The IEC faces a conundrum. Despite its obligation to conduct the poll and its comprehensive measures to protect people at voting stations, as well as its staff infrastructure during the ballot and the post-ballot counting, it is not in a position to significantly alter the risk patterns of political hustings, rallies and the movement of people during that period and on voting day.

Consequently, while its remit in maintaining free and fair elections is, as can be seen, satisfied, the risks posed by C19 to the population as a result of the poll, however, is extraneous to that remit. This must be the concern of the executive and legislature.

This inquiry is vital to inform those organs of the government of these risks so that they can determine what mitigation they may need to engineer to reduce the risk to acceptable levels. In the circumstances, it is difficult to see what more can be done in the time remaining before the elections.

- Apart from the information provided above, data analysis is appended for further elucidation of the risk matrix.
- Information contained in points 3 to 10 are relevant to this query. As stated previously, best estimate forecasting is based on historical information and epidemiological projections. The behaviour of this novel virus has been unpredictable at times, but not eccentric. It bears the characteristics of highly contagious respiratory pathogens and, where its behaviour evidenced aberration, the causes have been identified and the behaviour explained. This is outlined in points 12 and 13, in particular.
- The late initiation of vaccination, the failure to procure sufficient supply and low vaccination rates have been documented and the government continues to struggle with these matters, most, if not all, being of its own making. Taking the view that lessons have been learned, it is reasonable to expect that, once vaccine supply is stabilised, the rate of vaccination will increase significantly during the third quarter. Definitive detail on supply will probably emerge by the end of June.



- By mid-October, four months hence, given the variables, progress from the current sub-two percent of the population being vaccinated to something approaching 20% is feasible under the current conditions. Unpredictable constraints in supply represents the major risk factor in this regard. The administration of inoculation is less likely to pose an appreciable risk, given the close collaboration between the public and private health services.

Community, or herd, immunity is reached when the amount of circulating virus is insufficient to cause spread, viz. when the reproductive rate, or 'Ro value', of the virus drops below 1. This will mean that an infected person will not be able to infect more than one other person, if that. This can be expected to eventuate once 70% (40-45 million people) of the population is inoculated.

However, as noted above, the current generation of approved vaccine is not expected to provide appreciable herd immunity, due to the lower efficacy of the candidate vaccine to prevent mild and moderate illness. While vaccination will have a hugely positive impact on rates of severe illness, hospitalisation and death, circulating virus will continue to be widely transmitted and may cause mild or moderate illness among those already vaccinated and potentially severe illness or death among those not yet vaccinated. This will necessitate the prolongation of restrictions and personal preventative measures will have to be continually applied.

Public health policy is following this protocol worldwide. Vaccine manufacturers are racing to produce the next generation of C19 vaccine, which will provide protection from the existing Variants of Concern (VoC) identified by the WHO, but their introduction will probably only occur in the third or fourth quarter of 2022, at the earliest. In the meantime, the risk of more VoCs emerging will be a direct function of the amount of viral circulation, the force of infection in this and subsequent waves and the prevailing rate of vaccination.

To the point in the query, then, it is fair to aver that there will be no herd immunity by the end of October 2021.

- This is the pointed query that goes to the nub of the issue. If the local government elections were to proceed under the conditions expected, as best estimated, to prevail during late October and, to the extent that extraordinary measures are not in place, there is significant risk of a surge in transmission and, consequently, a high risk of illness and death as a result.
- In the event that the poll must, out of unavoidable necessity, proceed, then mitigation measures beyond what the IEC has already determined, will have to include one or more of the measures listed below.
 - A total prohibition of political rallies and attendant activity conducted in the normal course at open-air or indoor venues, in keeping with current regulatory restrictions. In this regard, it must be noted that the restricting indoor gatherings to fifty people and one hundred persons outdoors is insufficient to limit the epidemiological rate of transmission, even at these levels, significantly.
 - Accelerating the migration to electronic registration and creating opportunities to reduce in-person voting. In the remaining period, there is probably not much that can be done to implement these measures. However, it is noteworthy that, in the US, local and state elections where there was a higher rate of electronic voting, this was correlated with little increase in transmission and illness in the post-election period.

- Constitutionally compliant postponement of the elections until, at least, the vaccination rate produces significant levels of community immunity must be a consideration.
- Please find relevant data sheets annexed.

CONCLUSION

We remain bound by the ethical code as healthcare professionals to be true to the best interests of the health and well-being of the people and to protect them to the best of our ability from C-19.

We affirm our support for the constitutional imperative to hold the local government elections at the appropriate time and in the prescribed manner. The responsibility of those charged with the decision on whether to proceed with the holding of the polls and under what conditions is immense.

It is our considered opinion that C-19 poses significant risk to the health and lives of the electorate during the period preceding, during and after the poll and consideration must be given to either postponing the poll, or, if that is not feasible or constitutionally compliant, to take such measures as outlined above, bearing in mind that proceeding with voluntary activity that poses a risk of avoidable illness or loss of life does, in our humble view, offend the ethical code.

Free and fair elections are measurable and may be declared as such, or not, as the case may be. During a pandemic, the risk to life from illness and death from C-19 that an election may cause may be similarly measured and must, in our view, be included in the overall assessment. It will require considerable wisdom to apply a proper weighting of appreciable harm to the well-being of people in order arrive at a reasonable conclusion that a free and fair election still obtained.

We have reached these conclusions following a review of the last eighteen months since the pandemic was declared, the particular circumstances prevailing in South Africa during this period and after wide consultation with recognised experts in the field, both from within the ranks of and associated with the Progressive Health Forum.

We are hopeful that our modest contribution to the analysis of the risk posed by the pandemic during the elections will assist those who must take the difficult decisions to proceed with and to evaluate whether the poll was free and fair.

Dr Aslam K. A. Dasoo
Progressive Health Forum



K. A. Dasoo

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CASE NO: _____

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS AND OTHERS**

Respondents

CONFIRMATORY AFFIDAVIT

I the undersigned

SALIM SAFURDEEN ABDOOL KARIM

do hereby make oath and say as follows:

1. I am a medical practitioner, public health medicine specialist, epidemiologist, and infectious diseases specialist. I am a Fellow of the Royal Society of South Africa (FRSSAf) and the Royal Society (FRS).
2. I am currently a Director of the Centre for the Aids Programme of Research in South Africa ("CAPRISA"), the CAPRISA Professor of Global Health at Columbia University, an Adjunct Professor in Immunology and Infectious Diseases at Harvard University, Adjunct Professor of Medicine



at Cornell University, Director of the DST-NRF Centre of Excellence in HIV Prevention, Pro Vice-Chancellor responsible for Research at the University of KwaZulu-Natal and Associate of the Ragon Institute of the Massachusetts General Hospital, Massachusetts Institute of Technology and Harvard University.


3. I was the co-chairperson of the Ministerial Advisory Committee (MAC) on COVID-19 between March 2020 and March 2021. A copy of my curriculum vitae is annexed hereto, marked "**SAK1**", and I confirm the contents thereof to be true and correct.
4. The facts that I depose to are true and correct and are within my personal knowledge.
5. On 1 June 2021 I received a letter from the Justice Moseneke Inquiry on Free and Fair Local Government Elections during COVID ("the Inquiry"), requesting me to make written submissions in relation to the issues set out in that letter. I annex hereto a copy of that letter hereto, marked "**SAK2**".
6. On 1 July 2021 I presented oral submissions before the Inquiry, together with a PDF presentation on behalf of CAPRISA, as appears on the Inquiry's website (<https://www.elections.org.za/freeandfair/LGE2021/oral-submissions>). A copy of this presentation is attached hereto marked "**SAK3**". I am the author of this presentation.
7. I depose to this affidavit to confirm under oath that the contents of the



attached documents and the oral submissions which I made before the Inquiry are to the best of my belief true and correct and have been fairly and accurately summarised in the Inquiry's Report.


PROF SALIM S ABDOOL KARIM

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of her knowledge both true and correct. This affidavit was signed and sworn to before me at DURBAN..... on this the 3RD day of **August 2021**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.


COMMISSIONER OF OATHS
Full names: SUNITA PANDAY
Address: 719 UMBILO ROAD ,
CONGELLA, 4013
Capacity: CACSA

Curriculum Vitae Professor Salim S Abdool Karim

1. DATE OF PREPARATION OF CV

1 August 2021

2. PERSONAL DATA

Name	:	Salim S. Abdool Karim
Birthdate	:	July 29, 1960
Birthplace	:	Durban, South Africa
Citizenship	:	South African
Work Addresses:	:	CAPRISA, Doris Duke Medical Research Institute (2nd Floor), Nelson R Mandela School of Medicine, University of KwaZulu- Natal, 719 Umbilo Road, Durban 4001, South Africa and Department of Epidemiology, Mailman School of Public Health, Columbia University, 722 West 168 th Street, New York, NY 10032
Telephone	(work) :	+27-31-2604550
	(home) :	+27-31-2017486
	(mobile):	+27-82-7769705
E-mail address	:	Salim.AbdoolKarim@caprisa.org

3. ACADEMIC TRAINING

01/1992-12/1999:	PhD, University of Natal, South Africa
01/1989-12/1992:	MMed(Community Health), University of Natal, South Africa.
01/1989-12/1991:	FFCH(Community Medicine), College of Medicine, South Africa.
01/1985-12/1989:	Diploma in Datametrics(Computer Science), University of South Africa.
09/1987-08/1988:	MS(Epidemiology), School of Public Health, Columbia University, New York.
01/1978-12/1983:	MBChB, University of Natal, South Africa.

4. PROFESSIONAL ORGANIZATIONS AND SOCIETIES

2019-Present	:	Fellow, Royal Society
2018-Present	:	Member, US National Academy of Medicine
2017-Present	:	Member, Association of American Physicians
2016-Present	:	Fellow, University of KwaZulu-Natal
2013-Present	:	Fellow, American Academy of Microbiology (AAM)
2012-2017	:	Foreign Associate Member, US National Academy of Medicine (previously Institute of Medicine (IOM) of the US National Academy of Sciences)
2011-Present	:	Fellow, African Academy of Sciences (AAS)
2009-Present	:	Fellow, The World Academy of Sciences (TWAS)
2003-Present	:	Fellow, Royal Society of South Africa (RSSAf)
2001-Present	:	Member, Academy of Science of South Africa (ASSAf)
2000-Present	:	Member, International Society for Infectious Diseases
1996-Present	:	Member, International AIDS Society
1996-2000	:	Member, Society for Epidemiological Research, USA
1996-1999	:	Councillor for Africa, International Epidemiological Association
1996-1998	:	Chairperson, Epidemiological Society of Southern Africa
1995	:	Member, New York Academy of Sciences
	:	Member, American Association for the Advancement of Science.
1994-Present	:	Member, Sexually Transmitted Diseases Society of South Africa (now FIDSSA).
1989-Present	:	Member, International Epidemiological Association.
	:	Member, Epidemiological Society of Southern Africa (and subsequently FIDSSA).



1989-1991	:	Executive Committee Member, Epidemiological Society of Southern Africa.
	:	Member, Community Health Association of Southern Africa.
1986-1987	:	Chairperson, National Emergency Services Groups.
1986-1987	:	Assistant General Secretary, National Medical and Dental Association (NAMDA).
1985-1986	:	Member, South African Society for Occupational Medicine.
1982-1986	:	Member, Phoenix Child Welfare Society and David Landau Community Centre.

5. PROFESSIONAL / BOARD QUALIFICATIONS:

1992-Present	:	Registered with the South African Health Professions as a Community Health Specialist.
1992-Present	:	Registered Fellow in the Faculty of Community Health of the South African College of Medicine.
1985-Present	:	Registered as Medical Practitioner with Health Professions Council of South Africa (0271047MP)

6. ACADEMIC APPOINTMENTS

Current appointments:

2019-Present	:	(Honorary) Adjunct Professor in Immunology and Infectious Diseases, Harvard University
2016-Present	:	CAPRISA Professor of Global Health, Department of Epidemiology, Columbia University (Professor with tenure)
2016-Present	:	(Honorary) Pro Vice-Chancellor (Research), University of KwaZulu-Natal
2015-Present	:	(Honorary) Director: DST-NRF Centre of Excellence in HIV Prevention (hosted by CAPRISA)
2014-Present	:	(Honorary) Director: MRC HIV-TB Pathogenesis and Treatment Research Unit (hosted by CAPRISA)
2011-Present	:	(Honorary) Associate, Ragon Institute of Massachusetts General Hospital (MGH), Massachusetts Institute of Technology (MIT) and Harvard University
2005-Present	:	(Honorary) Adjunct Professor, Clinical Epidemiology and Health Services Research, Graduate School of Medical Sciences, Cornell University, New York
2002-Present	:	Director: Centre for the AIDS Programme of Research in South Africa (CAPRISA)
2000-Present	:	(Honorary) Adjunct Professor of Medicine, Weill Medical College, Cornell University, New York

Previous positions held:

2012-2014	:	President, South African Medical Research Council
2008-2011	:	Honorary Professor in Public Health, Nelson R. Mandela School of Medicine, University of KwaZulu-Natal
2007-2008	:	Interim Director, KwaZulu-Natal Research Institute for TB and HIV (K-RITH) of the Howard Hughes Medical Institute
2005-2015	:	Pro Vice-Chancellor (Research), University of KwaZulu-Natal (as an employee)
2003-2006	:	Honorary Professor in Community Health, Nelson R. Mandela School of Medicine, University of KwaZulu-Natal
2001-2004	:	Deputy Vice-Chancellor (Research), University of Natal
2000-2015	:	Professor of Clinical Epidemiology, Mailman School of Public Health, Columbia University, New York
2000-2001	:	Director, HIV Prevention and Vaccine Research Unit, Medical Research Council.
1999-2001	:	Honorary Associate Professor, School of Infectious Diseases, University of Natal, Durban.
1998-2000	:	Visiting Professor, Weill Medical College, Cornell University, New York.

- 1997 : Interim Director, Africa Centre for Population Studies and Reproductive Health of the Wellcome Trust
- 1996-2000 : Adjunct Associate Professor, Division of Epidemiology, Mailman School of Public Health, Columbia University, New York.
- 1993-2000 : Director, CERSA: Centre for Epidemiological Research in South Africa, Medical Research Council (MRC).
- 1992-1998 : Honorary Lecturer, Department of Paediatrics and Child Health, Faculty of Medicine, University of Natal.
- 1992-1997 : Honorary Senior Lecturer, Department of Family Medicine, Medical University of South Africa.
- 1994 : Accompanied Health Minister Dlamini-Zuma as her Technical Advisor for the Afro Region of World Health Organisation's Annual Ministers of Health Meeting in Brazzaville, Congo.
- 1994 : Visiting Professor, Division of Epidemiology, School of Public Health, Columbia University.
- 1992-1995 : Part-time Senior Lecturer, Department of Optometry, University of Durban-Westville.
- 1992-1993 : Senior Epidemiologist, Medical Research Council (Natal).
- 1989-1992 : Resident/Registrar, Department of Community Health, Faculty of Medicine, Natal University
- 1989 : Part-time Researcher: Centre for Epidemiological Research in South Africa, Medical Research Council.
- 1987-1988 : Post-doctoral Fellow, Gertrude H. Sergievsky Center, Columbia University, New York. Also studied health economics at London School of Hygiene and Tropical Medicine and methods of epidemic investigations at the Centers for Disease Control, USA during this Fellowship.
- 1986-1987 : Resident/Registrar, Department of Virology, Faculty of Medicine, University of Natal.
- 1985 : Post-Intern Research Fellow, Research Institute for Diseases in Tropical Environment of MRC.
- 1984 : Internship, King Edward VIII Hospital Durban. Worked in the Departments of Obstetrics and Gynaecology, Medicine, Surgery & Orthopaedics.

7. HONORS

7a Awards

- 2020 : **John Dirks Canada Gairdner Global Health Award** from the Gairdner Foundation
- : **John Maddox Prize for Standing up for Science** from Sense about Science and *Nature* (joint recipient of this prize, with Dr Anthony Fauci)
- : **500 years of the Straits of Magellan Award** from the government of Chile
- : **The Sunday Times Top 100 Honorary Award** for contributions to the South African Covid-19 response
- 2018 : **Al-Sumait Prize** from the Amir of Kuwait and the Kuwait Foundation for the Advancement of Science
- 2017 : **Lifetime Achievement Award** from the Institute of Human Virology
- 2015 : African Union's **Kwame Nkrumah Continental Scientific Award**
- : **Platinum Lifetime Achievement Award** from the Medical Research Council
- : KwaZulu-Natal Department of Health "**MASEA Award**"
- 2014 : **DSc (Medicine) (Honoris causa)**, University of Cape Town

- : **US Science and Technology Pioneers Prize** (to the CAPRISA 004 trial team) from the United States Agency for International Development
- : **Mayor's Award**, eThekweni Metro, Durban.
- 2013 : **John F. W. Herschel Medal** in recognition of Highly Distinguished Multidisciplinary Contributions to the furtherance of Science from the Royal Society of South Africa
- : **Distinguished Scholar Award** from the Biomedical HIV Prevention Forum of Nigeria
- 2012 : **N'Galy-Mann Award** (to Quarraisha and Salim S. Abdool Karim) for global contributions in HIV clinical research and epidemiology of AIDS
- : **Minara recognition award for Academic Excellence** (to Quarraisha and Salim S. Abdool Karim)
- 2011 : **President's Award for Outstanding Achievement in World Health** (to the CAPRISA 004 Leadership Team) from DIA (Drug Information Association) for research on the tenofovir gel microbicide
- : **Research leading to Innovation Award** (to Quarraisha and Salim S Abdool Karim on behalf of the CAPRISA 004 Leadership Team) from the South African National Science & Technology Forum (NSTF) jointly with BHP Billiton in recognition of the contributions to HIV prevention through the CAPRISA 004 study
- : **Allan Rosenfield Alumni Award for Excellence** (to Quarraisha and Salim S. Abdool Karim) from Columbia University's Alumni Association in recognition for excellence in AIDS research
- : **Medicine Award - Fellowship in Art & Science of Medicine (Gold)** from the South African Medical Association in recognition for excellence in research on microbicides, vaccines and TB-HIV treatment
- : **Science-for-Society Gold Medal Award** from the Academy of Science in South Africa (ASSAf) in recognition of excellence in the application of outstanding scientific thinking in the service of society.
- : **Outstanding Senior African Scientist Award** from the European and Developing Countries Clinical Trials Partnership (EDCTP)
- : **Olusegun Obasanjo Prize for Scientific Discovery and Technological Innovation** from the African Academy of Sciences
- 2009 : **TWAS Prize in Medical Sciences** from The World Academy of Sciences (TWAS)
- : **Outstanding Leadership Award** from the Microbicide Trials Network (MTN) for the HPTN 035 trial
- 2008 : **Hero in Medicine Award** from the International Association of Physicians for AIDS Care (IAPAC)
- 2005 : **Best Man Award** in the Science & Technology category from Men's Health Magazine
- 1988 : **Reebok Human Rights Award** from the Reebok Foundation - the award was dedicated to the work of NAMDA (The National Medical and Dental Association) in the field of health and human rights.



7b Post-graduate Fellowships

- 1987 : Rockefeller Fellowship for special interests and explorations at Columbia University, New York, USA.
- 1986 : Post-doctoral Fellowship by the South African Medical Research Council.
- 1985 : Post-intern scholarship by the Medical Research Council to study the epidemiology of hepatitis B.
- 1981 : Denmark Clerkship by the Natal University Medical Students' Representative Council, Durban, South Africa. Hosted by the International Medical Co-operation Committee and spent two months in Denmark learning about the Danish Health Care System.

7c Committee and other professional activities

- 2021-present : Member, TWAS Advisory Committee on Covid-19
 : Member, Physicians for Human Rights (PHR) Advisory Council
 : Member of World Health Organization's Science Council
 : Member, Scientific Advisory Committee, Chulalongkorn University's School of Global Health, Thailand
- 2020-present : Member, Lancet Commission on COVID-19
 : Member of the Steering Committee, Africa Task Force for Coronavirus (AFCOR)
 : Member, International Science Council's (ISC) Oversight Committee on the Covid-19 endgame
- 2020-2021 : Chair, Ministerial Advisory Committee on Covid-19 (later Co-Chair)
- 2019-present : Member, Scientific Advisory Board of the Consortium for HIV/AIDS Vaccine Development (CHAVD)
- 2017-present : Chair, World Health Organisation (WHO) Strategic and Technical Advisory Committee for HIV and Viral Hepatitis (STAC-HIVHEP)
 : Member, Board of the Population Council, New York
 : Chair, Grant review committee for the US Department of Defense's Medical Research and Development Program
- 2016-2017 : Member, International Advisory Group (IAG) for the India TB research Consortium
- 2015-present : Member, WHO HIV/TB Task Force
- 2015 : Co-Chair, WHO Pre-exposure Prophylaxis (PrEP) Technical Advisory Group
- 2014-present : Member, International Society for Infectious Diseases (ISID)
 : Member, Scientific Advisory Committee of the South African National Institute for Communicable Diseases
 : Member, 2015 Gen-Probe Joseph Public Health Award Nominations Committee of the American Academy of Microbiology
- 2014-2015 : Member, WHO Consolidated Antiretroviral Guidelines Steering Committee
- 2014 : Member, WHO expert committee drafting 2014 WHO Consolidated Antiretroviral guidelines
- 2013-2019 : Chair, UNAIDS Scientific Expert Panel
- 2013-2015 : Member, UNAIDS - Lancet Commission on AIDS

- 2012-present : Member, Scientific Advisory Board for Global Health, Bill and Melinda Gates Foundation
- 2012 : Member, Scientific Program Committee (SPC) of the international symposium to celebrate the 30th anniversary of the discovery of HIV
- 2011 : Member, The team writing South Africa's National Strategic Plan for HIV/AIDS, STIs and TB (2012-2016)
- 2011-2013 : Member, Academy of Science in South Africa - Standing Committee on Health
- 2010-2014 : Member, Scientific Advisory Board, US President's Emergency Plan for AIDS Relief (PEPFAR)
- 2010 : Member, Scientific Committee, UNAIDS Declaration on HIV Prevention
Member, Expert Review Panel, Fogarty International Research Scientist Career Development Grant
- 2009 : Member, Institute of Medicine's Committee on "Envisioning a strategy to prepare for the long-term burden of HIV/AIDS"
Member, Review Panel of the US Military Infectious Diseases Research Program
Member, Strategic Advisory Board, Global HIV Vaccine Enterprise
Member, Global Health Award Advisory Committee, Gairdner Foundation
Member, WHO Expert Advisory Panel on Sexually Transmitted Infections and HIV
Member, Population Council Microbicide Advisory Board
- 2008 : Chair, WHO, Scientific and Technical Advisory Group for Reproductive Health
Member Scientific Committee, AIDS 2008 Vaccine Conference
- 2007 : Member, AIDS Accountability International Scientific Review Panel
Co-Chair of the Planning Group for Research in International Settings, National Institutes of Health's Office of AIDS Research
Review panel member, US Centers for Disease Control and Prevention intramural AIDS Research Program
Member, International AIDS Vaccine Initiative (IAVI) Scientific Advisory Committee
- 2006 : Member, International Scientific Advisory Committee for the 17th International Society for STD Research (ISSTD)
Member, The International Center for Indigenous Phytotherapy Studies (TICIPS) External Advisory Panel
Member, Council of South African Association for Marine Biological Research (SAAMBR)
Trustee of the South African Centre for Epidemiological Modelling of AIDS (SACEMA) trust
Member, Scientific Advisory Committee, Aurum Health Research
Member, External Review Panel for NIAID funded activities of the U.S. Military HIV Research Program
- 2005 : Member, Scientific Advisory Board, International Partnership for Microbicides
Member, South African Higher Education AIDS Programme Scientific Advisory Committee
Vice-Chair, Scientific and Technical Advisory Group (STAG), Department of Reproductive Health and Research, World Health Organisation, Geneva, 2002.

- : Member, International Planning Committee, Office of AIDS Research, National Institutes of Health
- : Member, Advisory Council for the Harvard AIDS Initiative (HAI) Vaccine Think Tank Series
- 2004 : Member, Scientific Committee for the Prevention Science concentration, 3rd IAS Conference on HIV Pathogenesis and Treatment
- 2003 : Member, Board of the Oceanographic Research Institute, Durban.
- : Member, Scientific Committee, AIDS Vaccine 2004, Paris
- : Member, Scientific Committee, Microbicide Conference 2004, London
- : Member, Scientific Committee, 8th World STI/AIDS Congress, Uruguay, 2003
- 2002 : Member, Global HIV Prevention Working Group of the Gates Foundation.
- : Member, Program Committee, AIDS Vaccines 2003, New York
- : Member, Scientific and Technical Advisory Group (STAG), Department of Reproductive Health and Research, World Health Organisation, Geneva, 2002.
- : Drafting sub-committee, Council of International Organisations of Medical Societies (CIOMS) Conference on 1992 CIOMS Guidelines Revision, World Health Organisation, Geneva, 2002.
- : Chairman, Scientific Basis for Regulatory Decisions on Microbicides, UNDP/UNFPA/WHO/ WORLD BANK Special Programme of Research Development and Research Training in Human Reproduction, World Health Organisation, Villars-sur-Ollon, Switzerland, 2002.
- : Member, Scientific Committee, International Congress of Chemotherapy, Durban, 2003
- 2001 : Member, Program Committee, AIDS Vaccines 2001, Philadelphia 2001
- : Member of the Advisory Board, International Leadership Award program of the Elizabeth Glaser Pediatric AIDS Foundation
- : Member, International Scientific Advisory Board, XIV International AIDS Conference, Barcelona, 2002
- : Member, Board of Directors, Sugar Milling Research Institute, Durban.
- 2000 : Chairperson, Scientific Programme Committee, XIIIth International AIDS Conference, Durban, July 2000.
- : Member, KwaZulu-Natal Provincial AIDS Council.
- : Member, Scientific Steering Committee, HIV Vaccine Trials Network
- : Chairperson, International Working Group, HIV Vaccine Trials Network
- 1999 : Member of the International Advisory Committee of the Second International Conference on AIDS India 2000, India, December 1999.
- : Member of Review Panel Focus Group on the Centers for AIDS Research, Office of AIDS Research, National Institutes for Health.
- 1998 : Chairperson, Health Sector Working Group, National Research and Technology Foresight Project, Department of Arts, Culture, Science and Technology, South Africa.
- : Chairperson, Data, Safety and Monitoring Board, Vitamin A and vertical HIV transmission trial, University of Natal, Durban.
- : Chairperson, Safety Monitoring Committee, Pneumococcal Vaccine Trial, University of Witwatersrand, Johannesburg.
- 1997 : Chairperson, National Advisory Group of Immunisation, South Africa.
- : Member, International Scientific Committee of the 3rd International Conference on AIDS Impact: Biopsychosocial aspects of HIV infection, Melbourne, Australia, June 1997.
- : Member, Organising Committee and Scientific Committee of the 18th African Health Sciences Congress, Cape Town, April 1997.

- : Member, Scientific Programme Committee, 12th World AIDS Conference, Geneva, June 1998.
- 1996 : Chairperson of the South African Polio Expert Committee
: Adviser, Educational Programmes on Psychological Problems in General Health Care, WHO.
: Elected to Governing Council as Councillor for Africa, International Epidemiological Association.
: Board Member, Centre for Health Policy, University of Witwatersrand, South Africa.
: Board Member, Institute for Urban Primary Health care, Johannesburg.
: Board Member, Dental Research Institute, University of Witwatersrand, South Africa.
: Member, Selection Committee of Oxford Nuffield Medical fellowships in South Africa.
: Scientific Advisory Panel, Poliomyelitis Research Foundation, South Africa.
- 1995 : Technical team for the National Health Insurance Commission of the Department of Health.
: Board Member, Pneumococcal Research Unit, University of Witwatersrand, South Africa.
: International Review Panel for AIDS Research in the areas of natural history, epidemiology and prevention, National Institutes for Health, USA.
: Viral Hepatitis Advisory Board
: HIV/AIDS and STD Advisory Group, Department of Health, South Africa.
: International Scientific Committee, XI International Conference on AIDS, Vancouver, July 1996.
: Scientific Programme Committee, HELINA '96, Second International Working Conference on Health Informatics in Africa, Johannesburg.
- 1994 : Health Advisory Committee and Management Committee of the Valley Trust, a socio-medical project in the Valley of Thousand Hills.
: South African Department of Health Committee to develop a National Health Information System
- 1993 : Board of the National Centre for Occupational Health, South Africa.
: Expert Panel for a Sanitation Decision Support System for Umgeni Water.
: Steering Committee on Water supply and quality and health in developing communities of the Water Research Commission.
: National Advisory Group on Immunisation, the government's expert committee on vaccination.
: Strategy Drafting Committee of NACOSA (The National AIDS Co-ordinating Committee of South Africa).
- 1992 : Scientific Review Committee of the Human Sciences Research Council project to evaluate the government-initiated Food Aid Programme in Natal-KwaZulu.
: Evaluation Panel of the Progressive Primary Health Care Network's National AIDS Programme.

8. FELLOWSHIP AND GRANT SUPPORT

Received grants as Principal Investigator in excess of \$250million, including grants from the National Institutes for Health, Wellcome Trust, USAID, US Centers for Disease Control and Prevention, European Union, South African Department of Science and Technology and the Howard Hughes Medical Institute.

Agency	Title	Type & #	Period	Total Direct Costs	Role
2020					
South African Medical Research Council (SAMRC)	MRC-CAPRISA HIV-TB Pathogenesis and Treatment Research Unit (RENEWAL)	Cooperative Agreement	04/01/2020-03/31/2025	From R1,000,000 per annum. R7,161,481 To Date	Principal Investigator

National Research Foundation (NRF)/DST	DST-NRF Centre of Excellence in HIV Prevention (RENEWAL)	UID 96354	04/01/2020-03/31/2025	R64,823,424	Principal Investigator
USAID/Right to Care	For the Accelerating Program Achievements to Control the Epidemic (APACE) Activity - (COVID-19)	Cooperative Agreement no. 72067418CA 00029	03/30/2020 – 09/30/2020	R3,547,168	Principal Investigator
South African Medical Research Council (SAMRC)	COVID-19 Transmission and natural history in KwaZulu-Natal, South Africa: Epidemiological Investigation to Guide Prevention and Clinical Care		04/01/2020 – 03/31/2021	R6,160,582	Principal Investigator
The IQRAA Trust	Contribution towards research and development of the CAP256 bNAb product testing			R250,000	Principal Investigator
National Institutes of Health (NIH)/NIAID	KwaZulu-Natal Clinical Trials Unit (Cycle 3)	2UM1AI0694 69	12/01/2020-30/11/2027	From \$1,600,679 per annum	Co-Principal Investigator
2019					
EDCTP	CAPRISA 012 SAMBA TRIAL: Subcutaneous Administration of Monoclonal Broadly-neutralizing Antibodies	RIA2017S-2008	01/01/2019-12/31/2023	£9,254,000	Principal Investigator
South African Medical Research Council (SAMRC)	CAPRISA 012: Phase I/II trial of Subcutaneous Administration of Monoclonal Broadly-neutralizing Antibodies (SAMBA Trial)		02/01/2019 – 06/30/2023	R31,337,316	Principal Investigator
2017					
South African Medical Research Council (SAMRC)	NDoH-SAMRC Special Initiative on HIV Prevention Technology	96151	04/01/2017 – 03/31/2021	R50,000,000	Principal Investigator
2016					
USAID/FHI 360	DREAMS Initiative - Prep Demonstration Research Study- CAPRISA 084	Prime Award No. AID-674-A-14-00009 FHI 360 - Project No. - 100312.001.0 01	06/01/2016 – 05/31/2018	R64,669,114	Co-Investigator
EDCTP	CAPRISA 018: A randomised controlled trial to assess the safety, acceptability and pharmacokinetics of sustained-release tenofovir alafenamide sub-dermal implant for HIV prevention in women	SR/IA2015-1061	02/01/2017-12/31/2023	£9,869,514	Principal Investigator
2015					
South African Medical Research Council (SAMRC)	MRC-CAPRISA HIV-TB Pathogenesis and Treatment Research Unit	Cooperative Agreement	04/01/2015-03/31/2020	R5,852,208	Principal Investigator
National Research Foundation (NRF)/DST	DST-NRF Centre of Excellence in HIV Prevention	UID 96354	03/01/2015-12/31/2019	R10,000,000 per annum	Principal Investigator
Crucell Holland B.V - Janssen Pharmaceutica (Pty) Ltd	A Phase 1/2a Trial to Evaluate the Safety/Tolerability and Immunogenicity of Homologous Ad26 Mosaic Vector Regimens or Ad26 Mosaic and MVA Mosaic Heterologous Vector Regimens, with High-Dose, Low-Dose or no Clade C gp140 Protein Plus Adjuvant for HIV Prevention	Crucell - HIV-V-A004	03/26/2015 – 05/31/2018	R3,245,090	Co-Investigator
ViiV	Collaboration for the development and testing of an injectable antiretroviral agent, cabotegravir long-acting (LA), for HIV prevention in women – CAPRISA 014		04/16/2015-12/31/2018 Terminated – 08/18/2016	\$3,000,000	Principal Investigator

USAID	Collaboration for the development and testing of an injectable antiretroviral agent, cabotegravir long-acting (LA), for HIV prevention in women – CAPRISA 014	AID-OAA-A-15-00040	07/24/2015-07/23/2019 Terminated -06/30/2017	\$3,000,000	Principal Investigator
Tides Foundation / MAC AIDS	Stopping new HIV infections in young women: A community-based program for ARV-based prevention	Grant # TFR15-01788	09/11/2015-09/10/2016	\$1,000,000	Principal Investigator
2014					
Centers for Disease Control and Prevention	The CAPRISA Regional Centers for Advanced Clinical Management of HIV/AIDS and TB	5 U2GGH001142	04/01/2014 – 03/31/2019	\$15,304,949	Co-Investigator
National Institutes of Health (NIH)/NIAID	Inflammation and HIV risk: understanding partial Tenofovir efficacy in CAPRISA004	1R01AI111936	07/10/2014-06/30/2018	\$2,102,402	Co-Investigator
2013					
National Institutes of Health (NIH)/NIAID	CAPRISA Clinical Trials Unit for AIDS/Tuberculosis Prevention and Treatment	2UM1AI069469	12/10/2013-30/11/2020	\$36,703,972	Co-Principal Investigator
UNAIDS	Chair of the UNAIDS Scientific Expert Panel at CAPRISA	2015/587455	05/22/2013-08/31/2016	\$271,028	Principal Investigator
2012					
CONRAD /USAID	CAPRISA 008: Phase IIIb Open-Label Randomized Controlled Trial to Assess the Implementation Effectiveness and Safety of 1% Tenofovir Gel Provision through Family Planning Services in KwaZulu-Natal, South Africa	Subproject No.: PPA-12-143 / Cooperative Agreement GPO-A00-08-00005-00 Subproject No.: MAPS1-14-002 / Cooperative Agreement AID-OAA-A-14-00011	03/01/2012-11/30/2014 06/15/2014-08/31/2015	\$5,787,387 \$2,905,438	Co-Principal Investigator
Family Health International - FHI 360	HPV Infection, Genital Inflammation and HIV Acquisition in Women in CAPRISA 004	FHI 360 ID: 0437.0197/805288	12/01/2012-03/31/2014	\$573,208	Co-Principal Investigator
NIH	Mary E. Charlson training grant	AHRQ T32			Co-Investigator
2011					
Technology Innovation Agency/DST	CAPRISA 008: Phase IIIb Open-Label Randomized Controlled Trial to Assess the Implementation Effectiveness and Safety of 1% Tenofovir Gel Provision through Family Planning Services in KwaZulu-Natal, SA		11/28/2011-11/27/2012	R14,000,000	Co-Principal Investigator
Department of Science and Technology (DST)	To Conduct CAPRISA 009 as an open label randomized controlled trial to assess the impact of prophylactic exposure to Tenofovir Gel	Project Funding: DST/CON 0216/2011		R9,808,758	Principal Investigator
Technology Innovation Agency/DST	Post CAPRISA 004 Activities		03/01/2011-02/29/2012	R12,500,000	Co-Principal Investigator
Technology Innovation Agency	HIV Vaccine Immunogen Design: Identification of T Cell epitopes associated with control of viral replication in Indian and South African HIV-1 infected individuals		01/04/2011-31/03/2013	R1,500,000	Co-Investigator
Tides Foundation / MAC AIDS	Research preparing for the scale-up implementation of tenofovir gel for HIV prevention	Grant#TFR11-01545	12/07/2011-11/07/2013	\$500,000	Co-Principal Investigator
Technology Innovation Agency	Identification of neutralizing antibody epitopes on Indian and South African HIV-1 subtype C viruses for HIV vaccine design		01/04/2011-31/03/2013	R1,500,000	Co-investigator

2008					
Centers for Disease Control and Prevention	CAPRISA AIDS TREATMENT PROGRAMME (CAT)	5U2 GPS001350	09/30/08 – 09/30/14	\$26,922,692	Principal Investigator
Howard Hughes Medical Institute (HHMI)	TB Recurrence upon Treatment with HAART (TRuTH) Study	HHMI 55007065	09/01/2008 – 08/31/2012	\$1,348,731	Principal Investigator
National Research Foundation	Acute HIV Infection	UID 67385	04/01/2008 -03/31/2011	R7,500,000	Principal Investigator
2007					
National Institutes of Health (NIH)/NIAID	UKZN-CAPRISA HIV/AIDS Clinical Trials Unit Description: To conduct clinical trials of HIV prevention and treatment	U101 AI069469	01/01/2007-12/31/2013	\$35,535,855	Principal Investigator
2006					
NIH	Microbicide Trial Network Leadership – Executive Committee Member	U01 AI068633	01/07/2006-30/06/2013	\$149,372 per annum	Co-investigator (PI: Sharon Hillier)
Family Health International	CAPRISA 004: Phase IIb trial to assess the safety and effectiveness of vaginal microbicide, 1% Tenofovir gel, for the prevention of HIV infection in women in South Africa	co operative agreement # GPO-A-00-05-00022-00, contract # 132119	01/07/2006-31/03/2011	\$8,940,544	Co-Principal Investigator (Co-PI: Quarraisha Abdool Karim)
NIH	Center for HIV/AIDS Vaccine Immunology (CHAVI)	U01 A1067854	01/10/2006-30/06/2009	\$2,650,556	Co-Investigator (PI: B Haynes)
NIH	Evaluation of HIV-specific immunological and virological responses of HIV-1 multiply-exposed seronegative individuals (HEPS)	R01 AI 047086	01/06/2006-31/05/2009	\$373,329	Co-investigator (PI: Juliana McElrath)
2005					
NIH, Fogarty International Center	International Training Program in Epidemiology of AIDS Description: The goal of the Program is to impact on the spread and control of AIDS and tuberculosis by developing a group of well-trained South African researchers in these fields	D43 TW00231	01/06/2005-31/05/2010	\$816,000 per annum	Co-Investigator (PI: Quarraisha Abdool Karim)
LIFElab (EcoBio)	Training Programme for CAPRISA 004: Phase II trial to assess the safety and effectiveness of the vaginal microbicide 1% Tenofovir for the prevention of HIV infection in young women in South Africa		01/07/2005-30/06/2008	R8,500,000	Co-Investigator (PI: Quarraisha Abdool Karim)
2004					
NIH	CAPRISA AIDS Treatment (CAT) Programme: Supplement to Collaborative AIDS Programme of Research in South Africa	U19A105179 4-02S1	01/06/2004-31/05/2008	\$2,000,000 per annum	Principal Investigator
2003					
Medical Research Council	South African AIDS Vaccine Initiative (SAAVI) HIV Vaccine Trials Unit		01/04/2003-31/03/2006		Co-Principal Investigator (PI: Gavin Churchyard)
2002					
NIH	Collaborative AIDS Programme of Research in South Africa (CAPRISA)	U19 A151794-01	01/07/2002-31/05/2007	\$10,685,048	Principal Investigator
NIH	Adult AIDS Clinical Trials Group (AACTG)		01/06/2002-31/05/2006	\$250,000	Co-investigator (PI: Scott Hammer)
Fogarty International Center, NIH	Natal-Columbia Clinical AIDS/TB Training Program: A collaborative programme in clinical, operational and health services research and training	PA-02-022	01/01/2002-30/08/2003	\$75,000	Principal Investigator
2001					

NIH	HIV Vaccine Trials Unit (HVTN)		01/06/2001-30/06/2004	\$17,500	Co-investigator (PI: Scott Hammer)
NIH	HIV Prevention Trials Unit	U01A146749-03	01/06/2001-31/05/2004	\$35,000	Co-investigator (PI: Wafaa El-Sadr)
2000					
NIH	South African MRC HIV Prevention Trials Unit		01/06/2000-31/05/2005	\$6,216,050	Principal Investigator (until 30 June 2001)
NIH	New York – Southern Africa HIV Vaccine Trials Unit		01/06/2000-31/05/2005	\$9,996,270	Principal Investigator (until 30 June 2001)
Fogarty International Center, NIH	AIDS International Training and Research Program	D43 TW00231	01/10/2000-30/09/2005	\$3,153,399	Principal Investigator
NIH	Studies on acceptability of vaginal microbicides		01/10/2000-30/09/2004	\$700,000	Co-investigator (until 30 June 2001) (PI: Gita Ramjee)
1999					
NIH	HIVNET 023: Phase I study to assess the safety and plasma concentrations of nevirapine given daily, twice per week or weekly as prophylaxis in breastfeeding infants from birth to six months		01/01/1999-31/12/2000	\$439,955	Co-Principal Investigator
NIH	Phase I multi-centre dose escalation safety and acceptability study of the investigational vaginal microbicide agent PRO2000		01/01/1999-31/05/2000	\$163,623	Co-Principal Investigator
NIH	Virological and immunological studies of HIV infection in newly infected individuals in Southern Africa		01/01/1999-31/05/2000	\$116,222	Co-Investigator (PI: Haynes Sheppard)
1998					
NIH – Fogarty International Center	International training programme in medical informatics for African nationals		01/06/1998-31/05/2002	\$664,228	Co-Investigator (PI: Michael Bennish)
The Wellcome Trust	Migration and the spread of sexually transmitted diseases in southern Africa		01/01/1998-31/12/2001	R2,389,540	Co-Investigator (PI: Mark Lurie)
The Wellcome Trust	Syphilis in pregnancy: a health systems intervention trial		01/04/1998-30/09/2000	R952,350	Co-Principal Investigator (PI: David Wilkinson)
NIH	International training programme in the epidemiology of AIDS		01/06/1998-31/05/2000	\$815,799	Principal Investigator
NIH – Fogarty International Center	Supplementary grant: International TB training programme		01/10/1998-31/05/2000	\$250,854	Principal Investigator
World Health Organisation	COL-1492 in the prevention of transmission of STDs and HIV: a multi-centre phase II/III study among commercial sex workers participating in a 100% condom programme		01/10/1998-30/04/2000	\$409,338	Co-Principal Investigator
1997					
The Wellcome Trust	Africa Centre for Population Studies and Reproductive Health		01/07/1997-30/06/2002	£5,000,000	Principal Investigator (until end of 1997)
NIH	Establishing a South African HIV vaccine trial site through intervention trials for HIV prevention among high risk rural women in Hlabisa (Core HIVNET grant)		30/10/1997-01/06/2000	\$784,082	Principal Investigator

Department of Health	Development of surveillance systems for the HIV/AIDS and STD Programme		01/02/1997-31/12/1999	R1,500,000	Principal Investigator
Department of Health	Development of monitoring tools and evaluation of the HIV/AIDS and STD Programme		01/02/1997-31/12/1999	R1,000,000	Principal Investigator
1995					
World Health Organisation	A multi-centre, randomized, double-blind, placebo-controlled clinical trial to evaluate efficacy, tolerance and effectiveness of three drug regimens using zidovudine in combination with lamivudine for the prevention of mother-to-child transmission of HIV (PETRA).		15/12/1995-30/06/1998	\$90,234	Co-Investigator (PI: Joseph Saba)

9. TEACHING EXPERIENCE AND RESPONSIBILITIES

9a. Teaching

- 2002-Present : Teach a course on "Cluster randomized control trials" in the Department of Medicine, Weill Medical College, Cornell University
- 1996-Present : Teach a course entitled "Advanced epidemiology of infectious diseases" in the Division of Epidemiology, Columbia University.
- 1992-Present : Occasional lectures to post-graduate students in the University of KwaZulu-Natal, University of Witwatersrand, University of Cape Town, University of Western Cape and the Medical University of South Africa.
- 1995-2002 : External examiner, Masters in Epidemiology, University of Cape Town, South Africa.
: External examiner, Department of Community Health, University of Witwatersrand.
: Examiner for the South African College of Medicine, Faculty of Community Health.
- 1991 : External examiner for M.Med.Sc. (Social Work) degree at the University of Durban-Westville and M.Soc.Sc. Degree at University of Natal.
- 1989 : Post-graduate teaching in Biostatistics - Departments of Medicine and Paediatrics, Natal University
- 1988 : Lectured in epidemiology in the College of Physicians and Surgeons, and in comparative health systems in the School of Public Health, Columbia University.
- 1987-1988 : Teaching Assistant in MPH core epidemiology course, School of Public Health, Columbia University.
- 1986-1987 : Lectured in Virology and Microbiology at University of Natal Medical School.

9b. Post-graduate Supervision

Doctoral degrees:

- 2016 : Kogieleum Naidoo, Challenges in the integration of TB and HIV care: Evidence for improving patient management and health care policy, PhD, University of KwaZulu-Natal
- 2015 : Cheryl Baxter, Impact of intermittent tenofovir 1% gel on hepatitis B virus (HBV) infection, PhD, University of KwaZulu-Natal
- 2014 : Vivek Naranbhai, The role of natural killer cells in preventing HIV-1 acquisition and controlling disease progression, PhD, University of KwaZulu-Natal
- 2008 : Eleanor Gouws, Incidence of HIV infection in rural KwaZulu-Natal. PhD, University of KwaZulu-Natal
- 2001 : Cassandra Seethal. Evaluation of a teacher vision awareness programme for teachers to detect vision problems in preschool children. PhD, University of Durban-Westville
- 1999 : David Wilkinson. Epidemiology, treatment and control of tuberculosis in the HIV era in Hlabisa, South Africa. MD, University of Natal
- 1998 : Colin Pillai. Pharmacokinetic and pharmacodynamic characteristics of isoniazid and rifampicin in patients with multi drug-resistant tuberculosis. PhD, University of Durban-Westville

Masters degrees:

- 2015 : Nivashnee Naicker. Predictors of HIV Acquisition in High Risk Women in Durban, South Africa. MPH, University of KwaZulu-Natal
- 1998 : Nirupa Shah. The impact of dispensing restrictions, generic substitution, and

- 1997 : professional fees on the cost of medicines to the patient. M.B.A., University of Wales.
 Roxana Rustomjee. A randomised control trial of nonoxynol 9 among sex workers in South Africa. M.S.(Epi), Columbia University.
- 1995 : David McCoy. Assessment of the quality of sexually transmitted disease care in a rural health district. M.Phil., University of Cape Town.

Supervision of US K-awardees:

- Mark Lurie, Brown University (K-award)
- Donnie McGrath, Tufts University (K-award)
- Ingrid Bassett, Harvard University (K-award)
- William Carr, Harvard University (K-award)

9c. CU-SA Fogarty AITRP Trainee Supervision

As past Principal Investigator of the Columbia University – Southern African Fogarty AIDS International Training and Research program (CU-SA Fogarty AITRP) for several years, I have been involved in building capacity in South Africa to undertake AIDS research for more than a decade. Over 200 Fellows have been trained in this program.

