

SUBMISSION OF THE INKATHA FREEDOM PARTY
TO THE INQUIRY INTO
ENSURING FREE AND FAIR LOCAL GOVERNMENT ELECTIONS DURING COVID-19

18 June 2021

Justice Dikgang Moseneke

Chairperson

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Via email freeandfair@elections.org.za

INTRODUCTION

The IFP appreciates this opportunity to make a presentation on the feasibility of holding Local Government Elections on 27 October 2021.

It is our submission that, despite the Electoral Commission's proclamation of electoral preparedness, maintaining the date of 27 October 2021 will compromise free and fair elections due to current applications of the Disaster Management Act and the reality of life in our communities.

Ensuring that elections are free and fair requires more than mere preparedness of the election machinery. It demands that political parties and candidates are able to campaign, and that the electorate is able to make informed decisions. Above all, voters must be free to vote without fear and without lives being threatened.

CONSTRAINTS ON FREE AND FAIR ELECTIONS

We wish to point out the following constraints to holding free and fair elections on 27 October this year –

1. Ability of political parties to comply with IEC requirements

Established political parties, such as the Inkatha Freedom Party, have internal party guidelines on candidate selection for public representatives. For us this requires branches to meet and nominate candidates for wards and proportional representation in their various municipalities.

Given the Alert Level 3 limitations on the number of people that can meet, which – as from 15 June 2021 – is 50 people indoors and 100 people outdoors with social distancing, our ability to select candidates is severely constrained.

To enable candidate selection the only solution would be to use virtual technology, which in real life applications has its limitations. This will advantage parties with core support amongst higher income urban communities, as accessibility to modern technology is not restricted, whilst parties with their core support in lower income and rural areas will be disadvantaged, as the cost and accessibility of technology is limited.

2. Ability of political parties to campaign

To ensure that elections are free and fair, all contesting political parties must be able to campaign and present their values, beliefs and manifestos to potential voters. Again, as previously stated, given the limitations of personal interaction this will advantage parties and voters in higher income urban communities. It is our assertion that forcing this election date will impact on the freedom of choice and ability to make that choice in our economically disadvantaged and rural electorates.

3. Impact on Elections

Current government messaging focusses on staying away from closed or crowded spaces and staying at home as much as possible. During voter registration and on the election day, voters will be expected to do the exact opposite. Given the current situation in our country, voter turnout may prove to be so low that this election could not be considered a fair democratic process.

Alternatively, we can use the example of American voters who voted before elections to limit the number of people going to voting stations on election day. In South Africa, we do not have mail-in voting or voting at the polling station in days leading up to the election; but we

do have Special Votes. Will provision be made for voters who wish to limit their potential exposure to Covid-19 to cast Special Votes?

According to the IEC, there are currently 25,742,038 voters in South Africa and in the 2016 Local Government Elections 15,205,936 ward votes and 15,189,423 proportional representation votes were cast. If approximately half of potential voters are to make use of these Special Votes, can the IEC give assurances that they have the mechanisms in place to send out officers and collect more than 7 million Special Votes? It must also be pointed out that electoral fraud is frequently identified in the process of Special Votes, as logistically this process is more vulnerable than ordinary voting.

4. Protecting the democratic right to vote

It would be unconstitutional to disenfranchise voters due their Covid-19 status. However, aside from Special Votes, only voters who are physically able to get to a voting station can cast their ballot. This means that Covid-19 positive hospital patients will not be able to vote. Neither will those who are positive and in self-quarantine. In addition, anyone who has had close contact with a positive case and is self-isolating will not be able to vote, without potentially risking lives.

We are effectively asking our citizens to choose between protecting lives and voting.

Undeniably, there will be cases of infection from people travelling and congregating to vote. While it cannot be quantified, there *will* be resultant loss of life if elections are held on 27 October 2021.

CONSTITUTIONAL REQUIREMENTS

The IFP submits that by implementing the Disaster Management Act 57 of 2002, the Government has limited human rights as enshrined in our Bill of Rights, specifically freedom of movement and the right to assembly. Given the circumstances and the seriousness of the Covid-19 pandemic and the need to take drastic measures to ensure the safety of our people, we have supported this declaration of a State of Disaster. But any election conducted during this State of Disaster, while human rights are limited, cannot be free nor fair.

CONDITIONS FOR THE HOLDING OF FREE AND FAIR ELECTIONS

We submit that in order for free and fair elections to be held, the following criteria must first be met –

1. The State of Disaster must be lifted and there must be no restrictions on the ability of the people of our country to move about or congregate;
2. The infection and mortality rate in South Africa must have decreased consistently over a period of time and scientific projections should indicate further declines;
3. At least 60% of our population must have been vaccinated.

CONCLUSION

We urge the Inquiry to recommend that the IEC act on Section 21 of the Electoral Act 73 of 1998 –

“The Commission may request the person who called an election 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.”*

With regard to sub-section (b) it is our belief that when our Constitution was written the intent was to ensure that democracy reigns supreme. Given the reality of our current lives we as the Inkatha Freedom Party put the safety and security of our people before all else – we choose life.

There cannot be free and fair elections during a State of Disaster and when voters fear exercising their right to vote. It is essential, therefore, that the 2021 Local Government Elections be postponed.

We ask of this Inquiry to have the courage and commitment to put the lives of our people first. The principle of democratic elections is meaningless when the exercise of that principle places lives in jeopardy.

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