

# PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

=====

## ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

=====

WEDNESDAY, 9 DECEMBER 2020

### COMMITTEE REPORTS

**1. Report 6/ 2020**

**Ref: Citizen Engagement – Stakeholder Engagement/Health Update**

**Report of the Ad Hoc Committee on COVID-19, in performing oversight over the work of the provincial executive authority as it responds to the COVID-19 pandemic, including oversight over any part of the provincial executive authority, any provincial department, any organ of state and any provincial entity involved in activities dealing with the pandemic, on the themes/meetings covered for September 2020, as follows:**

**The Ad Hoc Committee on COVID-19 consists of the following members:**

Ms M Wenger (DA)(Chairperson)  
Mr R Allen (DA)  
Mr D America (DA)  
Ms D Baartman (DA)  
Mr G Bosman (DA)  
Mr F Christians (ACDP)  
Mr C Dugmore (ANC)  
Mr B Herron (GOOD)  
Ms P Lekker (ANC)  
Mr P Marais (FFP)  
Mr D Mitchell (DA)  
Ms W Philander (DA)  
Mr A van der Westhuizen (DA)  
Ms R Windvogel (ANC)  
Mr M Xego (EFF)

**Alternative Members:**

Ms L Botha (DA)  
 Mr R MacKenzie (DA)  
 Ms M Maseko (DA)  
 Ms N Nkondlo (ANC)  
 Mr K Sayed (ANC)  
 Mr D Smith (ANC)

**Procedural Staff:**

Ms Z Adams, Procedural Officer  
 Ms L Cloete, Senior Procedural Officer

**1. Introduction and Background**

The Ad Hoc Committee on COVID-19 (the Committee) was established by the Speaker of the Western Cape Provincial Parliament on 14 April 2020 in accordance with Standing Rule 119(1)(b) of the Standing Rules of Western Cape Provincial Parliament. The Committee was tasked with the responsibility to perform oversight over the work of the provincial executive authority as it responds to the COVID-19 pandemic, including oversight over any part of the provincial executive authority, any provincial department, any organ of state and any provincial entity involved in activities dealing with the pandemic.

The meetings have been held virtually, so as to comply with COVID-19 lockdown regulations issued by National Government, as well as a decision of the Programming Authority, to enforce social distancing rules.

**2. Election of Chairperson, Adopted Themes and the Rules of Engagement**

On 17 April 2020, Member M Wenger (DA) was elected to serve as the Chairperson of the Committee in accordance with Standing Rules 82(1) and 85. The Committee adopted 12 themes around which it would address the COVID-19 pandemic, also agreeing to hold two meetings per week, given the urgency of the matter. Each meeting would primarily focus on one theme. The 12 adopted themes were as follows:

1. Health Department Responses and Preparations
2. Policing, Security and Police Brutality
3. Food Security
4. Protection of the Vulnerable
5. Disaster Management and Local Government Oversight
6. Economic Recovery, Support and Livelihoods
7. Transport and Infrastructure
8. Schooling and Education
9. Human Settlements
10. Citizen Surveillance
11. Intergovernmental Relations and Community Cooperation
12. Government Finance and Budgets

**Additionally, the Rules of Engagement during virtual meetings were indicated as follows:**

1. All meetings would be open to members of the public and media via livestreaming;
2. All Members microphones must be muted at the beginning of the meeting to avoid background noise;

3. Members are to flag Points of Order in the Chat Function of Microsoft Teams (the application through which virtual meetings are held);
4. All videos and audio must be switched off to improve the quality of the connection; however, if a Member/Minister/HOD/Official is speaking, they may put on their audio and video;
5. Participants must switch off their microphones once they are finished speaking;
6. In terms of maintenance of order, in accordance with the “Directives for Sittings of the House and Meetings of Committees by Electronic Means”, ATC’d on Friday, 17 April 2020, Section 8 states that “when a Member is considered to be out of order by the presiding officer, the presiding officer may mute the microphone of such a Member and call such a Member to order”; and
7. Section 10 of the Directives ATC’d on 17 April 2020 speaks to the application of Standing Rules. Section 10 states that “in instances where these directives are not clear or do not cover a particular eventuality in respect of sittings of the House or meetings of the committees by means of videoconferencing, the Standing Rules must apply as far as this is reasonably and practically possible and, in instances where they cannot be applied, the ruling by the presiding officer must be final”.