10. OTHER PROFESSIONAL ACTIVITIES

10a. Editorial responsibilities

- | | | |
|--------------|---|---|
| 2017-present | : | Editorial Board Member: Journal of Acquired Immunodeficiency Syndrome |
| 2016 - 2020 | : | Editorial Board Member: mBio |
| 2015-present | : | Editorial Board Member: New England Journal of Medicine |
| | : | Editorial Board Member: Indian Journal of Medical Research |
| 2014-present | : | Editorial Board Member: AIDS Research and Human Retroviruses |
| | : | Editorial Board Member: AIDS Reviews |
| | : | International Advisory Board Member: Lancet HIV |
| 2013-present | : | International Advisory Board member, The Lancet Global Health |
| 2012-2013 | : | Board of Reviewing Editors, <i>eLife</i> Journal |
| 2011 | : | Reviewer, Science |
| | : | Reviewer, AIDS Research and Human Retroviruses |
| | : | Editorial Board Member: HIV and Infectious Diseases |
| | : | Reviewer, Indian Journal of Medical Research |
| | : | Reviewer, BioMedCentral (BMC) International Health and Human Rights |
| 2010 | : | Reviewer, New England Journal of Medicine |
| | : | Reviewer, HIV Medicine |
| | : | Reviewer, Drugs |
| | : | Reviewer, Clinical Infectious Diseases |
| | : | Reviewer, Pan African Medical Journal |
| | : | Reviewer, Journal of the American Medical Association |
| | : | Reviewer, Journal of Infection in Developing Countries |
| 2009 | : | Reviewer, Lancet |
| | : | Reviewer, Science (Translational Medicine) |
| | : | Reviewer, Fertility and Sterility |
| | : | Reviewer, International Journal of Tuberculosis and Lung Diseases |
| | : | Reviewer, Global Public Health |
| | : | Reviewer, Journal of Infectious Diseases |
| 2008 | : | Reviewer, Expert Review of Vaccines |
| 2007-2013 | : | Editorial Board Member: The Open Journal of Virology |
| 2006 | : | Reviewer, PLoS Medicine |
| 2005 | : | Reviewer: Journal of Acquired Immunodeficiency Syndrome (JAIDS) |
| 2004 | : | Reviewer, Bulletin of the World Health Organization |
| | : | Reviewer, Journal of Health, Population and Nutrition |
| | : | Reviewer, Tropical Medicine and International Health |
| 2001-2014 | : | Associate Editor, AIDS Clinical Care |
| 2001-2003 | : | Member - Editorial Board, Sexually Transmitted Infections |

2001-2006	:	Corresponding Editor, International Journal of Infectious Diseases
2000-2010	:	Member - Editorial Board, Southern African Journal of HIV Medicine
1999	:	Reviewer, Social Science and Medicine
1998	:	Reviewer, AIDS
1998-2008	:	Member - Editorial Board, Southern African Journal of Epidemiology and Infection
1997	:	Reviewer, Journal of Family and Community Medicine
1996	:	Reviewer, Southern African Journal of Food Science and Nutrition.
1995-1998	:	Editor, Southern African Journal of Public Health.
1993	:	Reviewer, South African Medical Journal.
1992	:	Reviewer, American Journal of Public Health.
1989	:	Reviewer, Southern African Journal of Epidemiology and Infection.

11. PUBLICATIONS

11a. Peer-reviewed journal articles

2021

1. **Abdool Karim SS**, de Oliveira T. New SARS-CoV-2 Variants — Clinical, Public Health, and Vaccine Implications. *New England Journal of Medicine* 2021; DOI: 10.1056/NEJMc2100362
2. **Abdool Karim SS**. Vaccines and SARS-CoV-2 variants: the urgent need for a correlate of protection. *Lancet* 2021; 397: 1263-1264.
3. **Abdool Karim SS**, de Oliveira T, Loots G. Appropriate names for COVID-19 variants. *Science* 2021 March; 371(6535): 1215. (Letter)
4. **Abdool Karim SS**, Baxter C. HIV incidence trends in Africa: young women at highest risk. *Lancet HIV* 2021; 8: e389-e390.
5. Sachs JD, **Abdool Karim S**, Akinin L, Allen J, Brosbøl K, Barron GC, Daszak P, et al. Priorities for the COVID-19 pandemic at the start of 2021: statement of the Lancet COVID-19 Commission. *Lancet* 2021; e pub ahead of print: [https://doi.org/10.1016/S0140-6736\(21\)00388-3](https://doi.org/10.1016/S0140-6736(21)00388-3)
6. Fontanet A, Autran B, Lina B, Kieny MP, **Abdool Karim SS**, Sridhar D. SARS-CoV-2 variants and ending the COVID-19 pandemic. *Lancet* 2021; Published online February 11, 2021 [https://doi.org/10.1016/S0140-6736\(21\)00370-6](https://doi.org/10.1016/S0140-6736(21)00370-6)
7. IJsselmuiden C, Ntoumi F, Lavery JV, Montoya J, **Abdool Karim S**, Kaiser K. Should global financing be the main priority for pandemic preparedness? *Lancet* 2021; 398: 388.
8. Commissioners of the Lancet COVID-19 Commission (including **Abdool Karim SS**), Task Force Chairs and members of the Lancet COVID-19 Commission, Commission Secretariat and Staff of the Lancet COVID-19 Commission Priorities for the COVID-19 pandemic at the start of 2021: Statement of the Lancet COVID-19 Commission. *Lancet* 2021; 397: 947-949.
9. Skegg S, Gluckman P, Boulton G, Hackmann H, **Abdool Karim SS**, Piot P, Woopen C. Future scenarios for the COVID-19 pandemic. *Lancet* 2021; 397: 777-778.
10. Sachs J, **Abdool Karim S**, Akinin L, Boone L, Brosbøl K, Barron GC, Daszak P, Espinosa MF, Gaspar V, Gaviria A, Haines A, Hotez PJ, Koundouri P, Bascuñán PL, Lee J-K, Pate M, Frenk J, Polman P, Ramos G, Reddy KS, Serageldin I, Shah R, Thwaites J, Vike-Freiberga V, Wang C, Were MK, Xue L, Zhu M. Statement of The Lancet COVID-19 Commission: Enhancing Global Cooperation to End the COVID-19 Pandemic. February 2021. <https://covid19commission.org/enhancing-global-cooperation>
11. Baxter C, **Abdool Karim Q**, **Abdool Karim SS**. Identifying SARS-CoV-2 infections in South Africa: Balancing public health imperatives with saving lives. *Biochemical and Biophysical Research Communications* 2021; 538:221-225.
12. Cromarty R, Sigal A, Liebenberg LJ, McKinnon LR, **Abdool Karim SS**, Passmore JS, Archary D. Betamethasone induces potent immunosuppression and reduces HIV infection in a PBMC in vitro model. *Journal of Investigative Medicine* 2020 October. jim-2020-001424. doi: 10.1136/jim-2020-001424. Epub ahead of print.
13. Pillay K, Lewis L, Rambaran S, Yende-Zuma N, Archary D, Gengiah S, Govender D, Hassan-Moosa R, Samsunder N, **Abdool Karim SS**, McKinnon LR, Naidoo K, Siro A. Plasma Biomarkers of Risk of Tuberculosis Recurrence in HIV Co-Infected Patients from South Africa. *Frontiers in Immunology* 2021, 12: <https://doi.org/10.3389/fimmu.2021.631094>
14. Lee J-K, Bullen C, Amor YB, Bush SR, Colombo F, Gaviria A, **Abdool Karim SS**, Kim B, Lavis JN, Lazarus JV, Lo Y-C, Michie SF, Norhei FP, Oha J, Reddy KS, Rostila M, Sáenz R, Smith LG, Thwaites JW, Were MK, Xue L, (The Lancet COVID-19 Commission Task Force for Public

Health Measures to Suppress the Pandemic). Institutional and behaviour-change interventions to support COVID-19 public health measures: a review by the Lancet Commission Task Force on public health measures to suppress the pandemic. *International Health* 2021; 0: 1–11 doi:10.1093/inthealth/ihab022

15. Mngomezulu K, Mzobe GF, Mtshali A, Osman F, Liebenberg LJP, Garrett N, Singh R, Rompalo A, Mindel A, **Abdool Karim SS**, Abdool Karim Q, Baxter C, Ngcapu S. Recent Semen Exposure impacts the Cytokine Response and Bacterial Vaginosis in women. *Frontiers in Immunology*; 2021; in press
16. Ismail SD, Riou C, Joseph SB, Archin NM, Margolis DM, Perelson AS, Cassidy T, Abrahams M-R, Moeser M, Council OD, McKinnon LR, Osman F, Abdool Karim Q, **Abdool Karim SS**, Swanstrom R, Williamson C, Garrett NJ, Burgers WA. Immunological correlates of the HIV-1 replication-competent reservoir size. *Clinical Infectious Diseases* in press

2020

1. **Abdool Karim SS**. The South African response to the pandemic. *New England Journal of Medicine* 2020; 382(24):e95. doi: 10.1056/NEJMc2014960
2. Abdool Karim Q, **Abdool Karim SS**. COVID-19 affects HIV and tuberculosis care. *Science* 2020; 369(6502):366-368
3. Brault MA, Spiegelman D, **Abdool Karim SS**, Vermund SH. Integrating and Interpreting Findings from the Latest Treatment as Prevention Trials. *Current HIV/AIDS Reports*. 2020; 17(3):249-258.
4. Naidoo K, Hassan-Moosa R, Mlotshwa P, Yende-Zuma N, Govender D, Padayatchi N, **Abdool Karim SS**. High rates of drug-induced liver injury in people living with HIV coinfecting with tuberculosis (TB) irrespective of antiretroviral therapy timing during antituberculosis treatment: results from the starting antiretroviral therapy at three points in TB trial. *Clinical Infectious Diseases* 2020; 70(12):2675-2682.
5. Molatlhegi RP, Liebenberg LJ, Leslie A, Noel-Romas L, Mabhula A, Mchunu N, Perner M, Birse K, Ngcapu S, Adamson JH, Govender K, Garrett NJ, Samsunder N, Burgener AD, **Abdool Karim SS**, Abdool Karim Q, Passmore JS, McKinnon LR. Plasma concentration of injectable contraceptive correlates with reduced cervicovaginal growth factor expression in South African women. *Mucosal Immunology* 2020; 13(3):449-459.
6. Singh R, Ramsuran V, Mitchev N, Niehaus AJ, Han KSS, Osman F, Ngcapu S, **Abdool Karim SS**, Rompalo A, Garrett N, Mlisana K. Assessing a diagnosis tool for bacterial vaginosis. *European Journal of Clinical Microbiology & Infectious Diseases*. 2020; 39(8):1481-1485
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11b. Books & Book Chapters and Reports

1. Abdool Karim Q, **Abdool Karim SS**, Baxter C (eds). The CAPRISA Clinical Trials: HIV Treatment and Prevention. 2017. Springer, Switzerland
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5. **Abdool Karim SS** and Abdool Karim Q (eds). HIV/AIDS in South Africa. 2010 (second edition). Cambridge University Press, Cape Town South Africa
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 20. **Abdool Karim SS** (ed). Health and Human Rights: 1986 Conference Proceedings of the National Medical and Dental Association. Durban: NAMDA, 1987.
 21. **Abdool Karim SS** (ed). Primary Health Care. Durban: NAMDA, 1987.
 22. Jinabhai CC, Coovadia HM, **Abdool Karim SS**. Socio-medical indicators for monitoring progress towards health for all in southern Africa. Second Carnegie inquiry into poverty and development in southern Africa (Paper 165). Cape Town: SALDRU, 1984.

11c. Patents

1. Patent 2003/0996. Application number: 12/357,099 (Publication date: 22 Mar 2011, Filing date: 21 Jan 2009, Priority date: 7 Jul 2000)
Nucleic acids encoding modified South African HIV-1 subtype C gag proteins
Process of selection of HIV-1 subtype C isolates, selected HIV-1 subtype C isolates, their genes and modifications and derivatives thereof
Inventors: Robert Edward Johnston, Salim Abdol Karim, Lynn Morris, Ronald Swanstrom, Carolyn Williamson
Countries: South Africa, India, USA, ARIPO, Germany, Italy, France, United Kingdom and Namibia
2. Patent: 2004/4205. Application number: PCT/IB02/04550 (Publication date: 20 Jan 2009, Filing date: 31 Oct 2002, Priority date: 31 Oct 2001)
HIV-1 subtype isolates, regulatory/accessory genes and modifications and derivatives thereof (Based on ZA20001/8978)
Inventors: Carolyn Williamson, Joanne Heidi van Harmelen, Clive Maurice Gray, William Bourn, Salim Abdool Karim
Countries: South Africa. USA, ARIPO, United Kingdom, France, Germany
3. Patent: EP 2 579 871 B1. Application number: 11726022.4 (Publication date: 26 August 2015 Bulletin 2015/35, Filing date: 07 June 2011)
Topical antiviral formulations for prevention of transmission of HSV-2
Inventors: Salim S. Abdool Karim, Quarraisha Abdool Karim, Ayesha Kharsany, Jim Rooney and Thomas Cichlar
Countries: South Africa and USA
4. Application number 1403613.1: Provisional Patent (PA159593/P) (filed 28 February 2014)
Novel Broadly Neutralizing Monoclonal Antibodies Against HIV-1
Inventors: Lynn Morris, Penny Moore, Salim Abdool Karim, John Mascola, Nicole Doria-Rose, Peter Kwong and Larry Shapiro
Countries: South Africa and USA
5. Patent: US 10,519,222 B2 / EP 3 110 844 B1 / WO2015/128846 A1. Application number PCT/IB2015/051465 (Publication date: 3 Sept 2015, Filing date: 27 Feb 2015, Priority date: 19 Dec 2014; Date of patent 31 Dec 2019)
Broadly neutralizing monoclonal antibodies against HIV-1 V1V2 env region
Inventors: Chaim Aryeh Schramm, Jason Gorman, John Mascola, Lawrence Stewart Shapiro, Lynn Morris, Nicole Amy Doria-Rosa, Penelope Linda Moore, Peter Dak Pin Kwong, Salim Safurdeen Abdool Karim
Countries: South Africa and USA
6. Pending Patent: CU17009 Application number 62/533,229 (Publication date: , Filing date: 17 July 2017, Priority date:)
Methods of assessing risk of and preventing infection by sexually transmitted disease including human immunodeficiency virus
Inventors: W. Ian Lipkin; Brent Williams; Mara Couto-Rodriguez; Salim Abdool Karim
Countries: South Africa and USA

11d. Abstracts and conference presentations

2020

Bill & Melinda Gates Foundation, Vaginal Microbiome: Potential opportunities for intervention to optimize health Meeting, Durban, South Africa, 18 February

- **Abdool Karim SS.** HIV prevention in Africa: State of the field

HVTN meeting, 21 February

- **Abdool Karim SS.** V1V2 Targeting CAP256-VRC26 Lineage Studies

EPIC Course, Columbia University, 8 June

- **Abdool Karim SS.** Deciphering the source of the first cases in Wuhan: a seafood market and pangolins.
- **Abdool Karim SS.** How to botch the Covid-19 response: Experience of the UK and USA.

Aurum Board meeting, online webinar, 31 July

- **Abdool Karim SS.** Impact of COVID-19 in South Africa and the rest of Africa, and what strategies can be used to manage the pandemic and what are the research priorities

BIO Africa Digital Convention, online webinar, 24 August

- **Abdool Karim SS.** The Covid-19 Epidemic & Biotechnology

O'Neill Institute for National and Global Health Law Colloquium at Georgetown Law, online webinar, 2 September

- **Abdool Karim SS.** COVID-19 Heading into 2021: What Lies Ahead?

University of Free State, online webinar, 13 August 2020

- **Abdool Karim SS.** Health and modelling for the 'Post-COVID-19, Post-Crisis'

Consumer Goods Industry Leaders online webinar, 12 August

- **Abdool Karim SS.** Status update of the Covid-19 Pandemic

Foundation Huesped, Argentina, online webinar, 9 September

- **Abdool Karim SS.** COVID and HIV: The interaction of two pandemics

Isaac Newton Institute, online webinar, 11 September

- **Abdool Karim SS.** Intervention choices, what are the issues

International COVID-19 Webinar: current scenario, opportunities and challenges, online webinar, 23 September

- **Abdool Karim SS.** How South Africa is responding to pandemic crisis of COVID-19

CoE Directors meeting, online webinar, 26 August

- **Abdool Karim SS.** How the CoE on HIV Prevention has been contributing to the Covid-19 response

International COVID-19 Webinar: current scenario, opportunities and challenges, Aveiro University, Portugal, online webinar, 23 September

- **Abdool Karim SS.** How South Africa is responding to pandemic crisis of COVID-19

SAMA Covid webinar, 22 September

- **Abdool Karim SS.** The Covid-19 epidemic in South Africa: What next?

Harvard University Center for African Studies, online webinar, 30 September

- **Abdool Karim SS.** COVID-19 & Africa: Current State and Priorities

Harvard Worldwide Week, online webinar, 5 October

- **Abdool Karim SS.** How Africa, as a region, has handled the pandemic, Massachusetts Consortium on Pathogen Readiness (MassCPR) symposium on Global Perspectives on COVID-19

NRF-Swedish Noel Inspired Webinar Lecture, online webinar, 8 October

- **Abdool Karim SS.** The meaning of science in the age of covid-19

International Health Committee of the American Thoracic Society, online webinar, 23 October

- **Abdool Karim SS.** The Potential Impact of a COVID Vaccine

23rd Southern African Internal Audit Conference, online webinar, 28 October 2020

- **Abdool Karim SS.** Consistent adaptive response vs planning in a time of crises

NICD symposium, online webinar, 4 November

- **Abdool Karim SS.** Lessons from HIV for covid-19 response

Cartwright Lecture, Columbia University, online webinar, 18 November

- **Abdool Karim SS.** Covid-19 in South Africa: Medical, scientific and political challenges

KZN virtual conference, online webinar, 28 November

- **Abdool Karim SS.** CoVID-19 in South Africa – what lies ahead in 2021?,

South African Sugar Association annual conference

- **Abdool Karim SS.** COVID-19 strategic achievements and providing guidance on the way forward

MSD Virtual HIV Summit 2020 (Merck), 21 Nov

- **Abdool Karim SS.** HIV & COVID-19 - what we have learned so far

Council of the South African Council for Natural Scientific Professions (SACNASP), 25 Nov

- **Abdool Karim SS.** Data science in COVID: The Scientists Making the Decisions

Cooperative Governance Meeting, 26 November

- **Abdool Karim SS.** Epidemiological disasters and the coping capacity: lessons out of COVID

UNESCO NBC webinar, 25 November

- **Abdool Karim SS.** Covid-19 vaccines: Access and equity

3rd Africa Galien Forum, 11 December

- **Abdool Karim SS.** Research in the face of COVID 19: Clinical trials in Africa

Gairdner Foundation lectures University of Ottawa National Program Lecture, 20 Oct – 23 Oct

- **Abdool Karim SS.** Lessons from HIV for the Covid-19 Response
- **Abdool Karim SS.** HIV Prevention in Women: Trials & Tribulations

VMRC annual meeting, 12 November

- **Abdool Karim SS.** Vaginal microbiome and HIV prevention: Findings from the South African epidemic

2019

Young Scientist Symposium on Infectious Diseases, 27 May 2019, Durban, South Africa

- **Abdool Karim SS.** HIV Prevention in Women in Africa: Challenges and Opportunities

South African AIDS Conference, 11 June 2019, Durban, South Africa

- **Abdool Karim SS.** HIV: No time for complacency (Plenary)

Epic Course, 26 June 2019, Columbia University, New York, New York

- **Abdool Karim SS.** Ending the HIV epidemic in the USA
- **Abdool Karim SS.** Sensitivity vs specificity and reliability vs validity

Royal Society lecture, 12 July 2019, London, UK

- **Abdool Karim SS.** HIV Prevention in Women in Africa: Challenges and Opportunities

KRISP Business Breakfast - Decoding the SA Indian Genome for Health Risk, 19 July 2019, Durban South Africa

- **Abdool Karim SS.** Diabetes: A scourge in South Africa

Phoenix Child Welfare AGM, 21 July 2018, Durban South Africa

- **Abdool Karim SS.** The HIV Epidemic in South Africa: Challenges & Prospects

2018

WHO Consultation, February 28th - March 1st, 2018, Geneva

- **Abdool Karim SS.** Reaching robust policy recommendation

37th Medicine Update Symposium, 15th April 2018

- **Abdool Karim SS.** The HIV Epidemic in South Africa: Challenges & Prospects

EECAAC, Moscow, Russia, 19-20 April 2018

- **Abdool Karim SS.** Specific HIV Prevention technologies for PWID
- **Abdool Karim SS.** Global achievements in HIV prevention

Fogarty at 50 Symposium, Washington D.C., 1 May 2018

- **Abdool Karim SS.** Multigenerational models of long-term capacity building: the trainees become the trainers

IAVI, New York, USA, 2 May 2018

- **Abdool Karim SS.** Preventing HIV in young women in Africa: challenges and prospects

Tackling Infections to Benefit Africa (TIBA) AGM, Durban, South Africa 29 May 2018

- **Abdool Karim SS.** A research journey to unravel why young women have the highest rates of HIV in S. Africa

Vaccine Research Center Seminar, NIH, Bethesda, Maryland, 12 June 2018

- **Abdool Karim SS.** CAPRISA-VRC collaborative passive immunisation studies with bnAb combinations

Population Council, Center for Biomedical Research, New York, USA, 13 June 2018

- **Abdool Karim SS.** Preventing HIV in young women in Africa: A decade of trials and tribulations

IAPAC Adherence Conference, Miami, USA, 8 June 2018

- **Abdool Karim SS.** Connecting the dots from 90-90-90 to HIV Epidemic Control: Milestones for the climb up Mt. Everest

BRICS Health Representatives Meeting, Durban, South Africa, 18 July 2018

- **Abdool Karim SS.** CAPRISA's contributions to Excellence in Research in South Africa
- **Abdool Karim SS.** HIV and TB: A focus on BRICS health priorities

Phoenix Child Welfare AGM, Durban, South Africa 21 July 2018

- **Abdool Karim SS.** The HIV Epidemic in South Africa: Challenges & Prospects

Pathology Research and Development (PathReD) Innovation Summit, Johannesburg, 2 August 2018

- **Abdool Karim SS.** Driving scientific research and innovation for social benefit: Examples from CAPRISA's HIV-TB research

AFREHealth Symposium, Durban, South Africa, 6 August 2018

- **Abdool Karim SS.** Research capacity building and partnerships

UKZN Research Flagships Launch, 5 September 2018

- **Abdool Karim SS.** Health in South Africa: Trends, Challenges & Opportunities

DoH KwaZulu-Natal Research Day, Durban, South Africa, 5 September 2018

- **Abdool Karim SS.** HIV in South Africa: An update with recent research findings

2017

USAID, 9 January 2017

- **Abdool Karim SS.** HIV prevention challenges in sub-Saharan Africa: HIV infection in young women in Africa

MIT course, Durban 19 January 2017

- **Abdool Karim SS.** HIV prevention: Prospects & Challenges

University of KwaZulu-Natal research Selectives, Durban, South Africa, 30 January 2017

- **Abdool Karim SS.** Study designs and levels of evidence
- **Abdool Karim SS.** Experimental studies

HIV Workshop for Specialists in all Disciplines Advanced Clinical Care Program, February 2017

- **Abdool Karim SS.** Epidemiology of HIV in South Africa

HPTN Meeting, Johannesburg, South Africa 28 February 2017

- **Abdool Karim SS.** CAP256-VRC26.25.LS mAb HIV prevention research plan

Conference on Retroviruses and Opportunistic Infections (CROI), Seattle, Washington, February 13–16, 2017

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- Klatt N, Birse K, Zevin A, Cheu R, Perner M, Romas L, Grobler A, Westmacott G, Xie I, Butler J, Mansoor L, McKinnon L, Passmore J-A, Abdool Karim Q, **Abdool Karim S**, Burgener A. Vaginal bacteria modify HIV pre-exposure prophylaxis efficacy in African women. (Abstract: MOPE)
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- Jewanraj J, Rositch A, Mhlungu S, Mtshali A, Leask K, Mansoor L, **Abdool Karim S**, Abdool Karim Q, Passmore J-A, Liebenberg L. Potential Immune Mechanism for the Relationship between HIV Risk and Multiple Concurrent HPV Infections. (Abstract: TUPE)
- Cicala C, Sivo A, Schuetz A, Nawaz F, Arthos J, Williamson C, Paul R, Passmore J-A, Ananworanich J, Ansari A, **Abdool Karim S**, McKinnon L, Fauci A. HIV transmission and disease progression are linked to the frequency of $\alpha 4\beta 7^+$ CD4⁺ T cells. (Abstract: MOPE)

18th International Congress of Mucosal Immunology, 20 July 2017, Washington DC

- **Abdool Karim SS.** Vaginal microbiome in HIV

St Lukes School of Public Health, 23 August 2017, Tokyo, Japan

- **Abdool Karim SS.** The Global HIV epidemic: Successes, Challenges & Prospects

IFCC Worldlab Conference, 22 October 2017, Durban, South Africa

- **Abdool Karim SS.** HIV in women in Africa: new evidence from phylogenetic, genomic and protein research

KwaZulu-Natal Department of Health Research Day, 31 October 2017, Durban, South Africa

- **Abdool Karim SS.** CAPRISA 012 – SAMBA Trial - Phase I safety and PK trial of Subcutaneous Administration of Monoclonal Broadly-neutralizing Antibodies

Maternal Health Summit, 10 November 2017, Johannesburg, South Africa

- **Abdool Karim SS.** HIV and women: Challenges & Prospects

2016

National Institutes of Health, VRC meeting, Washington, D.C., 4 February 2016

- **S Abdool Karim.** Product Development Plan for CAP256-VRC26.25

CROI 2015, Boston, Massachusetts, 22-25 February 2016

- Singh R; Naranbhai V; Jamieson L; Garrett N; **Abdool Karim S**, Ndungu TP. BST-2, TRIM22, and RAD51 in Host Susceptibility to HIV-1 Infection and Virus Control.

5th Eastern Europe and Central Asia AIDS Conference, Russia, 23 March 2016

- **S. Abdool Karim.** Approaching the end of the epidemic: Review of advanced trends in HIV prevention
- **S. Abdool Karim.** Treatment as prevention: History and achievements

AVAC Press conference, Durban, 14 July 2016

- **S. Abdool Karim.** New HIV prevention options including PrEP what does it mean for South Africa?

AIDS 2016, Durban, South Africa, 19-22 July 2016

- **S.S. Abdool Karim.** Understanding high rates of HIV in young women in Africa: Implications of new epidemiological, phylogenetic, genomic and proteomic evidence.
- **S.S. Abdool Karim.** What have we learned from studies of topical agents: interpreting clinical results. THSY0802
- N. Naicker, A. Naidoo, L. Werner, N. Garrett, **S.S. Abdool Karim.** Safety and tolerability of tenofovir-containing antiretroviral therapy in women who acquired HIV in two tenofovir gel trials. THPEB058
- Y. Moosa, N. Garrett, C. Gray, V. Naranbhai, C. Williamson, **S. Abdool Karim.** HIV virological controllers in an African cohort. TUPEA013
- N. Garrett, E. Norman, V. Asari, N. Naicker, N. Majola, K. Leask, Q. Abdool Karim, **S. Abdool Karim.** Acceptability of early HIV treatment among South African women. WEAB0101
- T. de Oliveira, P. Khumalo, C. Cawood, R. Dellar, F. Tanser, G. Hunt, A. Grobler, A. Kharsany, L. Madurai, Q. Abdool Karim, **S. Abdool Karim.** HIV phylogenetic analysis sheds light on transmission linkages in young women in high HIV burden districts in KwaZulu-Natal, South Africa. THAX0104
- B. Mabvakure, B. Lambson, K. Ramdayal, L. Masson, P. Moore, **S. Abdool Karim, C. Scheepers, C. Williamson, D. Martin, J.-A. Passmore, G. Harkins, L. Morris.** Analysis of HIV-1 subtype C envelope sequence diversity in the female genital tract from early infection reveals no evidence for compartmentalization. TUPEC219
- N. Ngcobo, L. Mansoor, S. Mkhize, C. Montague, M. Tshabalala, **S. Abdool Karim, Q. Abdool Karim.** Integration of HIV prevention and sexual reproductive health services using a quality improvement intervention: experiences from rural KwaZulu-Natal, South Africa. WEPEE572
- S. Ngcapu, A.M. Carias, L.J. Liebenberg, L. Werner, G.C. Cianci, M. McRaven, S. Sibeko, N.J. Garrett, J.-M. Kriek, L.R. McKinnon, **S. Abdool Karim, Q. Abdool Karim, J.-A.S. Passmore, T.J. Hope.** Effect of injectable hormonal contraceptives on vaginal epithelium thickness and genital HIV target cell density in women recently infected with HIV. WEAA0102
- C. Baxter, L. Mansoor, K. Mngadi, N. Ngcobo, N. Yende-Zuma, T. Gengiah, Q. Abdool Karim, **S. Abdool Karim.** Expanding the contraceptive method mix for women at high-risk of HIV: experiences from the CAPRISA 008 Tenofovir Gel Implementation trial. TUPEE556

- N. Ngandu, J. Carlson, D. Chopera, N. Ndabambi, S. Goodier, N. Garrett, N. Samsunder, Q. Abdool Karim, **S. Abdool Karim**, C. Williamson. Selection of HIV-1 variants with higher transmission potential by 1% tenofovir gel microbicide. TUPDA0101
- L. Liebenberg, L.R. McKinnon, K. Leask, A. Rositch, N. Garrett, N. Samsunder, A. Kharsany, A. Grobler, A. Singh, J.-A. Passmore, **S.S. Abdool Karim**, Q. Abdool Karim. The mechanisms and role of HPV in enhancing HIV transmission in women in South Africa
- L.E. Mansoor, Q. Abdool Karim, K.T. Mngadi, C. Montague, N. Yende-Zuma, H. Dawood, T.N. Gengiah, N. Samsunder, C. Baxter, J.L. Schwartz, G.F. Doncel, F. Ntombela, A. Grobler, **S.S. Abdool Karim**. Good adherence in trial of topical pre-exposure prophylaxis integrated into family planning services. FRAE0102

2015

Victor Daitz Foundation presentation, 18 February 2015

- **Abdool Karim SS**. CAPRISA: Research for impact on the global HIV epidemic

CROI 2015, Boston, Massachusetts, 24-26 February 2015

- **Abdool Karim SS**. Use of empiric TB treatment for people living with HIV HIV/TB Research Meeting

University of KwaZulu-Natal, Research Strategy Group Meeting, 7 May 2014

- **Abdool Karim SS**. Research productivity rewards: Thoughts on the journal article criterion

KZNDOH CCMT Symposium, 7 May 2015

- **Abdool Karim SS**. AIDS in South Africa: Prospects and challenges for KwaZulu-Natal

NIH-MRC IPPCR Course, Cape Town, South Africa, 11 May 2015

- **Abdool Karim SS**. Clinical and translational research in practice

FHI360 meeting, North Carolina, USA 18 May 2015

- **Abdool Karim SS**. HIV/AIDS in South Africa: Opportunities for research collaborations with CAPRISA

Ragon Institute Scientific Advisory Board Meeting, Boston, USA, 19 May 2015

- **Abdool Karim SS**. Clinical trial designs to expedite proof-of-concept and efficacy estimation

KwaZulu Natal Doctors Healthcare Coalition (KZNDHC) Healthcare Institute Conference, 6 June 2015

- **Abdool Karim SS**. The Global HIV epidemic: Progress, Prospects and challenges

SA AIDS Conference - Symposium: From Results to Roll-out – Accelerating Access of Biomedical Products after Clinical Trial Results, Durban, South Africa, -7-10 June 2015

- **Abdool Karim SS**. Advances in biomedical prevention research: Preparing for Success

Launch of the UNAIDS-Lancet Commission Report, London, UK, 25 June 2015

- **Abdool Karim SS**. Defeating AIDS: Advancing global health

HIV Center Strategic Advisory Committee Meeting, 2 July 2015

- **Abdool Karim SS**. The Global HIV Epidemic: Prospects and Challenges

8th IAS Conference on HIV Pathogenesis, Treatment & Prevention, Vancouver, Canada, 15 July 2015

- **Abdool Karim SS**. Clinical trials in young women Clinical Trial Literacy among Vulnerable Populations

Lifeline AGM, Kingspark Growthpoint Stadium, Durban, South Africa, 5 August 2015

- **Abdool Karim SS**. The HIV epidemic – an update.

PrEP meeting, Johannesburg, South Africa, 13 August 2015

- **Abdool Karim SS**. Biological plausibility for PREP use in women

Faculty Day, Faculty of Health Sciences, University of Pretoria, Pretoria, South Africa, 19 August 2015

- **Abdool Karim SS.** Partnering for research success: Lessons from CAPRISA

Institute for Human Virology Meeting, Boston, USA, 9 September 2015

- **Abdool Karim SS.** Advancing Global Health: Lessons from the response to the HIV epidemic

Gilead Sciences Lecture, California, USA, 23 September 2015

- **Abdool Karim SS.** Young women & HIV in South Africa: Risks, vulnerability and prevention strategies

Bernard Pimstone Lecture, University of Cape Town, Cape Town, South Africa, 1 October 2015

- **Abdool Karim SS.** Young women & HIV in South Africa: Risks, vulnerability and prevention strategies

2nd meeting of the Organising Committee of the 5th Eastern Europe and Central Asia HIV/AIDS Conference, Moscow, Russia, October 2016

- **Abdool Karim SS.** HIV prevention: Prospects and challenges

2014

Animal and Human Vaccine Development in South Africa: University of Pretoria, 30 January 2014

- **Abdool Karim SS.** Microbicides: State of the field & next challenges

CROI 2014, Boston, Massachusetts at the Hynes Convention Center, 3-6 March

- Garrett NJ, Werner L, Naicker N, Mthembu T, Naranbhai V, Sibeko S, Samsunder N, Williamson C, Abdool Karim Q, **Abdool Karim S.** Does Tenofovir Gel Alter HIV Disease Progression in CAPRISA 004 Trial Seroconvertors?
- Garrett NJ, Werner L, Mlisana K, McKinnon L, van Loggerenberg F, Ndung'u T, Gray C, Morris L, Williamson C, **Abdool Karim S.** Rapid Disease Progression in HIV-1 Subtype C Infected South African Women
- Redd A, Mullis C, Sheward D, Williamson C, Werner L, Garrett N, Porcella S, Abdool Karim Q, Quinn T, **Abdool Karim S.** TRAPS Study Team. Limited HIV-1 Superinfection in Seroconvertors from the CAPRISA 004 Microbicide Trial.

The John Ring La Montagne Memorial Lecture, NIAID, NIH - 13 March 2014

- **Abdool Karim SS.** Envisioning "The End of AIDS": Challenges and Prospects

Gilead Sciences, California, 14 March 2014

- **Abdool Karim SS.** Preventing HIV: CAPRISA's microbicide & vaccine research

HIV Congress 2014, Taj Lands End Hotel, Mumbai, India, March 2014

- **Abdool Karim SS.** New WHO recommendations and its impact on resource limited countries

16th ICID, Cape Town, 3 April 2014

- **Abdool Karim SS.** Antiretrovirals for HIV prevention: new hope and opportunity

Treatment as Prevention in Africa: Botswana April 30 – May 3, 2014

- **Abdool Karim SS.** Microbicides: State of the field & next challenges

Gates Foundation Meeting, New York, 3 June 2014

- **Abdool Karim SS.** Genital inflammation: a significant sub-clinical risk mechanism for HIV acquisition in young women in SA

BIA Spring meeting, 13th June 2014, SOAS, London

- **Abdool Karim SS.** Integrating HIV and TB treatment: Challenges and Opportunities

20th International AIDS Conference, 21-25 July, 2014 Melbourne, Australia

- **Abdool Karim SS.** State of the art: Epidemiology and access

SAMA Conference 2014: Healthcare in South Africa and the millennium development goals: yesterday, today & tomorrow 29-31 August 2014

- **Abdool Karim SS.** Health in South Africa: changes and challenges since 2009

16th Annual International Meeting of the Institute of Human Virology September 14, 2014

- **Abdool Karim SS.** The Global HIV Epidemic: Prospects and Challenges

PATH IX meeting, 19 September 2014, Sydney, Australia

- **Abdool Karim SS.** Antiretrovirals for HIV prevention

Southern African HIV Clinicians Society Conference 24 – 27 September 2014, Cape Town

- **Abdool Karim SS.** The HIV Epidemic: Progress & Challenges
- **Abdool Karim SS.** Is HIV incidence going down?

HIV Prevention Workshop, 24 October 2014, Hermanus, South Africa

- **Abdool Karim SS.** The HIV epidemic: Past, Present & Future...

HIV Research for Prevention (HIV R4P), 28-31 October, Cape Town, South Africa

- Wibmer CK, Sheward DJ, Bhiman JN, Ndabambi N, Elliot DH, Rouelle J, Smira A, **Abdool Karim SS**, Robinson JE, Morris L, Williamson C, Moore PL. Viral Escape Pathways from Broadly Neutralising Antibodies Targeting the HIV Envelope Cleavage Site Enhance MPER Mediated Neutralisation. [Oral presentation Abstract number: OA06.05]
- Kløverpris HN, Noorbhai A, Kuhn W, Yadon M, Ramsuran D, Nhamoyebonde S, Kasprovicz V, Walker B, Ndung'u T, Goulder P, **Abdool Karim S**, Mjösberg J, Leslie A. Innate Lymphoid Cells are Depleted in HIV Infection [Oral presentation Abstract number: OA04.02]
- Bhiman JN, Doria-Rose NA, Wibmer CK, Sheward DJ, Williamson C, **Abdool Karim SS**, Kwong PD, Mascola JR, Morris L, Moore PL. Maturation of Broadly Neutralizing V1V2 directed Antibodies in the Context of Autologous Viral Escape. [Oral presentation Abstract number: OA12.01]
- Richardson SI, Gray E, Mkhize N, Sheward D, Lambson B, Wibmer K, Masson L, Werner L, Garrett N, Passmore J-A, **Abdool Karim S**, Williamson C, Moore P, Morris L. The Sequence of the $\alpha 4\beta 7$ -binding Motif on Gp120 of Transmitted/Founder Viruses Contributes to the Dependence on the Integrin for HIV Infection. [Oral presentation Abstract number: OA21.02]
- Mkhize NN, Madiga M, Durgiah R, Gray ES, Moore PL, Sibeko S, **Abdool Karim S**, Morris L, CAPRISA Acute Infection Study Team. The Impact of Antiretroviral Treatment on HIV-1-Specific Broadly Neutralizing Antibody Responses. [Oral presentation Abstract number: OA30.03]
- Doria-Rose NA, Roark RS, Moore P, Ernandes MJ, Bhiman JN, Schramm CA, McKee K, O'Dell S, Louder M, **Abdool Karim SS**, Shapiro L, Morris, Mascola JR. Variable Dependence on Glycan Recognition within a Lineage of V1V2-directed HIV Neutralizing Antibodies. [Poster discussion Abstract number: PD05.02]
- Gengiah TN, Werner L, **Abdool Karim Q**, Salim S. **Abdool Karim SS**. Tenofovir Gel Use in Women at High Risk of HIV Infection: A Retrospective Analysis of the Sex Worker Sub-group within the CAPRISA 004 Cohort. [Poster Abstract number: P13.05]
- Scheepers C, Naicker D, Schramm C, Sheng Z, Ismail A, **Abdool Karim SS**, Lambson B. Strain Specific Anti-HIV Antibody Evolution during Acute Infection and Viral Escape. [Poster Abstract number: P34.08]
- Baxter C, Ngcapu S, Blackard JT, Powell EA, Penton PK, **Abdool Karim Q**, **Abdool Karim SS**. Impact of Tenofovir 1% Gel on Hepatitis B Virus Resistance in CAPRISA 004. [Poster Abstract number: P38.02]
- Archary D, Liebenberg LJ, Werner L, Tulsi S, Majola N, Naicker N, Dlamini S, Samsunder N, **Abdool Karim SS**, Passmore J-AS, Morris L, Garrett N. Softcup Compared to Cervicovaginal Lavage Sampling: Determining Total and HIVspecific IgGs in the Female Genital Tract – A Randomized Study. [Poster Abstract number: P40.03]
- Liebenberg LJ, Garrett N, Werner L, Majola N, Naicker N, Samsunder N, Dlamini S., Passmore J-AS, **Abdool Karim SS**, Archary D. A Randomized Study Comparing Softcup and Cervicovaginal Lavage Sampling to Measure Genital Cytokine Concentrations in HIV infected Women. [Poster Abstract number: P40.17]

- Arnold K, Burgener A, Birse K, Dunphy L, Shahabi K, Abou M, Kwatampora J, Nyanga B, Kimani J, Liebenberg L, Masson L, **Abdool Karim SS**, Passmore J-AS, Lauffenburger DA, Kaul R, McKinnon LR. Mucosal Proteomic Profiles Associated with Female Genital Tract Inflammation. [Poster Abstract number: P40.19]
- Ngcapu S, Meiring T, Masson L, Werner L, Liebenberg L, Garrett N, Mlisana K, Williamson C, Abdool Karim Q, **Abdool Karim S**, Passmore J-AS. Presence of Male Partner Semen Influences the Inflammatory and Innate Cytokine Environment in the Female Genital Tract. [Poster Abstract number: P40.21]

Institute of Infectious Disease & Molecular Medicine (IDM) Ten-Year Anniversary Symposium, 3 November 2014, Cape Town South Africa

- **Abdool Karim SS**. *The HIV Epidemic: Progress & Challenges*

Commonwealth Science Conference, 25-28 November 2014, Bangalore India

- **Abdool Karim SS**. HIV in young women in Africa: Imperatives for prevention science

African Society for Laboratory Medicine Conference, 30 November – 4 December 2014, Cape Town, South Africa

- **Abdool Karim SS**. Laboratory Science: Sanctuary of Scientific and Clinical Research Discovery

2013

FACTS Meeting, 4 February 2013

- **Abdool Karim SS**. How South African science helped the world respond to AIDS: South African scientific breakthroughs

Keystone, Colorado, 10-15 February 2013

- Chopera D, Cotton L, Zawaira A, Mann J, Ngandu N, Ntale R, Carlson J, Mlisana K, Woodman Z, Rosa D, Martin E, Miura T, Pereyra F, Walker B, Gray C, Martin D, Ndung'u T, Brockman M, **Abdool Karim S**, Brumme Z, Williamson C. Intersubtype differences in the effect of a rare p24 Gag mutation on HIV-1 replicative fitness

NHLS Research Summit, 21-22 February 2013

- **Abdool Karim SS**. Enabling research: enriching health through research

KZN specialist Network, 27 February 2013

- **Abdool Karim SS**. The search for an AIDS vaccine and cure: Prospects and Challenges

CROI 2013, Atlanta, USA, March 3-6, 2013

- Sobieszczyk ME, Werner L, Garrett N, Mlisana K, Feinstein A, Naicker N, Gray C, Passmore J-A, Williamson C, **Abdool Karim S** and the CAPRISA 002 Acute Infection Study Team. Prevalence and Predictors of Metabolic Abnormalities and Metabolic Syndrome in South African Women with Acute and Early HIV-1 Subtype C Infection.
- Chopera D, Mann J, Martin E, Ndabambi N, Naranbhai V, **Abdool-Karim S**, Brumme Z, Ndung'u T, Brockman M, Williamson C and the CAPRISA 004 study team. No impact of 1% Tenofovir Gel on HIV-1 Gag-Protease or Nef Function in Break-through Viruses from the CAPRISA 004 Trial

South African HIV Clinicians Society CME - 18 June

- **Abdool Karim SS**. 30 years since the discovery of HIV: remaining challenges and future science

6th SA AIDS Conference ICC Durban, South Africa 18 – 21 June 2013

- **Abdool Karim S**. Building on success: The role of South African science in the AIDS response [Plenary]
- **Abdool Karim S**. The clinical trials landscape against a South African backdrop. Symposium: Linking HIV prevention research in South Africa to the realities of women's lives

- Mngadi K, Maarschalk SN, Grobler A, Mansoor LE, Frohlich J, Madlala B, Ngcobo N, **Abdool Karim SS**, Abdool Karim Q. Adherence to the use of microbicides and partner disclosure.
- Shey M, Maharaj N, Liebenberg L, Archary D, Ngcapu S, Samsunder N, Garrett N, Abdool-Karim Q, Abdool-Karim S, Passmore J-A. Role of inflammatory cytokines and TLR ligands in modulating genital tract-derived dendritic cell activation
- Naicker N, Werner L, van Loggerenberg F, Mlisana K, Garrett N, Kharsany A, **Abdool Karim S**. Predictors of HIV Acquisition in High Risk Women in Durban, South Africa.
- Thebus R, Moore P, Gray E, Werner L, Bandawe G, Ngandu N, Mlisana K, **Abdool-Karim SS**, Morris L, Williamson C for the CAPRISA Acute Infection Study Team. Broadly cross-neutralizing antibodies are associated with changes in V1V2 variable loop length
- Tomita A, van Loggerenberg F, Werner L, Mpanza L, Mlisana K, Garrett N, **Abdool-Karim S**. Impact of Antiretroviral Therapy on Quality of Life among South African Women in the CAPRISA 002 Acute Infection study
- Archary D, Werner L, Yates N, **Abdool-Karim S**, Abdool-Karim Q, Passmore J-A, Morris L, Tomaras G. HIV-1 specific binding IgGs in the female genital tract correlate with systemic IgGs and sexually transmitted infections in the CAPRISA 004 Cohort.
- Shey M, Maharaj N, Liebenberg L, Archary D, Ngcapu S, Samsunder N, Garrett N, Abdool-Karim Q, **Abdool-Karim S**, Passmore J-A. Role of inflammatory cytokines and TLR ligands in modulating genital tract-derived dendritic cell activation
- Shey M, Maharaj N, Liebenberg L, Archary D, Ngcapu S, Samsunder N, Garrett N, Abdool-Karim Q, **Abdool-Karim S**, Passmore J-A. Cervical Tissue Explant Model to Study the Role of Inflammatory Cytokines and TLR Agonists on Dendritic Cell Migration and Activation

7th IAS Conference on HIV Pathogenesis and Treatment, 30 June– 3 July 2013

- Naidoo K, Abdool Karim Q, Bhushan A, Naidoo K, Yende-Zuma Y, Mchunu PK, Frohlich J, Karim F, Upfold M, Kocheleff P, **Abdool Karim SS**. High rates of unmasking tuberculosis in patients accessing HAART in rural South Africa: implications for HIV and TB treatment programs Abstract no. TUPDB0101
- Shey MS, Maharaj NR, Liebenberg LJ, Archary D, Ngcapu S, Samsunder N, Garrett N, Abdool-Karim Q, **Abdool-Karim S**, Passmore J-A. Role of inflammatory cytokines and TLR ligands in modulating genital tract-derived dendritic cell activation [Abstract TUPE228]
- Reddy K, Ooms M, Mlisana K, **Abdool Karim S**, Simon V, Ndung'u T, CAPRISA Acute Infection Team. Association of APOBEC3G genetic variants with HIV-1 vif sequence variation and impact on HIV-1 pathogenesis [MOPDA0103]

Preparing for success: Social marketing and ARV-based prevention - September 2013 Think Tank

- **Abdool Karim S**. ARV-based prevention

AIDS Vaccine 2013: Progress, Partnership, and Preservation. Barcelona, 7-10 October 2013

- Bhiman JN, Doria-Rose N, Moore PL, Nonyane M, **Abdool Karim SS**, Kwong PD, Mascola JR, Morris L. Interplay between broadly cross-neutralizing V2 monoclonal antibodies and autologous viral evolution. [Oral abstract: OA05.03]
- Richardson SI, Mkhize N, **Abdool Karim SS**, Gray E, Morris L. Role of integrin $\alpha 4\beta 7$ in HIV transmission and pathogenesis. [Oral abstract: OA07.02]
- Doria-Rose NA, Moore P, Staupe R, Bhiman J, Erandes M, Georgiev I, Bailer R, Louder M, O'Dell S, McKee K, Crooks E, Schimdt S, **Abdool Karim S**, Gorman J, Schramm C, Longo N, Pancera M, Rudicell R, Yang Y, Zhang Z, Zhu J, Binley J, Shapiro L, Kwong P, Morris L, Mascola J. A family of broad and highly potent V1V2-directed HIV-1 neutralizing antibodies with long CDRH3s from a South African seroconverter. {Abstract: P03.20}
- Schramm C, Doria-Rose NA, Gorman J, Moore PL, Staupe RP, Zhang Z, Yang Y, Bhiman J, Georgiev I, Longo NL, Pancera M, Mullikin JC, **Abdool Karim S**, Morris L, Kwong PD, Mascola JR, Shapiro L. Long CDR H3 of a broadly-neutralizing antibody is present at recombination. [Abstract: P03.38]
- Wimber CK, Bhiman JN, Gray ES, Tumba NL, **Abdool Karim SS**, Morris L, Moore PL. Escape from HIV-1 neutralising antibodies drives an increase in plasma neutralization breadth through recognition of multiple epitopes and immunotypes. [Abstract: P03.52].
- Chopera DR, Mann J, Mwimanzi P, Omarjee S, Kuang X, Ndabambi N, Goodier S, Martin E, Naranbhai V, **Abdool Karim SS**, Abdool Karim Q, Brumme Z, Ndung'u T, Williamson C,

Brockman M. No evidence for selection of HIV-1 with enhanced Gag-Pro or Nef function among breakthrough infections in the CAPRISA 004 tenofovir microbicide trial. [Abstract: P05.19]

- Reddy K, Winkler C, Werner L, Mlisana K, **Abdool Karim SS**, Ndung'u T. APOBEC3G and -3F induced cytidine deamination and association with viral control in a population with high frequency of the APOBEC3G H186R variant. [Abstract: P0.13]
- Lambson B, Mitchell C, Gray E, **Abdool Karim SS**, Morris L. Copy number variation of the immunoglobulin heavy chain variable gene 1-69 in HIV-1 infected individuals. [Abstract: P06.14]
- Archary D, Seaton K, Yates NL, Werner L, Bergin PJ, Liebenberg LJ, Samsunder N, Garrett N, Abdool Karim Q, **Abdool Karim SS**, Liao H, Passmore J-A, Morris L, Tomaras GD. HIV-1 specific binding antibody titres in blood predict detection in the female genital tract in women who become infected in the CAPRISA 004 microbicide. [Abstract: P08.02]
- Mkhize NN, Garrett N, Archary D, Hermanus T, Majola N, Samsunder N, Williamson C, Shattock R, Passmore J-A, **Abdool Karim SS**, Morris L. Potent neutralizing antibodies can be recovered from genital tract using the non-invasive Softcup® technique. [Abstract: P08.03]
- Barnabas SL, Mkhize NN, Masson L, Werner L, Archary D, Mlisana K, Williamson C, Abdool Karim S, Morris L. Levels of HIV gp120-specific binding antibodies in the female genital tract are correlated with genital inflammation. [Abstract: P08.06]
- Ngcapu S, Masson L, Sibeko S, Shey M, Samsunder, **Abdool Karim SS**, Abdool Karim Q, Passmore J. Hormonal contraception use and HIV-1 risk in the context of prevention research: DMPA and NET-EN dampen immunity in the female genital tract. [Abstract: P08.17]

HASA Quality Improvement Summit Cape Town, 28-30 Oct 2013

- Ngcobo N, Mansoor LE, Mkhize S, Matlala R, Montague C, Tshabalala M, **Abdool Karim S**, Abdool Karim Q. Enhancing Access to Sexual Reproductive Health Services in a Public Sector Primary Care Clinic in Rural KwaZulu-Natal, using a Quality Improvement Intervention
- Mvandaba N, Mansoor LE, Tshabalala M, Mngadi K, **Abdool Karim SS**, Abdool-Karim Q. Increasing Cervical Cancer Screening in a Family Planning Clinic using a Quality Improvement Approach

HVTN Conference, Cape Town, South Africa, 25 October

- **Abdool Karim S**. The End of AIDS: Challenges & Prospects. Closing Plenary

Ragon-CAPRISA-HPP HIV Prevention Workshop, Drakensberg, KwaZulu-Natal, 12-14 November 2013

- **Abdool Karim S**. Microbicides: State of the field & next challenges
- **Abdool Karim S**. Recent developments in HIV prevention: Prospects & challenges for ending AIDS

2013 Biomedical HIV Prevention Forum, Abuja, Nigeria, 18th - 20th November, 2013

- **Abdool Karim S**. Antiretrovirals for HIV prevention: new hope and opportunity. Distinguished Scholar Award Lecture

2012

USAID Microbicide Research & Development Cooperating Agencies' Meeting, FHI 360 Conference Center, Washington, DC, February 7-8, 2012

- **Abdool Karim SS**. Microbicide research at CAPRISA

Howard Hughes Medical Institute, 22 February 2012

- **Abdool Karim SS**. New hope for HIV prevention...

