



Southern African Catholic Bishops' Conference

SUBMISSION OF THE SOUTHERN AFRICAN CATHOLIC BISHOPS' CONFERENCE ON THE INQUIRY INTO ENSURING FREE AND FAIR LOCAL GOVERNMENT ELECTIONS DURING COVID-19

The Southern African Catholic Bishops' Conference (SACBC) would like to thank Justice Dikgang Moseneke for the invitation to submit comments to the Commission of Inquiry into Ensuring Free and Fair Local Government Elections during COVID-19.

The Church has particular interest in safeguarding constitutional democracy during the pandemic in a manner that serves the common good and protects human life. We therefore welcome the opportunity to make a submission and contribute to policy development around the holding of elections during a pandemic. We do this in the spirit of our pastoral statement on the elections, issued on 3 May 2019, in which we affirmed the sacredness of the right to vote: "The exercise of the right to vote is both a sacred and moral duty. Many people suffered and died to enable us to exercise the vote...By voting in a spirit of humility and service, may we bring hope to the poor, unity for all our people and a more secure and peaceful future for our children."

We have taken into consideration the terms of reference for the Inquiry which 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.
- To indicate additional measures that the Electoral Commission may be required to implement in order to realize free and fair elections within the context of the COVID-19 pandemic.

We are cognizant of the fact that variety of political parties have raised serious concerns regarding restrictions on political gatherings and other constraints to campaigning under the current national state of disaster regulations. Such parties have therefore proposed postponement of elections in light of the pandemic.

We have equally taken note of the fact the public health risks in the Covid-19 situation have led some countries to postpone their elections. At the same time, confronted by similar situations, others have however proceeded with their elections. In both cases, different types of arguments were adopted. In our country, both in 2020 and 2021, the Electoral Commission was able to conduct free, fair and safe by-elections during the previous Alert Level 1 phase of restrictions. We remain confident it can conduct the municipal elections under similar Adjusted Level 2. We therefore submit that, in so far as conditions between September and October are under adjusted Alert Level 2 phase of restrictions, the Commission proceeds with its plan for the holding of Local Government Elections within the current Constitutional timeframe

We believe that if the country finds itself in an extraordinary situation, where it is necessary to choose between protection of human life and the realization of the right to participate in an election, the priority should be given to the former. We respectfully submit that the situation under adjusted Alert Level 2 does not place the country under such an extraordinary situation and elections can proceed within the constitutional timeframe if the prevailing conditions in October are under adjusted Alert Level 2, which is substantially the same as Alert Level 1.

We are aware that one inevitable feature of the current pandemic is that any understanding of how it will develop is always subject to considerable uncertainty. If the situation on the ground drastically changes immediately before the elections, and having regard to the advice of health experts, the holding of the elections in such dangerous circumstances can then be re-assessed from the point of view of protection of human life.

In every democratic state, elections avail citizens with an opportunity and instrument for holding the public representatives to account in a manner that benefits the common good and the most vulnerable in our society. Given the deteriorating state of service delivery in some municipalities in the country and the ethical failure in leadership displayed by some councillors, with the poorest of the poor being the ones most affected, it makes sense not to withhold the opportunity for exacting electoral accountability unless extraordinary circumstances later present themselves.

In order to talk about fair elections, the international principles of electoral law (universal, equal, free, secret and direct suffrage) should be complied with, regardless of conditions in which the voting must be organized. To realize this objective, we believe that the Electoral Commission can draw lessons from other countries in the world – as well as from our own by-elections - so as to overcome the challenges and uncertainties of holding fair elections during a pandemic. We therefore propose that the Electoral Commission seriously considers the following best practices, as implemented by other countries, so as to protect life and impede the spread of the virus during the various phases of the electoral process:

- Adding a second day of polling - There is no reason in principle why the elections have to be confined to a single day. Multi-day polling was used in the transitional elections in 1994. Having polling running over two days rather than just one day could potentially effect a dramatic reduction in queues, especially if accompanied by a public information campaign to encourage some people to vote on the first day and others on the second. Driving through polling facilities should also be explored having due regard for the best practices from other countries.
- Effective complaint mechanism: Despite the safety measures adopted by the Electoral Commission during the by-elections (social distancing, sanitizing, disinfection etc), there were non-compliance issues in a number of voting stations especially in rural areas. We strongly recommend an establishment of a complaint mechanism (including a helpline) through which citizens can report and seek remedies for voting stations which fall short of safety measures and Covid-19 protocols. The Electoral Commission and the political parties should also prepare a Code of Conduct binding the staff, observers and political parties to comply with minimum safety standards for an election that is conducted during an epidemic.
- Vaccination of the staff who will be involved in voting stations: We propose that the Electoral Commission and the Health Department consider the roll-out of vaccination to the staff who will be managing the voting stations. Short of that, they might need to require polling staff to be tested for Covid-19 at least two days before the election date. This could

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assist in building public confidence around the safety of the elections and thereby contribute to high voter turnout. These measures have to be developed in consultation with health experts.