**The themes/meetings covered in September 2020 included:**

- Citizen Engagement - Oral submissions by various persons and organisations on the impact that the COVID-19 pandemic has had on their livelihoods – 9 September 2020.
- Health Update - Briefing by the Provincial Minister of Health and Head of the Provincial Department of Health on the situational analysis of the pandemic in the Province, including the health indicators and health responses in relation to COVID-19 to September 2020.

3. **CITIZEN ENGAGEMENT: Engagement with Persons and Organisations**

**3.1 Overview and background**

The Ad Hoc Committee embarked on a citizen engagement phase and invited the voices of the private sector, the NGO sector, unions, business chambers as well as civil society to speak about their experience during the pandemic. The Committee therefore requested submissions/inputs from Members of the Public on certain matters pertaining to the COVID-19 pandemic. Submissions were received from members of the public between 12 July and 12 August 2020. The Committee requested comments/submissions on the following COVID-related matters, under the main question, “What has been your experience of the Government’s reaction to the COVID-19 pandemic?”:

- Have you or a family member been exposed to the coronavirus? Share the experience you had of the health system.
- Were you able to access food support when you needed it?
- Do you understand why you need to wear a mask?
- Do you know how to access COVID-19 grants/ support for small businesses?
- Did you feel safe when you went back to work?
- Does the public transport you use have sanitisers available?
- Is your child’s school practising social distancing and conducting temperature checks every day?
- What are your thoughts about the reopening of early childhood development (ECD) centres?

The COVID-related questions were published on social media platforms (Facebook and Twitter) in the form of infographics, and adverts were published in mainstream and

community newspapers – Isolezwe, Die Burger, the Argus, George Herald, Weslander and Swartland Joernaal. Members of the public were invited to comment via email as well as WhatsApp messages and voice notes. Approximately 17 000 submissions were received.

The Committee met on 9 September and heard testimonies from a number of persons and organisations who have been affected by the COVID-19 pandemic and subsequent lockdown. These persons and organisations requested for the Committee to hear their oral submissions.

### **3.2 The individuals and organisations who shared their stories were as follows:**

#### **3.2.1 Centre for Early Childhood Development in Cape Town – Prof Eric Atmore**

The national government department of Social Development has failed our children and parents across the country during the COVID-19 lockdown by not setting a date for when ECD centres could open until forced to do so by the Gauteng High Court. This despite numerous calls, letters and requests to the department from ECD centres and ECD non-profit service providers, and a petition signed by 4,500 ECD activists submitted to the national Department of Social Development by the Centre for Early Childhood Development, in Cape Town. Nothing was forthcoming except a harsh instruction to ECD centres not to open under any circumstances.

This all changed when the Gauteng High Court ruled on 6 July 2020 that ECD centres may open provided that these ECD centres comply with health and safety protocols in combating COVID-19.

The consequences of the lockdown on children, parents and ECD workers across all provinces is significant. Children were required to stay at home, often in dangerous environments where they were and still are at considerable risk. In the Western Cape some 270,000 vulnerable children depend on attendance at an ECD centre for their main meal each day. This is not been available for four months now and has resulted in an increase in child hunger and malnutrition, as indicated by leading medical doctors.

A rapid survey was conducted in April under the auspices of BRIDGE to understand the possible severe and detrimental impact that the COVID-19 pandemic might have on ECD providers.