Harvard Global Health Institute, 2 March 2012

- **Abdool Karim SS**. New hope for HIV prevention...

Harvard CFAR Symposium, Boston, 1 March 2012,

- **Abdool Karim SS**. State of the art: ART and Prevention: local and systemic PrEP and treatment for prevention
- **Abdool Karim SS**. Adherence, drug exposure & genital tract inflammation impact on HIV prevention: Insights from CAPRISA 004

CROI 2012, Seattle, USA, March 5-8, 2012

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- **Abdool Karim SS**. How South African science helped the world respond to AIDS: South African scientific breakthroughs

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- Pellett Madan R, Abdool Karim et al. Activity in Female Genital Tract Secretions as a Biomarker of HIV Progression and Acquisition Risk

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- **Abdool Karim SS**. CAPRISA 004 two years on: Key obstacles, lessons & priority research areas for a higher efficacy microbicide

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- **Abdool Karim S** A history of HIV research in South Africa: What's next? (Plenary)

2011

Joint Civil Society and MTN CWG meeting, 7 October, Cape Town, South Africa

- **SS Abdool Karim**. What's happening with tenofovir gel? Access and product availability
- **SS Abdool Karim**. Setting the stage: year in review and looking ahead

IRMA and AVAC presentation, 27 September 2011, International teleconference

- **SS Abdool Karim**. Does Africa need a rectal microbicide?

Embury College, 7 September 2011, Durban, South Africa

- **SS Abdool Karim**. HIV and women in South Africa: New hope in antiretroviral microbicides to prevent HIV

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- **SS Abdool Karim**. HIV and women in South Africa: New hope in antiretroviral microbicides to prevent HIV

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- **SS Abdool Karim**. South African research in HIV/AIDS and TB: Strengths, weaknesses, opportunities and threats

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- **SS Abdool Karim**. Tenofovir gel and HIV transmission: insights from the CAPRISA 004 trial

5th SA AIDS Conference, 8 June 2011, Durban, South Africa

- **SS Abdool Karim**. Future directions in ARV-based prevention: Research agendas, timely opportunities and data gaps
- **SS Abdool Karim**. HIV prevention: the latest biomedical tools
- **SS Abdool Karim**. What level of research evidence is needed for policy and practice?

Aaron Diamond AIDS Research Center, June 2011, New York

- **SS Abdool Karim**. Four key lessons from CAPRISA 004: Implications for future PrEP research

9th Conference on Research Advances in Clinical Research, ANRS, Paris, 5-6 May 2011

- **SS Abdool Karim.** Combination HIV prevention: New opportunities and technologies

Sub-Saharan Africa CFAR Conference, Kampala, 26 May 2011

- **SS Abdool Karim.** HIV and women in Africa: New hope in antiretroviral microbicides to prevent HIV

Keystone Symposia X8, 21 March 2011, Whistler, British Columbia

- **SS Abdool Karim.** Update on microbicide and pre-exposure prophylaxis trials

HIV Center, New York, 24 March 2011

- **SS Abdool Karim.** Microbicides: A new hope for HIV prevention

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- **SS Abdool Karim.** Four key lessons from CAPRISA 004: Implications for future PrEP research

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- **SS Abdool Karim.** CAPRISA 004 trial update and follow-up steps

EMBO course, Stellenbosch University, 1 February 2011, Stellenbosch, South Africa

- **SS Abdool Karim.** Microbicides: A new hope for HIV prevention

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- **SS Abdool Karim.** Tenofovir gel: Preparing for implementation in the health service: The CAPRISA 008 & 009 trials

2010

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- **SS Abdool Karim.** Topical antiretrovirals for HIV prevention

Microscopy Society of Southern Africa, November 2010

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- **SS Abdool Karim.** Tenofovir gel for HIV and HSV-2 prevention: challenges to implementation

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- **SS Abdool Karim.** HIV Prevention Research in South Africa

WHO / UNAIDS Meeting on Next Steps for tenofovir gel, Johannesburg, August 2010

- **SS Abdool Karim.** CAPRISA 004 Effectiveness & safety of vaginal microbicide 1% tenofovir gel for prevention of HIV infection in women
- **SS Abdool Karim.** Impact of tenofovir gel on Herpes Simplex Virus Type-2 infection

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- **SS Abdool Karim.** HIV Prevention Research in South Africa

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- **SS. Abdool Karim,** Q Abdool Karim, JA Frohlich, A Grobler, ABM Kharsany, LE Mansoor, C Baxter, S Sibeko, KP Mlisana, L Mtongana, Z Omar, S Maarschalk, N Arulappan, M Mlotshwa, D Taylor on behalf of the CAPRISA 004 Trial Group. Impact of 1% Tenofovir Gel on Resistance, Pregnancy and Hepatitis B
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- **SS Abdool Karim**. Current and planned HIV prevention trials: microbicides and PrEP

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- **SS. Abdool Karim**. HIV Prevention Research: The Global Picture.
- **SS. Abdool Karim**. Current and planned HIV prevention trials: microbicides and PrEP
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- **SS Abdool Karim**. The evolution of the HIV epidemic in South Africa.

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- **SS Abdool Karim**. Research Agenda for Resource Limited Settings: Lessons Learnt & Directions for the Future

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- **SS Abdool Karim**. HIV prevention in South Africa: Is the NSP target of 50% reduction in HIV incidence feasible? A response...

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- **Abdool Karim S.** Microbicides: A glimmer of hope for HIV prevention

MTN Annual Meeting, Arlington, Virginia, USA, 21 April 2009

- **Salim Abdool Karim**, Pamina Gorbach, Lisa Maslankowski, Irving Hoffman, Tom Moench, Al Profy, Barbra Richardson on behalf of the HPTN 035 Study Team. HPTN 035: Safety and Effectiveness of the Vaginal Microbicides BufferGel and 0.5% PRO 2000 Gel for the Prevention of HIV Infection in Women

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- **Salim S Abdool Karim** on behalf of: Anne Coletti, Barbra Richardson, Gita Ramjee, Irving Hoffman, Michael Chirenje, Taha Taha, Muzala Kapina, Lisa Maslankowski, Estelle Piwowar, Benoit Mâsse, Sharon Hillier, Lydia Soto-Torres and the HPTN 035 Team. Safety and Effectiveness of Vaginal Microbicides BufferGel and PRO 2000 Gel for the Prevention of HIV Infection in Women. Results of the HPTN 035 Trial
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- **Salim S. Abdool Karim.** HIV/AIDS and TB in South Africa

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- **Salim S. Abdool Karim.** Challenges in treating TB and HIV
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2008

AIDS Vaccine Initiative (IAVI) Opening of the new AIDS Vaccine Design and Development Laboratory, Brooklyn Army Terminal, New York, 12 November 2008

- **Abdool Karim S.** AIDS pandemic and HIV prevention strategies

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- **Abdool Karim S.** AIDS Research: Contributions to controlling HIV: Role of UNAIDS in Research

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- **Abdool Karim S.** Clinical development and testing of Tenofovir microbicide gel: A South African biotech initiative

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- **Abdool Karim S.** Ethics challenges in testing new interventions for HIV prevention and reproductive health

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- **Abdool Karim SS.** Trials and tribulations of TB - HIV co-infection

MTN VOICE study, Community Working Group. 20 October 2007

- **Abdool Karim SS.** What is Pre-Exposure Prophylaxis? (PrEP)

HIV Advisory Board Meeting, Royal Windsor Hotel, Brussels, 27-21 October 2006

- **Abdool Karim SS.** Incidence and prevalence of HIV/AIDS

2006

AIDS Vaccine 2006, Amsterdam, 29 August – 1 September 2006

- Burke D, **Abdool Karim SS**, Russel N, Wecker M, Allen M, Tomaras G, Ferarri G, Gray C, Gilbert P, Chulay J. Safety and Immunogenicity of an Alphavirus Replicon HIV Gag Vaccine (AVX101) in Healthy HIV-uninfected Adults

International AIDS Conference, Toronto, Canada, 12– 17 August 2006

- **Abdool Karim SS**. Integrating TB and HIV programs and services: the dilemma. WHO Workshop
- Burke D, **Abdool Karim SS**, Russel N, Wecker N, Allen M, Ferarri G, Gray C, Gilbert P and Chulay J. Safety and Immunogenicity of an Alphavirus Replicon HIV Gag Vaccine (AVX101) in Healthy HIV-uninfected Adults
- Mlisana K, Williamson C, van Loggerenberg F, Iriogbe I, Auld S, Grobler A, Morris L, Gray C, **Abdool Karim SS** for the CAPRISA 002 Acute Infection Study Team. CAPRISA 002 Acute Infection Study: early clinical and laboratory parameters including CD4+ cell counts and viral load measurements in acute HIV-1 subtype C infection. [abstract number CDA0047]
- Bebell L, Passmore J, Williamson C, Mlisana K, Iriogbe I, **Abdool Karim S**. Clinical Correlations of Inflammatory Cytokines in the Female Genital Tract during Acute HIV-1 Infection. [Abstract number: MOAX0102]
- Mashego M, Abdool Karim Q, Sayana S, Carrara H, Frohlich J, Sobieszczyk M, Mlotswa M, Mbambo S, **Abdool Karim SS**. Use of a Clinical Evaluation Tool to identify early and acute HIV infection in a cohort of HIV negative women in rural South Africa. [Abstract number: CDBO140]
- Kharsany ABM, Carrara H, Ncama BP, **Abdool Karim SS**, Abdool Karim Q. Feasibility of Establishing Cohorts for Phase IIB/III HIV Prevention Trials in Sexually Transmitted Diseases (STD) Primary Care Clinics in Durban, South Africa. [Abstract number: TUPE0449]
- Wiseman RC, Padayatchi N, Carrara H, Naidoo , Singh A, Nair G, Khan M, **Abdool Karim SS**. Response to ARV therapy among patients with CD4 counts below 50 cells/mm3 in a resource-constrained setting in South Africa
- Carrara H, Abdool Karim Q, Frohlich J, Mashego M, Mlotswa M, Mbambo S, **Abdool Karim SS**. Comparing HIV incidence rates derived from modeling cross-sectional HIV prevalence data to that obtained from longitudinal studies of HIV negative persons – implications for sample size and accrual in HIV prevention efficacy trials [Abstract number: CDCO354]
- Kharsany ABM, Cele Z, Coetzee K, Carrara H, Ncama BP, **Abdool Karim SS**, Abdool Karim Q. Use of a stepwise pooling algorithm for the detection of HIV RNA for screening for Acute HIV-1 infection in a STI clinic Population in Durban, South Africa. [Abstract number: MOPE0132]
- Mlotswa M, Khoury G, van Loggerenberg F, Mlisana K, Williamson C, **Abdool Karim S**, Gray C. Breadth and Magnitude of HIV-specific T cell recognition at the acute stage of subtype C infection does not correlate with vireamia
- Mlisana K, Auld S, Iriogbe I, Sobieszczyk M, Grobler A, Williamson C, **Abdool Karim SS**, and the CAPRISA Acute HIV Infection Study Team
- Bandawe GP, Treunricht F, Woodman Z, Mlisana K, Morris L, Loggerenberg F, **Abdool Karim SS**, Williamson C for the CAPRISA 002 Acute Infection Study Team. Genetic characteristics of GP160 in acute HIV-1 subtype C infection that may impact disease progression

8th Brazilian Congress of Collective Health and 11th World Congress of Public Health- Public Health in a Globalized World: Breaking down /Political, Social and Economic Barriers in Rio de Janeiro, Brazil, 21-25 August 2006

- **Abdool Karim SS**. AIDS in Africa: impacts on health and demographic patterns. (Invited speaker)

PACT conference, Cape Town, South Africa, 3 October 2006

- **Abdool Karim SS**. The State of the HIV epidemic in South Africa. (Invited keynote speaker)

SARETI, Senegal, 11-12 October 2006

- **Abdool Karim SS**. HIV counseling and testing: demands and dilemmas for opting out. (Invited speaker)

Bio2Biz, Durban, South Africa, September 2006

- **Abdool Karim SS.** Microbicides and their role in HIV prevention. (Invited speaker)

Congressional Briefing: Capitol Hill, Washington, USA, 18 July 2006

- **Abdool Karim SS.** Microbicide Clinical Trials: Needs and Challenges. (Invited speaker)

HIV Prevention Workshop, St George's Hotel Cape Town, South Africa, 22 April 2006

- **Abdool Karim SS.** Microbicides & their role in the prevention agenda. (Invited speaker)

Office of AIDS Research Advisory Council (OARAC) Meeting, Durban South Africa, 6 April 2006

- **Abdool Karim SS.** Microbicide Clinical Trials: Current Status and Challenges. (Invited speaker)

GlaxoSmithKline HIV Advisory Board Meeting, Royal Windsor Hotel, Brussels, 25 October 2006

- **Abdool Karim SS.** HIV epidemiology relevant to HIV vaccine design & trials. (Invited speaker)

IAVI 2006 Global Team Meeting, 18 September 2006

- **Abdool Karim SS.** Engaging Innovative Developing Countries' Research Engine. (Invited speaker)

SIDA 2006, Buenos Aires, 8th September 2006

- **Abdool Karim SS.** Voluntary counseling and testing: is it time to opt out? (Invited keynote speaker)
- **Abdool Karim SS.** Microbicides for the Prevention of HIV. (Invited keynote speaker)

2005

European & Developing Countries Clinical Trials Partnership (EDCTP) Conference, 3 October 2005

- **Abdool Karim SS.** Global progress on the development of HIV vaccines and microbicides. (Invited keynote address)

2nd South African AIDS Conference Durban, South Africa 9 June 2005

- **Abdool Karim SS.** New Generation Microbicides. Invited Plenary
- Carrara H, Mashego M, Mlotswa M, Mbambo S, Frohlich J, **Abdool Karim SS**, Abdool Karim Q. Coital frequency, condom use and HIV incidence rates in a cohort of young women in rural KwaZulu Natal: the need for additional HIV prevention strategies.
- van Loggerenberg F, Mlisana K, Grobler A, **Abdool Karim SS.** Self-reported anal sex: Perceptions of risk and preferences for practise in a cohort of female sex workers.
- Barkhan D, Paximadis M, Mathebula T, Mohube P, Makgotho P, Mashiloane M, Cutler E, Magooa P, Puren A, van Loggerenberg F, Mlisana K, Williamson C, **Abdool Karim S**, Gray CM. Associations between Class I HLA types and disease status in individuals from southern Africa infected with HIV-1 subtype C
- Iriogbe I, Dube T, Grobler A, Cheune J, Khan M, Burst J, Edward D, Nadioo K, **Abdool Karim SS.** The role of a Non-governmental organization (NG O) in an HIV-1 endemic region.

3rd IAS Conference on HIV Pathogenesis and Treatment, Rio de Janeiro, 24-25 July 2005

- **Abdool Karim SS.** Impact of antiretroviral therapy on HIV prevention. (Invited plenary address)
- Williamson C, Grobler J, Seoighe C, Ramjee G, Morris L, **Abdool Karim SS.** Lower rates of adaptive evolution in HIV-1 dual infections compared to single infections

Presidents Emergency Plan for AIDS Relief (PEPFAR) Planning Meeting, Pretoria, South Africa, 4 May 2005

- **Abdool Karim SS.** PEPFAR-funded CAPRISA AIDS Treatment (CAT) Programme

2004

National Institutes of Health, Washington, USA, 26 March 2004

- **Abdool Karim SS.** AIDS Research in South Africa: Trials and Tribulations (Invited talk)

2nd International Workshop on Acute HIV-1 Infection, Bethesda, Washington, USA, 3-4 May 2004

- **Abdool Karim SS.** Acute HIV infection in high prevalence settings: Opportunities and constraints (Invited talk)

Clinical Conference, Nelson R Mandela School of Medicine, Durban, South Africa, 12 May 2004

- **Abdool Karim SS.** Impact of HAART on HIV prevention and mortality – implications for the ART rollout programme (Invited talk)

Aurum Health Research - VTN visit, Orkney, South Africa, 18 May 2004

- **Abdool Karim SS.** The role of HIV vaccines in fighting the HIV epidemic (Invited talk)

XV International AIDS Conference, Bangkok, Thailand, 11-16 July 2004

- Kharsany, ABM, Frohlich J, Mashego M, Makhaye GM, **Abdool Karim SS.** Epidemiology of STDs among rural women in Vulindlela, South Africa: Challenges for HIV prevention
- Churchyard GJ, Charalambous S, Smit J, Sefuthi C, Calver A, Pemba AD, Corbett EL, Fielding K, Chiasson R, **Abdool Karim SS.** The clinical spectrum of mycobacterial disease occurring early in antiretroviral therapy among gold miners in South Africa.
- Frohlich J, Makhaye GM, Kharsany, ABM, **Abdool Karim SS**, Abdool Karim Q. Temporal trends in HIV infection in rural South Africa: Implications for HIV prevention research.
- Harrison AD, Cleland J, Gouws E, Frohlich J, **Abdool Karim SS.** Sexual networking and partner choice: contextual determinants of high risk partnerships among rural South African youth.

AIDS Vaccine 2004, Lausanne, Switzerland, 30th August – 1st September 2004.

- Morafo V, Singh B, Khoury G, Masemola A, Mashishi T, Paximadis M, Barkhan D, Puren A, Williamson C, **Abdool Karim S**, Gray C. Immunological reactivities of subtype B-derived CTL epitopes in subtype C HIV-1 infected individuals.

School of Development Studies Conference, Durban, South Africa, 21-22 October 2004

- **Abdool Karim SS.** Biomedical Perspectives on HIV/AIDS

HIV Pathogenesis Programme, Durban, South Africa, 1-2 October 2004

- **Abdool Karim S.** Addressing the challenges of rolling out AIDS treatment in South Africa

IASO 1st Regional Congress Sun City, 28-31 October 2004

- **Abdool Karim SS.** The evolving HIV epidemic in South Africa

2003

8th World STI/AIDS Congress Uruguay, 4 December 2003

- **Abdool Karim SS.** Microbicides for HIV and STI prevention. Plenary address

International ethical guidelines for research involving human subjects, Santiago, Chile, 15-17 October 2003

- **Abdool Karim S.** Global inequities: implications for developing country research

International Academic Workshop on emerging Diseases, China, 26 October 2003

- **Abdool Karim SS.** CAPRISA: an overview of a South African CIPRA

FDA Antiviral Advisory Committee (AVAC), 20 August 2003

- **Abdool Karim SS.** HIV/AIDS and STIs in Women: the urgent need for an efficacious microbicide

23rd Medicine Update, Durban, South Africa, 17 August 2003

- **Abdool Karim S.** Vinodh Gathiram Memorial Lecture: HIV – an evolving epidemic in KwaZulu-Natal

Conference on Retrovirus and Opportunistic Infections, Boston, USA< 10-14 February 2003

- Jack C, Friedland G, Laloo U, El-Sadr W, Cassol S, Murrman M, Abdool Karim Q, **Abdool Karim S**. Integration of Antiretroviral Therapy into an existing tuberculosis directly observed therapy program in a resource constrained setting (START study) [Abstract # 783]

SA AIDS Conference, Durban, South Africa, 3-6 August 2003

- Abdool Karim Q, Jack C, Friedland G, Laloo U, El-Sadr W, **Abdool Karim SS** on behalf of the START team. Integrating TB and AIDS care – a feasible option for resource constrained settings?
- Frohlich J, Abdool Karim Q, **Abdool Karim SS**. Missed opportunities for treating STI's at a rural primary health care setting in South Africa.
- Frohlich J, Abdool Karim Q, Gouws E, **Abdool Karim SS**. Community willingness to participate in HIV prevention research – experiences from rural KwaZulu Natal
- Kharsany A, Abdool Karim Q, Olowolagaba A, Connolly C, Biam K, **Abdool Karim SS**. Tuberculosis treatment adherence and outcomes within a public health facility in Central Durban.
- Makhaye G, Abdool Karim Q, **Abdool Karim SS**. HIV Seroprevalence and incidence rates in pregnant women attending antenatal clinics in Vulindlela
- Mashego M, Frohlich J, Makhaye G, Abdool Karim Q, **Abdool Karim SS**. Community Health Workers – key informants in establishing AIDS-related mortality.
- Mlisana KP, van Loggerenberg F, Mkhize M, Morris L, Gray C, Ramjee G, **Abdool Karim S**. Clinical investigations and natural history of HIV-1 subtype C infection in a female sex worker cohort

2002:

The 25th Biennial Congress of the South African Paediatric Association and the South African Association of Paediatric Surgeons, Wild Coast Sun, South Africa, October 2002

- **Abdool Karim SS. HIV/AIDS in South Africa (Plenary Address)**

Annual Congress of the Dermatological Society of South Africa, Durban, South Africa, April 2002

- **Abdool Karim SS. Opening Address**

Microbicides 2002, Antwerp, Belgium, 12-15 May 2002

- Morrow K, Rosen R, Richter L, Forbes A, Emans A, Day J, Profy A, **Abdool Karim SS**, Mayer K. The acceptability of an investigational vaginal microbicide agent, PRO2000 gel. (Abstract C-181).
- Day J; Morrow K, Rosen R, **Abdool Karim SS**, Emans A, Maslankowski L, Mayer K and the HPTN 020 Protocol Team. How to find out what men think? Lessons learned from a microbicide clinical trial. (Abstract C-248).

2001:

2nd Biannual Molecular & Cell Biology Symposium, Pretoria, South Africa, November 2001

- **Abdool Karim SS. Epidemiology of HIV/AIDS in South Africa (Invited address)**

Allergy Society of South Africa (ALLSA) Congress, Durban, South Africa, October 2001

- **Abdool Karim SS. The challenge of AIDS (Opening address)**

2nd All Africa Anaesthesia Congress: SASA 2001, Durban, South Africa, September 2001

- **Abdool Karim SS. The epidemiology of HIV/AIDS in South Africa. (Invited address)**

AIDS Vaccine 2001, Philadelphia, USA, 5-8 September 2001

- Mashishi T, Hunt G, Loubser S, Nyoka S, Hide W, Williamson C, Ferrari G, Puren A, Ramjee G, **Abdool Karim SS**, Cao H, Sheppard H, Gray C. Immune recognition of conserved regions within Nef from HIV-1 subtype C infected individuals from southern Africa. (Abstract no: 32)
- Grobler J, Rademeyer C, Morris L, Gray CM, Ramjee G, **Abdool Karim SS**, Williamson C. Evidence of dual infection with two distinct subtype C viral populations in a female sex worker from KwaZulu-Natal, South Africa. (Abstract no: 93)

- Coetzer M, Cilliers T, Papathanasopoulos MA, Ramjee G, **Abdool Karim SS**, Williamson C, Morris L. Analysis of coreceptor usage among sequential HIV-1 subtype C isolates from acutely infected sex workers in South Africa. (Abstract no: 110)
- Papathanasopoulos MA, Morris L, **Abdool Karim SS**, Williamson C, Ehrenberg PK, McCutchan F. Construction and biological characterization of an infectious HIV-1 subtype C molecular clone. (Abstract no: 269).
- Bures R, Morris L, Williamson C, Ramjee G, Deers M, Fiscus SA, **Abdool Karim SS**, Montefiori DC. Antibody-mediated neutralization of subtype C HIV-1. (Abstract no: S1).

Keystone Symposium: AIDS Vaccines in the New Millennium, March 2001

- **Abdool Karim SS**. Perspectives from the Developing World on AIDS Vaccine Trials. (Invited Address)
- Williamson C, Malaza AL, Puren AJ, Morris L, Ramjee G, **Abdool Karim SS**, Gray CM. Investigation of host factors associated resistance to HIV-1 infection in multiply exposed, persistently seronegative sex workers from KwaZulu-Natal, South Africa. (Abstract no: 135)

2000:

2nd National Conference of People Living with HIV/AIDS, Durban, South Africa, March 2000

- **Abdool Karim SS**. Opening Plenary Address

XIII International AIDS Conference, Durban, South Africa, 9 – 14 July 2000

- Puren AJ, Ramjee G, **Abdool Karim SS**, Gray CM. HLA associations with HIV-1 seronegative sex workers from KwaZulu-Natal, South Africa. (Abstract No: MoOrA228).
- Van Harmelen J, Carr JK, Williamson C, Morris L, **Abdool Karim SS**, Kim B, McCutchan FE. Analysis of the first full-length genome sequences of South African HIV-1 subtype C isolates. (Abstract No: MoPpA1004).
- Papathanasopoulos M, Cilliers T, van Harmelen J, **Abdool Karim SS**, Ramjee G, Williamson C, Morris L. Cloning and characterization of HIV-1 subtype C envelope proteins. (Abstract No: MoPeA2018).
- Gouws E, Williams B, **Abdool Karim SS**, Abdool Karim Q, Lurie M, Harrison A, Colvin M, Sitas F, Ramjee G. Patterns of infection: using age prevalence and incidence data to understand the epidemic of HIV in South Africa. (Abstract No: MoPeC2467).
- Lurie M, Williams B, Sturm AW, Garnett G, Zuma K, Gittlesohn J, **Abdool Karim SS**. Migration and the spread of HIV in Southern Africa: prevalence and risk factors among migrants and their partners, and non-migrants and their partners. (Abstract No: MoPpD1049).
- Hughes G, Hoyo C, Puoane T, Stein Z, **Abdool Karim SS**. Rural South African women and their risk for undetected sexually transmitted diseases and HIV infection. (Abstract No: MoPeD2779).
- Williamson C, Swanstrom R, Morris L, Thomas R, Ping L-H, Pascual A, Johnston RE, **Abdool Karim SS**. Selection of a representative HIV-1 subtype C isolate for use in the development of candidate vaccines for Southern Africa. (Abstract No: TuOrA415).
- Malaza AL, Morris L, Ramjee G, Nyoka S, Gray CM, **Abdool Karim SS**, Williamson C. Studies on multiply exposed but persistently HIV seronegative sex workers from KwaZulu/Natal, South Africa. (Abstract No: TuPpA1228).
- Mashishi T, Hunt G, Bredell H, Morris L, Ramjee G, **Abdool Karim SS**, Gray C. Conservation of South African HIV-1 subtype C Nef sequences at different stages of disease progression: implications for vaccine strategies. (Abstract No: WeOrA598).
- Connolly C, Ramjee G, Sturm W, **Abdool Karim SS**. Incidence of sexually transmitted infections among HIV positive sexworkers in KwaZulu/Natal, South Africa. (Abstract No: WePpC1387).
- Rustonjee R, **Abdool Karim SS**, Kharsany A. A randomized control trial of azitromycin versus doxycycline/ciprofloxacin in the treatment of sexually transmitted chlamydia trachomatis and concomitant neisseria gonorrhoea infections. (Abstract No: WePeC4334).
- Hughes G, Hoyo C, Stein Z, **Abdool Karim SS**. The effect of oscillating male migration on rural South African women's health: implications for sexually transmitted diseases and HIV/AIDS. (Abstract No: WeOrD518).
- Lurie M, Williams B, Sturm AW, Garnett G, Mkaya-Mwamburi D, **Abdool Karim SS**. HIV discordance among migrant and non-migrant couples in South Africa. (Abstract No: ...)

WeOrD519)

- Gouws E, Abdool Karim Q, Frohlich J, **Abdool Karim SS**. Preparing for Phase III HIV Vaccine trials: Experiences from rural South Africa. (Abstract No: ThOrD678).

1999:

University of Natal Clinical Conference - 1999.

- **Abdool Karim SS**. HIV/AIDS in South Africa. (Keynote Address)

AIDS vaccine evaluation group meeting, Washington, USA, November 1999

Abdool Karim SS. HIV/AIDS in South Africa: HIV vaccine research opportunities (Invited Address)

13th Meeting of the International Society of Sexually Transmitted Disease Research, Denver, Colorado, USA, July 1999

- Harrison A, **Abdool Karim SS**, Floyd K, Lombard C, Lurie M, Ntuli N, Wilkinson D, Syndrome packets and health worker training improve quality of sexually transmitted disease case management in rural South Africa: results of a randomised controlled trial.
- Lurie M, **Abdool Karim SS**, Sturm AW. Migration and the spread of HIV/STD in South Africa: Preliminary data on the prevalence of HIV/STD among male migrants and their partners, and non migrant couples.
- Lurie M, **Abdool Karim SS**, Sturm AW. HIV and STD discordance among migrant and non-migrant couples in South Africa.

1998:

16th Epidemiological Society of Southern Africa Conference, Midrand, South Africa, October 1998.

- **Abdool Karim SS**. HIV in South Africa: From description to intervention. (Keynote address)
- Wilkinson D, Gouws E, Sach M, **Abdool Karim SS**. Does removing user fees encourage attendance for curative services at the expense of preventive services?
- Harrison A, Wilkinson D, Lurie M, **Abdool Karim SS**. Improving quality of sexually transmitted disease (STD) case management: Results of a clinic-randomized intervention trial.
- Harrison A, Jackson E, Ntuli N, Wilkinson D, Lurie M, **Abdool Karim SS**. Gender, risk perception and protective practices in prevention of sexually transmitted diseases: Impact of rural community health education programme.

4th Reproductive Health Research Priorities Conference, August 1998.

- Harrison A, Wilkinson D, Lurie M, **Abdool Karim SS**. Toward better reproductive health services: Results of a randomized intervention trial to improve quality of sexually transmitted disease case management.
- Harrison A, Jackson E, Ntuli N, Wilkinson D, Lurie M, **Abdool Karim SS**. Gender, risk perception and protective practices in prevention of sexually transmitted diseases: Impact of rural community health education programme.

12th World AIDS Conference, Geneva, June-July 1998.

- Panelist: NIAID Satellite symposium on the Rakai Control of STDs for AIDS Prevention Study.
- **Abdool Karim SS**. Should less developed countries be involved in vaccine development. Global action for an AIDS Vaccine Symposium.
- Ramjee G, **Abdool Karim SS**. Acceptability of a vaginal microbicide among sex workers in KwaZulu-Natal, South Africa.
- Ramjee G, **Abdool Karim SS**. Prevalence of sexually transmitted infections including HIV among sex workers in KwaZulu-Natal midlands, South Africa.
- Morar NS, Ramjee G, Wilkinson D, **Abdool Karim SS**. Intravaginal substance use and douching practices among sex workers in South Africa: implications for microbicide use.
- Morar NS, Ramjee G, **Abdool Karim SS**. Safe sex practices among sex workers at risk of HIV infection.

1997:

HIV and the Lung Guidelines Meeting, CHEST: Southern Africa '97 Conference, Windhoek, Namibia, August 1997.

- **Abdool Karim SS.** HIV and the Lung. (Opening Address)

3rd Reproductive Health Priorities Conference, Wilderness, South Africa, August 1997.

- **Abdool Karim SS.** Reproductive Health Research Priorities for South Africa. (Keynote Address)

18th African Health Sciences Congress, Cape Town, South Africa, April 1997.

- Harrison A, Wilkinson D, Lurie M, **Abdool Karim SS.** "Mystery patient" evaluation of quality of care in syndromic management of STDs.
- Wilkinson D, Sach ME, **Abdool Karim SS.** In search of equity: impact of the policy of free care for children under six and for pregnant women attending rural mobile clinic services in Hlabisa.
- Connolly AM, Wilkinson D, **Abdool Karim SS.** Management of STDs in private general practice in a rural health district.
- Lurie M, Harrison A, Wilkinson D, **Abdool Karim SS.** Migration patterns in northern KwaZulu-Natal and their implications for the spread, treatment and prevention of HIV and other STDs.
- Ramjee G, **Abdool Karim SS,** Morar NS, Gwamanda Z, Xulu G, Ximba T, Gouws E. Acceptability of a vaginal microbicide among sex workers in KwaZulu-Natal, South Africa.
- Wilkinson D, Connolly A, Harrison A, Lurie M, **Abdool Karim SS.** STD syndromes in rural South Africa: results of health facility surveillance.
- Morar NS, Ramjee G, Gwamanda Z, **Abdool Karim SS.** Safe sex practices among sex workers at risk of HIV infection.
- Morar NS, Ramjee G, **Abdool Karim SS.** Vaginal insertion and douching practices among sex workers at truck stops in KwaZulu-Natal.

Joint Congress of the Infectious Diseases and Sexually Transmitted Diseases Society in Southern Africa, Cape Town, South Africa, September 1997

- Connolly AM, Wilkinson D, Harrison A, Lurie M, **Abdool Karim SS.** Management of sexually transmitted diseases in the private health sector in a rural district.
- Harrison A, Wilkinson D, Lurie M, **Abdool Karim SS.** Rural adolescents seeking care for STDs: Results from surveillance in primary care facilities.
- Harrison A, Wilkinson D, Lurie M, **Abdool Karim SS.** Methods for measuring quality of care: Baseline results from an intervention study to improve syndromic management of STDs.
- Lurie M, Harrison A, Wilkinson D, **Abdool Karim SS.** Health seeking behaviours for STDs in rural South Africa.
- Lurie M, Harrison A, Wilkinson D, **Abdool Karim SS.** Migration and HIV/STD in rural South Africa: Implications for future study and interventions.
- Wilkinson D, **Abdool Karim SS,** Harrison A, Lurie M, Colvin M, Connolly C. Unrecognised sexually transmitted diseases among women in rural South Africa - the Hidden Epidemic.

1996:

XIV International Scientific Meeting of the International Epidemiological Association, Nagoya, Japan, August 1996.

- **Abdool Karim SS,** Abdool Karim Q. Migration, migrant labour and HIV infection in South Africa.
- Dilraj A, Ramjee G, **Abdool Karim SS.** Timely reporting and accurate diagnosis of measles in schoolchildren for control of outbreaks.

Pan African Federation for Mother and Child Health (PAFMACH) Conference, South Africa, September 1996.

- Ramjee G, **Abdool Karim SS,** Morar N, Bechan S. Acceptability of a vaginal microbicide for the prevention of HIV and STD transmission among commercial sex workers.

2nd International working conference on Health Informatics in Africa (Helina '96), Johannesburg, South Africa

- **Abdool Karim SS,** Abdool Karim Q, Dilraj A, Rustomjee R. Epidemiological Surveillance in South Africa: Strengths, weaknesses and lessons for the future.
- Dilraj A, Ramjee G, **Abdool Karim SS.** Effectiveness of the school reporting system of

communicable diseases for the control of measles.

1994:

The 1994 Annual Conference of the National Occupational Safety Association, Durban, South Africa

- **Abdool Karim SS.** HIV/AIDS: Time to act now. (Keynote address).

1993:

12th Epidemiological Conference, Durban, South Africa, 18-20 August 1993

- Dilraj A, **Abdool Karim SS.** Gender differences in measles deaths.
- Ziqubu-Page T, **Abdool Karim SS,** Pillai G, Cassimjee MH. Morar N. Reducing drug costs.

Natal/KwaZulu Hospital Infection Control Society Annual Conference, Durban, South Africa, 1993.

- **Abdool Karim SS.** Epidemiology in Local Authority Health Care Services.

South African Institute of Public Health Annual Conference, Durban, South Africa, 1993.

- **Abdool Karim SS.** Epidemiology in Local Authority Health Care Services.

International Epidemiological Association Conference in Sydney, Australia, 1993.

- **Abdool Karim SS,** Abdool Karim Q, Dilraj A, Chamane M. Evaluation of a mass measles campaign in South Africa.
- Abdool Karim Q, **Abdool Karim SS,** Singh B, Ngzongo S, Short R. HIV infection in rural South Africa: Findings of an anonymous population-based seroprevalence survey.

1992:

(VIII Journada de Saude) The Mozambican National Institute for Health Conference, Maputo, Mozambique.

- **Abdool Karim SS,** Abdool Karim Q. HIV infection in rural Natal/KwaZulu.

1991:

10th Annual Conference of the Epidemiological Society of Southern Africa, Cape Town, South Africa.

- **Abdool Karim SS,** Abdool Karim Q, Chamane M. Impact of a mass Measles immunisation campaign on measles admissions to a tertiary hospital.

1990:

9th Annual Conference of the Epidemiological Society of Southern Africa, East London, South Africa.

- **Abdool Karim SS.** Impact of political violence in Natal on emergency surgical services of a tertiary hospital.

The National Emergency Services Group Conference, Port Elizabeth, South Africa.

- **Abdool Karim SS.** Impact of the political violence in Natal on emergency surgical services of a tertiary hospital.
- **Abdool Karim SS.** Health care of refugees - The Durban experience.

1989:

7th Annual Conference of the Epidemiological Society of Southern Africa.

- **Abdool Karim SS,** Thejpal R, Coovadia HM, van den Ende J, Windsor IM. Household clustering and intra-household transmission patterns of Hepatitis B virus infection in South Africa.

1988:

Physicians for Human Rights seminar, New York Academy of Sciences.

- **Abdool Karim SS.** Health and Human Rights in South Africa.

"Ten Years after Alma Ata" Conference, National Council for International Health, Washington, USA.

- **Abdool Karim SS.** Primary Health Care in South Africa.

1987:

Joint New York Academy of Sciences, America's Watch and the Columbia University Center for the Study of Medicine and Society conference, New York, USA.

- **Abdool Karim SS.** Health and Human Rights in South Africa.

115th Annual Meeting of the American Public Health Association, New Orleans, USA.

- **Abdool Karim SS.** Health and politics in the current South African scene
- **Abdool Karim SS.** Public Health in South Africa.

1986:

Seventh Biennial Congress of the South African Paediatric Association, Cape Town, South Africa.

- **Abdool Karim SS, Coovadia YM, Windsor IM.** The prevalence and transmission of hepatitis B virus infection in urban, rural and institutionalised South African Black Children.
- **Abdool Karim SS, Thejpal R, Coovadia HM, van den Ende J, Windsor IM.** Familial Clustering of Hepatitis B virus infection in black families from Umlazi, Durban.



1 June 2021

Professor Salim Abdool Karim
 Member of the WHO Science Council
 World Health Organization
 Avenue Appia 20 1202 Geneva
 By email: Smita.Maharaj@caprisa.org

Dear Professor Abdool Karim

REPORT ON ENSURING FREE AND FAIR LOCAL GOVERNMENT ELECTIONS DURING COVID

On Thursday, 20 May 2021, the Chairperson of the Electoral Commission of South Africa and I announced that I have accepted the invitation from the Electoral Commission to lead the Inquiry into Ensuring Free and Fair Local Government Elections During COVID-19 ("Inquiry").

The salient features of the terms of reference for the Inquiry are as follows:

- To enquire into, make findings and report on, and make recommendations concerning the likelihood that the Electoral Commission would be able to ensure that the forthcoming 2021 general local government elections 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; and

Report on Ensuring Free and Fair Elections during COVID

Justice Dikgang Moseneke
 Tugela House, 1303 Heuwel Avenue, Centurion, 0157
 Tel (012) 622 5574 | moseneked@elections.org.za

- To indicate additional measures that the Electoral Commission may be required to implement in order to realise free and fair elections within the context of the COVID-19 pandemic.

Since accepting the invitation of the Commission, we have begun the work of getting the Inquiry underway. On Monday, 24 May 2021, we established an office from which I will be coordinating all processes related to the Inquiry. On Thursday, 27 May 2021, I had an information session with the political parties represented in the National Party Liaison Committee. In this discussion, representatives of the political parties pledged their support for the Inquiry, and I had the opportunity to convey to them how the Inquiry will be conducted.

In order to facilitate the work of the Inquiry, we will be inviting key stakeholders to make submissions to the Inquiry, which may have a bearing on the freeness and fairness of local government elections earmarked to be held in October 2021. An invitation to make submissions has been issued to the Electoral Commission, whose submissions are due on Friday, 4 June 2021. The Electoral Commission's submissions will be placed on the Inquiry's website before the close of business on the day on which they are due. Experts may wish to read and consider the Electoral Commission's submissions before finalizing their own. The details of the website shall be made available shortly.

In addition, invitations to make submissions have been issued to electoral monitoring bodies, whose submissions are due on Tuesday, 15 June 2021. Invitations have also been issued to the relevant Ministers and government departments and will be issued to political parties, all of whose submissions are due on Friday, 18 June 2021.

We are seeking submissions from medical experts, who have expertise relevant to the potential risks posed by the upcoming local government elections.

To this end, we would like to extend an invitation to you to make submissions to the Inquiry on the following:



- Any information, details or data on or about the current state of the COVID-19 pandemic in South Africa;
- The projected trajectory of the COVID-19 pandemic in South Africa, and in particular during October 2021 when local government elections are earmarked to be held;
- The nature, extent and features of the vaccination efforts being undertaken in South Africa;
- When the vaccination efforts being undertaken in South Africa are likely to reach community immunity, and the likelihood of community immunity being reached by October 2021, when local government elections are earmarked to take place;
- The risk that might be posed to the lives and health of people in South Africa if the local government elections were to proceed in October 2021;
- Any additional measures that may be taken to reduce the risk posed to the lives and health of people in South Africa in the event that the local government elections were to take place during October 2021; and
- Any epidemiological and statistical material and data that may be relevant to the enquiry whether the 2021 local government elections may be held in a free and fair manner.

In addition, you may make any other submissions that you deem necessary and appropriate.

It is our plan that the final report will be handed to the Electoral Commission by Wednesday, 21 July 2021, before the date of the proclamation of the local government elections by the Minister of Cooperative Governance and Traditional Affairs.



In order to complete the Inquiry within the obviously tight timeframes, we have produced a schedule of timelines within which the project will be undertaken. Written submissions must be submitted to freeandfair@elections.org.za by Tuesday 15 June 2021.

The Inquiry will hear oral submissions from invited stakeholders in the week commencing Monday, 28 June 2021. Please indicate whether, in addition to written submissions, you wish to make oral submissions to the Inquiry. If you are invited to make oral submissions, we will send you the date, time and place for your oral submissions.

We anticipate and hope for your assistance with ensuring that the Inquiry is able to deliver on this assignment of constitutional importance.

Yours faithfully,

Dikgang Moseneke

DIKGANG MOSENEKE

Tel: 012 622 5574

Mobile: 0786062148

Email: MosenekeD@elections.org.za





Holding elections during Covid-19?

