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Dear Justice Moseneke

## **SUBMISSION TO THE INQUIRY INTO ENSURING FREE AND FAIR LOCAL GOVERNMENT ELECTIONS DURING COVID 19**

### **1. Introduction**

The National House of Traditional and Khoi-San Leaders (NHTKL) appreciates the invitation and the opportunity to present its position regarding the holding of elections during the Covid-19 period. The NHTKL in its presentation will indicate the actions that must be taken by those involved in the campaigns as well as during the elections. The NHTKL does not see anything that may cause either the postponement of elections due to Covid-19.

### **2. Term of office**

The term of office of the current local government is coming to an end and therefore a renewed mandate to govern ought to be received by concerned parties and individuals. Local government is supposed to be the most critical structure that delivers services to the people. It is unfortunate that service delivery is hampered by so many wrong doings to an extent that some people believe that to be in a municipality or any public office, means to be a *'tenderpreneur'*. The pride of serving people with humility and with ethics is being lost by most public representatives.

### **3. Elections during Covid-19 period**

The Constitution of the Republic of South Africa requires that there must be elections every five years. The Local Government Elections constitutes one of those elections that must get public representatives elected who will focus on the

delivery of service at local government level. There have been by-elections in different municipalities in the country and no rigging or unfairness was recorded. Fair elections are measured by several matters which include but not limited to campaigns, voting and voter education. The Campaigns are open to be conducted by parties using different strategies.

Each party and / or individual may decide on the best mechanism of campaigning which may include putting up billboards, distributing pamphlets, and utilising social media and contact meetings. The contacts meetings ought to follow the correct protocols determined by the Disaster Management Regulations. The Institution of Traditional Leadership believes that there is no reason to postpone the elections due to the pandemic, instead more creative ways ought to be established by the IEC, political parties and individuals who want to contest the election.

There are countries that conducted elections during the pandemic and were successful. It is suggested that IEC draw lessons from those countries like America, including the overall organisation and conduct during the elections. The NHTKL believes that this is an opportunity for the people of South Africa to continue living the democracy that was fought for that each and every five years, there would be elections for public office bearers. The NHTKL believes that any thought of postponing the elections has a potential of dampening the spirit of democracy especially not being able to exercise the right to choose a person or party to govern.

The NHTKL responded to all issues as below:

**3.1 Whether the current conditions under the Covid-19 pandemic are conducive or not to the holding of free and fair local government elections during October 2021.**

Yes, the NHTKL believes that though South Africa is engulfed by Covid-19, the holding of free and fair election does not have anything to do with the Covid-19. Free and Fair election depends on the conduct of those contesting the elections and the Electoral Commission. The sound monitoring of the conduct of the parties and individuals during campaigns and on the day of elections (party agents) is of significance. The other critical aspect is the role of IEC in the free and fair elections. The way the IEC hold elections should be in line with the Electoral Code of Conduct and all participants must be treated equally. The free and fair elections is not reliant on the Covid-19 pandemic but on the behaviour of IEC officials, parties, and monitors.

**3.2 The risk that might be posed to the lives and health of people if the local government election were to proceed in October 2021.**

The risk is that if someone is infected with the virus, he/she may infect all those who may come to contact with him/her. The thermometer (temperature scanner) must be used to determine the temperature of the voter before being allowed to vote. Other preventative measures should include sanitizing after each voter has voted especially the voting booth, and the IEC officials should wear gloves and

masks and sanitize the gloves. The queues to the voting station must be clearly marked to be in line with the Covid-19 health protocols.

**3.3 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.**

The challenge that we will always have is people who work and might be staying in urban areas but have not registered to vote where they stay. This may cause a serious challenge because elections may then become a super spreader. It is therefore suggested that people must vote where they stay and not travel to vote somewhere else because the virus does not travel but people do. There should be roadblocks just like what was happening during level 5 lockdown where people will be taken temperature and registered when entering another province.

**3.4 The constraints, if any, that the measures in place to prevent and combat the spread of Covid-19 have imposed or will likely impose on political activity and campaigning in the lead-up to the local government elections earmarked to be held in October 2021.**

The constraints are big rallies that parties normally have at the end of their campaigns and other provincial rallies. Rallies can still be held through various media of communication like virtual meetings. Many rallies can be conducted at the same time targeting different wards and different provinces by the relevant parties and individuals. Rallies may be held in a smaller scale as per the Disaster Management Act Regulations. They may not be as reverberating as the bigger rallies are, but they may even be more focussed and targeted.

**3.5 The constraints, if any, that the measures in place to prevent and combat the spread of Covid-19 are likely to impose on the proper and effective monitoring, by political party agents and independent electoral monitoring bodies, of the freeness and fairness of the local government elections earmarked to be held in October 2021.**

Monitoring of the elections will not be hampered. Monitors should continue to monitor because they are not a group but few of them. The party agents who normally occupy a space within the voting station will have to keep social distance, wear all the relevant protective clothing including gloves and be sanitized regularly.

**3.6 The experience of the by-elections which the Electoral Commission has conducted during the period of the Covid-19 pandemic.**

We have not received any news of the by-elections being a super spreader. One can conclude that by-elections have exposed us to be more vigilant yet keep our democracy intact.

#### **4. Recommendations**

The NHTKL is of the opinion that elections should not be postponed but all the relevant safety measures be taken into consideration. It is the belief of the NHTKL that elections will not be the super spreader of Covid-19.

The NHTKL further proposes the following:

- The elections to be conducted over 2 days instead of one day.
- A provision be made for participation of people who are in self isolation, quarantined and hospitalized to uphold their right to vote in free and fair elections.
- People to be allowed to vote where they reside instead of where they registered to curb the spread from one area to the other.

Yours sincerely



**Nkosikazi ND Mhlauli  
ACTING CHAIRPERSON**

**Date: 22 June 2021**