Responses were received from 8,500 ECD centres nationally and it was found that:

- 99% of ECD centre heads reported that parents had stopped paying fees owing to the lockdown,
- 83% of ECD centres have not been able to pay the full salaries of staff over the lockdown period,
- 96% of ECD centres reported that the ECD centre income was not sufficient to pay for operating costs, and
- 68% of ECD centres were concerned that they would not be able to reopen after the lockdown

There are some 4,500 ECD centres across the Western Cape Province, employing about 22,500 ECD teachers and providing early education and care for about 270,000 children each day. These ECD centres, children and staff have been adversely affected. Teachers are not getting paid and working parents need a secure and safe environment for their children now

that about 95% of the workforce can go to work under advanced level 3 of the lockdown. The impact in our professional opinion is that about 500 to 800 ECD centres in the province will close, some 4,000 to 6,000 jobs in the provincial ECD sector will be lost, and 50,000 vulnerable young children will not get the important early learning opportunities and a nutritious meal, each day.

The ECD sector contributes about R 3 billion to the Western Cape economy this year. The results of national DSD delaying opening ECD centres will be felt for years to come as children get miss out on early learning opportunities, on a nutritious main meal, are placed in circumstances of possible neglect and abuse, and are not ready for Grade R and formal schooling.

With this as background, we suggest that the Provincial Treasury make an allocation to the provincial Department of Social Development to support 2,000 ECD centres as they open. This will ensure that Personal Protective Equipment (PPE) is available for staff at ECD centres and for children through a once-off grant of R 20,000 to every ECD centre across the Western Cape. This will enable ECD centres to be “ready” to receive children. This should be paid directly to the ECD centre, which centre would be required to procure the PPE and show evidence of having done so. The present allocation for PPE to ECD centres of R 10,2 million is unacceptable and totally inadequate. This is not even new funding but is a transfer from the infrastructure budget provision.

In addition, the provincial Treasury should support 2,000 of the poorest ECD centres to function optimally by making the current ECD subsidy of R 17 per qualifying child available to these ECD centres for an initial period of six months.

The cost of this proposal will be R 40 million for the once-off grant and R 450 million for the ECD subsidy, making a total of about R 490 million. This is a small cost to ensure the jobs of 6,000 ECD teachers, and to ensure meals and early learning to 270,000 vulnerable children. It is also less than one tenth of one percent of the national government COVID-19 recovery package announced by the President.

The late Mr Oliver Tambo said that a country that does not value its children does not deserve its future. The Western Cape government and officials must, at this time ask the question: “Do we deserve our future?”

### **3.2.2 COVID-19 Survivor: Ms Leigh Ann Hellaby**

Ms Hellaby is a COVID-19 survivor and had no income since March 2020, since she is an artist.

Ms Hellaby’s submission:

“Its more than 60 days now and I’m being treated for asthma, I did not have full on asthma before cover, now I have chest pains when I walk a lot or even simple tasks in the house. My chest pressure hasn’t left, I have difficulty breathing if I laugh too much or do too much as said before.

My husband and I have lost all income so it’s been difficult since march to get by, having covid costed so much in terms of all the meds one needs to get to immune boost and self-medicate, the Dr visits, X-ray, blood tests, last week however I went to a public hospital as I could not afford more tests done private.

I have not got my smell back, I can smell some things and others not. My last Dr visit on Friday I did a lung function test which showed that I now have asthma, post covid bronchitis and inflammation that we are treating.

Yesterday was my first trip leaving the house to an empty beach for fresh air since March 2020 and when I got home I felt so much worse so I'm not ready to be out yet."

<http://www.hellabyhouse.com/blog/?fbclid=IwAR3zR0c4K91yZ--rEtb-uS5IsUNHqWeZPrfy68A7xpfhuL32kcUuTF8gI8w>

Ms Hellaby and her husband did not receive any relief fund during this period but applied for the medical relief fund and received this to pay her PathCare and medical bills. As artists, Ms Hellaby indicated that they need to know the way forward for them since they have not received any feedback regarding the relief fund for artists.