Presentation to Electoral Commission of South Africa, 1 July 2021

Salim S. Abdool Karim, FRS

Director: CAPRISA

CAPRISA Professor of Global Health, Columbia University

Adjunct Professor in Immunology and Infectious Diseases, Harvard University

Adjunct Professor of Medicine: Cornell University

Director: DSI-NRF CoE in HIV Prevention

Pro Vice-Chancellor (Research): University of KwaZulu-Natal

Associate: Ragon Institute of MGH, MIT and Harvard University



CAPRISA hosts a
DSI-NRF Centre of
Excellence in
HIV Prevention



CAPRISA is the UNAIDS Collaborating
Centre for HIV Research and Policy



CAPRISA hosts a MRC
HIV-TB Pathogenesis and
Treatment Research Unit



MAILMAN SCHOOL
of PUBLIC HEALTH



AB

Overview

- **Current state of the Covid-19 in South Africa**
- **Estimation of possible end dates of 3rd wave**
- **Vaccination in South Africa by October 2021**
- **Likelihood of community immunity by October 2021**
- **SARS-CoV-2 exposure risk associated with elections**
- **Additional measures recommended to mitigate this risk**
- **Would the situation be more conducive for elections 3 months or 6 months later?**

Delta variant is fast becoming the world's dominant strain of SARS-CoV-2

Going global

Delta and Delta+ mutations, % of samples, four weeks to June 28th*

60.0+
40.0-59.9
20.0-39.9
10.0-19.9
1.0-9.9
0

Delta mutation detected†



Source: GISAID

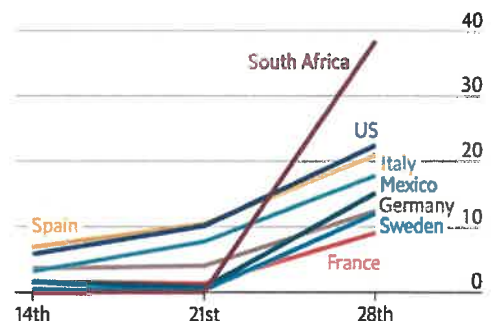
The Economist

*Or most recent with at least 20 samples sequenced †Virus sequences submitted to GISAID

The Economist

Shared popularity

Delta and Delta+ variant, sequenced SARS-CoV-2 viruses, four-week average, June 2021, %

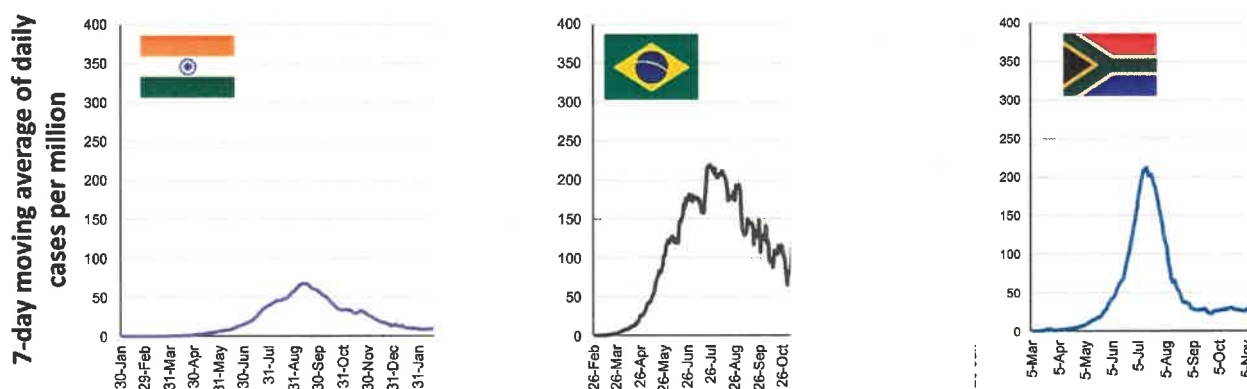


Source: GISAID

The Economist



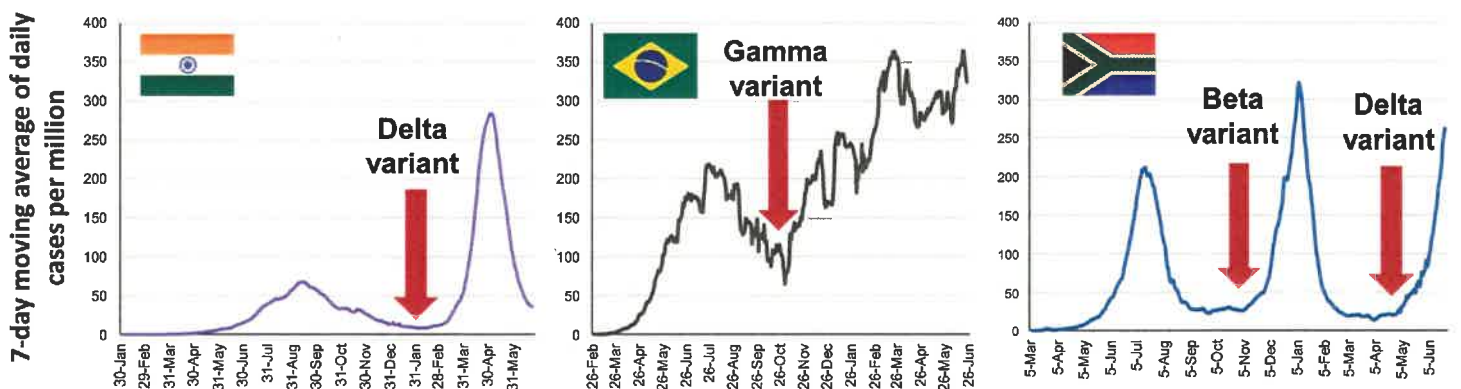
Impact of variants on the SARS-CoV-2 pandemic: Covid-19 surges due to variants of concern in India, Brazil and SA



Source: Our World in Data

Handwritten signature/initials

Impact of variants on the SARS-CoV-2 pandemic: Covid-19 surges due to variants of concern in India, Brazil and SA

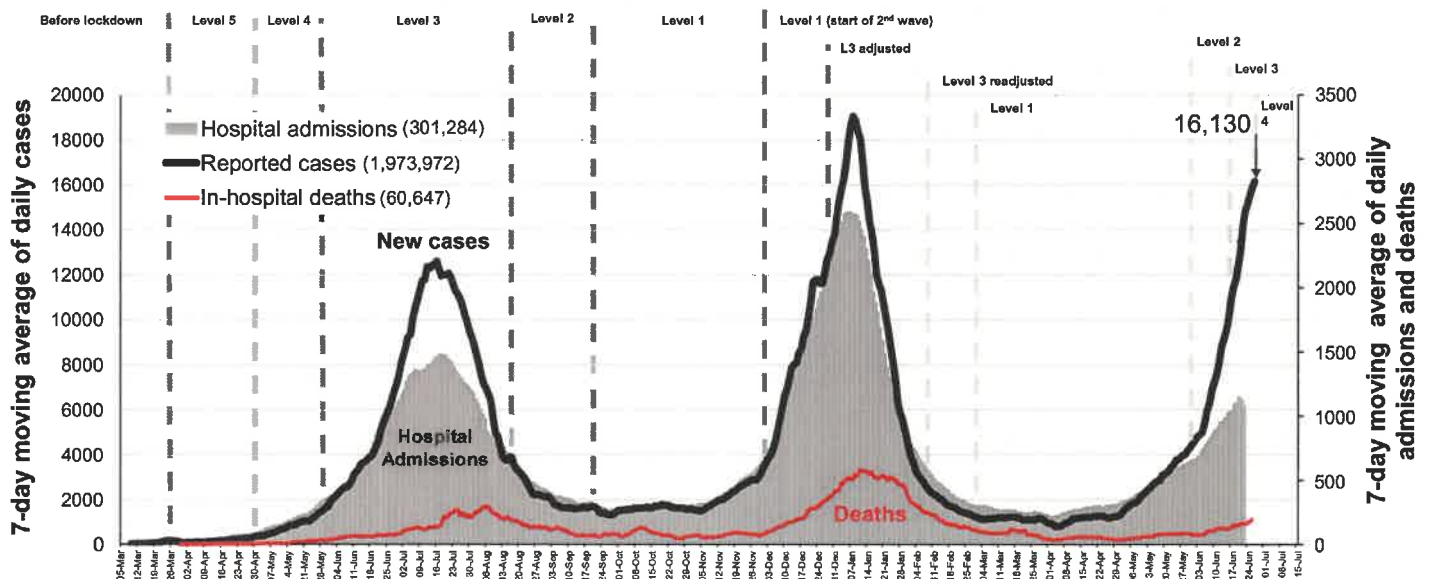


Source: Our World in Data

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Covid-19 in South Africa

7-day moving average of new cases, hospital admissions and in-hospital Covid-19 deaths –
1 July 2021

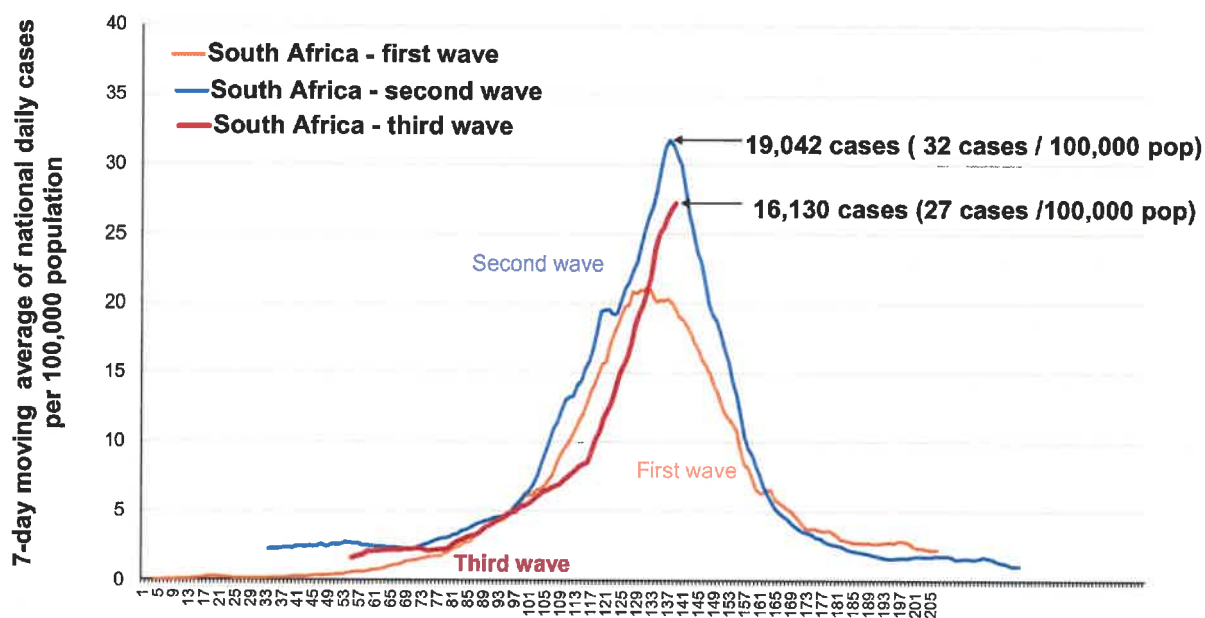


Source of hospital admissions data: Lucille Blumberg, Richard Welch and Waasila Jassat – DATCOV, NICD

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SARS-CoV-2 cases in 1st, 2nd & 3rd waves in SA

(7-day moving average cases per 100,000 population – up to 30 June)



Data source: Department of Health; Analysis: Cheryl Baxter

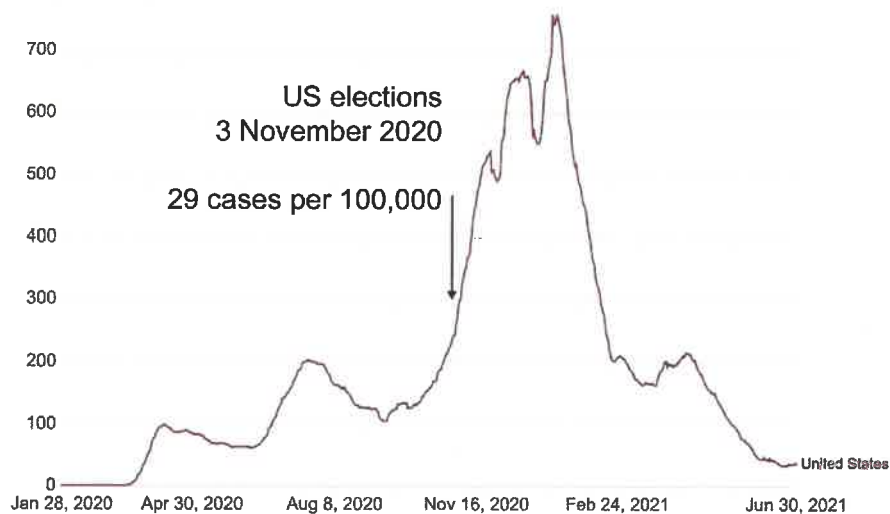
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US elections in 2020 held when epidemic was at 29 cases per 100,000 population

Daily new confirmed COVID-19 cases per million people

Shown is the rolling 7-day average. The number of confirmed cases is lower than the number of actual cases; the main reason for that is limited testing.

Our World
in Data



Source: Johns Hopkins University CSSE COVID-19 Data

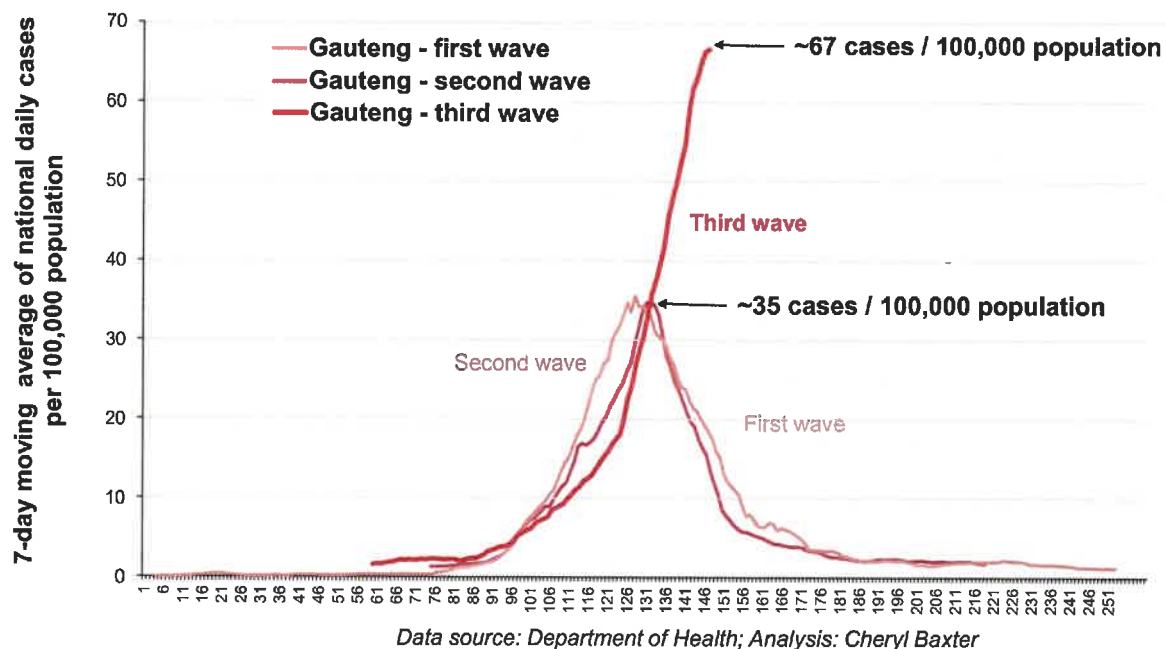
CC BY

 **CAPRISA**
Center for the Advancement of Prevention Research in South Africa

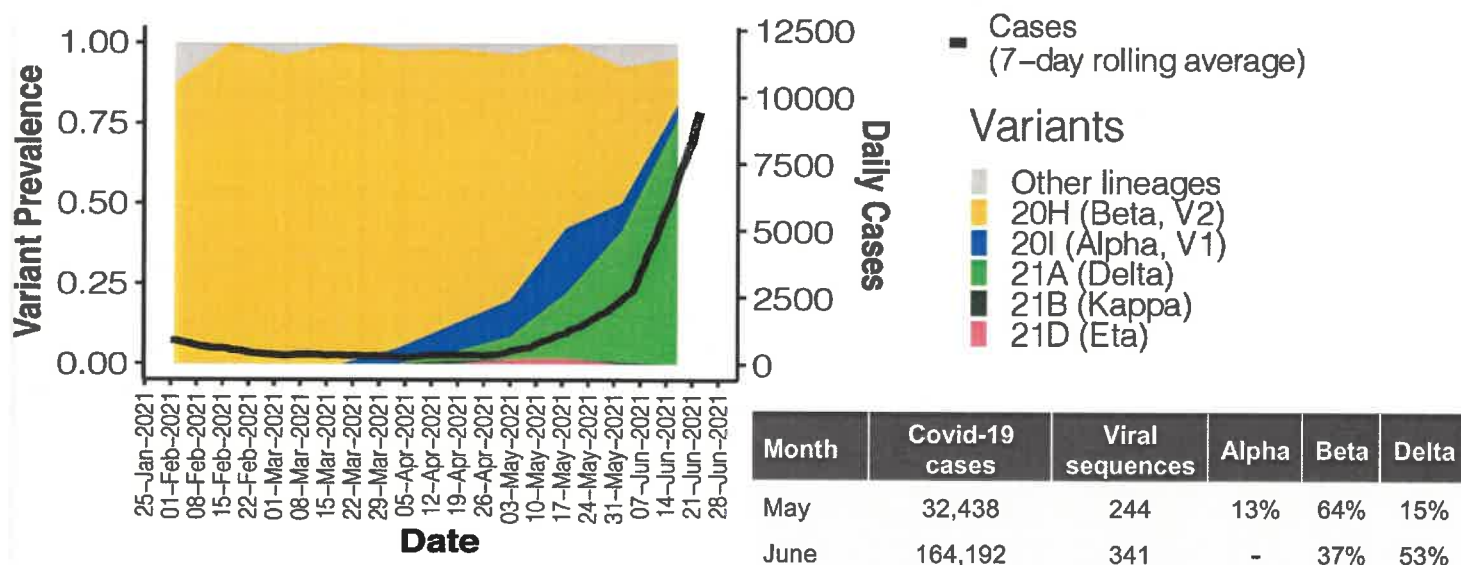
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SARS-Cov-2 cases in 1st, 2nd & 3rd waves in Gauteng

(7-day moving average cases per 100,000 population – up to 30 June)



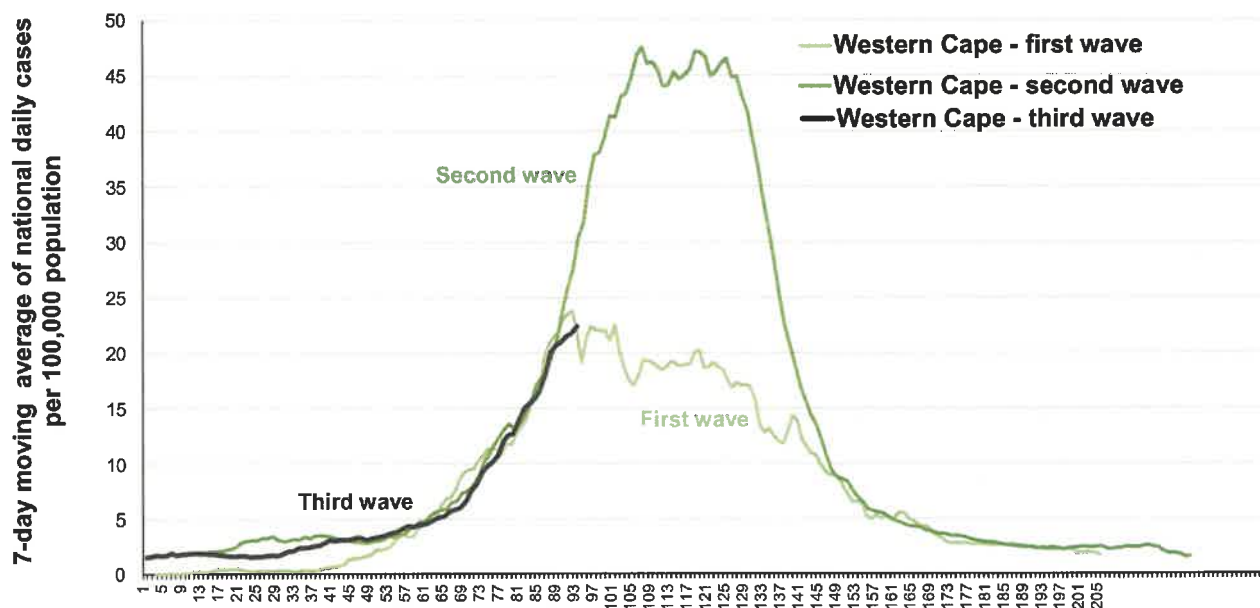
Circulating variants in Gauteng



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SARS-Cov-2 cases 1st, 2nd & 3rd waves in Western Cape

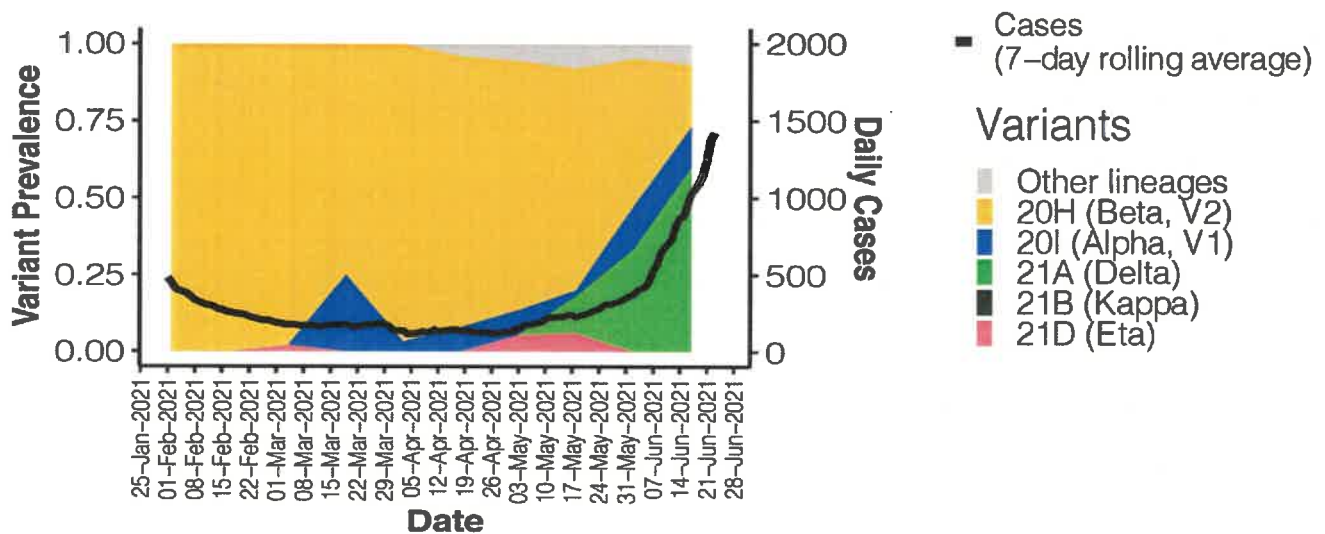
(7-day moving average cases per 100,000 population – up to 30 June)



Data source: Department of Health; Analysis: Cheryl Baxter

AB

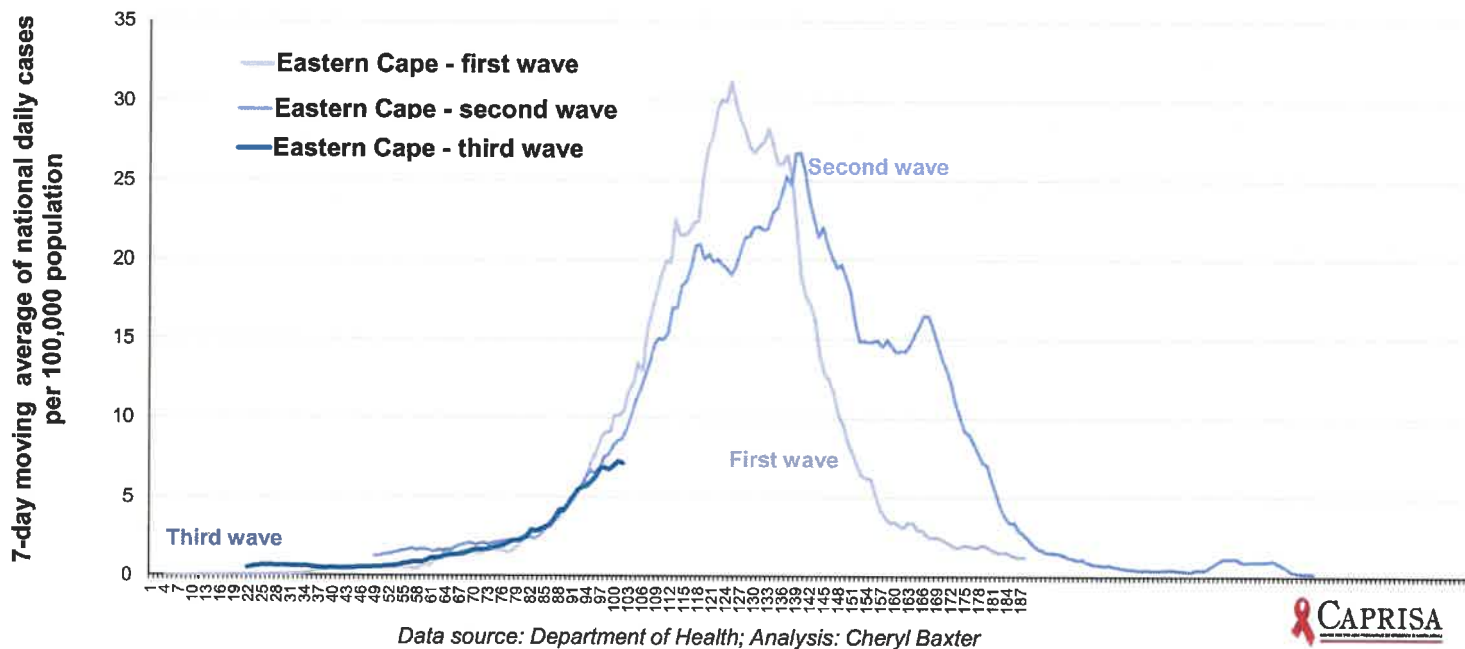
Circulating variants in Western Cape



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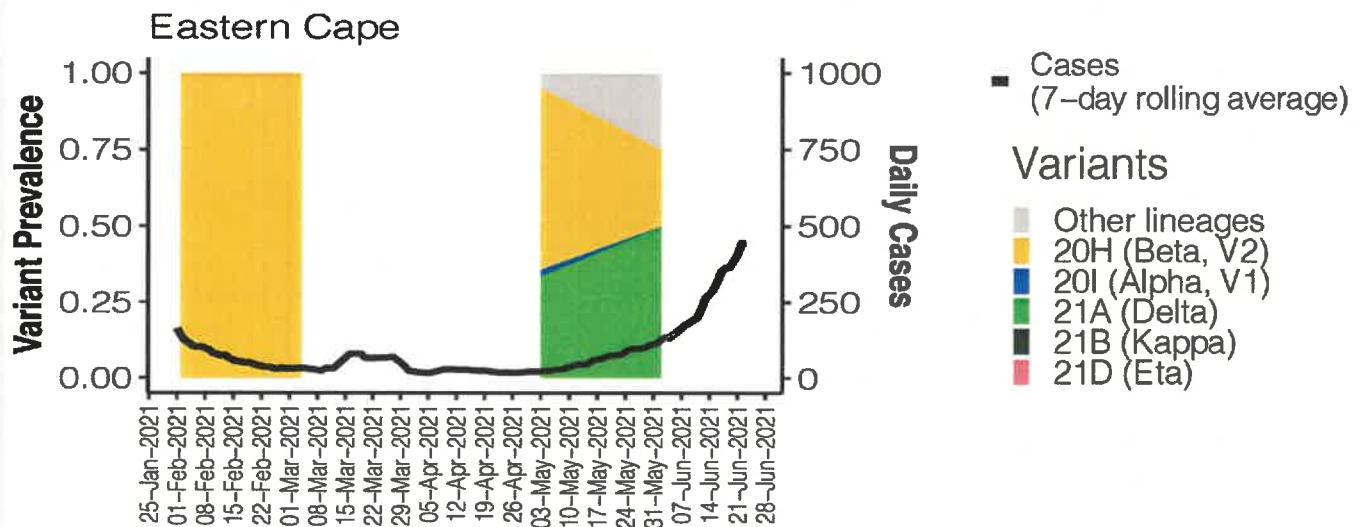
SARS-Cov-2 cases in 1st, 2nd & 3rd waves in Eastern Cape

(7-day moving average cases per 100,000 population – up to 30 June)



Cheryl Baxter

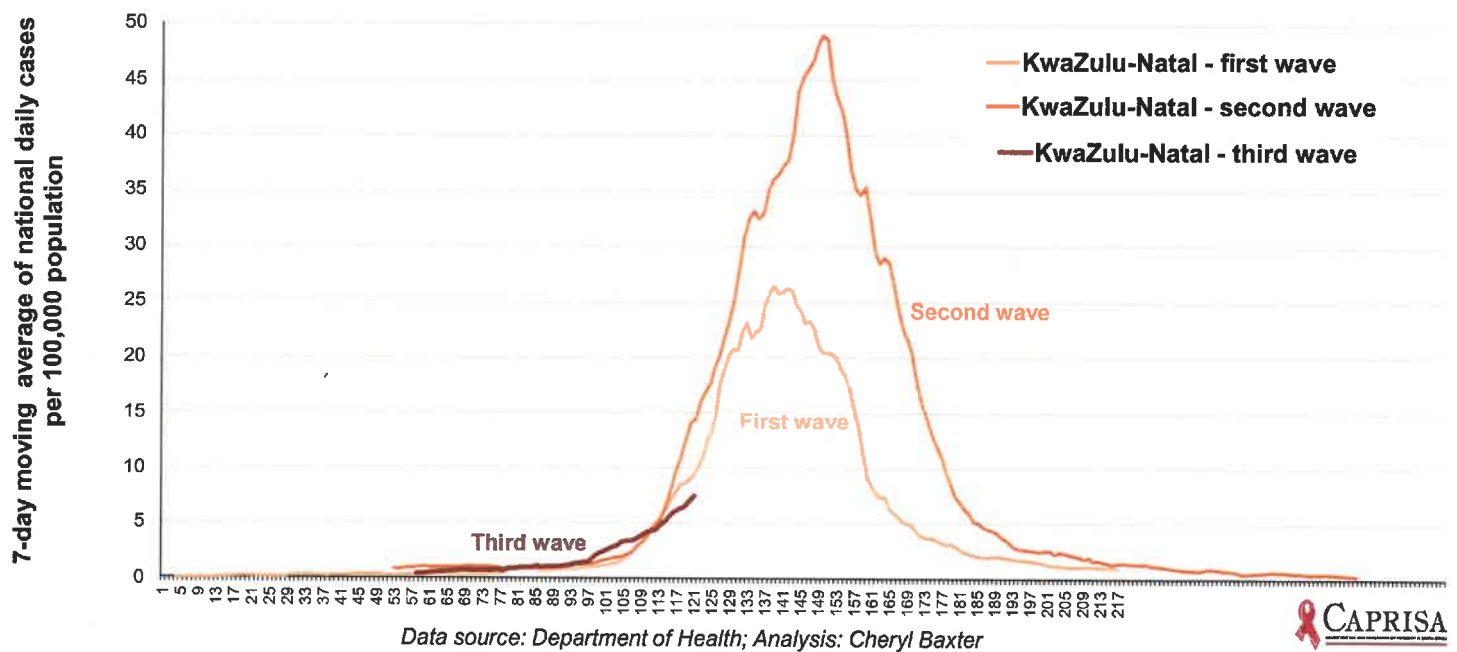
Circulating variants in Eastern Cape



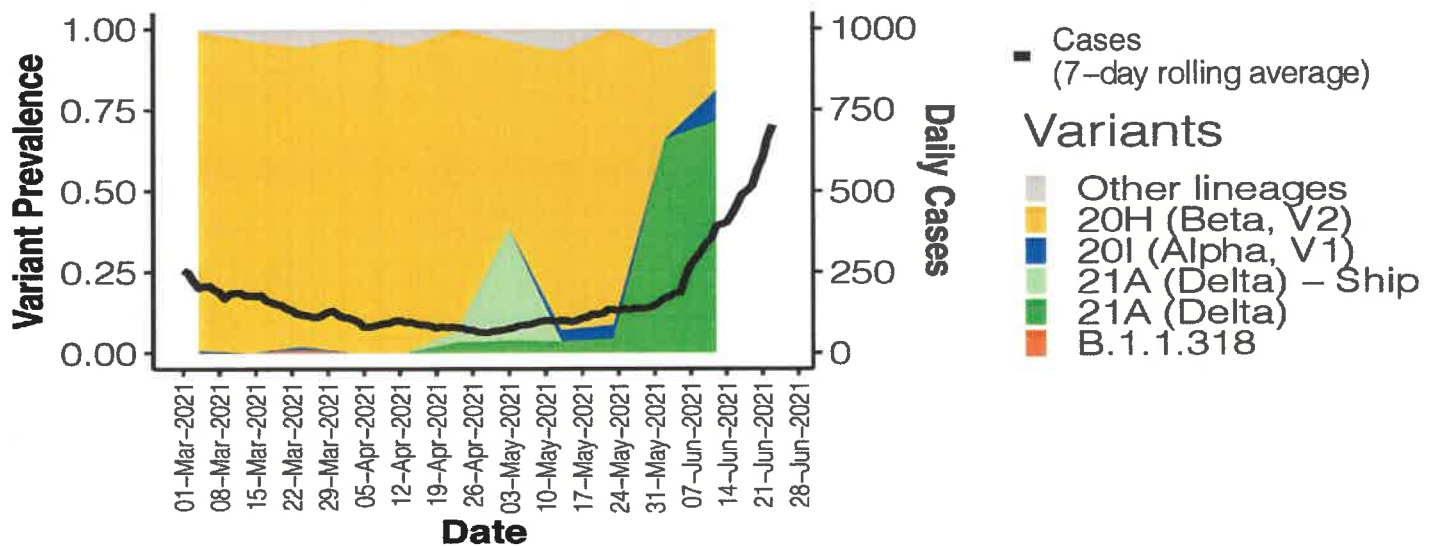
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SARS-Cov-2 cases in 1st, 2nd & 3rd waves in KwaZulu-Natal

(7-day moving average cases per 100,000 population – up to 29 June)

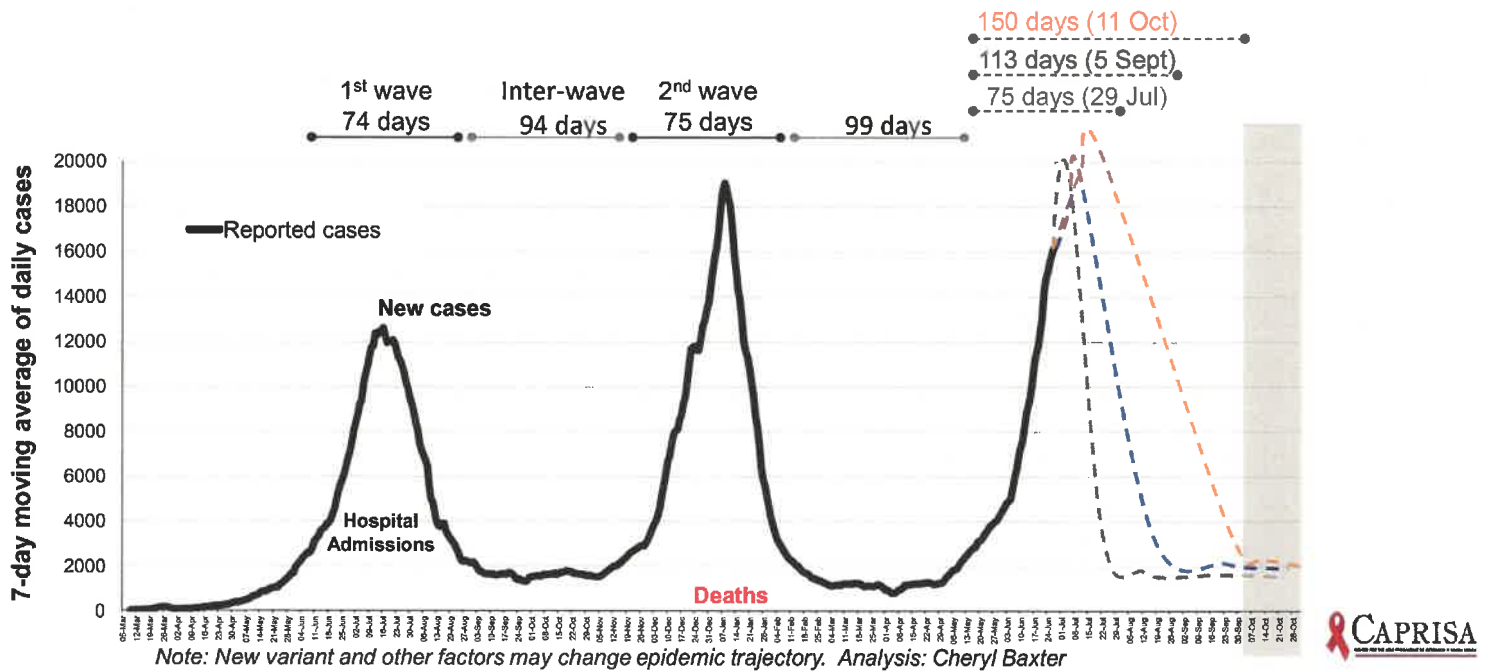


Circulating variants in KwaZulu-Natal



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Cases numbers in October? Estimations of end of 3rd wave, based on duration of 1st and 2nd waves in SA



Cheryl Baxter

Overview

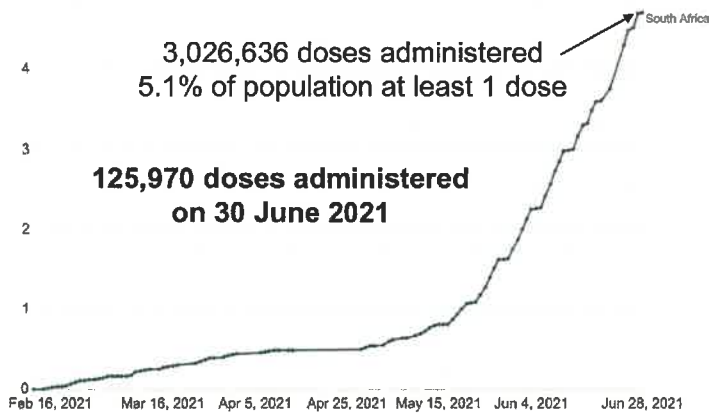
- Current state of the Covid-19 in South Africa
- Estimation of possible end dates of 3rd wave
- **Vaccination in South Africa by October 2021**
- **Likelihood of community immunity by October 2021**
- SARS-CoV-2 exposure risk associated with elections
- Additional measures recommended to mitigate this risk
- Would the situation be more conducive for elections 3 months or 6 months later?



Vaccinations in South Africa

COVID-19 vaccine doses administered per 100 people

For vaccines that require multiple doses, each individual dose is counted. As the same person may receive more than one dose, the number of doses per 100 people can be higher than 100.



Source: Official data collected by Our World in Data

Estimations:

If 125k – 200k vaccinated per day by end July

200k – 250k vaccinated per day by end Aug

250k – 300k vaccinated per day by end Sept

~ 16.3 million vaccine doses (~20% coverage) administered by 1 Oct

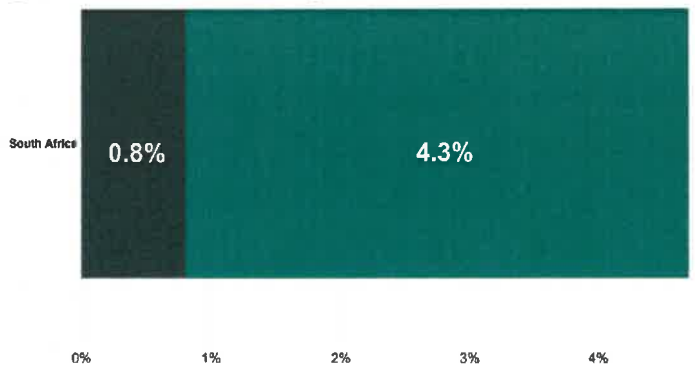
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Share of people vaccinated against COVID-19, Jun 28, 2021

This data is only available for countries which report the breakdown of doses administered by first and second doses.



■ Share of people fully vaccinated against COVID-19 ■ Share of people only partly vaccinated against COVID-19



Source: Official data collected by Our World in Data

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■ Share of people fully vaccinated against COVID-19

■ Share of people only partly vaccinated against COVID-19

Handwritten signature/initials

Likelihood of community immunity by October 2021

- Actual level of immune protection required for herd immunity not known
- Population coverage = $[R_0 - 1 / R_0] / \epsilon$
- If $R_0 = 2.5$, & vaccine efficacy (ϵ) = 80% then **75%** vaccine coverage is required (note R_0 in Wuhan was 2-3) (note ϵ of 80% used to cover both ϵ of Pfizer = 95% and J&J = 64%)
- Estimates from mathematical models range from 43% to 82% - SA aiming for **67%**
- HSRC estimates anti-vaxx = 18%, unclear on vaccines = 15% and 67% want vaccines
- **SA needs to vaccinate ~75% people with vaccine ~80% efficacious to get herd immunity**
- Note: vaccines can only be administered to adults at this stage
- SA will not have sufficient vaccine coverage for herd immunity by October - may not even achieve this in 2021

Source: Anderson RM Lancet 2020; HSRC report: <http://www.hsrc.ac.za/>



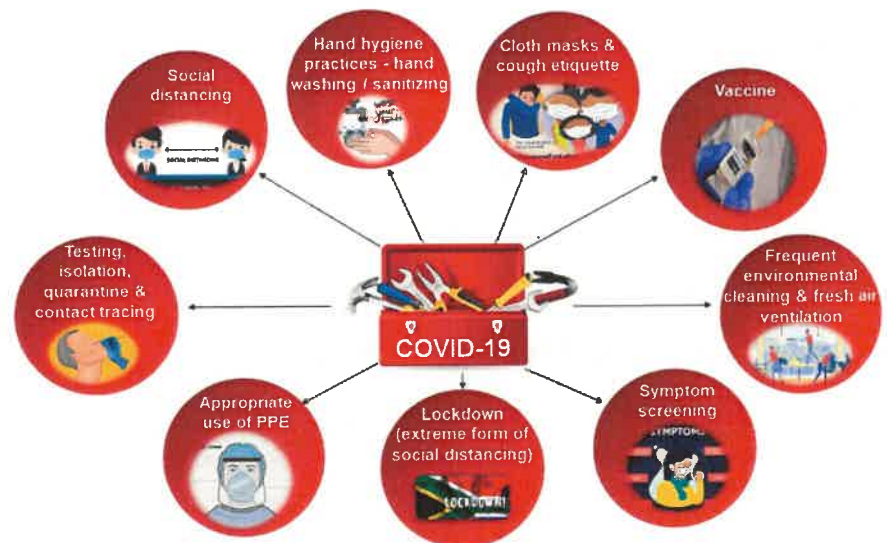
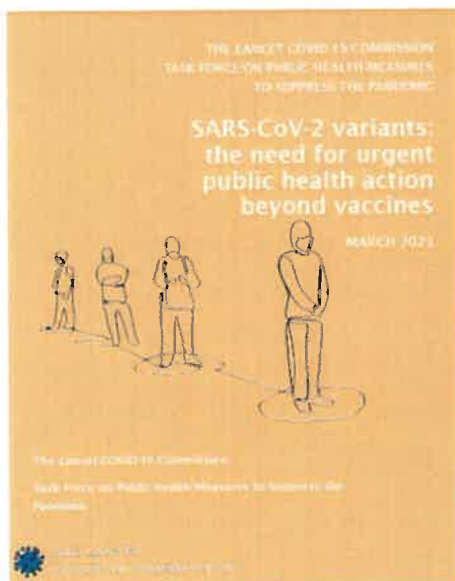
Overview

- Current state of the Covid-19 in South Africa
- Epidemiology of Covid-19 in South Africa in October 2021
- Vaccination in South Africa by October 2021
- Likelihood of community immunity by October 2021
- **SARS-CoV-2 exposure risk associated with elections**
- **Additional measures recommended to mitigate this risk**
- Would the situation be more conducive for elections 3 months or 6 months later?

SARS-CoV-2 exposure risk associated with elections

- **Election activities impacting exposure risk:**
 - Occupational exposure for IEC staff and campaign staff
 - House-to-house visits for individual interactions when electioneering
 - Small group meetings and discussions when electioneering
 - Large group rallies and marches
 - Election day queues and polling booth risks
- **The risks associated with these activities are principally**
 - Gatherings, especially indoors
 - Movement of people
 - Level of adherence to public health protection measures (masks etc)

Most election-related risks can be mitigated with combination prevention from the toolbox



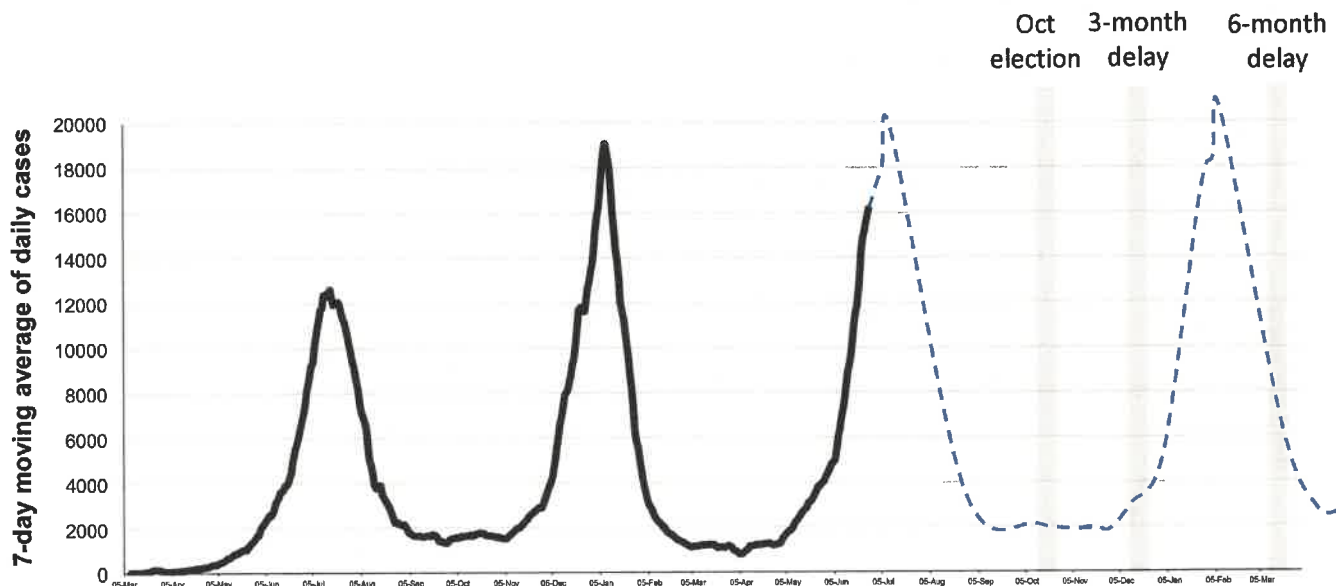
Note: Beware the risk of corruption when procuring supplies to mitigate the risk of Covid-19

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Overview

- Current state of the Covid-19 in South Africa
- Epidemiology of Covid-19 in South Africa in October 2021
- Vaccination in South Africa by October 2021
- Likelihood of community immunity by October 2021
- SARS-CoV-2 exposure risk associated with elections
- Additional measures recommended to mitigate this risk
- **Would the situation be more conducive for elections 3 months or 6 months later?**

Estimated case numbers if elections delayed by 3 or 6 months (assuming 3rd wave is 1.5 x as long as 1st and 2nd waves)



Note: New variant and other factors may change epidemic trajectory. Analysis: Cheryl Baxter

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"FA7"**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA****CASE NO:** _____

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS AND OTHERS**

Respondents

CONFIRMATORY AFFIDAVIT

I the undersigned

SHABIR AHMED MADHI

do hereby make oath and say as follows:

1. I am a medical practitioner, specialist pediatrician and a Fellow of the College of Pediatricians (South Africa).
2. I currently hold, among others, the positions of professor of vaccinology and dean of the Faculty of Health Sciences at the University of the Witwatersrand, Johannesburg ("Wits"), director of Wits' Vaccines and Infectious Diseases Analytics Research Unit and co-director of Wits' African Leadership in Vaccinology Expertise (ALIVE).




3. The facts that I depose to are true and correct and are within my personal knowledge.
4. On 7 June 2021 I delivered written submissions to the Justice Moseneke Inquiry on Free and Fair Local Government Elections during COVID ("the Inquiry"), as appear on the Inquiry's website (<https://www.elections.org.za/freeandfair/LGE2021/submissions>). A copy of these submissions is attached hereto marked "**SAM1**". I am the author of these submissions.
5. I depose to this affidavit to confirm under oath that the contents of the attached document which I tabled before the Inquiry are to the best of my belief true and correct and have been fairly and accurately summarised in the Inquiry's Report.



PROF SHABIR A MADHI

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of her knowledge both true and correct. This affidavit was signed and sworn to before me at Paarl on this the 3 day of **AUGUST 2021**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHSFull names: **CHARLES R. GILBERT**Address: **29 PRINCESS OF WALES
STREET, PARKTOWN**Capacity: **HR MANAGER**

1. I certify that before administering the oath/affirmation I asked the deponent the following questions which were answered:
 - (a) Do you know and understand the contents of this Declaration?
 - (b) Do you have any objection to taking the prescribed oath?
 - (c) Do you consider the prescribed oath to be binding on your conscience?
2. I further certify that the deponent has acknowledged that he/she knows and understands the contents of this Declaration that was sworn to/affirmed before me and the deponent's signature/mark was placed thereon in my presence.

Date: **03/08/2021** Signature: Names: **CHARLES R. GILBERT**
Commissioner of Oaths, District of JohannesburgEx officio Title: **MANAGER: HUMAN RESOURCES**Faculty/Office: **HEALTH SCIENCES**University of the Witwatersrand, Johannesburg
1 Jan Smuts Avenue, Johannesburg 2001Names: **CHARLES R. GILBERT**
Commissioner of Oaths, District of JohannesburgEx officio Title: **MANAGER: HUMAN RESOURCES**Faculty/Office: **HEALTH SCIENCES**University of the Witwatersrand, Johannesburg
1 Jan Smuts Avenue, Johannesburg 2001 

"SAM1"

Professor Shabir A. Madhi

Dean: Faculty of Health Sciences | University of the Witwatersrand, Johannesburg

Professor of Vaccinology

Director: Vaccines & Infectious Diseases Analytics Research Unit (Wits-VIDA)

Co-Director: African Leadership in Vaccinology Expertise (ALIVE)

Any information, details or data on or about the current state of the COVID-19 pandemic in South Africa;

Currently 5 of the nine Provinces in SA are experiencing a third wave, many of which are on track to exceed the number of cases that occurred during the first two waves. Provinces which are yet to experience the start of the third wave, including EC, WC and KZN, are likely being relatively spared due to the higher rates of infection that occurred during the course of the first two waves –which has possibly resulted in widespread evolution of immunity in the population. Although these provinces are still likely to experience a resurgence of Covid over the next 4-6 weeks, it is likely that it will be less severe than experienced in the past- unless there are further mutations of the virus that makes it relatively resistant to immunity induced by past infection.

- The projected trajectory of the COVID-19 pandemic in South Africa, and in particular during October 2021 when local government elections are earmarked to be held;

Its difficult to predict what the status of Covid would be by October 2021, as its dependent on multiple factors including:

- Further mutations of the virus which could make it relatively resistant to immunity induced by past infection, and even immunity induced by current vaccines
- Behaviour of citizens and regulations by Gvt to avoid super-spreader events. In particular, allowing for mass gatherings (irrespective of number) in indoor spaces would lead itself to further rapid spread of the virus- even after this wave has subsidised
- The proportion of the population who have developed immunity either by vaccination or past infection (i.e. % who are infected over the course of the waves) , and the extent to which such immunity protects against infection and mild Covid. Its possible that immunity can protect against severe disease, but much less so against infection and mild Covid- which is what drives the spread.
- Speed of vaccine deployment, and coverage in different groups. Vaccination of high risk groups could ensure reductions in hospitalization and death, but may not necessarily prevent another resurgence.
- Type of Covid vaccine deployed in SA. Although all vaccines are likely to have high protection against severe disease and death, they likely to vary significantly in protecting against infection and mild disease.
- Durability of protection against infection and mild Covid following either natural infection or vaccination (and may also differ between vaccines)

- The nature, extent and features of the vaccination efforts being undertaken in South Africa;

South Africa lags behind the global rate of vaccination, as well as compared to its peers such as Chile and other middle income countries. Although there is likely to be an upswing in vaccination rates over the next 2-3 months as more vaccines become available, it's unlikely that there will be high coverage outside of select high-risk groups.

- When the vaccination efforts being undertaken in South Africa are likely to reach community immunity, and the likelihood of community immunity being reach by October 2021, when local government elections are earmarked to take place;

Professor Shabir A. Madhi

Dean: Faculty of Health Sciences | University of the Witwatersrand, Johannesburg

Professor of Vaccinology

Director: Vaccines & Infectious Diseases Analytics Research Unit (Wits-VIDA)

Co-Director: African Leadership in Vaccinology Expertise (ALIVE)

The targets set out by NDoH are already not being achieved. Also, as indicated above, the type of vaccine used will influence the extent to which vaccination can mitigate a resurgence of Covid and magnitude thereof later in the year (as not all vaccines will induce good protection against infection and mild disease). That being said, recalibrating our expectation of Covid vaccines and the future control of the virus in SA and other countries also affected by the beta variant is warranted. 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 ongoing circulation of the virus and occasional resurgences.