- **Strict measures against public rallies:** Given the concerns around political gatherings becoming Covid-19 super spreader events, in a number of countries, electoral campaigning involving large gatherings of people at rallies were superseded by forms of campaigning involving less personal contact, such as digital campaigns, posters, advertising on social media, text messages etc. At a more personal level, door-to-door campaigns by candidates and volunteers were permitted under strict conditions. It has been argued that lack of political rallies will affect the results of elections themselves and the legitimization of the representatives elected under such circumstances. As such, one can foresee a likelihood of court challenge and other forms of contestation if strict measures are introduced against public rallies. We therefore propose that any regulations on electoral campaigning be informed by views of health experts so as to ensure that any restrictions to electoral campaigning are no broader than can be justified on infection control grounds. We should ensure that each electoral candidate is given the opportunity to present their views to the voters in the broadest possible way, applying all legally admissible forms of electoral campaigning. Some political parties find it difficult to imagine free and fair elections where there are no political rallies and unrestricted door-to-door campaign. We have however to accept that the pandemic has presented us with a new normal that requires a different way of doing things, including different ways of conducting elections.

- **Strong measures against disinformation campaign:** Different from by-elections, a greater level of transparency is required when conducting a nation-wide election during a pandemic. We therefore recommend that, between August and October, the Electoral Commission utilizes social media presence to provide the general public with constant and accurate information about the voting process in an election conducted during a pandemic. The Electoral Commission should also take strong measures to address possible disinformation campaigns designed to misrepresent the risks associated with holding elections during a pandemic. It is important to ensure that voters have the widest possible access to public information so as to eliminate the dangerous phenomenon of disinformation.

- **Age of profile of staff and observers in voting stations:** There are no widely available international standards on the typical age profile of poll workers during a pandemic. We recommend that, in determining the staffing and observers at voting stations, the electoral commission and the political parties agree on the age demographics to avoid poll workers who could face higher chances of suffering more severe consequences of Covid-19. In other countries, a deliberate effort was made to recruit young poll workers. This could equally be adopted in our circumstances.

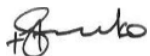
- **Measures to ensure higher voter turnout:** Another cause of concern during the by-election was low voter turnout. We are aware that previous municipal elections in our country have attracted low voter turnout. The public health risks during the pandemic could worsen this situation. A low turnout may adversely affect the legitimization of the representatives elected under such circumstances. We therefore recommend that the Electoral Commission introduces a more effective multi-media campaign specifically directed at voter turnout. Special targeted communications and education programme should be undertaken in at risk wards to teach voters about the new safety protocols and to encourage participation.

- Contingency plans: Other countries put contingency plans in place to cover the possibility that key staff at voting stations could fall ill at a critical time, possibly requiring everyone working in a particular office or team to be quarantined. Such provisions could be considered for our local election.
- Electoral violence: In some provinces, previous municipal elections have been accompanied by the risk of violence. Taking advantage of the disruption caused by the Covid-19 pandemic and its economic consequences, as well as factional politics emerging in various political parties, some politicians could escalate this risk, resulting in elections being held in a more violent environment. In previous elections, the Electoral Commission and the political parties signed a Memorandum of Understanding around peaceful elections. Over and above such measures, we recommend that the Electoral Commission, political parties and the security sector be more proactive in identifying risk areas and devise effective measures to counter possible electoral violence.

The conducting of local government elections would be among the most challenging yet faced by our nation. The examples of successful elections in other countries around the world – and our own by-elections- should however enable us to overcome this challenge in a manner that protects human life and brings hope to the poor who are suffering from failures in service delivery. We also have confidence in our public health experts and their ability to provide for the possibility of carrying out the electoral process in a different way to what traditionally takes place.

Recalling the words in the Scripture, “Remembering the mercies of God...let the renewing of your minds transform you, so that you may discern for yourselves what is the will of God – what is good, acceptable and mature” (Romans 12:1-2) , we assure Justice Dikgang Moseneke and the Electoral Commission of our prayers during this difficult time in our nation as we discern measures to develop a new normal in the holding of elections safely, and in a manner that addresses the needs of the most vulnerable in our society and the interests of the common good. In this spirit, we also call upon all the people of good will in our nation “to pray earnestly and intercede for our nation during the coming electoral activities before we vote, as we vote, and after we vote for the common good.” (Statement of the Southern African Catholic Bishops’ Conference, May 2019)

Respectfully yours,



Bishop Sithembele Sipuka
SACBC President