### **3.2.3 Freedom of Religion South Africa (FOR SA) – Ms Daniela Ellerbeck**

1. We refer to the call by the Western Cape's Provincial Parliament's Ad Hoc Committee on COVID-19 (the "Committee"), for the public to share their experiences and thoughts on Government's response to COVID-19 ("Government's response").
2. We would appreciate the opportunity to make verbal submissions to address any questions the Committee may have, should such opportunity present itself.

### **ABOUT FOR SA & OUR INTEREST IN GOVERNMENT'S RESPONSE TO COVID-19:**

3. Freedom of Religion SA NPC (2014/099286/08) ("FOR SA") is a legal advocacy organisation, working to protect and promote the constitutional right to religious freedom and related rights in South Africa.
4. On this particular issue, FOR SA represents religious leaders and organisations representing 18.5 million people in South Africa (including over 10 million from African Indigenous and Spiritual Churches) from a cross-spectrum of denominations, churches and faith groups.
5. As such, and because the constitutional right to freedom of religion, belief and opinion (s 15) and the rights of religious communities (s 31) have been directly affected by (both the national and provincial) Government's response to COVID-19, our constituency has a direct interest in this matter.
6. FOR SA's submission will focus on how the religious community has been impacted by the Lockdown Regulations and Directions. However, we wish to state at the outset that FOR SA, has not, and is not specifically advocating for the religious community to be allowed to "re-open" at 100% capacity at this point. We are, however, explicit in our position that the religious community's constitutional rights to religious freedom must be fully restored at the earliest opportunity this pandemic allows.
7. FOR SA's concern is that Government's response has been unequal, unreasonable and unfairly discriminatory against the religious sector. Furthermore, despite frequent requests for clarity, Government's Regulations and Directions as they pertain to, and affect, the religious sector, remained opaque.

### **COMMENTS RELATING TO THE SUBSTANCE OF GOVERNMENT'S RESPONSE:**

8. From the outset, we should be clear about the fact that the stated and sole purpose of the lockdown and its Regulations, Directions etc. is to reduce the rate of COVID-19 infections – to "flatten the curve". No other reason exists for the promulgation of the current Regulations

and Directions that patently interfere with various constitutional rights guaranteed by our Constitution's Bill of Rights.

9. No matter how compelling the reason for the interference with fundamental rights, each of these infringements must nonetheless comply with the requirements of s 36 in the Constitution ("the limitations clause"), including that it must be rational and proportional.

Unfairly discriminatory:

10. In light of the aforementioned, when Government takes steps to systematically re-open our society, it must ensure that it treats all sectors of society fairly. As the saying goes, what is good for the goose is good for the gander. It is constitutionally imperative that the Regulations and Directions to limit the spread of COVID-19, must treat (and be seen to be treating) the religious community equitably when compared to its treatment of the other sectors of our society and the economy.
11. This is especially so, given that the religious community has certain specific constitutional rights and freedoms (e.g. those contained in s 15 and s 31) expressly granted to it in the Bill of Rights, whereas other sectors of the economy do not have this level of constitutional protection.
12. The perception that the religious community is not as important to Government as other sectors of the society is unfortunately exacerbated by the inequitable and irrational treatment of the religious community which its members see happening around them – in the communities in which they daily live, work and serve.
13. This has contributed to a growing sense of frustration amongst the religious community across South Africa, including in the Western Cape that the religious sector is being unfairly discriminated against by the State, and being treated inequitably and unreasonably in comparison to other sectors of society.
14. To give a few examples:
  - 14.1. Despite the President's express identification of religious leaders as "essential frontline workers" for purposes of spiritual counselling (during his nationwide address on 28 May 2020), no amendment has been made to Table A: Alert Level 4 to reflect this, even though other sectors are expressly mentioned in the Table. Should South Africa and/or a province and/or be a "hot spot" that moves back to Level 4 and/or 5, religious leaders are not expressly allowed to provide the essential services, such as grief counselling, which they need to provide to their congregations.
  - 14.2. Religious gatherings are restricted to a maximum of 50 people (inclusive of adults and children) irrespective of the size of the floor space of the religious premises. By contrast, casinos are allowed to operate at 50% of floor space, provided that there is a 1.5-meter distance between gamblers. Similarly, while religious gatherings have been limited to 50 people, no numerical limitation has been placed on restaurants or other commercial enterprises. This clearly can have no other effect on the religious community than to leave the unmistakable impression that casinos are more important to Government than churches, temples, mosques or synagogues.
  - 14.3. Hotels or conference centres can host meetings in different halls and spaces under the same roof, all happening at the same time. By contrast, religious gatherings are restricted to 50 people per "premises", irrespective of how many separate halls or venues may exist on a given property and can (on its own) comfortably accommodate 50 people.
  - 14.4. Religious gatherings are strictly regulated with onerous administrative, and hygiene/ sanitisation, rules being imposed upon faith-based organisations. No equivalent onerous requirements are being imposed on, for example, shopping malls.