- The risk that might be posed to the lives and health of people in South Africa if the local government elections were to proceed in October 2021;

The major risk probably exist in ten period leading to the run up to the elections, rather than actual election day. Allowing for political parties to engage in electioneering, especially large outdoor gatherings and any sizeable (e.g. >20) indoor gathering poses the main challenge to expediting the timing and magnitude of a future resurgence. It is difficult to predict where we will be in October 2021, however, based on the pattern of past waves in SA- it might well be that October is period of relative calm in the pandemic experience in SA, with a resurgence more likely to occur later in the year (December onward). If Gvt can ensure high coverage of the high risk groups (e.g. >70% coverage of anyone older than 50 years of age), even with ongoing circulation of the virus, the major deleterious effects of a resurgence (hospitalization and death) can be largely mitigated.

- Any additional measures that may be taken to reduce the risk posed to the lives and health of people in South Africa in the event that the local government elections were to take place during October 2021; and

The day of the election will need to be managed according to prescribed Covid protocol –including ensuring that the election stations are manly stationed outdoors as the preferred option, and there is no socialising in the vicinity.

- Any epidemiological and statistical material and data that may be relevant to the enquiry whether the 2021 local government elections may be held in a free and fair manner.

The modelling done on Covid1-9 has at best been modestly predictive.



“FA8”**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA****CASE NO:** _____

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS AND OTHERS**

Respondents

CONFIRMATORY AFFIDAVIT

I the undersigned

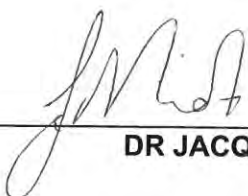
JACQUI MIOT

do hereby make oath and say as follows:


1. I am a pharmacist and health economics specialist. I am currently the Division Director at the Health Economics and Epidemiology Research Office (HE²RO), a division of the Wits Health Consortium of the University of the Witwatersrand whose purpose is to conduct applied, policy- and program-relevant research and evaluation on issues of public health importance in South Africa. I am also a member of the Ministerial Advisory Committee on COVID-19.



2. The facts that I depose to are true and correct and are within my personal knowledge.
3. On 2 July 2021, Prof Sheetal Silal and I presented oral submissions to the Justice Moseneke Inquiry on Free and Fair Local Government Elections during COVID ("the Inquiry") on behalf of the Ministerial Advisory Committee on Covid-19, together with a PowerPoint presentation, as appears on the Inquiry's website (<https://www.elections.org.za/freeandfair/LGE2021/submissions>). A copy of the PowerPoint presentation is attached hereto marked "JM1". I am the co-author of this presentation.
4. I depose to this affidavit to confirm under the oath that the contents of the attached documents and the oral submissions which I made before the Inquiry are to the best of my belief true and correct and have been fairly and accurately summarised in the Inquiry's Report.


DR JACQUI MIOT

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of her knowledge both true and correct. This affidavit was signed and sworn to before me at PARKTOWN on this the 3rd day of **August 2021**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



1. I certify that before administering the oath/affirmation I asked the deponent the following questions and wrote down his/her answers in his/her presence.

a) Do you know and understand the contents of the declaration?
 Answer *yes*

b) Do you have any objection to taking the prescribed oath?
 Answer *No*

c) Do you consider the prescribed oath to be binding on your conscience?
 Answer *yes*

2. I certify that the deponent has acknowledged that he/she knows and understands the contents of this declaration which was sworn/affirmed before me and the deponent's signature/thumb print/mark was placed thereon in my presence.

.....
 Authorised Signatory

.....
 Date

JOSEPH JOHANNES CORNELIUS FRIESLAAR, COMMISSIONER OF OATHS EX OFFICIO
 DESIGNATED AGENT, FURNITURE BARGAINING COUNCIL
 NORTH BLOCK, 39 EMPIRE ROAD, PARKTOWN EXT
 TEL: 011 242 9200

COMMISSIONER OF OATHS

Full names:

Address:

Capacity:

"JM1"

**Public Hearings: Inquiry into Ensuring Free and
Fair Local Government Elections during COVID-
19 led by Justice Mosenke**

Ministerial Advisory Committee on COVID-19

2nd July 2021

July

Ministerial Advisory Committee on COVID-19

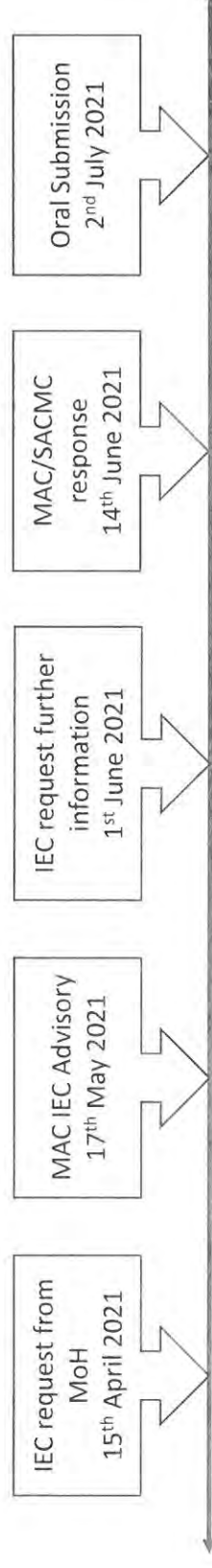
- Co-chairs; Prof Koleka Mlisana, Prof Marian Jacobs and 21 Members
- Non-statutory, advisory Committee appointed by the Minister of Health
- Provide high level strategic advice to the National Department of Health (NDoH)
- Provide technical guidance in the form of Advisories, based on best-available evidence, when requested
- Not responsible for the delivery or coordination of services related to the COVID-19 response

*Ministerial Advisory Committee on Vaccines
Behavioural and Social Ministerial Advisory Committee*



IEC Advisory and responses (1)

- The holding of the elections could put members of the public at risk of contracting COVID-19 during one of various activities, such as:
 - Voter registration with the anticipated need to facilitate large numbers of citizens in voter registration stations;
 - The voting process itself, where large numbers gather at polling stations and queue to complete their ballots;
 - Large political gatherings, especially in venues that are difficult to manage or limit (such as sports stadia); these are potentially high risk super-spreading events;
 - Increased person-to-person contact during door-to-door campaigning.

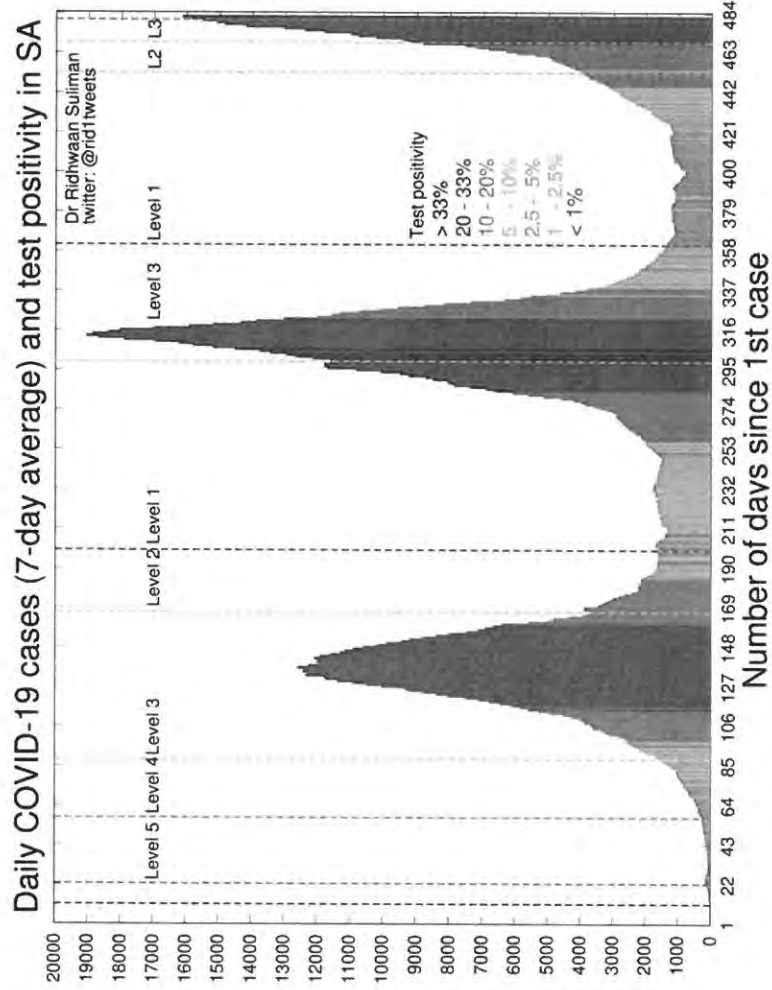
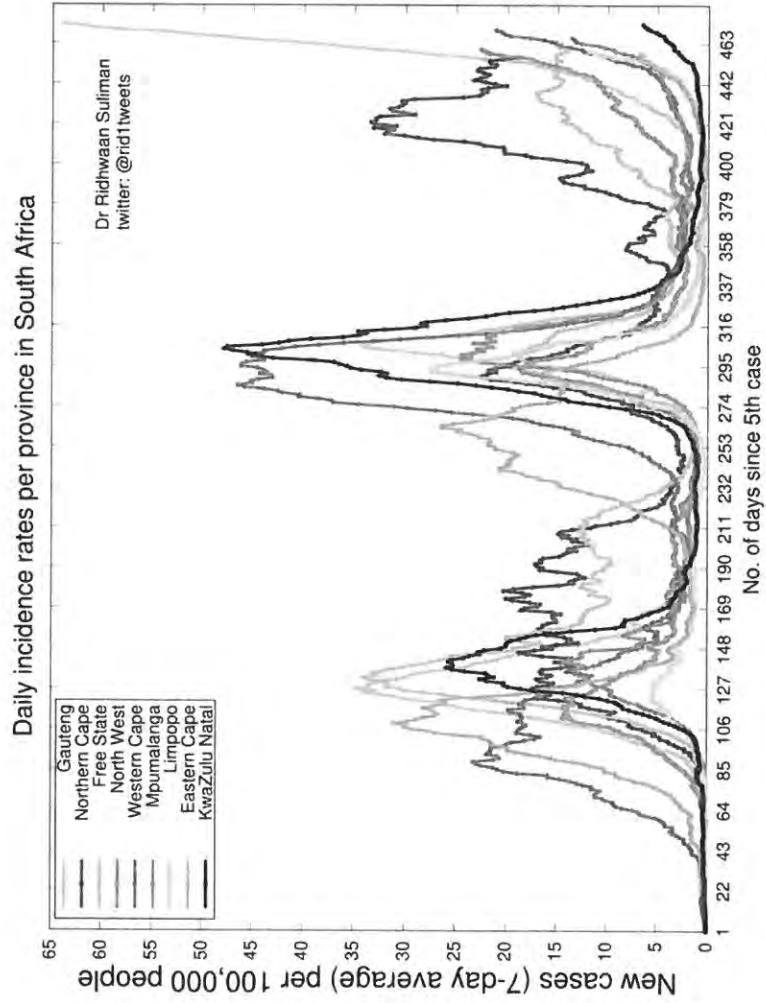


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IEC Advisory and responses (2)

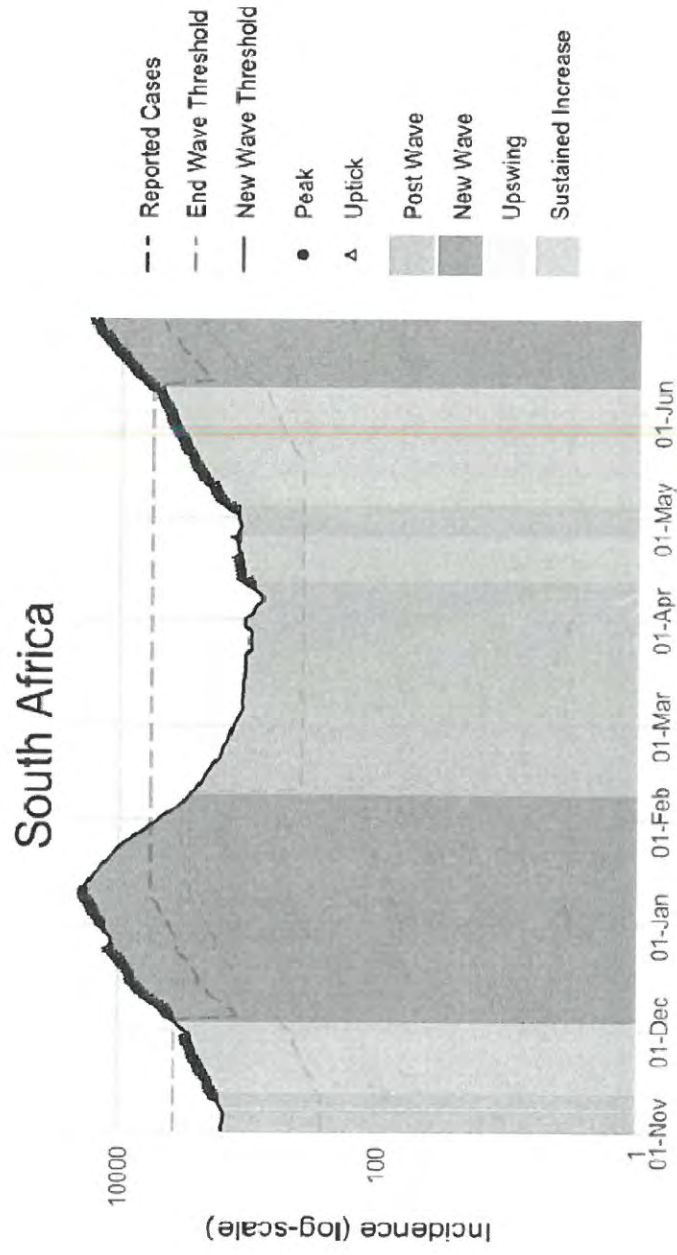
- Estimation of size, rate and peak of third wave subject to uncertainty regarding;
 - Population behaviour and adherence to NPIs
 - Variants of concern
 - Prior infection and immunity
 - Inter-wave transmission
- Vaccine roll out program unlikely to confer sufficient herd immunity
- Limitations on size of gatherings effective in reducing transmission
- Adherence to NPIs including contact tracing, isolation and quarantine is best current intervention

Current situation in South Africa



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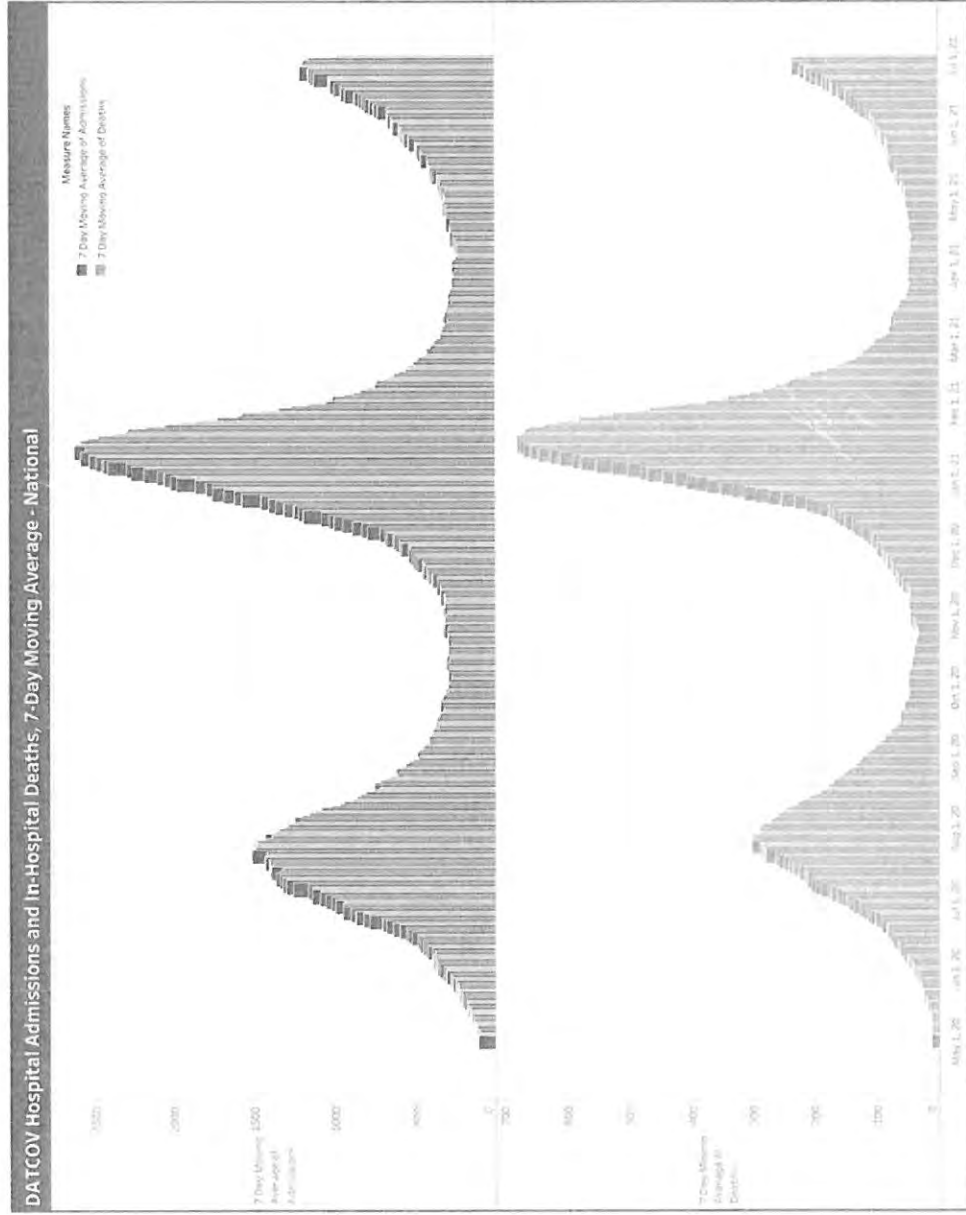
Current situation in South Africa



www.SACMCEpidemicExplorer.co.za [30 June 2021]

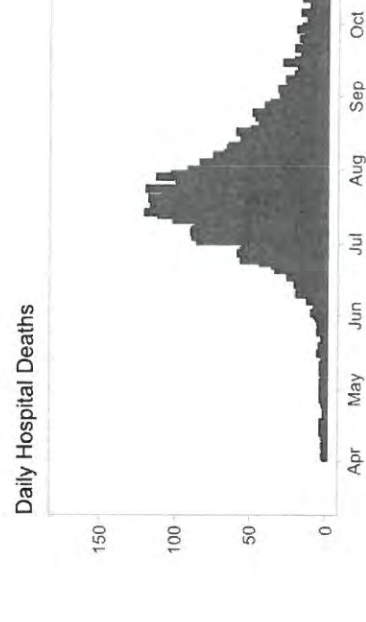
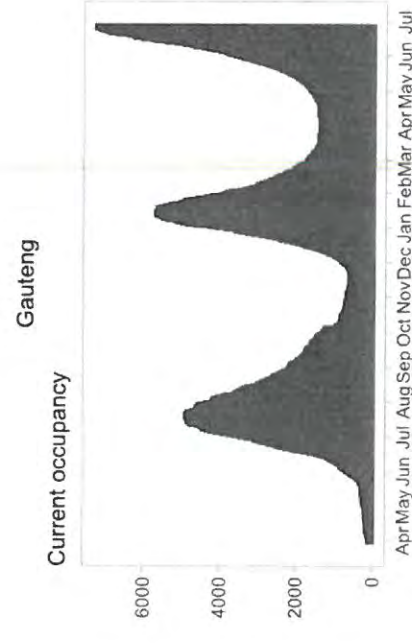
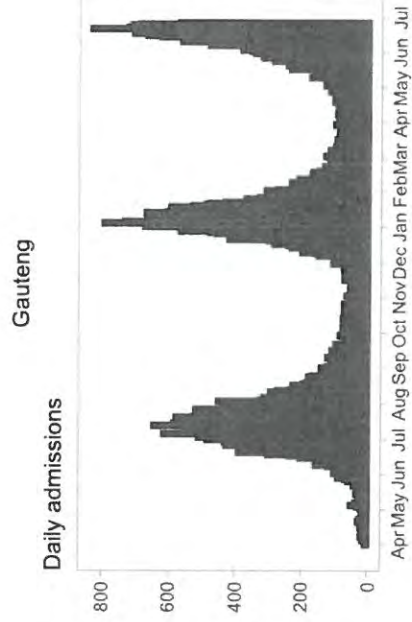
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Hospital admissions and deaths – South Africa



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Current situation: Gauteng



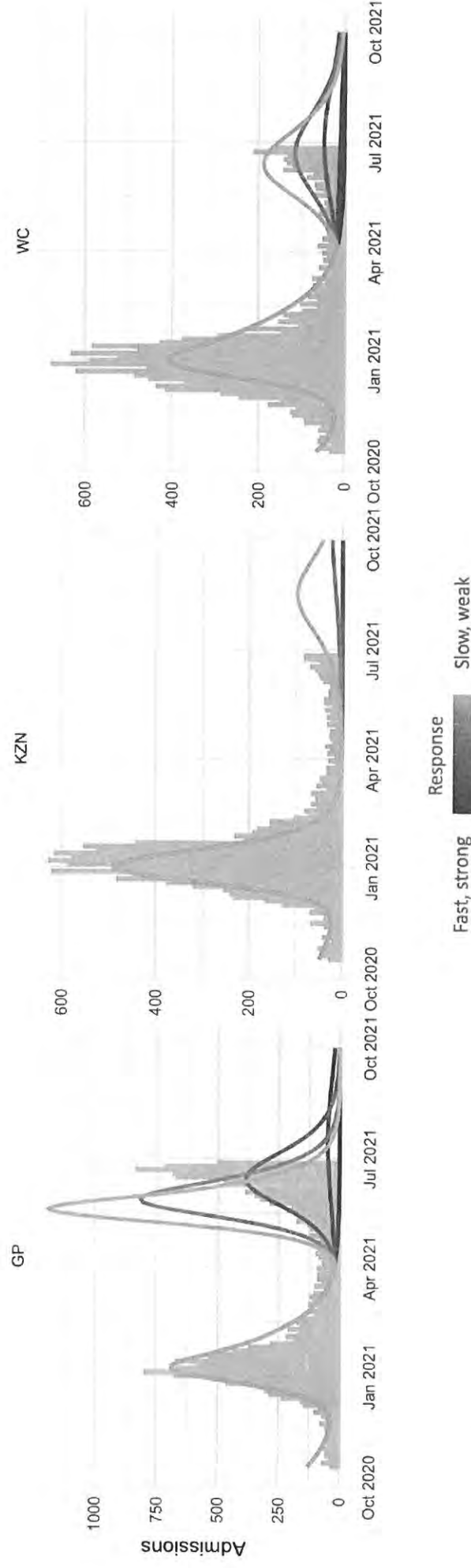
30 June 2021	
Admissions to date	89709
Currently admitted	7243
Currently in ICU	1295
Currently ventilated	669
Hospital Deaths to date	17149

Source: NICD National COVID-19 Hospital Surveillance [30 June 2021]

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Tracking projections for the third wave

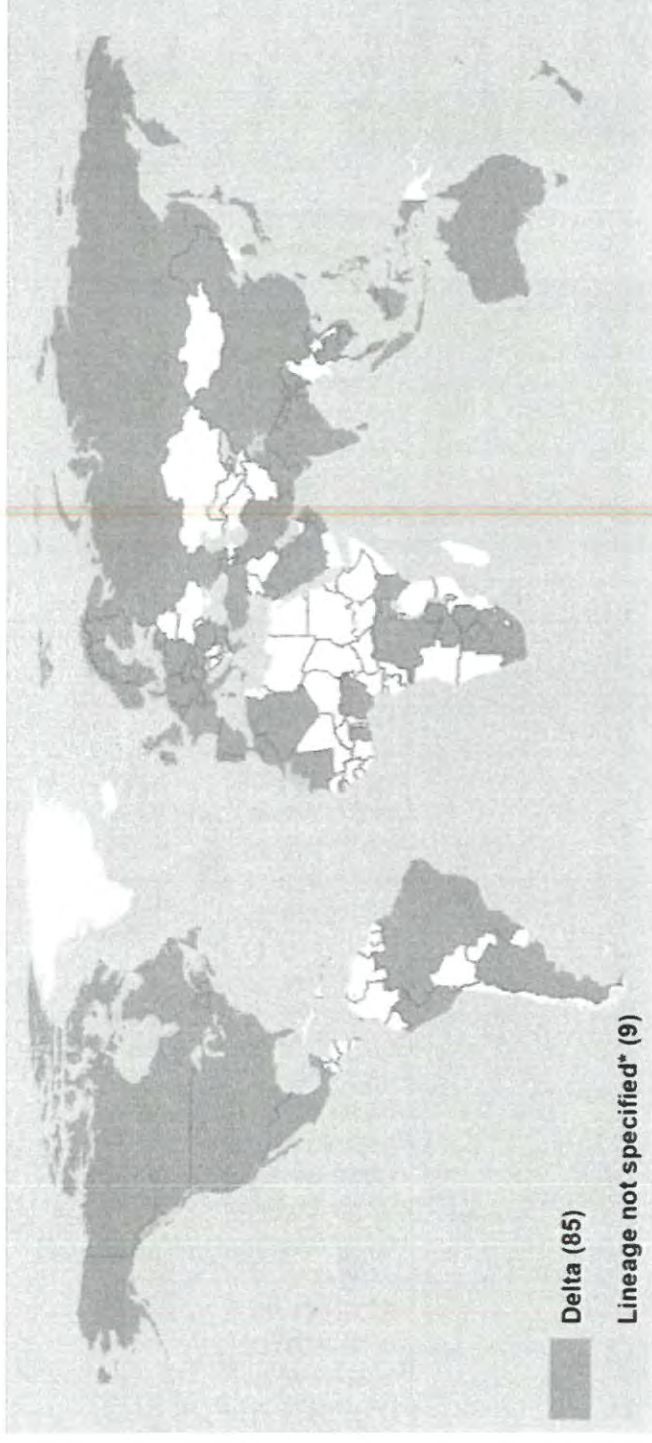
Admissions (Gen + ICU): Second & Third Waves



- While admissions tracked the 2nd (WC) and medium (GP) scenario until May, admissions rapidly exceeded the scenarios in June 2021

SACMC: COVID-19 modelling update: Considerations for a potential third wave" (2021-04-29)

Delta global distribution



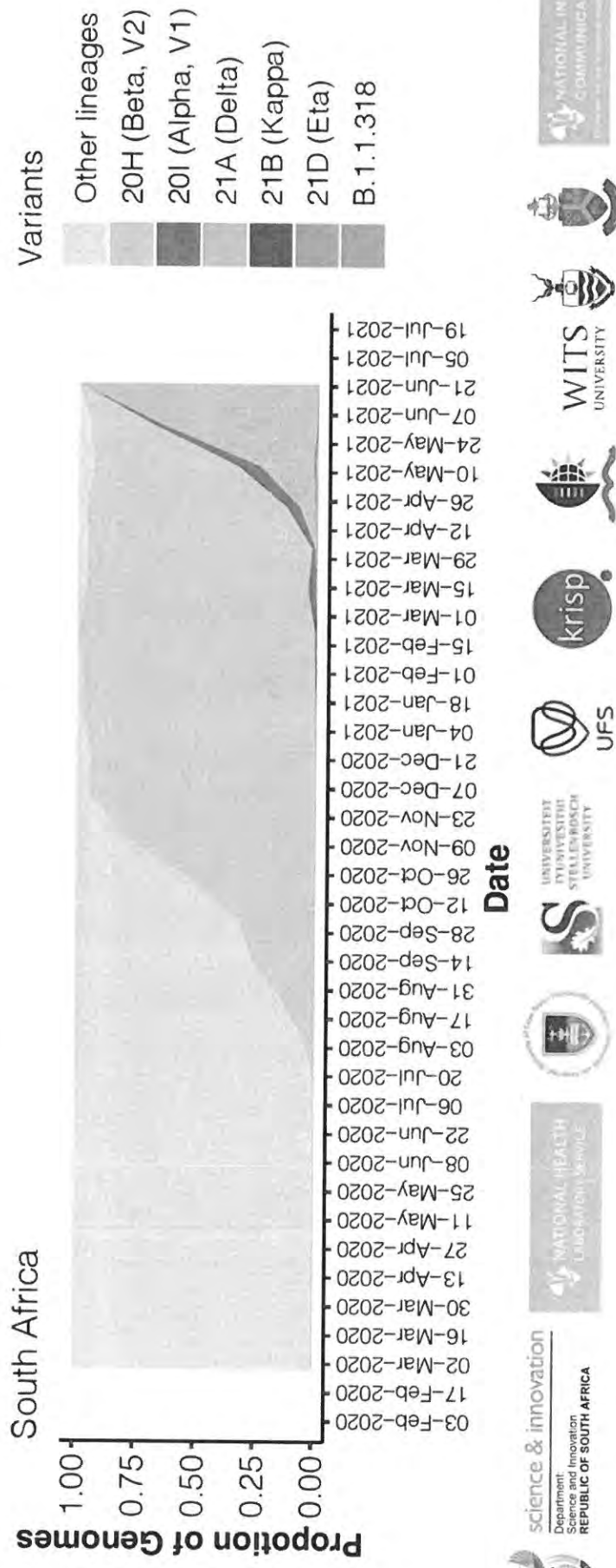
First sampled in India October 2020

Now detected in 85 countries, including several in Africa, and rapidly becoming dominant in many countries

<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/situation-reports>

T. de Oliveira et al. Update on Delta and other variants in South Africa [30 June 2021]

Delta variant in South Africa

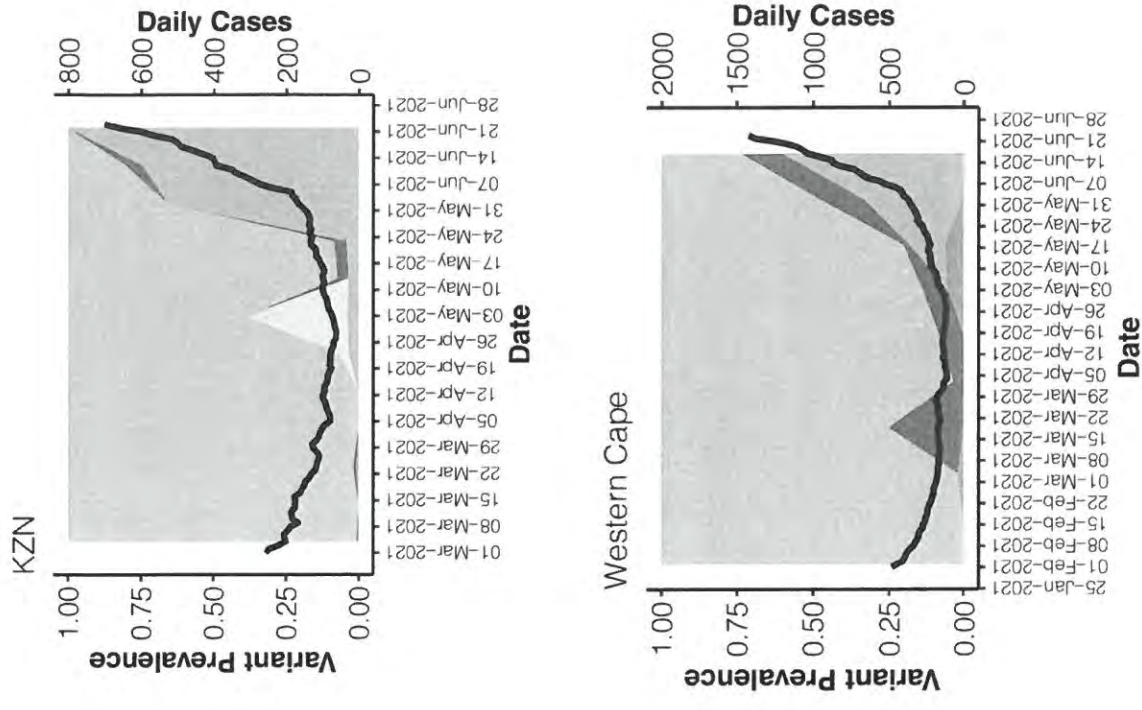
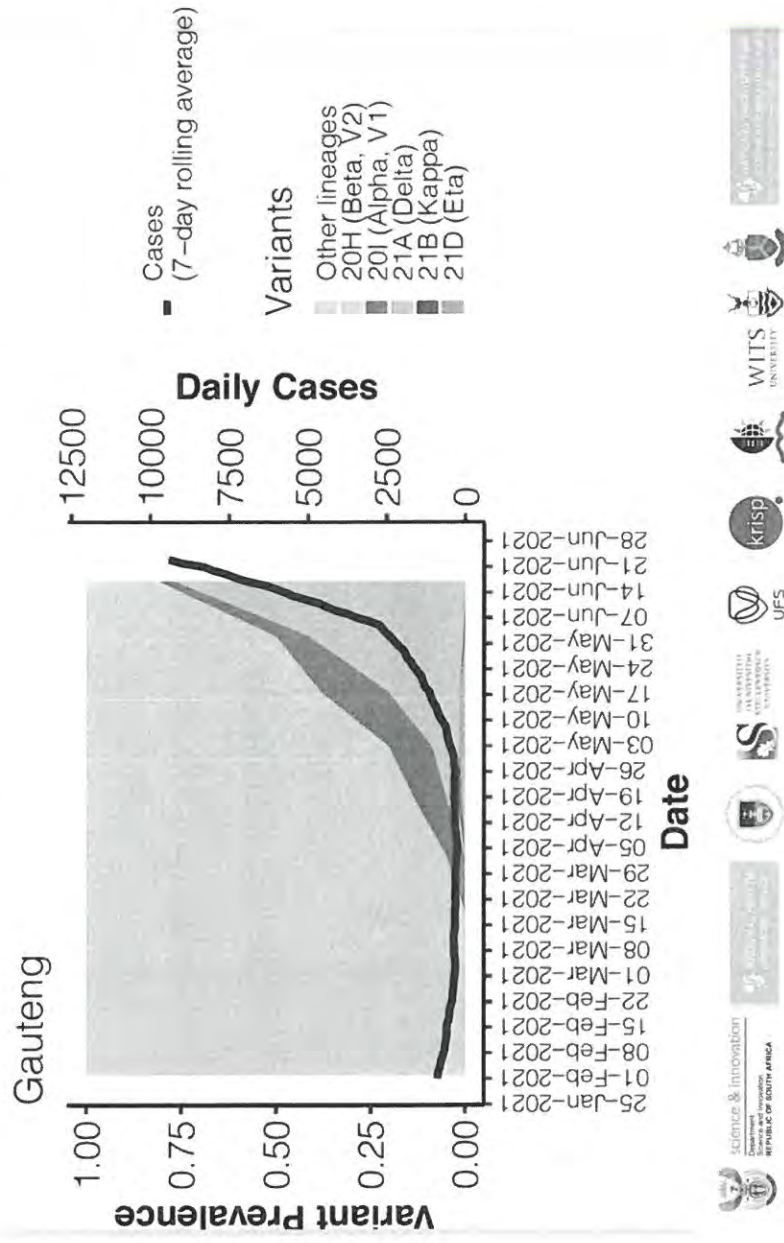


Genomic surveillance data suggests that the Delta variant is rapidly becoming the dominant SARS-CoV-2 variant in South Africa

T. de Oliveira et al. Update on Delta and other variants in South Africa [30 June 2021]

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Delta variant in South Africa



Delta variant: More transmissible

- Preliminary estimates from genomic data and epidemiological studies suggest Delta may be 30-60% more transmissible than other variants of concern, including Beta
- These data imply that Delta could be approximately twice as transmissible as the earlier non-VOC/VOI viruses

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Delta variant Vaccine Effectiveness

UK data – all symptomatic disease

Vaccine	Vaccine effectiveness single dose		Vaccine effectiveness two doses	
	Alpha	Delta	Alpha	Delta
Lopez Bernal J, et al. medRxiv 2021				
Astra Zeneca	51% (47-55)	33% (19-44)	66% (54-75)	60% (29-77)
Pfizer	49% (43-55)	33% (8-51)	93% (90-96)	88% (78-93)

Compared to Alpha, there was a modest reduction in effectiveness against symptomatic disease after a single dose, but very little difference after two doses

UK data – hospitalisation

Vaccine	Vaccine effectiveness single dose		Vaccine effectiveness two doses	
	Alpha	Delta	Alpha	Delta
Stowe J, et al. PHE preprint 2021				
Astra Zeneca	76% (61-85)	71% (51-83)	86% (53-96)	92% (75-97)
Pfizer	83% (62-93)	94% (46-99)	95% (78-99)	96% (86-99)

These findings suggest high levels of protection (>70%) against hospitalisation with the Delta variant with one or two doses of either vaccine – levels of protection similar to the Alpha variant

T. de Oliveira et al. Update on Delta and other variants in South Africa

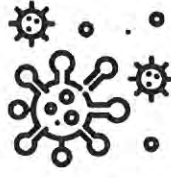


Summary of Delta variant



Transmissibility

Highly transmissible – more than all other variants



Risk of reinfection

Reduction in neutralization with serum from people infected with Beta variant



Disease severity

No clear evidence yet



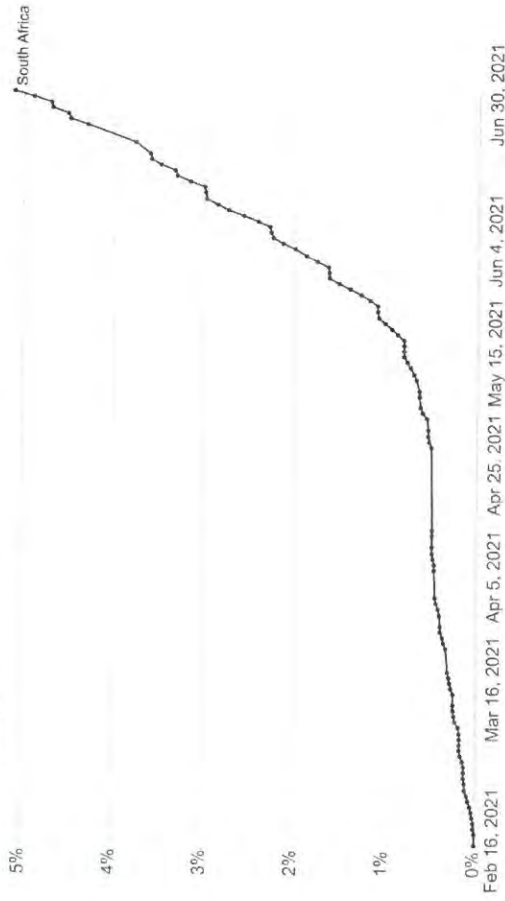
Vaccines

No evidence of vaccine escape
High levels of protection against severe disease

Delta variant in South Africa (SS)

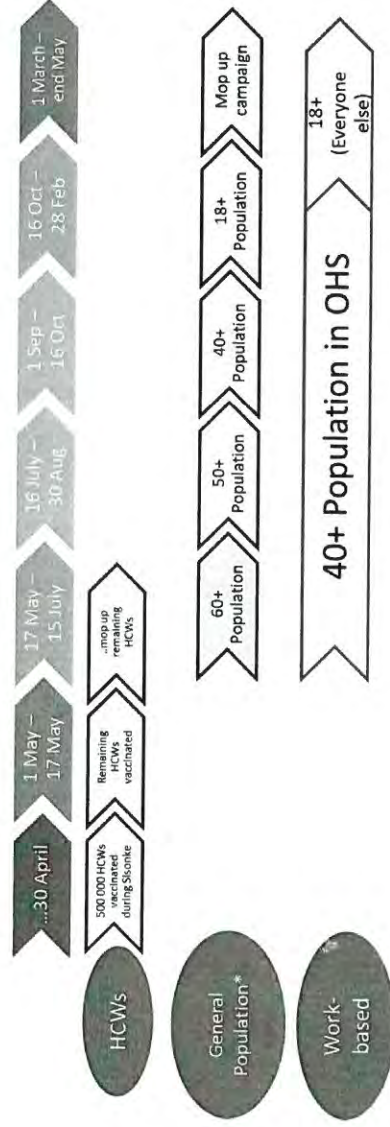
- The SACMC is currently adapting the third wave models to incorporate the increased likelihood of transmission of the delta variant over the beta variant.
- Through a range of scenarios, this modelling will estimate the duration of the epidemic and the impact on COVID-related hospitalisations and deaths in the nine provinces.

Share of people who received at least one dose of COVID-19 vaccine
Share of the total population that received at least one vaccine dose. This may not equal the share that are fully vaccinated if the vaccine requires two doses. This data is only available for countries which report the breakdown of doses administered by first and second doses.



Source: Official data collated by Our World in Data

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NDOH presentation to Covid MAC
15th April 2021

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Vaccine roll-out in South Africa

“The overall risk of SARS-CoV-2 infection related to the expected increase in circulation of the Delta VOC for the general population is considered to be **low** for fully vaccinated sub-populations and **high-to- very high** for partially or unvaccinated sub-populations. “ (Threat Assessment Brief: Implications for the EU/EEA on the spread of the SARS-CoV-2 Delta (B.1.617.2) variant of concern)

“The overall risk of SARS-CoV-2 infection related to the expected increase in circulation of the Delta VOC for vulnerable population is considered to be **low-to-moderate** for fully vaccinated sub-populations and **very high** for partially or unvaccinated sub-populations. “

Source: European Centre for Disease Prevention and Control. Implications for the EU/EEA on the spread of the SARS- CoV-2 Delta (B.1.617.2) variant of concern - 23 June 2021. ECDC: Stockholm; 2021.

Key messages

- Not possible to predict what the pandemic will look like in October.
- The Delta variant is substantially more transmissible than the Beta variant
- There will not be sufficient vaccine coverage of the population by October 2021 to achieve herd immunity
- Any event that results in large numbers of people gathering at one place at one time is high risk
 - Rallies and canvassing
 - Transport to/from elections and events
 - Number of polling stations and estimated voters per station
- COVID-19 protocols are only effective if **everyone** adheres to them **all of the time**
- Do whatever it takes to significantly reduce the numbers of people in one place at one time.

Acknowledgements

NICD

NHLS

Department of Health

South African COVID Modelling Consortium

KRISP and teams working on the genome sequencing

Academic units across the country

Colleagues in the MAC

"FA9"**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA****CASE NO:** _____

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS AND OTHERS**

Respondents

CONFIRMATORY AFFIDAVIT

I the undersigned

HENRY JOHN AUSTIN MOULTRIE

do hereby make oath and say as follows:

1. I am a medical practitioner and epidemiologist. I am currently employed by the National Institute for Communicable Diseases ("NICD"), a division of the National Health Laboratory Service, as the Senior Medical Epidemiologist in the Centre for Tuberculosis. A copy of my curriculum vitae is annexed hereto, marked "**HM1**", and I confirm the contents thereof to be true and correct.
2. In my aforesaid capacity I am also coordinator of the South African



COVID-19 Modelling Consortium ("SACMC"), a group of researchers from academic, non-profit, and government institutions across South Africa, coordinated by the NICD on behalf of the National Department of Health. The mandate of the group is to provide, assess, and validate model projections to be used for planning purposes by the Government of South Africa.

3. The facts that I depose to are true and correct and are within my personal knowledge.
4. On 7 June 2021 I delivered written submissions titled "*Epidemiological assessment in relation to timing of municipal elections*" to the Justice Moseneke Inquiry on Free and Fair Local Government Elections during COVID ("the Inquiry") on behalf of the SACMC, as appears on the Inquiry's website (<https://www.elections.org.za/freeandfair/LGE2021/submissions>). A copy of these submissions is annexed hereto, marked "HM2". I am the co-author of these submissions.
5. On 2 July 2021, also on behalf of the SACMC, I presented oral submissions before the Inquiry together with a PowerPoint presentation, as appears on the Inquiry's website (<https://www.elections.org.za/freeandfair/LGE2021/oral-submissions>). A copy of this presentation is attached hereto marked "HM3". I am the co-author of this presentation.

MSAM

6. I depose to this affidavit to confirm under oath that the contents of the attached documents and the oral submissions which I made before the Inquiry are to the best of my belief true and correct and have been fairly and accurately summarised in the Inquiry's Report.



DR HJA (HARRY) MOULTRIE

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of her knowledge both true and correct. This affidavit was signed and sworn to before me at Sandringham on this the 03 day of **August 2021**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.




COMMISSIONER OF OATHS

Full names: Nkele Rombath

Address: 01 Modderfontein Rd
Sandringham

Capacity: Constable

BIOGRAPHICAL SKETCH

Provide the following information for the Senior/key personnel and other significant contributors.
Follow this format for each person. **DO NOT EXCEED FIVE PAGES.**

NAME: Moultrie, Henry John Austin (Harry)

eRA COMMONS USER NAME (credential, e.g., agency login): WPHC001

POSITION TITLE: Senior Medical Epidemiologist, Centre for Tuberculosis, National Institute for Communicable Diseases (NICD), division of the National Health Laboratory Service, South Africa

EDUCATION/TRAINING (Begin with baccalaureate or other initial professional education, such as nursing, include postdoctoral training and residency training if applicable. Add/delete rows as necessary.)

INSTITUTION AND LOCATION	DEGREE (if applicable)	Completion Date MM/YYYY	FIELD OF STUDY
University of the Witwatersrand, Johannesburg, South Africa	MBBCh	11/2000	Bachelor of Medicine
London School of Hygiene and Tropical Medicine			
London School of Hygiene and Tropical Medicine, London, United Kingdom	MSc	11/2008	Epidemiology

A. Personal Statement

I am an experienced clinical epidemiologist and clinical investigator with more than 10 years' experience in the fields of child and adolescent health with a focus on HIV and TB. I am registered with the Health Professions Council of South Africa as an independent medical practitioner.

I have been the investigator of record/principal investigator on 12 clinical trials and numerous other studies. I was the Clinical Research Site Leader and Principal Investigator for the International Maternal Pediatric Adolescent AIDS Clinical Trials (IMPAACT) site at the Shandukani Research Centre in the Hillbrow Health Precinct.

In addition to my clinical research experience I have considerable experience in public health, specifically in the areas of policy formation, health systems and health information systems. I am an executive member of the South African National TB Think Tank and lead the epidemiology and modelling task team. I have previously served on a number national task teams including the Ministerial Advisory Committee on COVID-19, national HIV guidelines committees and task teams.

I have strong epidemiological skills and have designed a wide variety of studies including individual, cluster and stepped-wedge randomised controlled trials, cohort studies and surveys. My statistical skills include multiple imputation, multi-level modelling, survival methods, spatio-temporal analysis and survey methods including analysis of multistage and respondent driven samples.

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B. Positions and Employment

2019-current	Senior Medical Epidemiologist, Centre for Tuberculosis, National Institute of Communicable Diseases
2020	Ministerial Advisory Committee on COVID-19
2020-current	Coordinator of the South African Covid-19 Modelling Consortium
2017-current	TB Think Tank – National Department of Health
2015-2019	PhD Student, University of the Witwatersrand
2010-2013	Technical Head of Epidemiology and Biostatistics, WRHI, Wits Health Consortium
2010-2013	CRS Leader and site Principal investigator for IMPAACT site 8051, Wits Health Consortium
2008-2011	South African National AIDS Council Treatment, Care and Support Technical Task Team
2006-2010	Syndicate Director, Enhancing Children's HIV Outcomes, Wits Health Consortium
2006-2007	South Africa National Task Team for drafting the National Strategic Plan for HIV 2007-2011
2003-2011	South African National Paediatric HIV Guidelines Task Team
2003-2005	Research Medical Officer, Wits Paediatric HIV Clinics, Wits Health Consortium

C. Contributions to Science

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Complete List of Published Work: <https://pubmed.ncbi.nlm.nih.gov/?term=moultrie%20h>

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SOUTH AFRICAN COVID-19 MODELLING CONSORTIUM

Memo: Epidemiological assessment in relation to timing of municipal elections

2021-06-07

Preamble

The South African COVID-19 Modelling Consortium (SACMC) has been contacted by multiple parties with requests for epidemiological information needed to inform their contributions to the Inquiry into Ensuring Free and Fair Local Government Elections During COVID-19 being conducted by Justice Moseneke on behalf of the Electoral Commission of South Africa. This document summarizes relevant information as of the date above.

Current status and expected trajectory of the COVID-19 epidemic in South Africa

South Africa is expected to officially enter the third wave of its COVID-19 epidemic in mid-June, and several provinces have already entered a third wave. Based on the first two waves of the epidemic in South Africa, epidemic waves tend to last 5-8 weeks, though there is substantial variation among provinces (Table). The current rate of epidemic growth suggests that the third wave may have a lower peak incidence but longer duration than the previous two waves.

