

SUBMISSION BY THE SHOSHOLOZA PROGRESSIVE PARTY TO THE MOSENEKE INQUIRY INTO ENSURING FREE AND FAIR LOCAL GOVERNMENT ELECTIONS DURING THE COVID-19 PANDEMIC

NB: We would like to give a presentation to the Inquiry

Introduction

Shosholoza Progressive Party is a political party registered on the 7th of December 2015. The party has contested two bl-elections to date and is contemplating contesting the local elections scheduled for 27 October 2021. with the Electoral Commission since 2016.

The Constitutional Imperative

Section 159(2) of the Constitution states clearly that “when the term of a municipal council expires, an election must be held within 90 days of the date that council’s term expired.

The previous local government elections took place on 3 August 2016, and using the constitutional framework, the next local government elections must be held not later 1 November 2021.

It is clear that the constitutional requirement to conduct an elections within 90 days of expiry of term of a municipal council is compelling unless the and until the Electoral Commission approaches the Constitutional Court for a determination as has happened on the matter of addresses on the voters’ roll.

The Right to Vote and free and fair elections vs the Right to Life.

The above question is fundamental and at the heart of the debate about whether to continue with the local elections in October 2021 or to postpone the elections.

The Right to Life

The Covid-19 pandemic has taken away many lives and continues to pose a serious threat to the lives of the majority hence the WHO has declared it a pandemic and has cautioned the world to institute measures to curb infections. Such measures include social distancing, wearing of masks and washing hands regularly.

It is our considered view that the right to life outweighs the right to vote and we therefore propose that this principle be tested with the Constitutional Court. We are of the firm view that the life of South Africans far outweighs their right to vote and if asked to make a choice a larger majority if not all would choose the right to life than the right to vote.

Looking at the methods designed by the electoral Commission to minimise the risk of contamination and infection, Shosholozza Progressive Party is not convinced that these have been adequately designed to save the lives of election officials from possible contamination and also the lives of voters themselves.

The highest risk to both election officials and voters lies in the following points

1. **Inking of Voters:** The mere fact that the voting official will be required to hold the hand of the voter to apply the ink means that the social distancing rule will invariably be compromised.
2. **Voter Register Checker:** The official that will be checking the voter register is expected to touch the voters' identity card to check the authenticity and also to mark the voter register means that social distancing will be compromised.
3. **Voting Booth:** "Recent research evaluated the survival of the COVID-19 virus on different surfaces and reported that the virus can remain viable for up to 72 hours on plastic and stainless steel, up to four hours on copper, and up to 24 hours on cardboard". The voting booth used in South Africa is cardboard and the virus can remain active on this surface for 24hrs. If one voter who is infected uses the voting booth and coughs or sneezes whilst in there, the virus will remain active for 24 hours and may infect all voters that come to vote after the infected voter. This provides a high risk for voters and may affect the right to life of every voter.
NB, the polling booth can not be cleaned with a sanitizer because it is made of cardboard.
4. **Voter Identification: The Commission has introduced a procedure whereby** "The voter should adjust the _{face} mask to enable the official to determine whether the voter is the person described in that identity document. In this regard care should be taken that the requisite distance is maintained, and that the voter observes proper guidelines on handling the face mask." This is a good procedure, but what about it is

also probable that whilst adjusting the mask to reveal the entire face, the voter may cough and spray the virus in the whole voting station therefore endangering all officials and voters.

The Right to Vote

Not only is the covid-19 pandemic affecting the right to life but it is also negatively affecting the right to vote.

1. Looking at the by-elections conducted during the pandemic, the voter turn-out figures are pathetic (actual figures will be provided during presentation). This is evidence that voters are afraid to go out and exercise their right to vote. An election that fails to afford willing voters an opportunity to vote is not credible. Many people may wish to go out and vote but because of the fear created by the covid-19 pandemic voters may not be free to go out to exercise their vote. Poor voter turn out is counterintuitive to the doctrine of democracy because democracy is the will of the majority, not just the majority of registered voters but the majority of citizens.
2. Voters in isolation or quarantine. The electoral commission has not devised a method to deal with voters in quarantine or isolation. It is our considered contention that any eligible voter must be given a chance to vote. Covid-19 requires infected persons to go into quarantine and isolation. This means that they cannot exercise their right to vote.

Free and Fair Elections

The Covid-19 pandemic has affected livelihoods of many voters such that some voters are without means and resources to live an healthy life. Many people have lost their jobs and their means of livelihood. This has forced many voters into positions of desperation and poverty. This has the potential to promote voter buying with food parcels which has become a widespread methods of voter manipulation. This is the source of corruption where certain political parties actually go out to bribe voters and take advantage of their desperate situations. It is our grave concern that under the current conditions many voters are vulnerable and their right to choose is compromised when political parties offer them bribes in the form of food parcels for votes.

Conclusion

Shosholoza Progressive Party is of the strong opinion that the local elections scheduled for 27 October 2021 be postponed for one year to allow the covid-19 conditions to pass and that elections must be held under free and fair conditions that allow for free campaigning,

rallies, meetings etc. The current conditions will favour the old parties that do not need to go out to canvass for support like new parties do.

President



Dr Raynauld Russon