- 14.5. The Minister of the Department of Cooperative Governance and Traditional Affairs (the “Minister”) has indicated that faith-based organisations are not allowed to have “drive-in” services where cars are parked 2 metres apart from each other with people listening to the service via the car radio and with the windows closed in the organisations’ parking lots. By contrast, shopping centres’ car parks are full, with hundreds of people visiting the shops and their ablution facilities. This restriction makes absolutely no scientific or rational sense, given that listening to a sermon on your car radio with the windows closed, is indisputably significantly safer than attending a meeting inside a building. In this regard further, we note that from this month drive-in cinemas are taking place both in Durban, KwaZulu/Natal and at Loftus Park, Pretoria. There is no rational reason why this should be allowed for the entertainment sector, but not for the religious sector.

Unreasonable:

15. In FOR SA’s various engagements with Government (covered below), we have repeatedly pointed out that although the Risk Adjusted Framework now caters for the religious sector at Alert Level 3, to date the Framework has not been adjusted to give the religious sector any indication as to what it could look like for them at Levels 2 or 1 – or what the benchmarks and timelines are to move to those Levels.
16. While FOR SA is well aware of the many demands being made on the Cooperative Governance and Traditional Affairs Department (the “Department”), this state of affairs, unfortunately, does not inspire the religious community with any confidence that Government (either provincial or national) is taking their constitutional rights seriously. Neither does it cause them to believe that there will shortly be any relaxing of the current restrictions on places of worship or that Government is showing any willingness to treat the religious community fairly.
17. We wish to clearly state and clarify that the religious community (in spite of being a sector of society that holds specific constitutional rights), is not asking for special privileges. What the religious leaders are asking for, however, is that equal rights and equal treatment be extended to the religious community. It should be borne in mind that the religious community has, from the outset of this pandemic, endeavoured to assist Government in serving and caring for South Africa’s people by making sure that food, masks and other necessities reach the most vulnerable in our society. This community also wishes to continue serving their members and communities (it should be noted at great cost to themselves), with love and care during this difficult time in our nation.
18. FOR SA would further point out that it is in no way suggesting that the religious community should re-open its corporate services and gatherings. It is evident that, despite the Regulations permitting gatherings of less than 50 people to take place in a place of worship, many denominations, faiths and independent churches have chosen to remain closed. This is their right and their exclusive prerogative. We are simply arguing that where other sectors of society are being treated differently, the same parameters should logically and fairly be applied to the religious community.

**COMMENTS RELATING TO PROCEDURAL ASPECTS:**

19. The process followed by the Government when promulgating Regulations and Directions is essential, because it is the means by which the State arrives at conclusions. Should the Government not have done enough to engage with the religious community and its leaders, the outcomes arrived at will likely not be



consensual and therefore unacceptable to the people the Regulations and Directives affect.