It is also worth noting that:

- Transmission continues to occur during inter-wave periods. For example, the country had an average of 1,625 new cases per day between 2020-09-15 and 2020-11-15 (between waves 1 and 2) and an average of 1,325 new cases per day between 2021-03-15 and 2021-05-15 (between waves 2 and 3).
- There is substantial uncertainty regarding the potential for new variants, particularly the B.1.1.7 / Alpha and B.1.617.2 / Delta variants of concern, to alter the trajectory of the epidemic in the coming months. Both of these variants appear to be more transmissible than the B.1.351 / Beta variant that drove South Africa's second wave.

	Weeks with incidence† above the half-peak		Weeks from new wave declaration to end of wave declaration‡
	Wave 1	Wave 2	Wave 2
South Africa	6.3	5	9.4
Eastern Cape	5.1	9.2	11.6
Free State	4.9	7.6	8
Gauteng	5.1	3.7	7
KwaZulu-Natal	5	5.1	8.6
Limpopo	5.1	3.3	7.1
Mpumalanga	4.3	4.1	8.3
North West	5	3.7	8.3
Northern Cape	10.6	1.1	-*
Western Cape	9.1	6	10.6

† 7-day moving average

‡ Based on the definitions given in the MAC Advisory on the Second Wave

* Northern Cape has not met the end-of-wave criterion following the declaration of the second wave

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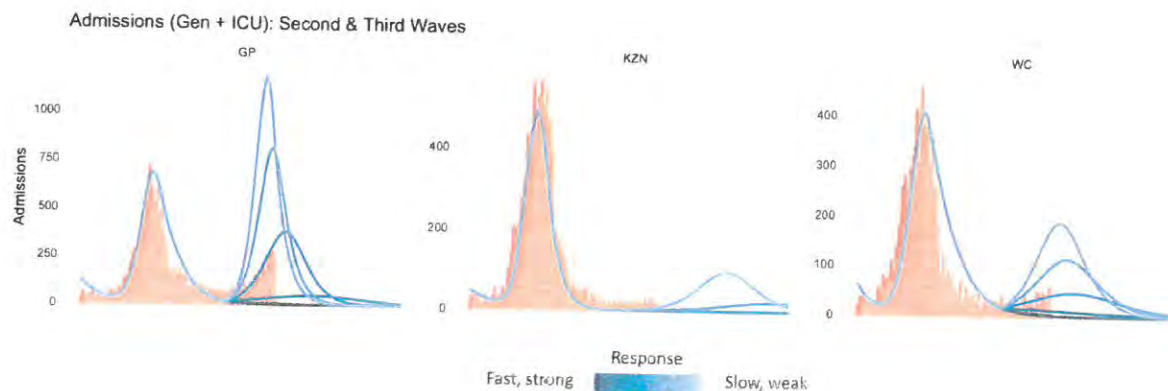
Likelihood of reaching community ("herd") immunity by October 2021

Based on the initial estimates of the reproduction number in South Africa, the Ministerial Advisory Committee on COVID-19 Vaccines estimated that 67% of the population would need to be immune to infection for community ("herd") immunity to be reached. The emergence of variants of concern that are more transmissible than the originally circulating variants suggests that reaching community immunity will require an even higher percentage of the population to be immune. Combined with the slow pace of vaccine roll-out to date and ongoing supply constraints, the probability of reaching community immunity by October 2021 is considered low.

Other relevant epidemiological considerations

Aside from the potential for emergence of new variants, an increasing contact rate between susceptible and infectious individuals is expected to be the primary driver of the third and subsequent waves of the COVID-19 epidemic, and this must be taken into account in determining the size of gatherings (including political gatherings) permitted under COVID-19 regulations.

The SACMC's report entitled "COVID-19 modelling update: Considerations for a potential third wave" (2021-04-29)¹ considered a range of potential scenarios for a third wave that reflected different behavioral patterns, ranging from a slow response to rising infections with weak adherence to measures that reduce transmission ("slow, weak") to a fast response with strong adherence ("fast, strong"). The projections clearly indicated that the height and duration of resurgences are highly dependent on behavioral factors. Current hospital admissions in Gauteng and Western Cape are approximately in line with an intermediate scenario (Figure). Campaign activities, if not carefully implemented, could alter the trajectory as a result of increased contact rates.



Contact

Inquiries should be directed to Dr. Harry Moultrie at <harrym@nicd.ac.za>.

¹ Available at: <https://www.nicd.ac.za/wp-content/uploads/2021/05/SACMC-Third-wave-report-290421.pdf>

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MSAM



Modelling the Third Wave

Preliminary results: Impact of the delta variant

Sheetal Silal¹, Juliet Pulliam², Gesine Meyer-Rath^{3,4}, Lise Jamieson³, & Harry Moultrie⁵
on behalf of the South African COVID-19 Modelling Consortium

¹ Modelling and Simulation Hub, Africa (MASHA), University of Cape Town, South Africa

² South African DSI-NRF Centre of Excellence in Epidemiological Modelling and Analysis (SACEMA), Stellenbosch University, South Africa

³ Health Economics and Epidemiology Research Office (HE²RO), University of the Witwatersrand, Johannesburg, South Africa

⁴ Boston University School of Public Health, US

⁵ National Institute for Communicable Diseases (NICD), South Africa



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Purpose

- Recent announcement of the extent of spread of the delta variant [26 June 2021]
- Present modelling analysis to explore the possible impact of the delta variant on transmission
- Decision-making tools
 - Dynamic COVID-19 transmission model for South Africa
 - SACMC Epidemic Explorer
- Areas of support
 - Hospital readiness, drug quantity planning, provincial and national planning

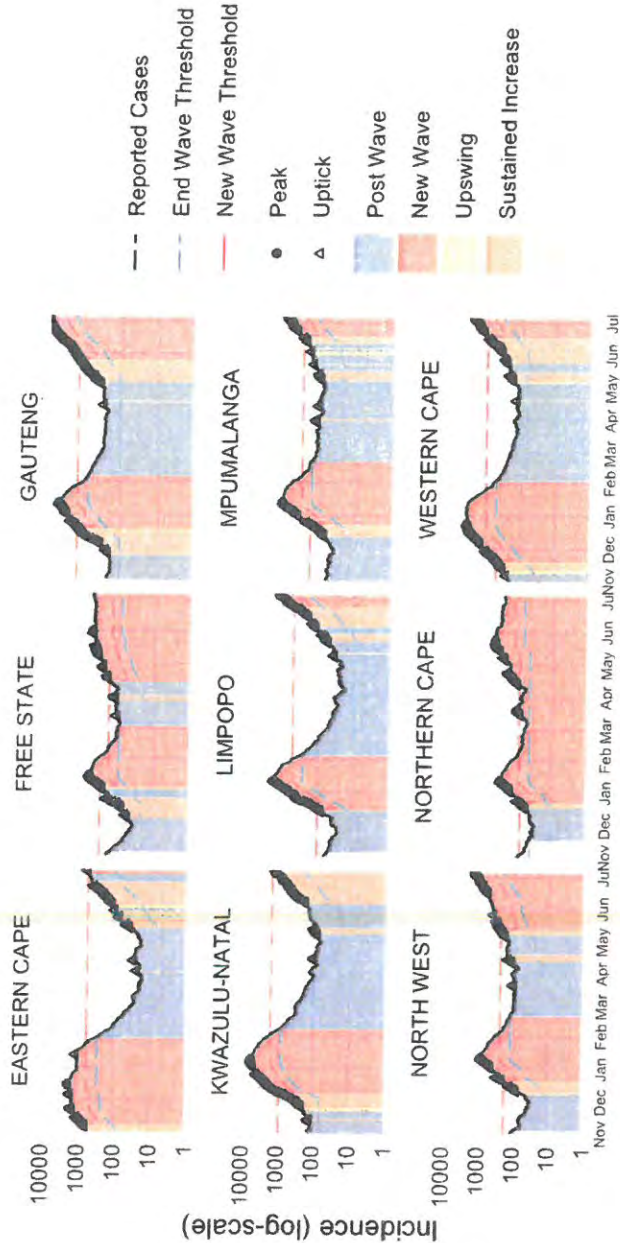
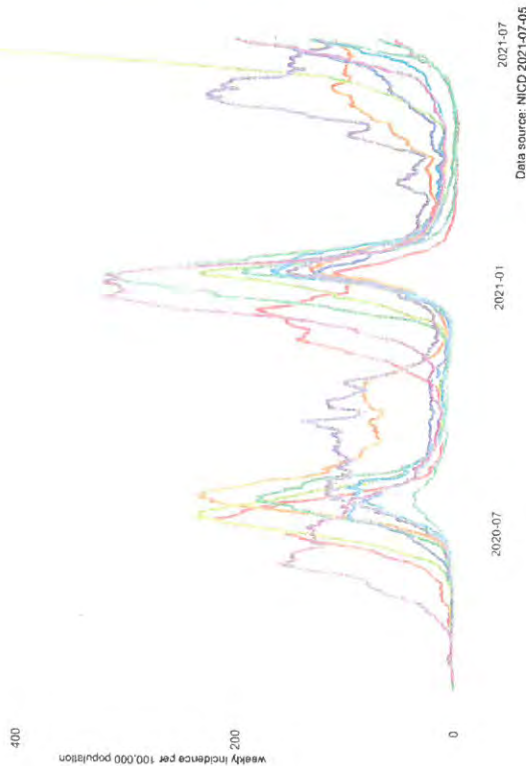
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SACMC

Cases: 5 July 2021

Cases by Province



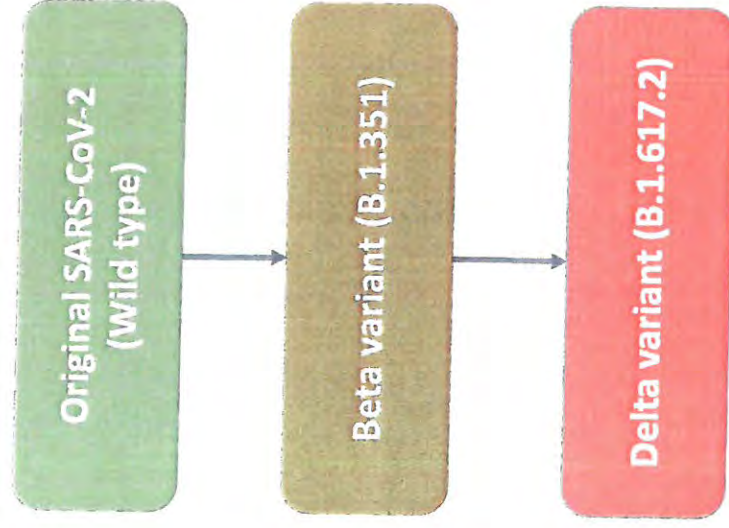
Eastern Cape crossed 3rd wave threshold on 2 July 2021
 Eight provinces now in third wave
 KwaZulu-Natal is experiencing a sustained increase in cases

15/7/21



SACMC

The National COVID-19 Epi Model (NCEM v5.2)



Key features

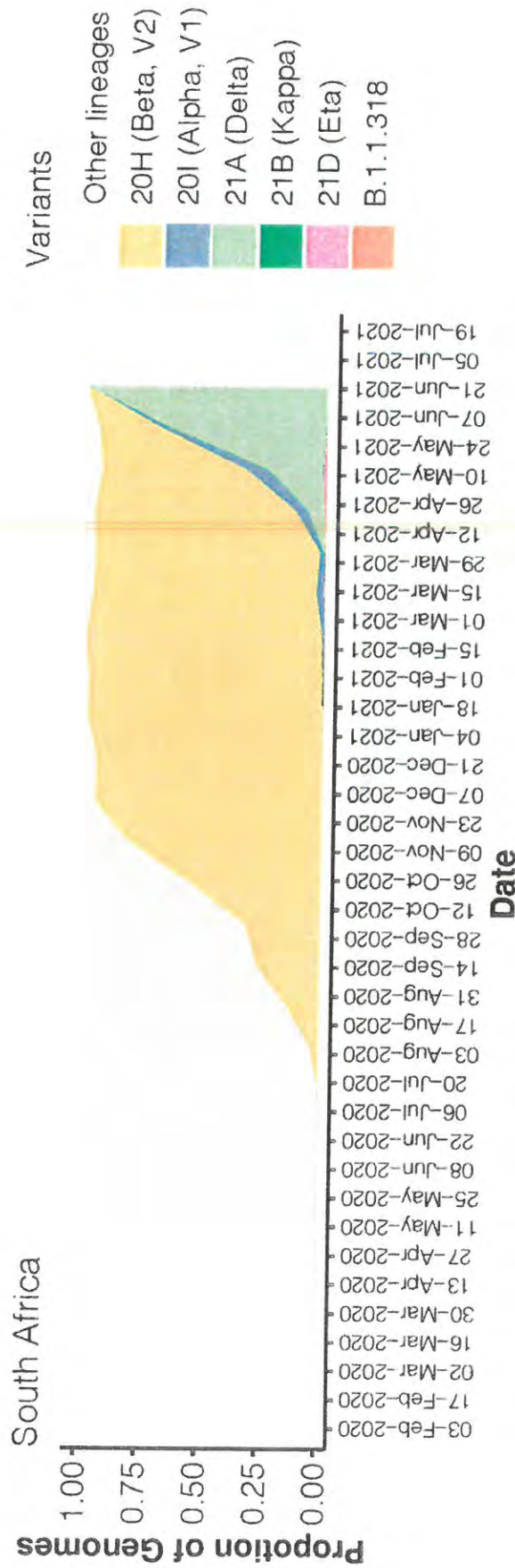
- Geographic scope: Province
- Age groups by province
- Population risk groups
 - Healthcare workers
 - Population with comorbidities
 - Residual population (everybody else)
- COVID-19 infection profile:
 - Asymptomatic/mild/severe infection
- Hospital-level care
- Vaccination

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Delta variant in South Africa



Genomic surveillance data suggests that the Delta variant is rapidly becoming the dominant SARS-CoV-2 variant in South Africa

Preliminary estimates from genomic data and epidemiological studies suggest Delta may be 30-60% more transmissible than other variants of concern, including Beta

T. de Oliveira et al. Update on Delta and other variants in South Africa [30 June 2021]

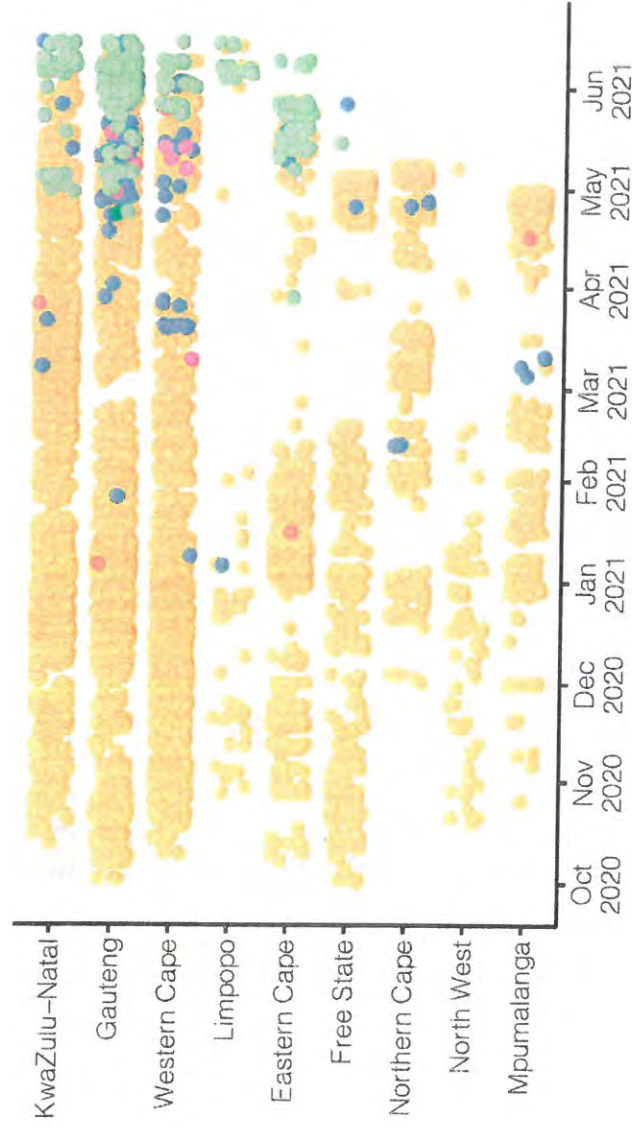


Department of Science and Innovation
REPUBLIC OF SOUTH AFRICA



MDM

Variants by province

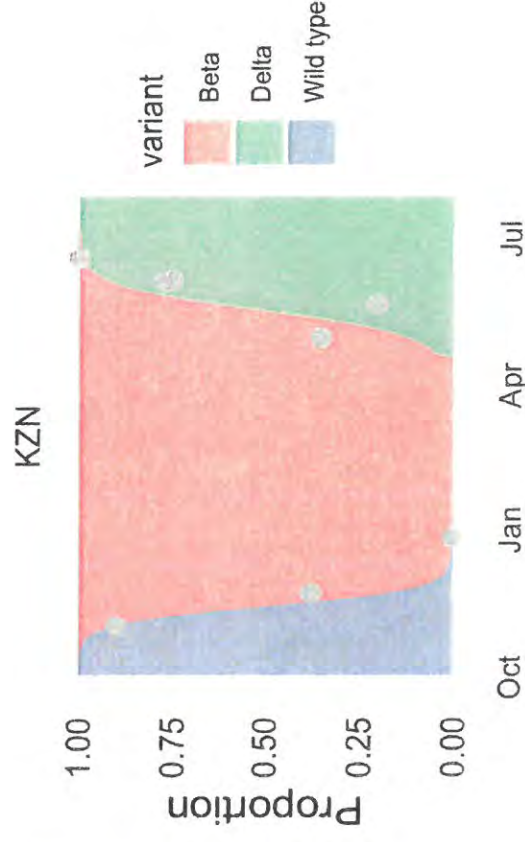


Low sampling in Mpumalanga, Northern Cape, North West and Free State leads to increased uncertainty on the spread of Delta variant in these provinces

T. de Oliveira et al. Update on Delta and other variants in South Africa [30 June 2021]

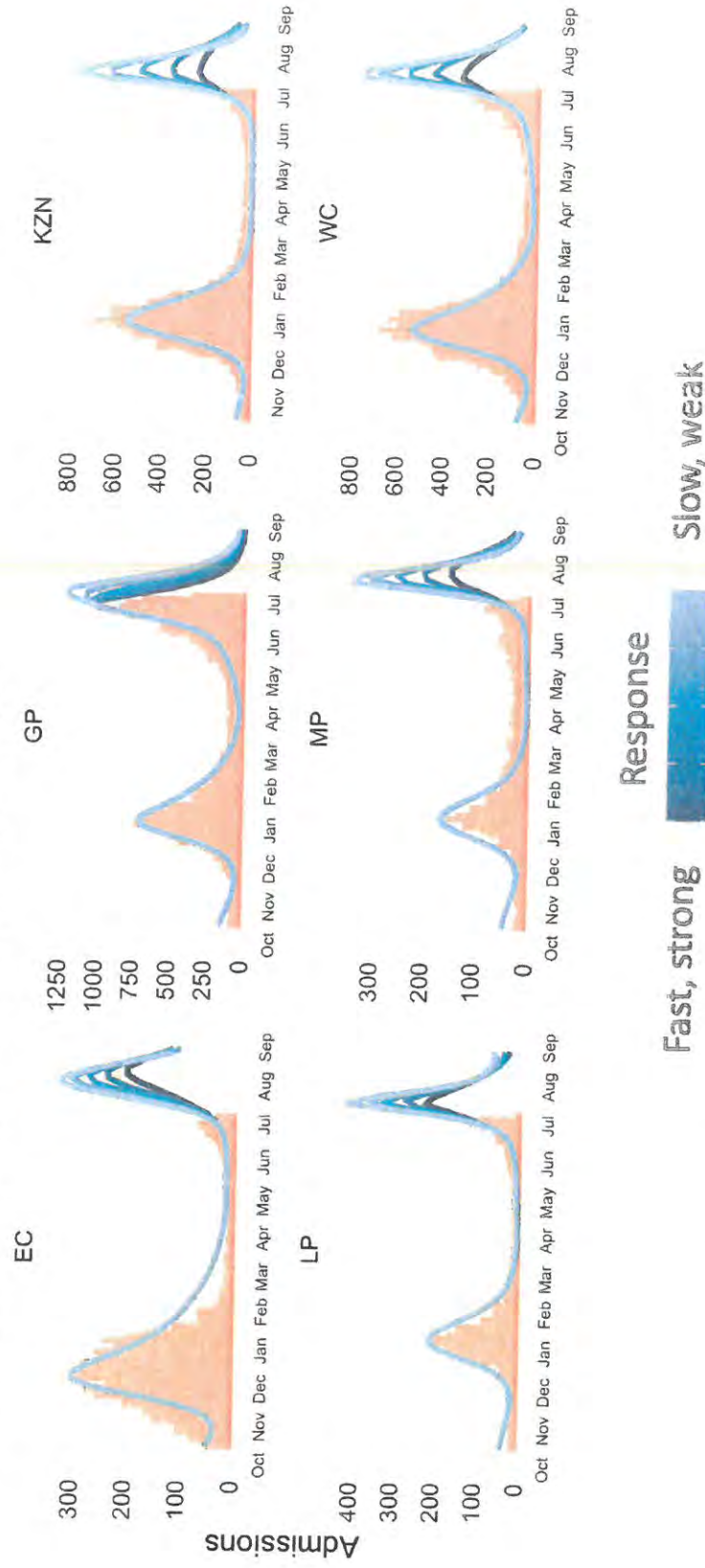
Simulating the third wave

- Increases in cases observed from April
- Model incorporates the following factors driving the third wave:
 - Behaviour change
 - Combination of nationally directed and individual behaviour change
 - Reduced NPI adherence due to fatigue
 - Characterise population behaviour response as:
 - Delta variant spreading rapidly in May/June
- Assess the timing of peaks and impact on severe/critical cases for the remainder of the wave



The Third Wave: Projected Admissions (Province)

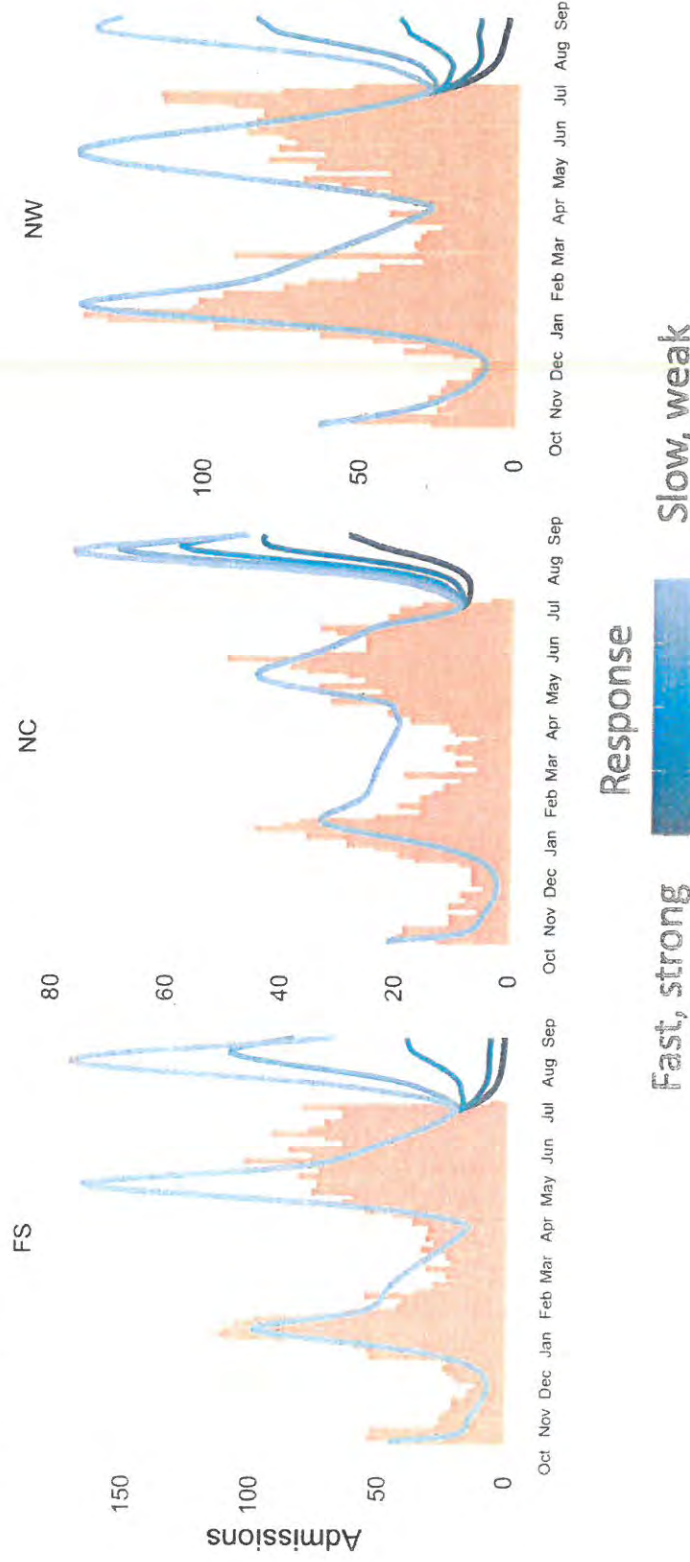
Admissions (Gen + ICU): Second & Third Waves



- Gauteng projected to reach its peak in the next two weeks.
- All scenarios for Limpopo and Mpumalanga project a similar or higher peak in the third wave.
- EC, KZN and WC are projected to experience waves at similar levels compared to the second wave, though some scenarios project third waves substantially higher than the second wave.

The Third Wave: Projected Admissions (Province)

Admissions (Gen + ICU): Second & Third Waves



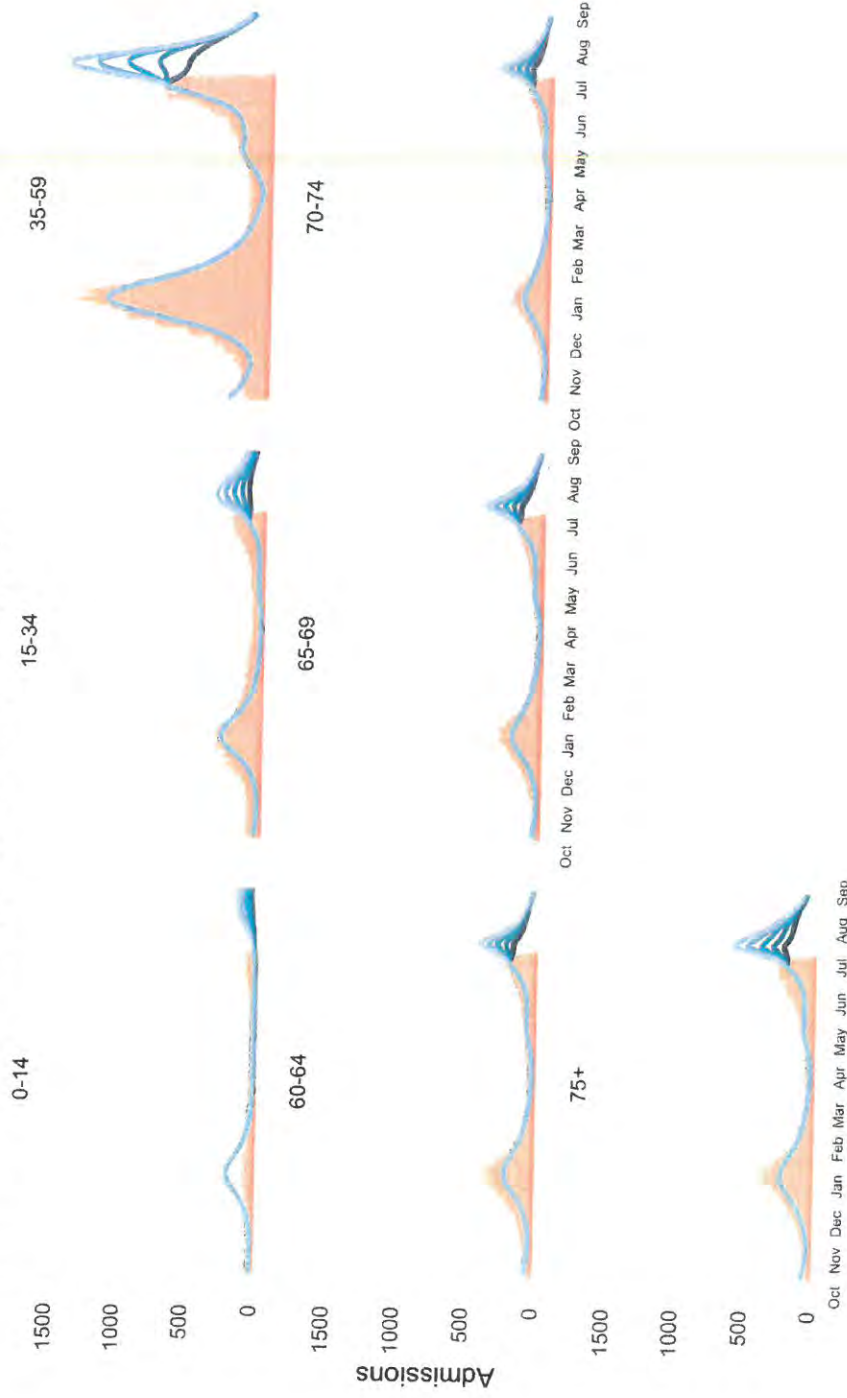
These provinces have recorded increases in cases before the detection of the delta variant.

- UNCERTAINTY in seroprevalence, variant distribution and other underlying data have led to slightly less well-calibrated scenarios for FS, NC and NW
- Projections will be updated with new data.

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The Third Wave: Projected Admissions (Age)

Hospital Admissions by Age: Second & Third Waves



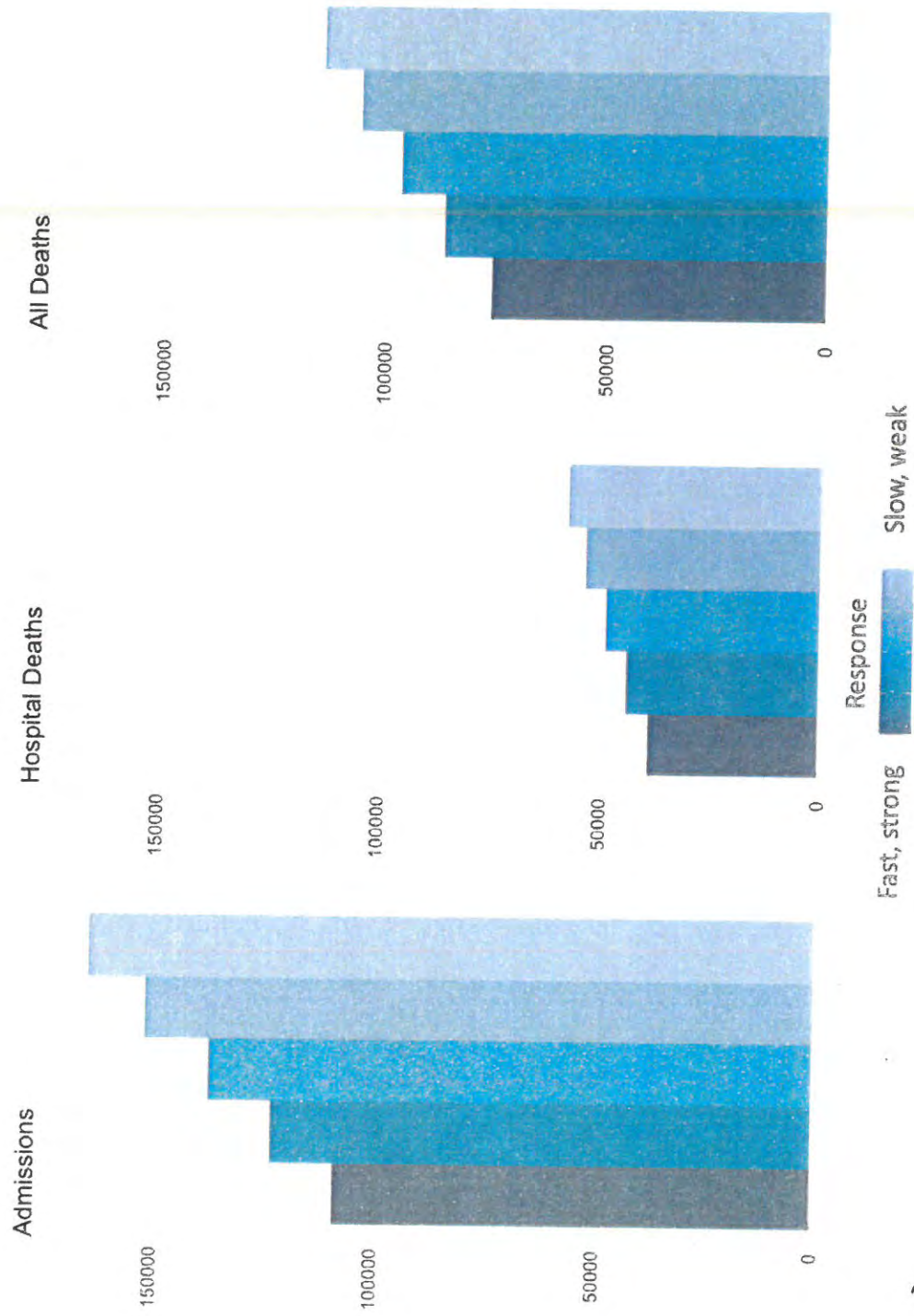
- Minor impact on youngest age group
- 35-59 age group still expected to generate the highest no. of admissions
- Peak admissions in other age groups may be similar to or higher than the 2nd wave.



Fast, strong Response Slow, weak

MIAM

The Third Wave: Quantifying the Impact South Africa



- Wave 1: (Mar-Sep 2020)
 - 100,400 admissions,
 - Hospital deaths: 13,330,
 - Excess deaths $46,900 * 0.85 = 40,000$
- Wave 2: (Oct to Mar 2021)
 - 151,000 admissions,
 - Hospital deaths: 38,400,
 - Excess deaths $104,000 * 0.85 = 88,500$



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Key characteristics of the Third Wave

Given the widespread circulation of the delta variant:

- **Peak 3rd wave incidence is higher than in 2nd wave**
 - 7 day moving average of cases on 3 July 2021 (19,010) surpassed wave 2 peak (18,887)
- **GP admissions are expected to peak within the next two weeks**
- **Cases and admissions are expected to reduce to low levels by September 2021**
- Total admissions are likely to be between that of waves 1 and 2
- In all age groups, some scenarios project hospital admissions to be similar to or higher than levels in the 2nd wave.

Province	Projected peak in admissions
GP	Early - mid July
KZN, LP, MP, WC	Mid July - early August
EC	Early - mid August
FS, NC, NW	to be updated with new genomic data on delta transmission



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Key messages

- The introduction of the delta variant in the model mirrors closely what has been observed in the number of admissions and deaths to date.
- Previous projections (in the absence of a variant) estimated that the peak of the third wave would be smaller than the second wave.
- Accounting for the increased transmissibility of the delta variant, **the model now projects that the peak of third wave will be similar to the second wave in most provinces.**
- The model estimates show an **appreciable impact of vaccinations** to date, emphasizing the need to continue to step up vaccine implementation.



Key messages

- Uncertainty in seroprevalence data and distribution of variants between and within provinces reduces the ability to produce robust projections in some provinces.
- Model projections are preliminary and will be updated rapidly as new data become available.
- Model scenarios depict waves of different sizes in each of the provinces as a result of NPI fatigue. The increased transmissibility of the delta variant places greater importance on **strong NPI adherence** and vigilance.
- Even with continuing NPI fatigue, **rapid vaccination** of the population provides a powerful tool to reduce severe illness and death.



Number of admissions by wave and age

Age group	Wave 1			Wave 2			Wave 3		
	Non-ICU	ICU	Total	Non-ICU	ICU	Total	Non-ICU	ICU	Total
<10	1361	82	1443	2009	72	2081	1087	50	1137
19-Oct	2020	51	2071	1709	57	1766	1105	33	1138
20-29	6359	163	6522	6187	151	6338	2637	119	2756
30-39	13231	587	13818	13623	584	14207	5218	364	5582
40-49	15888	1141	17029	18550	1193	19743	7077	796	7873
50-59	19432	1775	21207	25403	1853	27256	10039	1336	11375
60-69	14819	1499	16318	23716	1609	25325	9352	1161	10513
70-79	8575	784	9359	14858	792	15650	6960	739	7699
80+	5538	396	5934	6930	262	7192	3870	326	4196
Total	87223	6478	93701	112985	6573	119558	47345	4924	52269

140 000

120 000

100 000

80 000

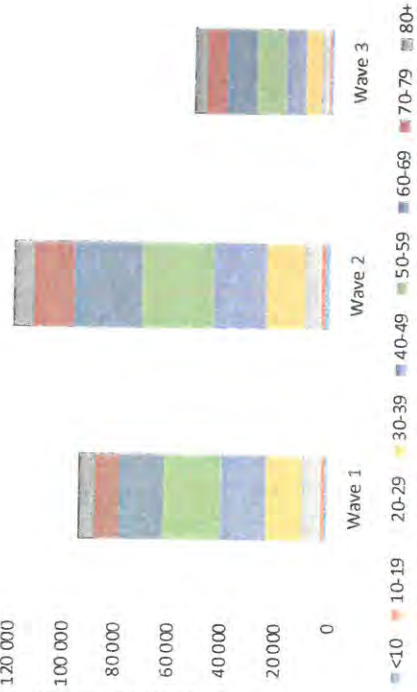
60 000

40 000

20 000

0

Number of admissions



56% and 65% of patients admitted to hospital were between 30 and 60 years old in waves 1 and 2 respectively. Limitations exist in the reporting of hospital admissions during wave 3.

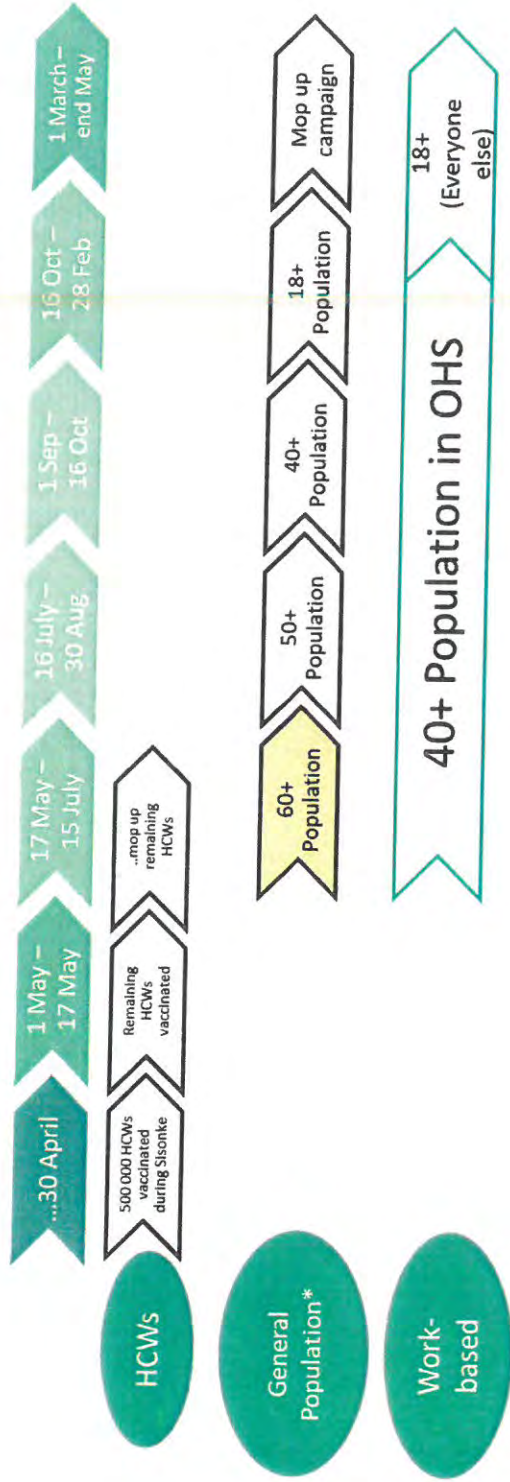


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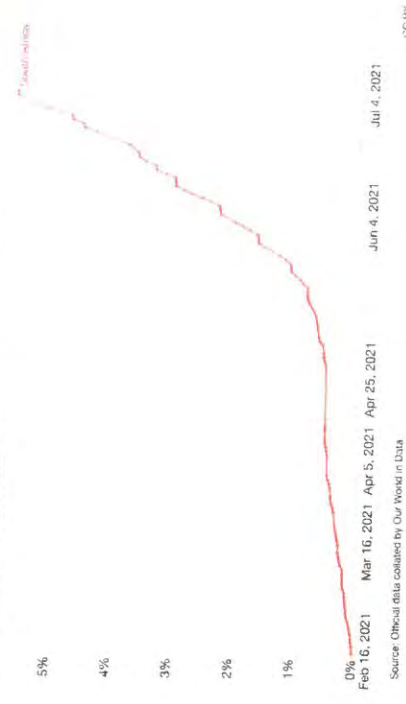
WSPM

Vaccine roll-out in South Africa



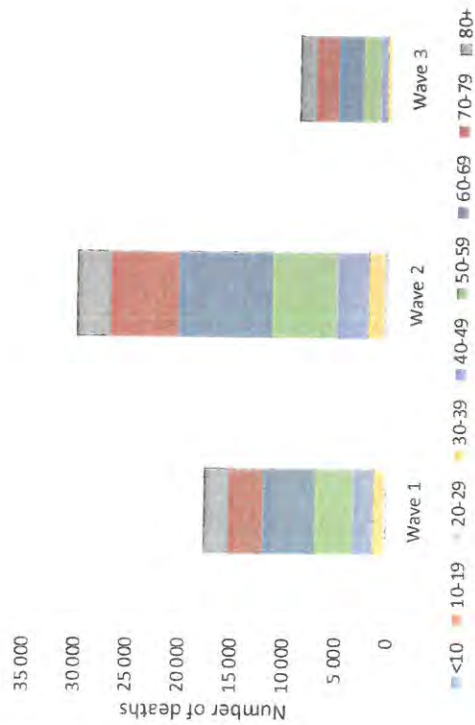
NDOH presentation to Covid MAC
15th April 2021

Our World in Data
Share of people who received at least one dose of COVID-19 vaccine
Share of the total population that received at least one vaccine dose. This may not equal the share that are fully vaccinated if the vaccine requires two doses. This data is only available for countries which report the breakdown of doses administered by first and second doses.



WJAM

Number of deaths in hospital by wave and age



Age group	Wave 1		Wave 2		Wave 3	
	Deaths	Probability of death	Deaths	Probability of death	Deaths	Probability of death
<10	60	4%	74	4%	35	3%
10-19	61	3%	74	4%	20	2%
20-29	266	4%	413	7%	106	4%
30-39	961	7%	1,400	10%	362	6%
40-49	1,934	11%	3,184	16%	756	10%
50-59	3,861	18%	6,294	23%	1,712	31%
60-69	4,850	28%	8,778	44%	2,349	30%
70-79	3,383	36%	6,481	41%	2,215	29%
80+	2,190	37%	3,264	45%	1,461	35%
Total	17,566	19%	29,962	25%	9,016	17%

The risk of death is higher in the 60+ age group in waves 1 and 2 respectively. Deaths may be undercounted during wave 3 owing to current admissions in hospital.

WJAM



SACMC

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**CASE NO:** _____

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

Applicant

and

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS AND OTHERS**

Respondents

CONFIRMATORY AFFIDAVIT

I the undersigned

SHEETHAL PRAKASH SILAL

do hereby make oath and say as follows:

1. I am a statistician and associate professor of Statistical Sciences at the University of Cape Town, where I lead the university's Modelling and Simulation Hub, Africa ("MASHA").
2. In my aforesaid capacity I am also a member of the South African COVID-19 Modelling Consortium ("SACMC"), a group of researchers from academic, non-profit, and government institutions across South Africa, coordinated by the NICD on behalf of the National Department of Health. The mandate of the group is to provide, assess, and validate model projections to be used for planning purposes by the Government of South



Africa.

3. My primary area of research is mathematical modelling of infectious diseases, i.e., the application of mathematical modelling and computer simulation through techniques such as differential equation modelling and agent-based simulation to predict the dynamics and control of infectious diseases to evaluate, among other things, the potential impact of control programmes in reducing morbidity and mortality.
4. I am also a member of the Ministerial Advisory Committee on COVID-19. A copy of my curriculum vitae is annexed hereto, marked "SPS1", and I confirm the contents thereof to be true and correct.
5. The facts that I depose to are true and correct and are within my personal knowledge.
6. On 2 July 2021 Dr Jacqui Miot and I presented oral submissions on behalf of the Ministerial Advisory Committee on COVID-19 before the Inquiry together with a PowerPoint presentation, as appears on the Inquiry's website (<https://www.elections.org.za/freeandfair/LGE2021/oral-submissions>). A copy of this presentation is attached to Dr Miot's confirmatory affidavit marked "JM2". I am the co-author of this presentation.
7. On 9 July 2021, Dr Harry Moultrie and I presented oral submissions before the Inquiry together with a PowerPoint presentation on behalf of the

 L.M.

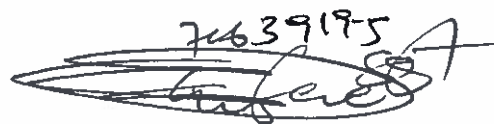
SACMC, as appears on the Inquiry's website (<https://www.elections.org.za/freeandfair/LGE2021/oral-submissions>). I am the co-author of this presentation, a copy of which is annexed to Dr Moultrie's confirmatory affidavit, marked "HM2".

8. I depose to this affidavit to confirm under oath that the contents of annexure "JM1" to Dr Miot's confirmatory affidavit, annexure "HM3" to Dr Moultrie's confirmatory affidavit and the oral submissions which I made before the Inquiry are to the best of my belief true and correct and have been fairly and accurately summarised in the Inquiry's Report.



PROF SHEETHAL P SILAL

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of her knowledge both true and correct. This affidavit was signed and sworn to before me at Pinehills on this the 3 day of **August 2021**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

COMMISSIONER OF OATHS

Full names: Luvu nfele

Address: Taswants drive

Capacity: Sergeant

"SPS1"

PROF SHEETAL PRAKASH SILAL, PhD

Department of Statistical Sciences, Faculty of Science, University of Cape Town, Rondebosch, Cape Town 7700 South Africa.

+27216505321(W), +27837881085 (M), Sheetal.Silal@uct.ac.za

www.masha.uct.ac.za

LANGUAGES

English (native), Hindi (intermediate skills), isiZulu (basic skills)

ACADEMIC POSITIONS

Associate Professor, Dept. of Statistical Sciences, University of Cape Town	2021 - present
Senior Lecturer, Dept. of Statistical Sciences, University of Cape Town	2017-2020
Head of Modelling & Simulation Hub, Africa (MASHA), University of Cape Town	2017-present
Honorary Visiting Research Fellow in Tropical Disease Modelling Nuffield Dept of Medicine, University of Oxford	2017-present
Research Associate, DST-NRF Centre of Excellence in Epidemiological Modelling and Analysis, Stellenbosch University	2018
Lecturer, Dept. of Statistical Sciences, University of Cape Town	2010-2016
Junior Research Fellow, Health Economics Unit, University of Cape Town	2007-2010

QUALIFICATIONS

PhD	Mathematical Modelling of Disease	University of Cape Town	2014
MSc	Operational Research	University of Cape Town	2009
B.BusSci	Quantitative Finance	University of Cape Town	2006

EXPERTISE

Mathematical disease modelling, evidence-based vaccination modelling, epidemiological-economic modelling, simulation, operational research, statistics

ADVISORY BODIES/CONSORTIUMS

South African National Advisory Group on Immunization: Pertussis Working Group
 South African Malaria Elimination Committee
 South African National COVID-19 Modelling Consortium
 South African Ministerial Advisory Committee for COVID-19
 South African Ministerial Advisory Committee for COVID-19 on Vaccines: Cost Effectiveness Working Group
 BMGF Malaria Modelling Consortium
 COVID-19 International Modelling (CoMo) Consortium (Oxford University)
 Global Health Strategy Group: Pandemic Lessons and Future Preparedness Group (Oxford University)
 International Scientific Advisor: Laboratory of Modelling in Infectious Diseases and Applied Sciences (LOMIDAS)
 Advisor: Afrikan Research Initiative COVID-19 Modelling in Africa Project

PROJECT GRANTS/FELLOWSHIPS/AWARDS

2021: CDC Modelling DTP Vaccination in LMIC Grant
 2021: Forbes Africa List: Women in Science
 2021: CHAI Syphilis Modelling in South Africa Grant
 2021: National Science Technology Forum: Finalist: Emerging Researcher (awards pending)
 2020: Operations Research Society of South Africa Category II Recognition Award
 2020: CHAI COVID-19 Award: Spatial modelling in South Africa
 2019: Human P2P Monitoring and Evaluation Grant
 2019: Oxford Springboard Funding
 2018: Wellcome Trust Innovator's Award: Malaria modelling in Africa (extended to COVID-19)
 2017: SANOFI: Pertussis Vaccinology in South Africa



2017: Honorary Visiting Research Fellowship, Oxford University
 2017 Operations Research Society of South Africa Category IV Recognition Award
 2016 Operations Research Society of South Africa Tom Rozwadowski Medal
 2015 University of Cape Town Teaching Merit Award
 2011-2017: National Research Foundation Thuthuka Grant

COUNTRIES SUPPORTED (SOME ONGOING) IN DISEASE MODELLING RESEARCH

2016 - 2021: Disease modelling research has been completed/is ongoing in the following countries: Brazil, Cameroon, French Guiana, Ghana, Guyana, Laos, Mozambique, Namibia, Nigeria, Papua New Guinea, Solomon Islands, South Africa, Suriname, Timor Leste, Vanuatu, Venezuela, Zimbabwe and the 22 countries of the Asia-Pacific. Capacity building of national disease modellers has been completed/is ongoing in the following countries: Brazil, Cameroon, Eswatini, Ghana, Kenya, Nigeria, South Africa, Tanzania, United Kingdom, United States and Zimbabwe.