### Difficulty in engaging with Government

20. First, it should be noted that when the lockdown was first announced on 15 March 2020, the religious community did not insist on their rights to meet and corporately exercise their religion and belief. Instead, the religious community agreed that it was reasonable for everyone to agree to a temporary curtailment of their rights, in order to allow Government to increase the capacity of South Africa's health care system so that it could cope with the anticipated influx of COVID-19 patients.
21. Furthermore, even when the initial Regulations (which failed to acknowledge the important role that religious leaders have traditionally played in crises such as these) were published, the recognised faith structures in our country did not litigate to enforce these rights, but instead sought to constructively engage with Government through the democratic process.

Religious leaders did this by inter alia:

- 21.1. Commenting on the draft Schedule of Services: Framework for Sectors. (It should be noted here that the Department only opened the schedule for comments from Saturday 25 April 2020 until 12h00 on Monday, 27 April 2020); and
- 21.2. Thereafter, commenting on the Level 4 Regulations and, amongst other things, submitting proposals for what a staggered opening up of the religious sector across Levels 5 to 1 could reasonably look like. Here it must be stated that the Level 4 Regulations, which were promulgated on 29 April 2020, did not mention or accommodate South Africa's very large religious community in any way.
22. FOR SA has actively been attempting to engage with multiple Government structures, on behalf of our constituency, to request that our legitimate questions, concerns and issues regarding Government's apparent inconsistencies and ambiguities in the Regulations and/or Directions be properly addressed.
23. This engagement has taken the form of:
  - 23.1. Sending questions to Parliament, the COGTA Department and the "Nerve Centre" asking for clarification on various matters on 25 April, 27 April and 13 May 2020 respectively.
  - 23.2. Sending submission to Parliament, the COGTA Department and the President on 5 and 7 May 2020 respectively.
  - 23.3. Petitioning the Speaker of Parliament on 20 May 2020.
  - 23.4. Sending various correspondence (with the aim of obtaining clarity and pointing out aspects of inequality regarding the directions that dictate to norms and standards for religious gatherings) to the President, the COGTA Minister, the Deputy Ministers, the Director-General and the Nerve Centre from May through to July.
  - 23.5. Meeting with the COGTA Parliamentary Portfolio Committee, the COGTA Deputy Ministers, the Head of the National Disaster Management Centre and representatives of the CRL Rights Commission on 24 June 2020. At that meeting, FOR SA was given the assurance that we would henceforth be included in any further discussions with Government and that the issues we raised would be given urgent and immediate attention. A letter, dated 29 June, was received from the COGTA Minister via email on 2 July 2020, but various issues remained unsolved.

- 23.6. Meeting with the COGTA Minister, the Deputy Ministers, the Director-General of Traditional Affairs, the Director-General of Cooperative Governance, and representatives of the CRL Rights Commission on 4 August 2020.
24. Despite all of the above, FOR SA has still not received a definitive response regarding all the issues raised with the Minister – which included, amongst others, particularly the issues set out in paragraphs 8 through 17 above.
25. From a procedural point of view, FOR SA would be remiss if we did not point out that the lack of responsiveness from the Government in addressing the various issues, such as instances of inequality that have been raised, has left sections of the religious community with a sense that their voice, and their concerns, are not nearly as important to Government as other sectors of the society.

#### **FOR SA's RECOMMENDATIONS:**

26. In view of the foregoing, we recommend that the Western Cape Provincial Parliament:
  - 26.1. Conduct an evaluation of the various restrictions the national Government has placed across sectors to ensure that some sectors are not getting preferential treatment over other sectors (or to put it differently, that some sectors are not being unfairly discriminated against), when there is no rational basis for doing so;
  - 26.2. Bring to the national Government's attention any instances of irrationality, ambiguity and/or unfair discrimination and recommend immediate steps to rectify this; and
  - 26.3. Consider easing restrictions on the religious community in the Western Cape Province to reflect the less onerous restrictions placed on other economic sectors, for example, by expressly allowing drive-in religious gatherings.
27. We trust you will find this submission useful and look forward to engaging with you at any opportunity that arises to further discuss these pressing issues. (We would also be happy to provide you with a copy of any of the submissions and/or correspondence addressed to national Government and Parliament, as indicated in paragraph 23 above, to the extent necessary).