OTHER

PhD students in training:	6	MSc students:	8 (4 in training)
Honours students:	10	H-index	13
Scientific Review Committees:	5	Publications:	27 (Citations: 671)

SELECTION: ONGOING AND COMPLETED COLLABORATIONS: (since 2015)

1. Modelling Diphtheria – Tetanus – Pertussis vaccination in LMIC (2021)

A dynamic multi-disease model of diphtheria, tetanus and pertussis transmission and vaccination is being developed to test the impact of booster vaccine doses in older age groups. The model will be piloted with data from Uganda, with the goal to be developed into a tool to be made available to LMIC. Funder: US Center for Disease Control [Principal Investigator] (USD 156,000)

2. Modelling the impact of increased testing of Syphilis in South Africa (2021)

A dynamic model of syphilis transmission is being developed to test the impact of scaling up testing of syphilis in South Africa, specifically targeting populations attending antenatal care and men's health services. MASHA will develop the model and an accompanying secure application for users of this modelling tool. Funder: Clinton Health Access Initiative [Principal Investigator] (ZAR 350,000)

3. Developing a district level model for the spread of COVID-19 in South Africa (2020)

A jointly developed COVID-19 model is the current model being used to provide projections at the national and provincial levels. MASHA will extend this model spatially to the district level and include stratification by age in 10-year bands. MASHA will build a secure, online dashboard to disseminate model projections. Funder: Clinton Health Access Initiative [Principal Investigator] (ZAR 1.75 million)

4. Supporting decision-making for COVID-19 in South Africa (2020)

The disease models developed jointly by the Modelling and Simulation Hub, Africa (MASHA) and are already in use by the National government of South Africa to support decision-making on the COVID-19 epidemic. As a member of the South African COVID-19 Modelling Consortium, a group of experts convened to provide technical support to decision makers tackling the COVID-19 epidemic in South Africa, MASHA is well placed to conduct relevant, impactful research on epidemic modelling.

5. Supporting decision-making for COVID-19 in Mozambique (2020)

Through the COVID-19 International Modelling (CoMo) Consortium (Oxford University), I am the senior modeller advising Oxford COVID-19 modelling in Mozambique. The Consortium is working

with partners in the National Ministry to use mathematical modelling to support key decisions that need to be made in their COVID-19 epidemic. [Principal Investigator]

6. Supporting decision-making for COVID-19 in Namibia (2020)

I am currently engaged with health officials in Namibia to advise on COVID-19 modelling conducted for the country.

7. Developing model applications to support national malaria elimination strategy design and COVID-19 decision-making (2019-2021)

The project aims to develop computer-based model applications that can be used to predict the impact of malaria policy on a population of interest to aid the design of effective malaria policies. These tools will be made available to the National Malaria Control Programmes of South Africa, Namibia, Ghana and Cameroon. The project has since been extended to include COVID-19 modelling support. [Principal Investigator] Funder: Wellcome Trust: Research Innovation Award (ZAR 9.75 million)

8. ENDGAME: Enhanced modelling for NMCP Decision-making in the GMS to Accelerate Malaria Elimination (2019-2021)

This project seeks to support country-led elimination efforts by filling key gaps in technical assistance for national malaria control programmes (NMCPs) with mathematical modelling and outbreak analysis. I am supporting this study through the Mahidol Oxford Tropical Medicine Research Unit where my focus is to produce a set of mathematical models for malaria elimination in countries in the GMS. Funder: Bill & Melinda Gates Foundation

9. Effect of vaccination strategy on the burden of pertussis in South Africa: A modelling proposal (2017- 2020)

This study aimed to use mathematical modelling to predict the epidemiological and economic impact of different vaccination strategies to reduce the burden of pertussis in South Africa. This is a collaboration with Vaccines For Africa Initiative (VACFA) based at the University of Cape Town. The purpose of the project is to consider the epidemiological and economic impact of introducing booster doses at ages 4-6 and 9-12 and maternal vaccination. [Co-Investigator] Funder: Sanofi S.A. (ZAR 1.5 million]

10. Evidence-Based Vaccinology: Is there Evidence to Introduce Routine Hepatitis A Vaccination in South Africa? (2018- 2020)

PhD Supervisor: This study aims to generate evidence for decision making on whether a routine vaccination program against HAV should be introduced into the South African Expanded Program on Immunisations. I am providing mathematical modelling support. Funder: DST-NRF Centre for Epidemiological Modelling and Analysis

11. Investment Case for the elimination of malaria in the Guyana Shield (2020)

An investment case was commissioned by the Global Fund to determine and mobilise resources to fill the funding gap required to achieve malaria elimination in the Guyana Shield (Brazil, French Guiana, Guyana, Suriname and Venezuela). MASHA, in collaboration with the Malaria Elimination Initiative, University of California, San Francisco, will conduct the mathematical modelling to project the path to and cost of malaria elimination in the region. Funder: The Global Fund to fight AIDS, Tuberculosis and Malaria

12. Technical, operational, and financial feasibility of malaria elimination in Papua New Guinea, Solomon Islands, Timor-Leste, and Vanuatu (2019)

The project for the Global Fund comprised a national level health system and financing analysis, undertaken by the World Health Organization (WHO) Regional Office for the Western Pacific (WPRO)

in partnership with the Nossal Institute for Global Health at the University of Melbourne; and scenario-based modelling of elimination feasibility and resource requirements at national level, coupled with sub-national level operational feasibility assessments by the MASHA in collaboration with the Malaria Elimination Initiative (MEI) at the University of California San Francisco (UCSF). Funder: Malaria Elimination Initiative, University of California, San Francisco.

13. Investment Case for the elimination of malaria in South Africa (2018)

An investment case was commissioned by the South African National Department of Health to determine and mobilise resources to fill the funding gap required to achieve malaria elimination. I provided mathematical modelling support to project the path to and cost of malaria elimination. The recommendations of this study were used to secure additional domestic resources (ZAR 319 million) to fund malaria elimination in South Africa over the next two years. Funder: Malaria Elimination Initiative, University of California, San Francisco.

14. Support to Global Fund on Application of Disease Transmission Models & Costing Tools (2018 – 2020)

Preferred suppliers to the Global Fund to provide technical, modelling and economic support to National Malaria Control Programmes. Funder: The Global Fund to fight AIDS, Tuberculosis and Malaria

15. METCAP: Malaria Elimination Transmission and Costing in the Asia-Pacific (2016-2017)

The University of California San Francisco's Global Health Group's Malaria Elimination Initiative launched a comprehensive program of work "To increase and expand the amount of sustainable financing in support of achieving a malaria-free Asia Pacific by 2030". I supported the project through the development of a mathematical model and user interface to project the rates of decline to elimination by 2030 and determine the costs for and maintaining malaria elimination in the Asia Pacific region. Funder: Asian Development Bank

16. Economic-epidemiological models to support malaria elimination in the Greater Mekong Sub-Region (2016-2018)

Achieving malaria elimination by 2030 involves large-scale efforts by National Malaria Control Programmes (NMCP) and mathematical modelling is a tool that can be used to support the NMCPs in their efforts. In this project, mathematical modelling is conducted to serve the individual needs of NMCPs through the modelling of elimination-focused interventions at a national and subnational level. I am supporting this collaboration through the Mahidol Oxford Tropical Medicine Research Unit where my focus is to produce a mathematical model for malaria elimination in Cambodia. Funder: Bill & Melinda Gates Foundation

PUBLICATIONS

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2. Jo, Y., Jamieson, L., Edoaka, I., Long, L., **Silal, SP.**, Pulliam, JRC., Moultrie, H., Sanne, I., Meyer-Rath, G., Nichols, B.E. Cost-effectiveness of remdesivir and dexamethasone for COVID-19 treatment in South Africa. (2021). *Open Forum Infectious Diseases*. Volume 8. Issue 3. <https://doi.org/10.1093/ofid/ofab040>

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4. **Silal, S.P.**, 2020. Operational research: a multidisciplinary approach for the management of infectious disease in a global context. *European Journal of Operational Research*. <https://doi.org/10.1016/j.ejor.2020.07.037>
5. Kuodi P., Patterson J., **Silal SP.**, Hussey GD & Kagina B. (2020) Characterization of the environmental presence of hepatitis A virus in Low and Middle-Income Countries: A systematic review and meta-analysis. *BMJ Open*. 10 (9), e036407
6. Nichols, B. E., Jamieson, L., Zhang, S., Rao, G. A., **Silal, S.**, Pulliam, J., Sanne, I., & Meyer-Rath, G. (2020). The role of remdesivir in South Africa: preventing COVID-19 deaths through increasing ICU capacity. *Clinical infectious diseases : an official publication of the Infectious Diseases Society of America*, ciae937. Advance online publication. <https://doi.org/10.1093/cid/ciae937>
7. Patterson, J., Hussey, H.S., **Silal, S.**, Goddard, L., Setshedi, M., Spearman, W., Hussey, G.D., Kagina, B.M. and Muloiwa, R., 2020. Systematic review of the global epidemiology of viral-induced acute liver failure. *BMJ open*, 10(7), p.e037473.
8. Shretta, R., **Silal, S.P.**, Malm, K., Mohammed, W., Narh, J., Piccinini, D., Bertram, K., Rockwood, J. and Lynch, M., 2020. Estimating the risk of declining funding for malaria in Ghana: the case for continued investment in the malaria response. *Malaria Journal*, 19(1), pp.1-15.
9. Patterson J, Hussey HS, Abdullahi LH, **Silal S**, Goddard L, Setshedi M, Spearman W, Hussey GD, Kagina B, Muloiwa R. The global epidemiology of viral-induced acute liver failure: a systematic review protocol. *BMJ Open*. 2019 Aug 30;9(8):e029819. doi: 10.1136/bmjopen-2019-029819. PMID: 31473618; PMCID: PMC6720318.
10. Shretta R, **Silal S**, White LJ and Maude RJ. (2019) *Predicting the cost of malaria elimination in the Asia-Pacific*. Wellcome Open Research, 4:73
11. **Silal, S. P.**, Shretta, R., Celhay, O. J., Mercado, C. E. G., Saralamba, S., Maude, R. J., & White, L. J. (2019). *Malaria elimination transmission and costing in the Asia-Pacific: a multi-species dynamic transmission model*. Wellcome Open Research, 4.
12. Shretta, R., **Silal, S. P.**, Celhay, O. J., Mercado, C. E. G., Kyaw, S. S., Avancena, A., Fox, K., Zelman, B., Baral, R., White, L.J. & Maude, R. J. (2019). *Malaria elimination transmission and costing in the Asia-Pacific: Developing an investment case*. Wellcome Open Research, 4.
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16. Slater, H.C., Ross, A., Ouédraogo, A.L., White, L.J., Nguon, C., Walker, P.G., Ngor, P., Aguas, R., **Silal, S.P.**, Dondorp, A.M. and La Barre, P., 2015. Assessing the impact of next-generation rapid diagnostic tests on *Plasmodium falciparum* malaria elimination strategies. ***Nature*, 528(7580), pp.S94-S101. (Impact factor 42.35)**

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19. **Silal, S.P.**, Little, F., Barnes, K.I., & White, L.J. (2015) Sensitivity to model structure: a comparison of compartmental models in epidemiology. *Health Systems* doi:10.1057/hs.2015.2
20. **Silal, S.P.**, Little, F., Barnes, K.I., & White, L.J. (2014) Towards malaria elimination in Mpumalanga, South Africa: a population-level mathematical modelling approach. *Malaria Journal*, 13(1), 297. (Impact factor: 3.49)
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24. Cleary, S., Birch, S., Chimbindi, N., **Silal, S.**, & McIntyre, D. (2013). Investigating the affordability of key health services in South Africa. *Social science & Medicine*, 80, 37-46. (Impact factor: 2.558)
25. Moshabela, M., Schneider, H., **Silal, S.P.**, & Cleary, S.M. (2012). Factors associated with patterns of plural healthcare utilization among patients taking antiretroviral therapy in rural and urban South Africa: a cross-sectional study. *BMC health services research*, 12(1), 182. (Impact factor: 1.66)
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TECHNICAL REPORTS

1. **Silal S.P.**, Pulliam J., Meyer-Rath G., Nichols, B., Jamieson Lise., Moultrie H. (2020) *COVID-19 modelling update: Considerations for the third wave, including the impact of the delta variant of concern (July 2021)*. National Institute for Communicable Diseases. Published on 14 July 2021 at: <https://www.nicd.ac.za/wp-content/uploads/2021/07/SACMC-Third-wave-report-inlcuding-Delta-variant.pdf>
2. **Silal S.P.**, Pulliam J., Meyer-Rath G., Nichols, B., Jamieson Lise., Moultrie H. (2020) *COVID-19 modelling update: Considerations for a potential third wave*. National Institute for Communicable Diseases. Published on 29 April 2021 at: <https://www.nicd.ac.za/wp-content/uploads/2021/05/SACMC-Third-wave-report-290421.pdf>

3. **Silal S.**, Moses M., Franco C., Celhay O., Fox K., Love E. (2021). An investment case to accelerate malaria elimination in the Guyana Shield. San Francisco: The Global Health Group, University of California, San Francisco.
4. **Silal S.P.**, Pulliam J., Meyer-Rath G., Nichols, B., Jamieson Lise., Moultrie H. (2020) *Estimating cases for COVID-19 in South Africa: Assessment of alternate scenarios*. National Institute for Communicable Diseases. Published on 5 September 2020 at: https://www.nicd.ac.za/wp-content/uploads/2020/11/SACovidModellingReport_LongTermProjections_050920_final.pdf
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6. **Silal S.P.**, Pulliam J., Meyer-Rath G., Nichols, B., Jamieson Lise., Moultrie H. (2020) *Estimating cases for COVID-19 in South Africa: Long term projections*. National Institute for Communicable Diseases. Published on 19 May 2020 at: https://www.nicd.ac.za/wp-content/uploads/2020/05/SACovidModellingReport_NationalLongTermProjections_Final-1.pdf
7. **Silal S.P.**, Pulliam J., Meyer-Rath G., Nichols, B., Jamieson Lise., Moultrie H. (2020) *Estimating cases for COVID-19 in South Africa: Long term Provincial projections*. National Institute for Communicable Diseases. Published on 19 May 2020 at: https://www.nicd.ac.za/wp-content/uploads/2020/05/SACovidModellingReport_ProvincialLongTermProjections_Final.pdf
8. Nketiah-Amponsah, E., **Silal, S.P.**, Awine, T; (2020) Cost-Benefit Analysis of selected Malaria Interventions in South Africa. Ghana Priorities, Copenhagen Consensus Center, License: Creative Commons Attribution CC BY 4.0. Available at: https://www.copenhagenconsensus.com/sites/default/files/gp_malaria_-_final.pdf
9. Shretta, R., **Silal, S.**, Celhay, O., Mercado, C., Kyaw, S.S., Avancena, A.L.V., Fox, K., Zelman, B. Baral, R., White, L., Maude, R. (2017). Investing in Malaria Elimination in the Asia Pacific Region. The Global Health Group, University of California, San Francisco. Available at: http://www.shrinkingthemalariamap.org/sites/www.shrinkingthemalariamap.org/files/content/page/an-investment-case-for-eliminating-malaria-in-asia-pacific_web-ready-report.pdf
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12. Avanceña, A.L.V., Parr, W., Makita, L., Escobar, K., Baral, R., Celhay, O., Mercado, C., Kyaw, S.S., **Silal, S.**, Maude, R., White, L., Shretta, R. (2017) An investment case for eliminating malaria in Papua New Guinea. The Global Health Group, University of California, San Francisco. Available at: http://www.shrinkingthemalariamap.org/sites/www.shrinkingthemalariamap.org/files/content/page/an-investment-case-for-malaria-elimination-in-png_web-ready-report.pdf
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<http://www.shrinkingthemalariamap.org/sites/www.shrinkingthemalariamap.org/files/content/page/an-investment-case-for-eliminating-malaria-in-bangladesh.pdf>

ARTICLES IN POPULAR MEDIA

1. Silal, S.P., Meyer-Rath, G., Pulliam, J.R.C., & Moultrie, H., (3 September 2020) Uncertainty governs Covid-19 projections, so multidisciplinary research is vital. Available at: <https://www.businesslive.co.za/bd/opinion/2020-09-03-uncertainty-governs-covid-19-projections-so-multidisciplinary-research-is-vital/>
2. Meyer-Rath, G., Silal, S.P., Pulliam, J.R.C., & Moultrie, H., (24 July 2020) The SA Covid-19 Modelling team | Modelling a pandemic on scarce data and unknowns. Available at: <https://www.news24.com/news24/columnists/guestcolumn/the-sa-covid-19-modelling-team-modelling-a-pandemic-on-scarce-data-and-unknowns-20200723>
3. Pulliam, J.R.C., Silal, S.P., Meyer-Rath, G., & Moultrie, H., (22 May 2020) Behind the numbers: Modelling the spread of Covid-19 in South Africa. Available at: <https://www.news24.com/news24/Analysis/analysis-behind-the-numbers-modelling-the-spread-of-covid-19-in-south-africa-20200521>

MEDIA BRIEFINGS HELD AND A SELECTION OF SUBSEQUENT WRITTEN MEDIA COVERAGE:

- Press conference: The Launch of the South African COVID-19 Modelling Consortium (SACMC) dashboard. National Institute of Communicable Diseases [15 Dec 2020]
- Press conference: Model Projections for COVID-19 from the South African Modelling Consortium. National Dept of Health [18 May 2020]
- Press conference: Model Projections for COVID-19 from a series of modelling groups. National Dept of Health [21 May 2020]

Many articles have subsequently been written quoting myself and my research. The following are a selection of articles:

1. SA researchers unveil national Covid-19 dashboard [19 Jan 2021]
<https://www.iol.co.za/capeargus/news/sa-researchers-unveil-national-covid-19-dashboard-777661bb-a0e6-4c8b-9872-f210d95e9d1f>
2. New tool launched to track Covid-19 [15 Dec 2020]
<https://www.jacarandafm.com/news/news/new-tool-launched-track-covid-19/>
3. Covid-19 is still here, scientists to release revised modelling projections in coming weeks [14 Sep 2020]
<https://www.iol.co.za/news/politics/covid-19-is-still-here-scientists-to-release-revised-modelling-projections-in-coming-weeks-e3c126a3-604d-48d5-b435-077779f49702>
4. South Africa might be past its peak, but a world of uncertainty awaits [20 August 2020]
<https://www.dispatchlive.co.za/news/2020-08-20-south-africa-might-be-past-its-peak-but-a-world-of-uncertainty-awaits/>
5. Who are the experts behind SA's grim Covid-19 projections? [20 May 2020]

<https://www.news24.com/news24/Analysis/explainer-who-are-the-experts-behind-sas-grim-covid-19-projections-20200520>

6. More than 40,000 deaths predicted: behind SA's Covid-19 models [20 May 2020]
<https://www.businesslive.co.za/fm/features/2020-05-20-more-than-40000-deaths-predicted-behind-sas-covid-19-models/>
7. Grim Covid-19 projections for SA: 40 000 deaths, 1 million infections and a dire shortage of ICU beds [19 May 2020]
<https://www.news24.com/news24/southafrica/news/grim-covid-19-projections-for-sa-40-000-deaths-1-million-infections-and-a-dire-shortage-of-icu-beds-20200519>

Additional media is available at http://www.masha.uct.ac.za/masha/masha_media

TELEVISION INTERVIEWS

1. Third wave of infections looming [13 April 2021] eNCA.
<https://www.youtube.com/watch?v=8P0bCajSSS4&t=69s>
2. The SA COVID-19 Modelling Consortium have launched a new tool that assesses the COVID-19 risk level [16 Dec 2020] Newzroom Afrika
<https://www.youtube.com/watch?v=Fuazligltac&t=6s>
3. New projections estimate that the coronavirus could claim up to 40 000 lives this year [21 May 2020] Newzroom Afrika
<https://www.youtube.com/watch?v=OZoTRLU0c6w>
4. New infection model paints dire picture [20 May 2020] eNCA
<https://www.youtube.com/watch?v=Bqmw35uqO3c&t=129s>
5. Tech Report DSTV 404 ENCA, Nov 2019

RADIO INTERVIEWS

1. Radio 702: Clement Manyathela Show [14 September 2020]
<https://lifepodcasts.fm/podcasts/125-the-best-of-the-eusebius-mckaiser-show/episode/360381-reflecting-on-the-effectiveness-of-the-covid19-modeling>
2. Lotus FM: Breakfast Show [26 May 2020]
https://www.facebook.com/permalink.php?id=599964596688160&story_fbid=4173378009346783
3. Radio 702: Eusebius Mckaiser Show [20 May 2020]
<https://www.702.co.za/podcasts/125/the-best-of-the-eusebius-mckaiser-show/320833/how-was-the-model-built-and-what-assumptions-were-made-that-led-to-projections-of-40-000-covid-19-deaths-by-november>

PUBLIC LECTURES/SCIENCE ENGAGEMENTS

1. NSTF Preparing for Epidemics in South Africa-human and animal Research Symposium. "Uncertain Outcomes - Evidence-based mathematical modelling in a time of COVID-19" [25 February 2021] <https://www.youtube.com/watch?v=7GRtJSMV6dl>

2. Bill and Melinda Gates Foundation Grand Challenges Meeting: panel discussion focused on “The Next Generation of Epidemiology and Modeling: Lessons from COVID-19 [19 October 2020]
3. MRC Centre for Global Infectious Disease Analysis, Imperial College London: Public Webinar Series Day 2 – [08-09-2020] - Insights into COVID-19 modelling & evidence-based policy making https://www.youtube.com/watch?v=mGdhibi29_Y&t=0s
4. WHO COVID-19 Modelling Group “The known, the unknown and the unknowable: Adaptive Disease Modelling to aid COVID-19 decision making in South Africa” [10 April 2020]
5. World Economic Forum’s (WEF) Annual Meeting of New Champions in China: Represented my university at WEF presenting on innovations in mathematical modelling for infectious diseases [1 July 2018] <https://www.youtube.com/watch?v=74QaKjrjkg&t=37s>
6. Famelab SA: placing runner-up in the 2017 South African Famelab event; the world’s biggest science communication competition.

PLENARY/INVITED CONFERENCE PRESENTATIONS (since 2015)

1. World Economic Forum’s Annual Meeting of New Champions, July 2019, Dalian, China
2. European Conference on Operational Research, June 2019, Dublin, Ireland
3. Models in Population Dynamics and Ecology Conference, September 2017, Cape Town, South Africa
4. South African Statistical Association Conference, November 2017, Bloemfontein, South Africa
5. Operational Research Practice in Africa Conference, April 2015, Algiers, Algeria

RESEARCH SERVICES

Associate Editor: Healthcare Management Science (2020->)

Regular Reviewer: PLOS ONE, Nature, The Lancet, The Lancet: Global Health, Malaria Journal (selection)

Editor: Proceedings of the 62nd Annual Conference of the South African Statistical Association (2021)

BIOGRAPHIC DETAILS

ORCID ID:	0000-0002-3007-5383
H-Index (Scopus)	10
Google Scholar Profile:	https://scholar.google.com/citations?user=sL26mSI1AAAAJ&hl=en
University of Cape Town:	http://www.stats.uct.ac.za/stats/people/academic/silal
Oxford University:	https://www.tropicalmedicine.ox.ac.uk/team/sheetal-silal https://www.research.ox.ac.uk/Researchers/sheetal-silal
World Economic Forum:	https://www.weforum.org/agenda/2020/06/a-leading-infectious-disease-modeller-answers-our-questions/
Forbes Africa:	https://www.forbesafrica.com/daily-cover-story/2021/03/08/africa-reloaded-the-power-of-the-collective-in-science-and-health/



MINISTRY
COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS
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Chairperson: Electoral Commission
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0157

Email: kelembem@elections.org.za; munyais@elections.org.za

Dear Mr Mashinini

LOCAL GOVERNMENT ELECTIONS: EXTENSION OF TERM OF MUNICIPAL COUNCILS

1. I refer to your letter dated 29 July 2021 and to our recent discussions.
2. I am aware that the Independent Electoral Commission ("IEC") is in the process of preparing an application to the Constitutional Court. I understand that the IEC will be seeking an order that the local government elections be held no later than the end of February 2022. Although I do not yet have the full details of the exact relief that the IEC will be seeking from the Constitutional Court, I have been advised that the IEC's application is not dependent upon me first proclaiming a date in October 2021 as the date on which the local government elections will be held.
3. I have been advised further that the IEC intends to launch the application around 4 August 2021 and that I shall be cited as a respondent.
4. As previously indicated, my intention is to cooperate with the IEC to ensure that the local government elections are held in line with the Constitution and the applicable legislation. This means also that the elections must be free and fair.

5. As you correctly point out in your letter, I have been advised that I do not have any powers under the Constitution and the applicable legislation, and in the absence of a court order, to:
- a. delay the timeous proclamation of the local government elections so that they may be held in October 2021 as required by the Constitution and the applicable legislation; or
 - b. postpone such elections until February 2022.
6. However, if the Constitutional Court authorises that the elections may be held in February 2022, I shall comply with the terms of the Court order in the light of the Constitution and the applicable legislation. At no time have I given the IEC or any person any contrary impression, i.e. that I shall not comply with the terms of any court order authorising or directing that the local government elections shall be held in February 2022. I do not believe that any written undertaking is reasonably required from me in this regard. I consider that both the IEC and I have to fulfil our constitutional and statutory obligations in relation to the local government elections.
7. Once I receive the IEC application to the Constitutional Court I shall take legal advice. Depending on the advice received, I shall most probably place such facts as are necessary before the Constitutional Court in relation to my understanding of my constitutional and statutory obligations. As I have done so far, I shall not be adopting an adversarial approach to the IEC.
8. Please feel free to call me if there is anything to discuss in relation to this letter or the local government elections generally.

Yours sincerely,

NC Zuma

DR NKOSAZANA DLAMINI ZUMA, MP
MINISTER

DATE: 01.08.2021

"FA12"

SUMMARY OF REGISTRATION ACTIVITY SINCE 2004

Election year	Registration 1					Registration 2					Both	
	New registrations	Re-registrations (different VD)	Re-Registrations (Same VD)	Total Reg 1	% of Total Reg 1&2 Activity	New registrations	Re-registrations (different VD)	Re-Registrations (Same VD)	Total Reg 2	% of Total Reg 1&2 Activity	Total Reg 1&2 Activity	
2004	1 433 490	1 634 966	446 916	3 515 372	48,2%	1 572 627	1 761 299	447 096	3 781 022	51,8%	7 296 394	
2006	291 479	446 742	89 395	827 616	43,6%	413 666	558 197	96 706	1 068 569	56,4%	1 896 185	
2009	1 648 189	1 752 596	293 871	3 694 656	52,2%	1 508 642	1 653 216	217 111	3 378 969	47,8%	7 073 625	
2011	534 016	729 732	142 954	1 406 702	51,5%	547 651	687 357	90 257	1 325 265	48,5%	2 731 967	
2014	1 088 015	1 171 106	253 098	2 512 219	46,2%	1 259 560	1 480 196	183 377	2 923 133	53,8%	5 435 352	
2016	692 730	1 086 958	1 317 506	3 097 194	46,4%	691 524	1 166 687	1 723 329	3 581 540	53,6%	6 678 734	
2018/9	490 520	885 758	1 390 861	2 767 139	52,8%	703 794	1 078 416	690 310	2 472 520	47,2%	5 239 659	
Total	3 907 174	4 564 036	3 934 601	11 956 565	48,9%	4 042 586	4 660 069	3 448 186	12 476 958	51,1%	24 433 523	

Summary of new registrations since 2004

Election year	Reg 1 - New	Reg 2 - New	Total - New registrations
2004	1 433 490	1 572 627	3 006 117
2006	291 479	413 666	705 145
2009	1 648 189	1 508 642	3 156 831
2011	534 016	547 651	1 081 667
2014	1 088 015	1 259 560	2 347 575
2016	692 730	691 524	1 384 254
2018/9	490 520	703 794	1 194 314
Total	5 687 919	5 993 670	11 681 589

ELECTORAL COMMISSION**ELECTION TIMETABLE**

In terms of section 11 of the Local Government: Municipal Electoral Act, 2000 (hereinafter referred to as "the Act"), the Electoral Commission (hereinafter referred to as "the Commission") hereby compiles this election timetable to apply to the 2021 municipal elections that will be held on 27 October 2021. (A reference to "section" in this election timetable is a reference to that section of the Act and a reference to "regulation" is a reference to that regulation in the Municipal Electoral Regulations, 2000.)

Cut-off time for act to be performed

1. An act required in terms of the Act and the Municipal Electoral Regulations, 2000, to be performed by no later than a date stated in the election timetable must be performed before 17:00 on that date.

Notice that a list of addresses of voting stations is available for inspection

2. The Commission must give notice by 23 September 2021 that from the date of the notice until the voting day copies of a list of all voting stations and their addresses will be available for inspection at the office of the Commission's local representative.

Notice of route of mobile voting station

3. The Commission must give notice by 23 September 2021 of the route, including the locations and estimated times of stopping of each mobile voting station.

Pre-inspection of the segments of the voters' roll

4. The Chief Electoral Officer must make available segments of the voters' roll for pre-inspection and objections to the Commission. The period for pre-inspection will be as from 05 August 2021 to 11 August 2021.

Commission's decision in respect of pre-inspection objections to the voters' roll

5. The Commission will finalise all objections to the pre-inspection of the voters' roll by 18 August 2021.

Cut-off date for publication of voters' roll

6. By 01 September 2021 the Chief Electoral officer must certify the voters' roll or the municipality's segments of the voters' roll to be used in this election in terms of section 6(2), and make those segments available for inspection by 01 September 2021.



Opening of submissions to contest the elections, list of candidates and nomination of ward candidates

7. The list of candidates and nomination of ward candidates commences on the date that the elections are proclaimed on 03 August 2021.

Cut-off date for submissions to contest the elections, list of candidates and nomination of ward candidates

8. (1) Registered parties that intend to contest this election in terms of section 14 must nominate and submit a party list of their candidates and the prescribed deposit with the supporting documents for the election in the manner provided for in section 14(1A) (a) or (b) in the prescribed form by 27 August 2021.

(2) Registered parties and nominators of independent candidates that intend to contest a ward in this election in terms of section 17, must submit their nominations and the prescribed deposits with the supporting documentation for the said ward election in a manner provided for in section 14(1A) (a) or (b) in the prescribed form by 23 August 2021.

(3) Payment of the prescribed deposits in terms of section 14A must be made by 23 August 2021.

Notice of non-compliance

9. (1)(a) The Commission must notify a registered party that has submitted a party list of candidates in terms of section 14 but has not fully complied with section 14(3), of that non-compliance by 25 August 2021.

(b) If the notified party takes the opportunity to comply with section 14(3), that party must do so by 27 August 2021.



(2)(a) The Commission must notify the nominating party or person of a candidate who has not fully complied with section 17(2)(b) and (c), of that non-compliance by 27 August 2021.

(b) If the nominating party or person takes the opportunity to comply with section 17(2)(b) or (c), that party or person must do so by 27 August 2021.

Multiple nominations of candidates

10. (1) The Commission must notify a candidate whose name appears on more than one party list for an election submitted in terms of section 14 and all the parties on whose party lists such a candidate appears by 31 August 2021.

(2) If the notified party decides to act in terms of section 14(4A)(b), that party must do so by 02 September 2021.



(3) The Commission must notify a ward candidate that has been nominated by more than one party or person for an election, and each party or person who has nominated such candidate by 31 August 2021.

(4) If the notified nominating party or person decides to act in terms of section 17(2B)(b), that party or person must do so by 02 September 2021.

List of parties entitled to contest election and list of candidates

11. By 07 September 2021 the Commission-

- (a) must compile the list of the registered parties entitled to contest this election;
- (b) must certify the party lists for this election; and
- (c) keep those lists available at the office of the Commission's local representative.

List of ward candidates to contest ward election

12. By 07 September 2021 the Commission must-

- (a) compile and certify for each ward contested in this election, a list of candidates contesting that ward; and
- (b) keep copies of those lists available at the office of the Commission's local representative.

Issue of certificate to candidate

13. By 13 September 2021 the Commission must issue-

- (a) the prescribed candidate certificate to each candidate on the certified party lists in this election; and
- (b) the prescribed candidate certificate to each candidate on the certified list of ward candidates in this election.


Application for special vote

14. (1) By no later than 23 September 2021 a voter may apply in terms of Regulation 28B(1) to cast a special vote within the voting district where she or he is registered. [Applications for special votes will only be received from 03 September 2021].



(2) On 25 and 26 October 2021 voters who had successfully applied to cast their special votes at the voting station, may visit the voting station between 08h00 and 17h00 to cast their special votes.

(3) On 25 and 26 October 2021 voting officers must visit voters who had successfully applied to cast their special votes at their places of residence, to afford them the opportunity to cast their votes there.

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"FA14.1

REGISTRAR OF THE ELECTORAL COURT SOUTH AFRICA BLOEMFONTEIN	
1	PO Box 258, Bloemfontein 9301
IN THE ELECTORAL COURT OF SOUTH AFRICA,	2020 -03- 19
HELD AT BLOEMFONTEIN	EC-002
GRIFFIER VAN DIE VERKIESINGSHOF SUID-AFRIKA, BLOEMFONTEIN	



CASE NUMBER: 001/2020

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

1st Applicant

CHIEF ELECTORAL OFFICER

2nd Applicant

And

MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS
IN THE PROVINCIAL GOVERNMENT OF THE
EASTERN CAPE

1st Respondent

MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS
IN THE PROVINCIAL GOVERNMENT OF THE
FREE STATE

2nd Respondent

MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS
IN THE PROVINCIAL GOVERNMENT OF THE
GAUTENG

3rd Respondent

MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS
IN THE PROVINCIAL GOVERNMENT OF THE
KWAZULU-NATAL

4th Respondent

MEC RESPONSIBLE FOR COOPERATIVE



GOVERNANCE AND TRADITIONAL AFFAIRS
IN THE PROVINCIAL GOVERNMENT OF THE
LIMPOPO

5th Respondent

MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS
IN THE PROVINCIAL GOVERNMENT OF THE
MPUMALANGA

6th Respondent

MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS
IN THE PROVINCIAL GOVERNMENT OF THE
NORTHERN CAPE

7th Respondent

MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS
IN THE PROVINCIAL GOVERNMENT OF THE
WESTERN CAPE

8th Respondent

THE SPEAKER OF CITY OF TSHWANE
METROPOLITAN COUNCIL

9th Respondent

THE MUNICIPAL MANAGER: CITY OF
TSHWANE METROPOLITAN MUBICIPALITY

10th Respondent

THE SPEAKER OF CITY OF
JOHANNESBURG METROPOLITAN
COUNCIL

11th Respondent

THE MUNICIPAL MANAGER: CITY OF
JOHANNESBURG METROPOLITAN MUBICIPALITY

12th Respondent

THE SPEAKER OF EKURHULENI
METROPOLITAN COUNCIL

13th Respondent

THE MUNICIPAL MANAGER: EKURHULENI
METROPOLITAN MUNICIPALITY

14th Respondent

THE SPEAKER OF EMFULENI LOCAL
COUNCIL

15th Respondent



THE MUNICIPAL MANAGER: EMFULENI
LOCAL MUNICIPALITY

THE SPEAKER OF MSUNDUZI LOCAL
COUNCIL

THE MUNICIPAL MANAGER: MSUNDUZI
LOCAL MUNICIPALITY

THE SPEAKER OF MTUBATUBA LOCAL
COUNCIL

THE MUNICIPAL MANAGER: MTUBATUBA
LOCAL MUNICIPALITY

THE SPEAKER OF UMVOTI LOCAL COUNCIL

THE MUNICIPAL MANAGER: UMVOTI LOCAL
MUNICIPALITY

THE SPEAKER OF ETHEKWINI
METROPOLITAN COUNCIL

THE MUNICIPAL MANAGER: ETHEKWINI
METROPOLITAN MUNICIPALITY

THE SPEAKER OF POLOKWANE LOCAL
COUNCIL

THE MUNICIPAL MANAGER: POLOKWANE
LOCAL MUNICIPALITY

THE SPEAKER OF BA-PHALABORWA
LOCAL COUNCIL

THE MUNICIPAL MANAGER: BA-
PHALABORWA LOCAL MUNICIPALITY

THE SPEAKER OF EMALAHLENI LOCAL
COUNCIL

17th Respondent

18th Respondent

19th Respondent

20th Respondent

21st Respondent

22nd Respondent

23rd Respondent

24th Respondent

25th Respondent

26th Respondent

27th Respondent

28th Respondent

29th Respondent



THE MUNICIPAL MANAGER: EMALAHLENI
LOCAL MUNICIPALITY

30th Respondent

THE SPEAKER OF GOVAN MBEKI LOCAL
COUNCIL

31st Respondent

THE MUNICIPAL MANAGER: GOVAN MBEKI
LOCAL MUNICIPALITY

32nd Respondent

THE SPEAKER OF BUSHBUCKRODGE
LOCAL COUNCIL

33rd Respondent

THE MUNICIPAL MANAGER:
BUSHBUCKRIDGE LOCAL MUNICIPALITY

34th Respondent

THE SPEAKER OF MAKANA LOCAL
COUNCIL

35th Respondent

THE MUNICIPAL MANAGER: MAKANA
LOCAL MUNICIPALITY

36th Respondent

THE SPEAKER OF AMAHLATHI LOCAL
COUNCIL

37th Respondent

THE MUNICIPAL MANAGER: AMAHLATHI
LOCAL MUNICIPALITY

38th Respondent

THE SPEAKER OF MBIZANA LOCAL
COUNCIL

39th Respondent

THE MUNICIPAL MANAGER: MBIZANA
LOCAL MUNICIPALITY

40th Respondent

THE SPEAKER OF KAAI-MA LOCAL
COUNCIL

41st Respondent

THE MUNICIPAL MANAGER: KHAi-MA
LOCAL MUNICIPALITY

42nd Respondent

THE SPEAKER OF DAWID KRUIPER LOCAL
COUNCIL

43th Respondent

THE MUNICIPAL MANAGER: DAWID
KRUIPER LOCAL MUNICIPALITY

THE SPEAKER OF GEORGE LOCAL
COUNCIL

THE MUNICIPAL MANAGER: GEORGE
LOCAL MUNICIPALITY

THE SPEAKER OF MATJHABENG LOCAL
COUNCIL

THE MUNICIPAL MANAGER: MATJHABENG
LOCAL MUNICIPALITY

AFRICAN CHRISTIAN DEMOCRATIC PARTY
(ACDP)

AFRICAN INDEOENDENT CONGRESS (AIC)

ALLIANCE FOR ONE NATION

AFRICAN NATIONAL CONGRESS (ANC)

AFRICAN PEOPLE'S CONVENTION (APC)

DEMOCRATIC ALLIANCE (DA)

ECONOMIC FREEDOM FIGHTERS (EFF)

FREEDOM FRONT PLUS (FF+)

INKATHA FREEDOM PARTY (IFP)

PATRIOTIC ALLIANCE

SAKHISIZWE CONVENTION

UNITED CHRISTIAN DEMOCRATIC PARTY
(UCDP)

REGISTRAR OF THE ELECTORAL COURT C SOUTH AFRICA BLOEMFONTEIN	
5	PO Box 258, Bloemfontein 9301
	2020 -03- 19
	EC-002 44 th Respondent
GRIFFIER VAN DIE VERKIESINGSHOOF SUID-AFRIKA BLOEMFONTEIN	
	45 th Respondent

46th Respondent

47th Respondent

48th Respondent

49th Respondent

50th Respondent

51st Respondent

52nd Respondent

53rd Respondent

54th Respondent

55th Respondent

56th Respondent

57th Respondent

58th Respondent

59th Respondent

60th Respondent

[Handwritten signature]

6

UNITED DEMOCRATIC MOVEMENT (UDM)

DANIEL PRETORIUS

WARDIEYA OTTO

SIBINGISENI VUSUMUZI NDLOVU

RALPH TIE MNISI

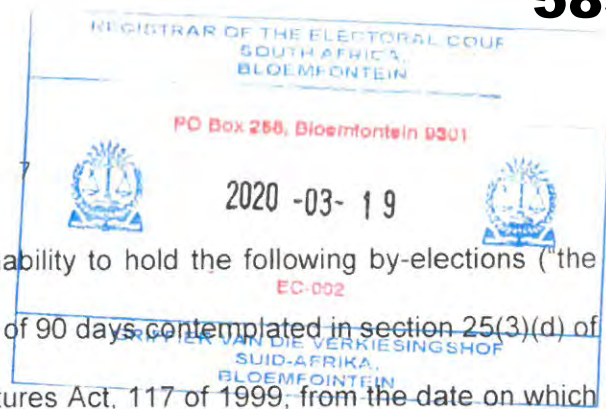
64th Respondent65th Respondent

Coram: MBHA JA, LAMONT J and SHONGWE J (with Ms PATHER – MEMBER)

ORDER

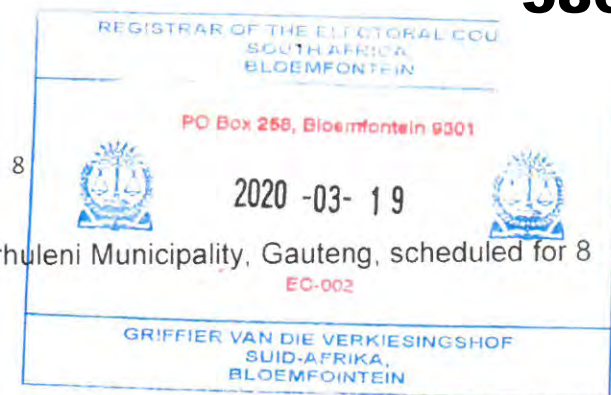
Having read the papers and considered the matter, the following order is issued:

1. Noting that following the World Health Organisation's declaration of the recent COVID-19 outbreak as global pandemic, on 15 March 2020 the President of the Republic of South Africa declared a national state of disaster in terms of the Disaster Management Act, 2002 and issued a statement on measures to combat the COVID-19 pandemic, one of which is the prohibition of gatherings of more than 100 people.
2. Recognising that the first applicant will be severely hampered, for the period the declared national state of disaster is in place, from preparing for and conducting free and fair elections in areas where by-elections are due to be held.



3. Declaring invalid the first applicant's inability to hold the following by-elections ("the affected by-elections") within the period of 90 days contemplated in section 25(3)(d) of the Local Government: Municipal Structures Act, 117 of 1999, from the date on which the relevant vacancies arose:

- 3.1. Ward 16 in the Emfuleni local Municipality, Gauteng, scheduled for 18 March 2020;
- 3.2. Wards 68, 120 and 130 in the City of Johannesburg Metropolitan Municipality, Gauteng, scheduled for 18 March 2020;
- 3.3. Ward 25 in Msunduzi Local Municipality ("Msunduzi"), KwaZulu-Natal, scheduled for 18 March 2020;
- 3.4. Ward 10 in the Mtubatuba Local Municipality ("Mtubatuba") KwaZulu-Natal, scheduled for 18 March 2020;
- 3.5. Ward 14 in the Polokwane Local Municipality ("Polokwane"), Limpopo, scheduled for 18 March 2020;
- 3.6. Ward 18 in the eMalahleni Local Municipality, Mpumalanga, scheduled for 18 March 2020, scheduled for 18 March 2020;
- 3.7. Ward 31 in the Bushbuckridge Local Municipality, scheduled for 18 March 2020; and
- 3.8. Ward 04 in the KHâI-MA Local Municipality, Northern cape, scheduled for 18 March 2020;
- 3.9. Ward 3 in the Matjhabeng Municipality, Free State, scheduled for 8 April 2020;



3.10. Wards 60 and 103 in the City of Ekurhuleni Municipality, Gauteng, scheduled for 8 April 2020;

3.11. Ward 3 in the City of Tshwane Metropolitan Municipality, Tshwane, scheduled for 8 April 2020;

3.12. Ward 32 in eThekweni Metropolitan Municipality, KwaZulu-Natal scheduled for 8 April 2020; and

3.13. Ward 7 in the uMvoti Local Municipality, KwaZulu-Natal scheduled for 8 April 2020;

3.14. Ward 89 in Ekurhuleni Municipality, Gauteng, scheduled for 29 April 2020;

3.15. Ward 19 in Ba-Phalaborwa Local Municipality, Limpopo scheduled for 29 April 2020;

3.16. Ward 30 in Govan Mbeki Municipality, scheduled for 29 April 2020;

3.17. Ward 14 in the Makana Local Municipality, scheduled for 13 May 2020;

3.18. Ward 1 in the Amahlathi Local Municipality, scheduled for 13 May 2020;

3.19 Ward 24 in the Mbizana Local Municipality, scheduled for 13 May 2020;

3.20. Ward 10 in the Dawid Kruiper Local municipality, scheduled for 13 May 2020; and

3.21. Ward 8, 14 and 27 in the George Local Municipality, also scheduled for 13 May 2020.

4. Authorising the holding of the by-elections in the affected wards beyond the 90 day period referred to in prayer 1, but not beyond 120 days of the date of this order.

5. Authorising the Commission to suspend such activities as are incompatible with the prohibition of gatherings, including voter registration activities, for the duration of the declared national state of disaster.

6. At the following intervals – 31 March 2020; 30 April 2020; 31 May 2020; and 30 June 2020 – the first applicant must file a report with this Court, setting out the steps taken to prepare for the affected by-elections.

7. No order as to costs.





BY ORDER OF COURT

P S W Myburgh

Registrar

19 March 2020

REGISTRAR OF THE ELECTORAL COURT OF SOUTH AFRICA, BLOEMFONTEIN		
PO Box 258, Bloemfontein 9301		
	2020 -03- 19	
EC-002		
GRIFFIER VAN DIE VERKIESINGSHOF SUID-AFRIKA, BLOEMFONTEIN		

IN THE ELECTORAL COURT OF SOUTH AFRICA

HELD AT BLOEMFONTEIN



CASE NUMBER: 002/2020

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

1st Applicant

CHIEF ELECTORAL OFFICER

2nd Applicant

And

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF THE
EASTERN CAPE**

1st Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF
GAUTENG**

2nd Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF KWAZULU-
NATAL**

3rd Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF NORTH
WEST**

4th Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN**

THE PROVINCIAL GOVERNMENT OF THE
WESTERN CAPE

THE ADMINISTRATORS OF THE CITY OF
TSHWANE METROPOLITAN MUNICIPALITY

THE ACTING MUNICIPAL MANAGER: CITY OF
TSHWANE METROPOLITAN MUNICIPALITY

THE SPEAKER OF RAY NKONYEN (HIBISCUS
COAST) LOCAL COUNCIL
THE MUNICIPAL MANAGER: RAY NKONYEN
(HIBISCUS COAST) LOCAL MUNICIPALITY

THE SPEAKER OF UPHONGOLO LOCAL COUNCIL

THE MUNICIPAL MANAGER: UPHONGOLO LOCAL
MUNICIPALITY

THE SPEAKER OF JB MARKS LOCAL COUNCIL

THE MUNICIPAL MANAGER: JB MARKS LOCAL
MUNICIPALITY

THE SPEAKER OF RUSTENBURG LOCAL
COUNCIL

THE MUNICIPAL MANAGER: RUSTENBURG
LOCAL MUNICIPALITY

THE SPEAKER OF AMAHLATHI LOCAL COUNCIL

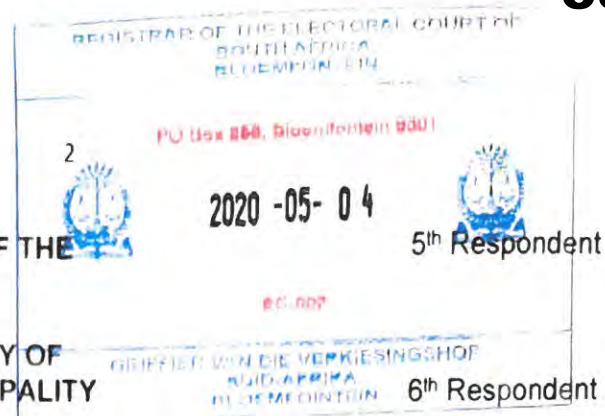
THE MUNICIPAL MANAGER: AMAHLATHI LOCAL
MUNICIPALITY

THE SPEAKER OF UMZIMVUBU LOCAL COUNCIL

THE MUNICIPAL MANAGER: UMZIMVUBU LOCAL
MUNICIPALITY

THE SPEAKER OF WALTER SISULU LOCAL
COUNCIL

THE MUNICIPAL MANAGER: WALTER SISULU
MUNICIPALITY



5th Respondent

6th Respondent

7th Respondent

8th Respondent

9th Respondent

10th Respondent

11th Respondent

12th Respondent

13th Respondent

14th Respondent

15th Respondent

16th Respondent

17th Respondent

18th Respondent

19th Respondent

20th Respondent

21st Respondent

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THE SPEAKER OF DRAKENSTEIN LOCAL COUNCIL

THE MUNICIPAL MANAGER: DRAKESTEIN LOCAL MUNICIPALITY

THE SPEAKER OF KNYSNA LOCAL COUNCIL

THE MUNICIPAL MANAGER: KNYSNA LOCAL MUNICIPALITY

THE SPEAKER OF EMFULENI LOCAL COUNCIL

THE MUNICIPAL MANAGER: EMFULENI LOCAL MUNICIPALITY

AFRICAN CHRISTIAN DEMOCRATIC PARTY

AFRICAN INDEPENDENT CONGRESS

AFRICAN NATIONAL CONGRESS

AFRICAN TRANSFORMATION MOVEMENT

BOTHO COMMUNITY MOVEMENT

CONGRESS OF THE PEOPLE

DEMOCRATIC ALLIANCE

ECONOMIC FREEDOM FIGHTERS

FEDERATION OF DEMOCRATS

FREEDOM FRONT PLUS

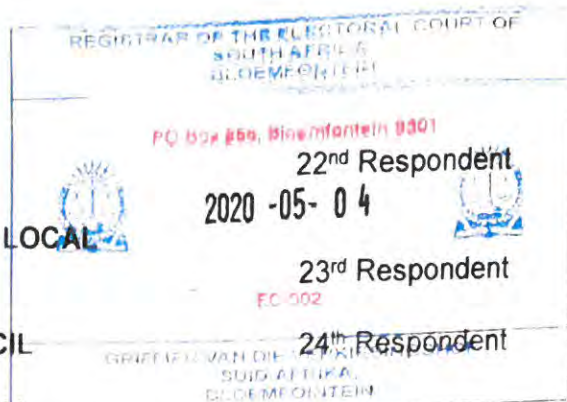
FORUM 4 SERVICE DELIVERY

INDEPENDENT CIVIC ORGANISATION OF SOUTH AFRICA

INKATHA FREEDOM PARTY

KNYSNA UNITY CONGRESS

MALETSWAI CIVIC ASSOCIATION



25th Respondent

26th Respondent

27th Respondent

28th Respondent

29th Respondent

30th Respondent

31st Respondent

32nd Respondent

33rd Respondent

34th Respondent

35th Respondent

36th Respondent

37th Respondent

38th Respondent

39th Respondent

40th Respondent

41st Respondent

42nd Respondent

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PAN AFRICANIST CONGRESS OF AZANIA

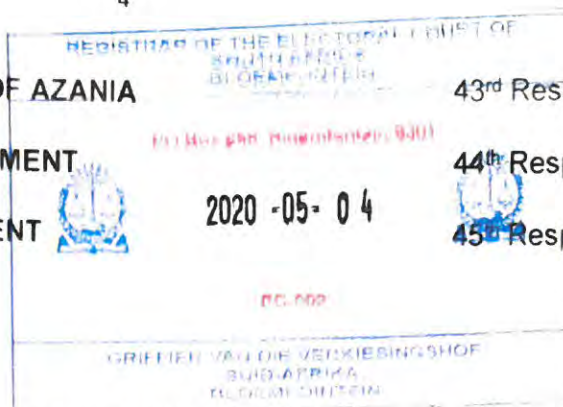
43rd Respondent

PEOPLE'S DEMOCRATIC MOVEMENT

44th Respondent

UNITED DEMOCRATIC MOVEMENT

45th Respondent

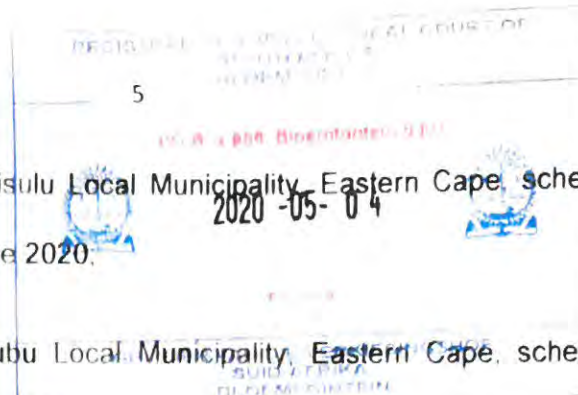


Coram: MBHA JA, LAMONT J and SHONGWE AJ (with Ms PATHER – MEMBER)

ORDER

Having read the papers and considered the matter, the following order is issued:

- 1 Authorising the holding of the following by-elections ("the affected by-elections") beyond the period of 90 days contemplated in section 25(3)(d) of the Local Government: Municipal Structures Act, 117 of 1999, but not beyond 120 days of the date of this order:
 - 1.1 Ward 2 of the Rustenburg Local Municipality, North West Province scheduled for Wednesday, 3 June 2020;
 - 1.2 Ward 13, Amahlathi Local Municipality, Eastern Cape, scheduled for Wednesday, 10 June 2020;
 - 1.3 Ward 6, Walter Sisulu Local Municipality, Eastern Cape, scheduled for Wednesday, 10 June 2020;



- 5
- 1.4 Ward 11, Walter Sisulu Local Municipality, Eastern Cape, scheduled for Wednesday, 10 June 2020;
- 1.5 Ward 25, Umzimvubu Local Municipality, Eastern Cape, scheduled for Wednesday, 3 June 2020;
- 1.6 Ward 2, Ray Nkonyeni Local Municipality, KwaZulu-Natal, scheduled for Wednesday, 10 June 2020;
- 1.7 Ward 4 uPhongolo Local Municipality, KwaZulu-Natal, scheduled for Wednesday, 10 June 2020;
- 1.8 Ward 5, JB Marks Local Municipality, North West, scheduled for Wednesday, 10 June 2020;
- 1.9 Ward 3, Drakenstein Local Municipality, Western Cape, scheduled for Wednesday, 10 June 2020;
- 1.10 Ward 9, Knysna Local Municipality, Western Cape, scheduled for Wednesday, 10 June 2020;
- 1.11 Ward 43, Emfuleni Local Municipality, Gauteng, scheduled for Wednesday, 10 June 2020; and
- 1.12 The entire council of the City of Tshwane Metropolitan Municipality, Gauteng, scheduled for Wednesday, 10 June 2020.
- 2 Granting the applicants leave to approach the Court on the same papers, duly supplemented as necessary, for further and/or alternative relief (including for an

extension of the period within which the affected by-elections should be held) should it be necessary to do so.

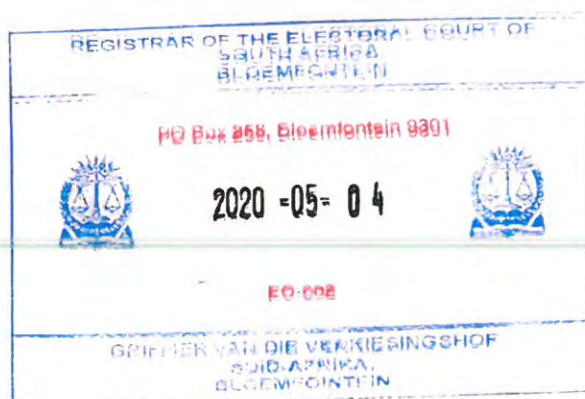
- 3 There is no order as to costs.


BY ORDER OF COURT

P S W Myburgh

Registrar

04 May 2020





**IN THE ELECTORAL COURT OF SOUTH AFRICA,
HELD AT BLOEMFONTEIN**



CASE NUMBER: 003/2020

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

1st Applicant

CHIEF ELECTORAL OFFICER

2nd Applicant

And

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF THE
EASTERN CAPE**

1st Respondent

**THE ADMINISTRATOR OF PHOKWANE LOCAL
MUNICIPALITY**

2nd Respondent

**THE MUNICIPAL MANAGER: PHOKWANE LOCAL
MUNICIPALITY**

3rd Respondent

AFRICAN INDEPENDENT CONGRESS

4th Respondent

AFRICAN NATIONAL CONGRESS

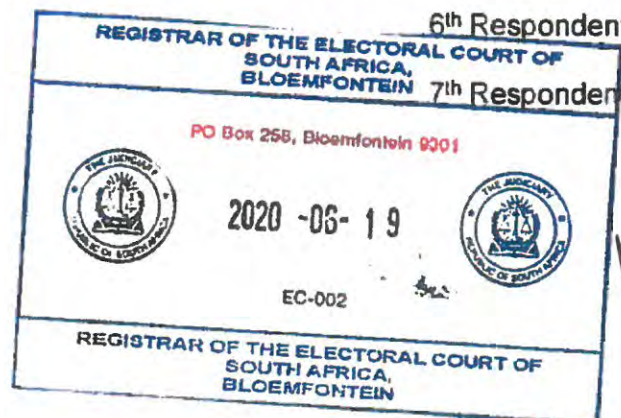
5th Respondent

DEMOCRATIC ALLIANCE

6th Respondent

ECONOMIC FREEDOM FIGHTERS

7th Respondent



Coram: MBHA JA, LAMONT J and SHONGWE AJ (with Ms PATHER – MEMBER)

ORDER

Having read the papers and considered the matter, the following order is issued:

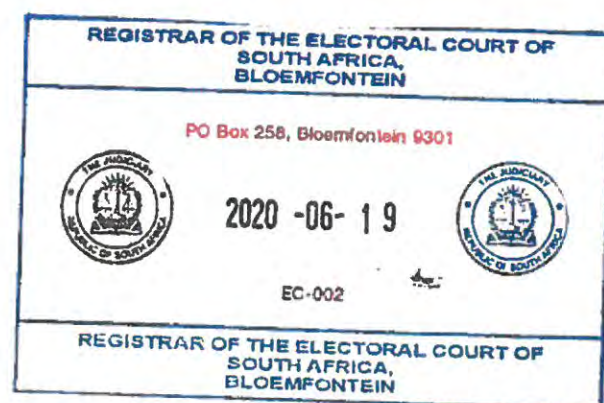
- 1 Authorising the holding of by-elections for the entire council of the Phokwane Local Municipality ("Phokwane by-elections") beyond the period of 90 days contemplated in section 25(3)(d) of the Local Government: Municipal Structures Act, 117 of 1998, but not beyond 120 days of the date of this order.
- 2 Granting the applicants leave to approach the Court on the same papers, duly supplemented as necessary, for further and/or alternative relief (including for an extension of the period within which the Phokwane by-elections should be held) should it be necessary to do so.
- 3 There is no order as to costs.


BY ORDER OF COURT

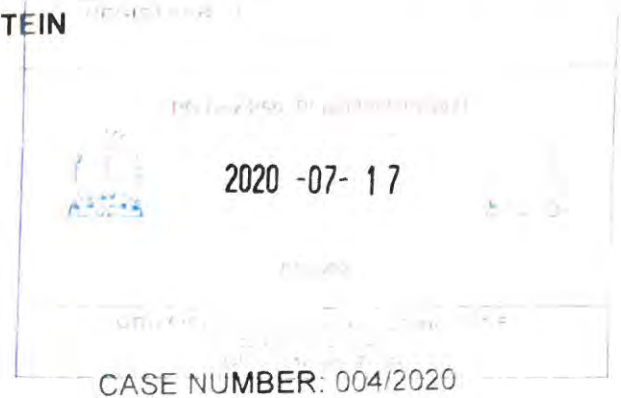
C van der Merwe

Chief Registrar

19 June 2020



**IN THE ELECTORAL COURT OF SOUTH AFRICA,
HELD AT BLOEMFONTEIN**



In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

1st Applicant

CHIEF ELECTORAL OFFICER

2nd Applicant

And

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF THE
EASTERN CAPE**

1st Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF
KWAZULU-NATAL**

2nd Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE, HUMAN SETTLEMENTS AND
TRADITIONAL AFFAIRS IN THE PROVINCIAL
GOVERNMENT OF LIMPOPO**

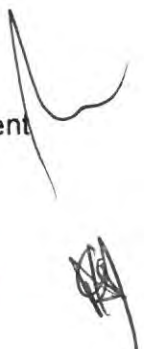
3rd Respondent

**EC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE, HUMAN SETTLEMENTS AND
TRADITIONAL AFFAIRS IN THE PROVINCIAL
GOVERNMENT OF NORTHERN CAPE**

4th Respondent

**EC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE, HUMAN SETTLEMENTS AND
TRADITIONAL AFFAIRS IN THE PROVINCIAL
GOVERNMENT OF THE WESTERN CAPE**

5th Respondent



THE SPEAKER OF KOUGA LOCAL COUNCIL

2020 -07- 16th Respondent

THE MUNICIPAL MANAGER: KOUGA LOCAL MUNICIPALITY

7th Respondent

THE SPEAKER OF ENOCH MGIJIMA LOCAL COUNCIL

8th Respondent

THE MUNICIPAL MANAGER: ENOCH MGIJIMA LOCAL MUNICIPALITY

9th Respondent

THE SPEAKER OF ETHEKWINI METROPOLITAN COUNCIL

10th Respondent

THE MUNICIPAL MANAGER: ETHEKWINI LOCAL MUNICIPALITY

11th Respondent

THE SPEAKER OF MBHASHE LOCAL COUNCIL

12th Respondent

THE MUNICIPAL MANAGER: MBHASHE LOCAL MUNICIPALITY

13th Respondent

THE SPEAKER OF NYANDENI LOCAL COUNCIL

14th Respondent

THE MUNICIPAL MANAGER: NYANDENI LOCAL MUNICIPALITY

15th Respondent

THE SPEAKER OF WALTER SISULU LOCAL COUNCIL

16th Respondent

THE MUNICIPAL MANAGER: WALTER SISULU LOCAL MUNICIPALITY

17th Respondent

THE SPEAKER OF NKANDLA LOCAL COUNCIL

18th Respondent

THE MUNICIPAL MANAGER: NKANDLA LOCAL MUNICIPALITY

19th Respondent

THE SPEAKER OF NQUNTHU LOCAL COUNCIL

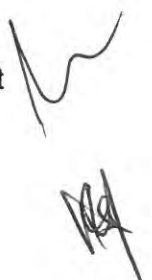
20th Respondent

THE MUNICIPAL MANAGER: NQUNTHU MUNICIPALITY

21st Respondent

THE SPEAKER OF FETAKGOMO TUBATSE LOCAL COUNCIL

22nd Respondent



THE MUNICIPAL MANAGER: FETAKGOMO TUBATSE LOCAL MUNICIPALITY	23 rd Respondent
THE SPEAKER OF HANTAM LOCAL COUNCIL	2020 -07- 17 24 th Respondent
THE MUNICIPAL MANAGER: HANTAM LOCAL MUNICIPALITY	25 th Respondent
THE SPEAKER OF KAI !GARIB LOCAL COUNCIL	26 th Respondent
THE MUNICIPAL MANAGER: KAI !GARIB LOCAL MUNICIPALITY	27 th Respondent
THE SPEAKER OF THE CITY OF CAPE TOWN LOCAL COUNCIL	28 th Respondent
THE MUNICIPAL MANAGER: THE CITY OF CAPE TOWN LOCAL MUNICIPALITY	29 th Respondent
THE SPEAKER OF KNYSNA LOCAL COUNCIL	30 th Respondent
THE MUNICIPAL MANAGER: KNYSNA LOCAL MUNICIPALITY	31 st Respondent
THE SPEAKER OF GEORGE LOCAL COUNCIL	32 nd Respondent
THE MUNICIPAL MANAGER: GEORGE LOCAL MUNICIPALITY	33 rd Respondent
AFRICAN CHRISTIAN DEMOCRATIC PARTY	34 th Respondent
AFRICAN INDEPENDENT CONGRESS	35 th Respondent
AFRICAN NATIONAL CONGRESS	36 th Respondent
AFRICAN PEOPLE'S CONVENTION	37 th Respondent
AL JAMA AH	38 th Respondent
AZANIAN PEOPLE'S ORGANISATION	39 th Respondent
CAPE MUSLIM CONGRESS	40 th Respondent
CONGRESS OF THE PEOPLE	41 st Respondent
DEMOCRATIC ALLIANCE	42 nd Respondent
DEMOCRATIC INDEPENDENT PARTY	43 rd Respondent

DEMOCRATIC LIBERAL CONGRESS	44 th Respondent
DIE FORUM	45 th Respondent
ECONOMIC FREEDOM FIGHTERS	46 th Respondent
FREEDOM FRONT PLUS	47 th Respondent
INDEPENDENT CIVIC ORGANISATION OF SOUTH AFRICA	48 th Respondent
INKATHA FREEDOM PARTY	49 th Respondent
KNYSNA UNITY CONGRESS	50 th Respondent
MELETSWAI CIVIC ASSOCIATION	51 st Respondent
MINORITIES OF SOUTH AFRICA	52 nd Respondent
MINORITY FRONT	53 rd Respondent
NATIONAL FREEDOM PARTY	54 th Respondent
PAN AFRICANIST CONGRESS OF AZANIA	55 th Respondent
PATRIOTIC ALLIANCE	56 th Respondent
PLAASLIKE BESORGDE INWONERS	57 th Respondent
SOUTH AFRICA CIVICS	58 th Respondent
SOCIALIST AGENDA OF DISPOSSESSED AFRICANS	59 th Respondent
TRULY ALLIANCE	60 th Respondent
UNITED DEMOCRATIC MOVEMENT	61 st Respondent
UNITED FRONT OF EASTERN CAPE	62 nd Respondent

Coram: MBHA JA, LAMONT J and SHONGWE AJ (with Ms PATHER – MEMBER)

ORDER

Having read the papers and considered the matter, the following order is issued:

- 1 Authorising the holding of the following by-elections ("the effected by-elections") beyond the period of 90 days contemplated in section 25(3)(d) of the Local Government: Municipal Structures Act, 117 of 1999, but not beyond 120 days of the date of this order.

2020 -07- 17

- 1.1 Ward 2 of the Kouga Local Municipality, Eastern Cape Province;
- 1.2 Ward 11 of the Enoch Mgihima Local Municipality, Eastern Cape Province;
- 1.3 Ward 19 of the Mbhashe Local Municipality, Eastern Province;
- 1.4 Ward 3 of the Nyandeni Local Municipality, Eastern Cape Province;
- 1.5 Wards 7 and 8 of the Walter Sisulu Local Municipality, Eastern Cape Province;
- 1.6 Ward 36 of the eThekweni Local Municipality, Kwa-Zulu Natal Province;
- 1.7 Ward 13 of the Nkandla Local Municipality, KwaZulu-Natal Province;
- 1.8 Ward 15 of the Nquthu Local Municipality, KwaZulu-Natal Province;
- 1.9 Ward 34 of the Fetakgomo Tubatse Local Municipality, Limpopo Province;
- 1.10 Ward 3 of the Hantam Local Municipality, Northern Cape Province;
- 1.11 Ward 8 of the Kai !Garib Local Municipality, Northern Cape Province;
- 1.12 Ward 14 of the City of Cape Town Local Municipality, Western Cape

Province;

1.13 Ward 17 of the George Local Municipality, Western Cape Province; and

1.14 Ward 10 of the Knysna Local Municipality, Western Cape Province.

2 Granting the applicants leave to approach the Court on the same papers, duly supplemented as necessary, for further and/or alternative relief (including for an extension of the period within which the affected by-elections should be held) should it be necessary to do so.

3 Directing the first applicant to inform all the respondents of the decision of the Court in this matter.

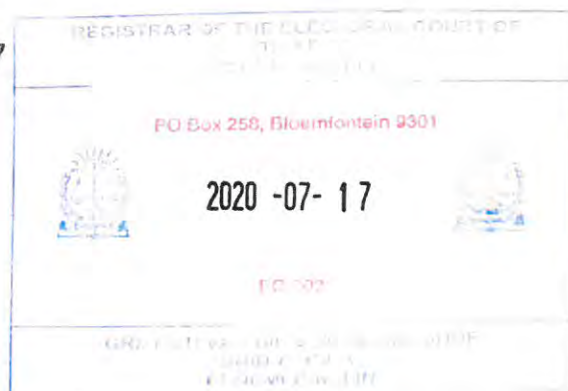
4 There is no order as to costs.

BY ORDER OF COURT

P S W Myburgh

Registrar

17 July 2020



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"FA14.5"

1

IN THE ELECTORAL COURT OF SOUTH AFRICA,
HELD AT BLOEMFONTEIN



CASE NUMBER: 005/2020

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA1st Applicant**CHIEF ELECTORAL OFFICER**

PO Box 258, Bloemfontein 9301

2nd Applicant

And

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF THE
EASTERN CAPE**

1st Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF GAUTENG**

2nd Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE, HUMAN SETTLEMENTS AND
TRADITIONAL AFFAIRS IN THE PROVINCIAL
GOVERNMENT OF LIMPOPO**

3rd Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE, HUMAN SETTLEMENTS AND
TRADITIONAL AFFAIRS IN THE PROVINCIAL
GOVERNMENT OF MPUMALANGA**

4th Respondent

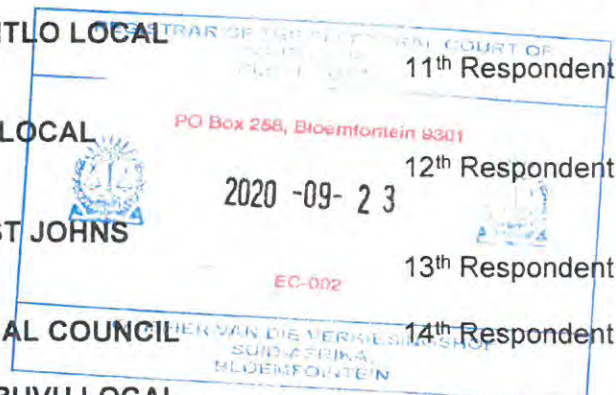
**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE, HUMAN SETTLEMENTS AND**



"FA14.5"

2

TRADITIONAL AFFAIRS IN THE PROVINCIAL GOVERNMENT OF THE NORTHERN CAPE	5 th Respondent
MEC RESPONSIBLE FOR COOPERATIVE GOVERNANCE, HUMAN SETTLEMENTS AND TRADITIONAL AFFAIRS IN THE PROVINCIAL GOVERNMENT OF THE NORTH WEST	6 th Respondent
MEC RESPONSIBLE FOR COOPERATIVE GOVERNANCE, HUMAN SETTLEMENTS AND TRADITIONAL AFFAIRS IN THE PROVINCIAL GOVERNMENT OF LIMPOPO	7 th Respondent
THE SPEAKER OF MATATIELE LOCAL COUNCIL	8 th Respondent
THE MUNICIPAL MANAGER: MATATIELE LOCAL MUNICIPALITY	9 th Respondent
THE SPEAKER OF MHLONTLO LOCAL COUNCIL	10 th Respondent
THE MUNICIPAL MANAGER: MHLONTLO LOCAL MUNICIPALITY	11 th Respondent
THE SPEAKER OF PORT ST JOHNS LOCAL COUNCIL	12 th Respondent
THE MUNICIPAL MANAGER: PORT ST JOHNS LOCAL MUNICIPALITY	13 th Respondent
THE SPEAKER OF UMZIMVUBU LOCAL COUNCIL	14 th Respondent
THE MUNICIPAL MANAGER: UMZIMVUBU LOCAL MUNICIPALITY	15 th Respondent
THE SPEAKER OF MERAFAONG CITY LOCAL COUNCIL	16 th Respondent
THE MUNICIPAL MANAGER: MERAFAONG CITY LOCAL MUNICIPALITY	17 th Respondent
THE SPEAKER OF MIDVAAL LOCAL COUNCIL	18 th Respondent
THE MUNICIPAL MANAER: MIDVAAL LOCAL MUNICIPALITY	19 th Respondent
THE SPEAKER OF GREATER GIYANI LOCAL COUNCIL	20 th Respondent

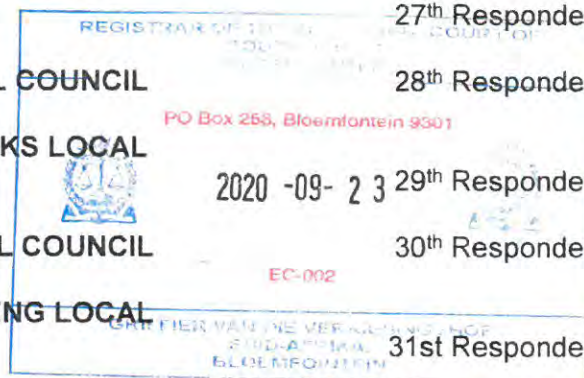


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"FA14.5"

3

THE MUNICIPAL MANAGER: GREATER GIYANI LOCAL MUNICIPALITY	21 st Respondent
THE SPEAKER OF BUSHBUCKRIDGE LOCAL COUNCIL	22 nd Respondent
THE MUNICIPAL MANAGER: BUSHBUCKRIDGE LOCAL MUNICIPALITY	23 rd Respondent
THE SPEAKER OF TSANTSABANE LOCAL COUNCIL	24 th Respondent
THE MUNICIPAL MANAGER: TSANTSABANE LOCAL MUNICIPALITY	25 th Respondent
THE SPEAKER OF UBUNTU LOCAL COUNCIL	26 th Respondent
THE MUNICIPAL MANAGER: UBUNTU LOCAL MUNICIPALITY	27 th Respondent
THE SPEAKER OF JB MARKS LOCAL COUNCIL	28 th Respondent
THE MUNICIPAL MANAGER: JB MARKS LOCAL MUNICIPALITY	29 th Respondent
THE SPEAKER OF MADIBENG LOCAL COUNCIL	30 th Respondent
THE MUNICIPAL MANAGER: MADIBENG LOCAL MUNICIPALITY	31 st Respondent
THE SPEAKER OF MORETELE LOCAL COUNCIL	32 nd Respondent
THE MUNICIPAL MANAGER: MORETELE LOCAL MUNICIPALITY	33 rd Respondent
THE SPEAKER OF CITY OF CAPE TOWN LOCAL COUNCIL	34 rd Respondent
THE MUNICIPAL MANAGER: CITY OF CAPE TOWN LOCAL MUNICIPALITY	35 th Respondent
THE SPEAKER OF SALDANHA BAY COUNCIL	36 th Respondent
THE MUNICIPAL MANAGER: SALDANHA BAY MUNICIPALITY	37 th Respondent



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"FA14.5"

4

AFRICAN CHRISTIAN DEMOCRATIC PARTY	38 th Respondent
AGENDA TO CITIZENRY GOVERNORS	39 th Respondent
AFRICAN INDEPENDENT CONGRESS	40 th Respondent
AFRICAN NATIONAL CONGRESS	41 st Respondent
AFRICAN PEOPLE'S CONVENTION	42 nd Respondent
AL JAMA AH	43 rd Respondent
AZANIAN PEOPLE'S ORGANISATION	44 th Respondent
BETTER RESIDENTS ASSOCIATION	45 th Respondent
CAPE MUSLIM CONGRESS	46 th Respondent
CIVIC INDEPENDENT	47 th Respondent
CONGRESS OF THE PEOPLE	48 th Respondent
DEMOCRATIC ALLIANCE	49 th Respondent
DEMOCRATIC INDEPENDENT PARTY	50 th Respondent
ECONOMIC FREEDOM FIGHTERS	51 st Respondent
FORUM 4 SERVICE DELIVERY	52 nd Respondent
FREEDOM FRONT PLUS	53 rd Respondent
INKATHA FREEDOM PARTY	54 th Respondent
NATIONAL INDEPENDENT PARTY	55 th Respondent
PATRIOTIC ALLIANCE	56 th Respondent
PAN AFRICANIST CONGRESS OF AZANIA	57 th Respondent
SALDANHA BAY RESIDENTS ALLIANCE	58 th Respondent
SAVE TSANTSABANE COALITION	59 th Respondent
UNITED DEMOCRATIC MOVEMENT	60 th Respondent
XIMOKO PARTY	61 st Respondent



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"FA14.5"

5

Coram: MBHA JA, LAMONT J and SHONGWE AJ (with Ms PATHER – MEMBER)

REGISTRAR OF THE FEDERAL COURT OF	
ORDER	PEJ BUA 858, Bloemfontein 9301
2020 -09- 23	
Having read the papers and considered the matter, the following order is issued:	

1 Authorising the holding of the following by-elections ("the affected by-elections") beyond the period of 90 days contemplated in section 25(3)(d) of the Local Government: Municipal Structures Act, 117 of 1999, but not beyond 120 days of the date of this order.

- 1.1 Ward 21 of the Matatiele Local Municipality, Eastern Cape Province;
- 1.2 Ward 10 of the Mhlontlo Local Municipality, Eastern Cape Province;
- 1.3 Ward 4 of the Port St Johns Local Municipality, Eastern Province;
- 1.4 Ward 18 of the Umzimvubu Local Municipality, Eastern Cape Province;
- 1.5 Ward 23 of the Merafong Local Municipality, Gauteng Province;
- 1.6 Ward 6 of the Midvaal Local Municipality, Gauteng Province;
- 1.7 Ward 1 of the Greater Giyani Local Municipality, Limpopo Province;
- 1.8 Ward 36 of the Bushbuckridge Local Municipality, Mpumalanga Province;
- 1.9 Ward 4 of the Tsantsabane Local Municipality, Northern Cape Province;



"FA14.5"

6

- 1.10 Ward 1 of the Ubuntu Local Municipality, Northern Cape Province;
 - 1.11 Wards 9 and 18 of the JB Marks Local Municipality, North West Province;
 - 1.12 Ward 29 of the Madibeng Local Municipality, North West Province;
 - 1.13 Ward 8 of the Moretele Local Municipality, North West Province;
 - 1.14 Ward 51 of the City of Cape Town Metropolitan Municipality, Western Cape Province; and
 - 1.15 Ward 13 of the Saldanha Local Municipality, Western Cape Province.
- 2 Granting the applicants leave to approach the Court on the same papers, duly supplemented where necessary, for further and/or alternative relief (including for an extension of the period within which the affected by-elections should be held) should it be necessary to do so.

- 3 There is no order as to costs.



BY ORDER OF COURT

P S W Myburgh**Registrar****23 September 2020**


IN THE ELECTORAL COURT OF SOUTH AFRICA,
HELD AT BLOEMFONTEIN



CASE NUMBER: 001/2021

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

1st Applicant

CHIEF ELECTORAL OFFICER

2nd Applicant

And

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF THE
EASTERN CAPE**

1st Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF THE FREE
STATE**

2nd Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF GAUTENG**

3rd Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF KWAZULU-
NATAL**

4th Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE, HUMAN SETTLEMENTS AND
TRADITIONAL AFFAIRS IN THE PROVINCIAL
GOVERNMENT OF LIMPOPO**

5th Respondent

MEC RESPONSIBLE FOR COOPERATIVE

GOVERNANCE HUMAN, SETTLEMENTS AND
TRADITIONAL AFFAIRS IN THE PROVINCIAL
GOVERNMENT OF MPUMALANGA

THE SPEAKER OF MATATIELE LOCAL COUNCIL

THE MUNICIPAL MANGER: MATATIELE LOCAL
MUNICIPALITY

THE SPEAKER OF MALUTI A PHOFUNG LOCAL
COUNCIL

THE MUNICIPAL MANAGER: MALUTI A PHOFUNG
LOCAL MUNICIPALITY

THE SPEAKER OF CITY OF JOHANNESBURG
METROPOLITAN COUNCIL

THE MUNICIPAL MANAGER: CITY OF
JOHANNESBURG METROPOLITAN MUNICIPALITY

THE SPEAKER OF CITY OF EKURHULENI
METROPOLITAN COUNCIL

THE MUNICIPAL MANAGER: CITY OF
EKURHULENI
METROPOLITAN MUNICIPALITY

THE SPEAKER OF TSHWANE METROPOLITAN
COUNCIL

THE MUNICIPAL MANAGER: TSHWANE
METROPOLITAN MUNICIPALITY

THE SPEAKER OF ETHEKWINI METROPOLITAN
COUNCIL

THE MUNICIPAL MANAGER: ETHEKWINI
METROPOLITAN MUNICIPALITY

THE SPEAKER OF NQUTHU LOCAL COUNCIL

THE MUNICIPAL MANAGER: NQUTHU LOCAL
MUNICIPALITY

THE SPEAKER OF FETAKGOMO TUBATSE LOCAL
COUNCIL



9th Respondent

10th Respondent

11th Respondent

12th Respondent

13th Respondent

14th Respondent

15th Respondent

16th Respondent

17th Respondent

18th Respondent

19th Respondent

20th Respondent

21st Respondent

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<div data-bbox="667 174 1264 555" data-label="Image"> </div>		
THE MUNICIPAL MANAGER: FETAKOMO TUBATSE LOCAL MUNICIPALITY	2021-01-21	22 nd Respondent
THE SPEAKER OF MAKHADO LOCAL COUNCIL	EC-002	23 rd Respondent
THE MUNICIPAL MANAGER: MAKHADO LOCAL MUNICIPALITY		24 th Respondent
THE SPEAKER OF BUSHBUCKRIDGE LOCAL COUNCIL		25 th Respondent
THE MUNICIPAL MANAGER: BUSHBUCKRIDGE LOCAL MUNICIPALITY		26 th Respondent
ABANTU BATHO CONGRESS		27 th Respondent
AFRICAN CHRISTIAN DEMOCRATIC PARTY		28 th Respondent
AFRICAN INDEPENDENT CONGRESS		29 th Respondent
AFRICAN NATIONAL CONGRESS		30 th Respondent
AFRICAN PEOPLE'S CONVENTION		31 st Respondent
AL JAMA AH		32 nd Respondent
AZANIAN PEOPLE'S ORGANISATION		33 rd Respondent
CONGRESS OF THE PEOPLE		34 th Respondent
DEMOCRATIC ALLIANCE		35 th Respondent
DEMOCRATIC LIBERAL CONGRESS		36 th Respondent
ECONOMIC FREEDOM FIGHTERS		37 th Respondent
FREEDOM FRONT PLUS		38 th Respondent
GOOD		39 th Respondent
INKATHA FREEDOM PARTY		40 th Respondent
MINORITY FRONT		41 st Respondent
MINORITIES OF SOUTH AFRICA		42 nd Respondent

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NATIONAL FREEDOM PARTY	43 rd Respondent
NATIONAL PEOPLE'S FRONT	44 th Respondent
PATRIOTIC ALLIANCE	45 th Respondent
SAKHISIZWE CONVENTION	46 th Respondent
SOCIALIST AGENDA OF DISPOSSED AFRICANS	47 th Respondent
TRULY ALLIANCE	48 th Respondent
UNITED DEMOCRATIC MOVEMENT	49 th Respondent
XIMOKO PARTY	50 th Respondent
ASHLEY RUTHERFORD	51 st Respondent



Coram: MBHA JA, LAMONT J and SHONGWE AJ (with Ms PATHER – MEMBER)

ORDER

1. Having considered the papers filed of record and the issues raised therein, the Court has unanimously come to the conclusion that the order sought by the Applicant for the postponement of the relevant by-elections, is justified in light of the current regulations promulgated in terms of the National Disaster Management Act 57 of 2002. The said by-elections cannot, in the circumstances, be conducted safely and in conditions that can be deemed to be free and fair.
2. Accordingly, the Court grants an Order:
 - 2.1 Authorising the holding of the following by-elections ("the affected by-elections") beyond the period of 90 days contemplated in section 25(3)(d) of the Local Government: Municipal Structures Act, 117 of 1999, but not beyond 120 days of the date of this order:

- 2.1.1 Ward 11 of the Matatiele Local Municipality, Eastern Cape Province;
- 2.1.2 Ward 25 of the Maluti a Phofung Local Municipality, Free State Province;
- 2.1.3 Wards 7 and 17 of the City of Johannesburg Metropolitan Municipality, Gauteng Province;
- 2.1.4 Ward 43 of the Ekurhuleni Metropolitan Municipality, Gauteng Province;
- 2.1.5 Wards 3, 58, 88 and 92 of the Tshwane Metropolitan Municipality, Gauteng Province;
- 2.1.6 Ward 110 of the eThekweni Local Municipality, Kwa-Zulu Natal Province;
- 2.1.7 Ward 11 of the Nquthu Local Municipality, KwaZulu-Natal Province;
- 2.1.8 Ward 13 of the Fetakgomo Tubatse Local Municipality, Limpopo Province;
- 2.1.9 Ward 38 of the Makhado Local Municipality, Limpopo Province; and
- 2.1.10 Ward 21 of the Bushbuckridge Local Municipality, Mpumalanga Province.

3. Granting the applicants leave to approach the Court on the same papers, duly supplemented as necessary, for further and/or alternative relief (including for an extension of the period within which the affected by-elections should be held) should it be necessary to do so.

4. There is no order as to costs.

BY ORDER OF COURT

P S W Myburgh

Registrar

21 January 2021



2021-02-04

IN THE ELECTORAL COURT OF SOUTH AFRICA,
HELD AT BLOEMFONTEIN



CASE NUMBER: 002/2021

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA

1st Applicant

CHIEF ELECTORAL OFFICER

2nd Applicant

And

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF THE
EASTERN CAPE**

1st Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF KWAZULU-
NATAL**

2nd Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE HUMAN SETTLEMENTS AND
TRADITIONAL AFFAIRS IN THE PROVINCIAL
GOVERNMENT OF LIMPOPO**

3rd Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE HUMAN SETTLEMENTS AND
TRADITIONAL AFFAIRS IN THE PROVINCIAL
GOVERNMENT OF MPUMALANGA**

4th Respondent

THE SPEAKER OF AMAHLATHI LOCAL COUNCIL

5th Respondent

**THE MUNICIPAL MANAGER: LOCAL AMAHLATHI
MUNICIPALITY**

6th Respondent

THE MUNICIPAL MANAGER: EMALAHLENI LOCAL MUNICIPALITY

P.O. Box 258, Bloomington 9301

2021 -02- 04

EC 502
7TH Respondent

8th Respondent

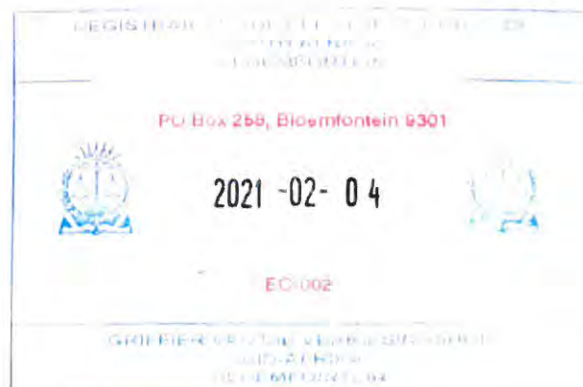
9th Respondent10th Respondent11th Respondent12th Respondent

13th Respondent

14th Respondent15th Respondent16th Respondent17th Respondent18th Respondent19th Respondent20th Respondent21st Respondent22nd Respondent

✓

THE SPEAKER OF THE MOGALAKWENA LOCAL COUNCIL	23 rd Respondent
THE MUNICIPAL MANAGER: MOGALAKWENA LOCAL MUNICIPALITY	24 th Respondent
AFRICAN CHRISTIAN DEMOCRATIC PARTY	25 th Respondent
AFRICAN INDEPENDENT CONGRESS	26 th Respondent
AFRICAN NATIONAL CONGRESS	27 th Respondent
AZANIAN PEOPLE'S ORGANISATION	28 th Respondent
CONGRESS OF THE PEOPLE	29 th Respondent
CIVIC INDEPENDENT	30 th Respondent
DEMOCRATIC ALLIANCE	31 st Respondent
ECONOMIC FREEDOM FIGHTERS	32 nd Respondent
FREEDOM FRONT PLUS	33 rd Respondent
INKATHA FREEDOM PARTY	34 th Respondent
MOGALAKWENA RESIDENTS ASSOCIATION	35 th Respondent
MTHATHA RATEPAYERS AND RESIDENTS ASSOCIATION	36 th Respondent
PATRIOTIC ALLIANCE	37 th Respondent
UNITED DEMOCRATIC MOVEMENT	38 th Respondent
UNITED FRONT OF THE EASTERN CAPE	39 th Respondent
FUNOKWAKHE FRANCE SIMELANE	40 th Respondent



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4

2021-02-04

T.C. 102

Coram: MBHA JA, LAMONT J and SHONGWE AJ (with Ms PATHER as MEMBER)

ORDER

Having read the papers and considered the matter, the following order is issued:

1. Authorising the holding of the following by-elections ("the affected by-elections") beyond the period of 90 days contemplated in section 25(3)(d) of the Local Government: Municipal Structures Act, 117 of 1999, but not beyond 120 days of the date of this order.
 - 1.1 Ward 11 of the Amahlathi Local Municipality, Eastern Cape Province;
 - 1.2 Ward 17 of the Intsika Yethu Local Municipality, Eastern Cape Province;
 - 1.3 Ward 43 of the King Sabata Dalindyebo Local Municipality, Eastern Cape Province
 - 1.4 Ward 28 of the Mnquma Local Municipality, Eastern Cape Province;
 - 1.5 Ward 17 of the Nelson Mandela Bay Metropolitan Municipality, Eastern Cape Province;
 - 1.6 Ward 9 of the Port St Johns Local Municipality, Eastern Cape Province;
 - 1.7 Wards 15, 22 and 30 of uMhlathuze Local Municipality, KwaZulu-Natal Province;
 - 1.8 Ward 14 of the Uphongolo Local Municipality, KwaZulu-Natal Province;
 - 1.9 Ward 23 of the Mogalakwena Local Municipality, Limpopo Province; and



- 1.10 Ward 33 of the Emalahleni Local Municipality, Mpumalanga Province.
2. Granting the applicants leave to approach the Court on the same papers, duly supplemented as necessary, for further and/or alternative relief (including for an extension of the period within which the affected by-elections should be held) should it be necessary to do so.
3. There is no order as to costs.



BY ORDER OF COURT

P S W Myburgh

Registrar

04 February 2021

REGISTRAR OF THE ELECTORAL COURT OF SOUTH AFRICA BLOEMFONTEIN		
PO Box 258, Bloemfontein 9301		
	2021 -02- 04	
EC-002		
GRIFFIER VAN DIE VERKIESINGSHOF SUID-AFRIKA BLOEMFONTEIN		



"FA14.8"

**IN THE ELECTORAL COURT OF SOUTH AFRICA,
HELD AT BLOEMFONTEIN**



CASE NUMBER: 003/2021

In the matter between:

ELECTORAL COMMISSION OF SOUTH AFRICA1st Applicant**CHIEF ELECTORAL OFFICER**2nd Applicant

And

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF THE
EASTERN CAPE**

1st Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS IN
THE PROVINCIAL GOVERNMENT OF KWAZULU-
NATAL**

2nd Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE HUMAN SETTLEMENTS AND
TRADITIONAL AFFAIRS IN THE PROVINCIAL
GOVERNMENT OF NORTHERN CAPE**

3rd Respondent

**MEC RESPONSIBLE FOR COOPERATIVE
GOVERNANCE HUMAN SETTLEMENTS AND
TRADITIONAL AFFAIRS IN THE PROVINCIAL
GOVERNMENT OF WESTERN CAPE**

4th Respondent**THE SPEAKER OF THE MAKANA LOCAL COUNCIL**5th Respondent

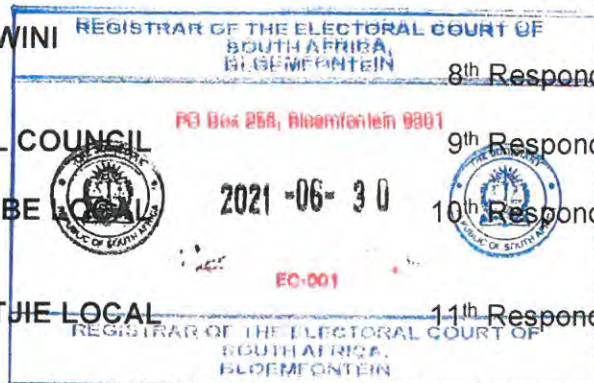
**THE MUNICIPAL MANAGER: MAKANA LOCAL
MUNICIPALITY**

6th Respondent

THE SPEAKER OF THE eTHEKWINI
METROPOLITAN COUNCIL

7TH Respondent

THE MUNICIPAL MANGER: eTHEKWINI
METROPOLITAN MUNICIPALITY



8th Respondent

THE SPEAKER OF eDUMBE LOCAL COUNCIL

9th Respondent

THE MUNICIPAL MANAGER: eDUMBE
MUNICIPALITY

10th Respondent

THE SPEAKER OF THE SOL PLAATJIE LOCAL
COUNCIL

11th Respondent

THE MUNICIPAL MANAGER: SOL PLAATJIE
LOCAL MUNICIPALITY

12th Respondent

THE SPEAKER OF THE CITY OF CAPE TOWN
METROPOLITAN COUNCIL

13th Respondent

THE MUNICIPAL MANAGER: CITY OF CAPE TOWN
METROPOLITAN MUNICIPALITY

14th Respondent

THE SPEAKER OF THE CEDERBERG LOCAL
COUNCIL

15th Respondent

THE MUNICIPAL MANAGER: CEDERBERG LOCAL
MUNICIPALITY

16th Respondent

THE SPEAKER THE SWARTLAND LOCAL
COUNCIL

17th Respondent

THE MUNICIPAL MANAGER: SWARTLAND LOCAL
MUNICIPALITY

18th Respondent

ABANTU BATHO CONGRESS

19th Respondent

AFRICAN CHRISTIAN DEMOCRATIC PARTY

20th Respondent

AFRICAN INDEPENDENT CONGRESS

21st Respondent

AFRICAN FREEDOM REVOLUTION

22nd Respondent

AFRICAN NATIONAL CONGRESS

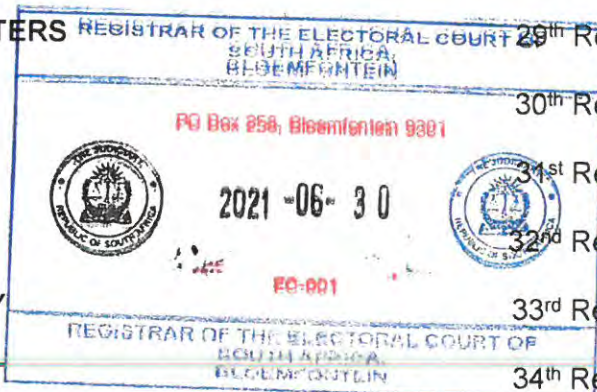
23rd Respondent

AFRICAN PEOPLES CONVENTION

24th Respondent

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AFRICA RESTORATION ALLIANCE	25 th Respondent
AL JAMA-AH	26 th Respondent
ALLIANCE OF DEMOCRATIC CONGRESS	27 th Respondent
DEMOCRATIC ALLIANCE	28 th Respondent
ECONOMIC FREEDOM FIGHTERS	29 th Respondent
FREEDOM FRONT PLUS	30 th Respondent
GOOD	31 st Respondent
INKATHA FREEDOM PARTY	32 nd Respondent
NATIONAL FREEDOM PARTY	33 rd Respondent
NATIONAL PEOPLE'S FRONT	34 th Respondent
WALLACE VUSUMUZI MANDINDI	35 th Respondent
URSULA DENISE VAN HORSTEN-SCHENKER	36 th Respondent
SIDNEY VAN ROOYEN	37 th Respondent



Coram: MBHA JA, LAMONT J and SHONGWE AJ (with Ms PATHER – MEMBER)

ORDER

Having read the papers and considered the matter, the following order is issued:

1. Authorising the postponement of the following by-elections ("the affected by-elections") beyond the period of 90 days contemplated in section 25(3)(d) of the

Local Government: Municipal Structures Act, 117 of 1999, but not beyond 120 days of the date of this order.

- 1.1 Ward 3 of the Makana Local Municipality, Eastern Cape Province;
- 1.2 Ward 98 of the eThekweni Metropolitan Municipality, KwaZulu-Natal Province;
- 1.3 Ward 5 of the eDumbe Local Municipality, KwaZulu-Natal Province;
- 1.4 Ward 1 of the Sol Plaatjie Local Municipality, Northern Cape Province;
- 1.5 Wards 51 and 63 of the City of Cape Town Metropolitan Municipality, Western Cape Province;
- 1.6 Ward 1 of the Cederberg Local Municipality, Western Cape Province;
- 1.7 Ward 2 of Swartland Local Municipality, Western Cape Province.

2. Granting the applicants leave to approach the Court on the same papers, duly supplemented as necessary, for further and/or alternative relief (including for an extension of the period within which the affected by-elections should be held) should it be necessary to do so.

3. There is no order as to costs.


BY ORDER OF COURT

P S W Myburgh

Registrar

30 June 2021