#### **3.2.4 Detention Justice Forum – Ms Doreen Gaura**

1. Ever since South Africa entered into a National State of Disaster as a result of the novel Coronavirus (COVID-19) pandemic, DJF has been concerned about the devastating effect that the spread of COVID-19, as well as the government's response thereof, may have on people in places of detention. As such, the forum has vigilantly monitored the government's response to the pandemic as far as detention institutions and facilities are concerned. Furthermore, not only has the DJF made numerous attempts to engage with the relevant government departments to get information regarding their plans vis-à-vis the situation in detention facilities, but we have also made recommendations that could assist the government in controlling the spread of the virus in detention facilities while at the same time remaining committed to the mandate to ensure that the rights, safety, and well-being of people in detention are upheld.
2. To date, over 7 000 South African Police Service (SAPS) members have tested positive for the virus and the Department of Correctional Services (DCS) has reported

over 5 500 positive cases among inmates and staff and we fear that these figures will continue to rise exponentially in places of detention in South Africa. We are equally concerned by the fact that similar statistics for other places of detention such as police cells, Lindela Repatriation Centre, child and youth-care centres, and military detention facilities, for example, are not easily available and it is almost impossible to know what the situation is in those facilities or if any oversight or monitoring of the facilities is taking place.

3. While we appreciate the preventative efforts that the government has taken to curb COVID-19, we have also noted the government's reluctance to disseminate information speedily and regularly, not only to people in detention but also to civil society, despite numerous requests for information from organisations such as ours. At the beginning of the lock-down, much information on the operation and COVID-19 Protocols pertaining to the operation of courts were gazetted but none was immediately available in the public domain on the operation of detention facilities besides the immediate cessation of visits to such places. In this regard there has also been a failure and lack of transparency on the part of some government institutions responsible for the detention of such persons (i.e. Police, Home Affairs, Social Development, Correctional Services, etc.) with no effort being made to immediately make publicly available their directives or standing operating procedures on managing the spread of COVID-19.
4. When the DCS eventually made public its Strategic Operational Plan, we noted that it was almost exclusively concerned with health issues and did not touch on human rights issues that are not health related, but similarly critical--such as those of safety, justice, and effective oversight. Put differently, the measures that the DCS has implemented during this period seem to have been publicised on an ad hoc basis, in response to issues as they arose, with no engagement with other stakeholders—civil society, people in detention and their loved ones, and in some instances (according to media reports) even staff.
5. This lack of official information has had a significant impact on public perception of government department responsible for withholding people's liberty and the right to access to information; impeded civil society organisations' ability to engage with, provide assistance to, and hold the government to account; and has led to much anxiety, and in some cases, violent reactions on the part of those in detention as well as their families.
6. We made numerous requests to the Ministers of Justice and Correctional Services, SANDF, SAPS, Home Affairs, and Health to furnish us with their Operational Plans in addressing COVID-19 in South Africa's places of detention as well as the department's Health Plan—especially as it relates to quarantine and the treatment of non-emergency medical needs during the pandemic. Unfortunately, these efforts were to no avail.
7. In addition, while we also welcomed the Minister of Justice and Correctional Services' eventual decision to release 19 000 low-risk incarcerated persons on parole as a way to reduce the overcrowding in South Africa's prisons—an undeniable driver of the spread of disease in prisons. However the high number of arrests during the same period has resulted in the numbers of people in detention that were meant to have decreased as a result of the release of the 19 000, greatly increasing again—therefore leaving prisons as overcrowded as before. The volume of arrests for persons violating lockdown measures exacerbates the pressure on the already strained criminal justice system. While these and other additional measures are a response to the pandemic, having people go through the criminal justice system is counter-productive and exposes them to numerous additional risks, including a heightened risk of infection owing to the unsanitary and overcrowding in police cells and remand facilities in the country.

8. Furthermore, reports made on 24 June 2020 to the Portfolio Committee, the Minister and other senior departmental officials admitted that the process of releasing the 19 000 low-risk detainees had bottle-necked the system. As of 23 June 2020, only 3875 detainees had been released on this special parole. It goes without saying that this alarming situation is highly undesirable and needs to be addressed as a matter of urgency. Similarly, there needs to be more transparency--through regular updates as well as government engagement with civil society--than what there currently is regarding the progress on these releases and reintegration plans.
9. As the Minister of Justice and Correctional Services has indicated several times in public statements, overcrowding continues to be a major challenge in most DCS facilities which ultimately creates severe health, safety, and dignity concerns for inmates and staff. The COVID-19 regulations that are in place to curb the spread of the virus, have created new sets of minor offences which previously did not exist. While these and other additional measures are a response to the pandemic, their enforcement through arrest and detention is unproductive and troubling, and only exacerbates the public health problem.
10. The imposition of criminal sanctions for numerous less serious, non-violent violations of lockdown measures will have severe consequences for persons in the future as they will have criminal records. They will likely be denied access to job opportunities and this may prevent them from providing for their families. This will further exacerbate the plight of the poor and vulnerable as a result of the pandemic and increase the burden on the state for grants and services. While we acknowledge that the Deputy Minister of Justice noted in a Portfolio Committee on Justice and Correctional Services meeting held on 18 May 2020 that the Ministry intends to introduce a Judicial Matters Bill preventing persons from receiving a criminal record for most admission of guilt (AOG) fines—including COVID-19 AOG fines--because in most cases due process is not followed. It remains unclear when this will happen and what this Bill will look like. This, in turn, creates huge long-term problems for individuals.
11. The Department, along with the NPA, SAPS and the judiciary, should be more committed than they have been to date, to significantly decrease prison and immigration detention populations during this period. As such, the intake of offenders into correctional and immigration detention centres should be reduced through consideration of alternative measures for those who qualify. Indeed, detention should be used as a last resort, beyond the pandemic as well.
12. Finally, South Africa is a state party to the Optional Protocol to the Convention against Torture (OPCAT) since June 2019 and has designated the SA Human Rights Commission (SAHRC) as the National Preventive Mechanism (NPM) as required by OPCAT. The Protocol requires the NPM to monitor and report on the situation of people deprived of their liberty with the aim to prevent torture and other ill treatment. The SAHRC is designated to perform a coordinating and functional role in the NPM together with other oversight bodies such as the Judicial Inspectorate for Correctional Services (JICS). It is thus the responsibility of the SAHRC to oversee and ensure coordinated oversight and monitoring at all places where people are deprived of their liberty. Civil society can play a crucial role here, and we have made continuous efforts at encouraging the NPM to establish a consulting forum to engage relevant civil society bodies and institutions.
13. The immediate cessation of the statutory obligation to monitor correctional facilities by the JICS Independent Correctional Centre Visitors has been deeply worrying for the DJF. It appears that the cessation of visits was imposed on JICS and the ICCVs by the State of Disaster regulations. The initial State of Disaster regulations promulgated prohibited all visits to detention centres and thus prevented them from fulfilling their oversight mandate. The updated regulations (29 April 2020) did not

explicitly enable visits by JICS and ICCVs and left this to the discretion of the Minister of Justice and Correctional Services. Initially, JICS personnel (including ICCVs) remained excluded from “essential services” under the regulations which only made provision for DCS officials and Chapter 9 and other Constitutional institutions. Directives allowing explicit visits by the JICS and ICCVs were only published three months after the initial lock-down was imposed (22 June 2020). While we have been informed by the Inspecting Judge that there will be a phased-in return to work, we remain critical of the government’s initial response to drastically curtail the duties of oversight mechanisms-and for such an extended period-as it significantly jeopardised the safety, well-being, and rights of people in detention.

14. It is clear that the government failed to prioritise the oversight/visiting role of JICS as “essential services” in the gazetted regulations at the beginning of the lockdown to the detriment of ensuring that the rights and wellbeing of inmates are monitored. This should not have happened in the first place. The DJF member organizations received a number of calls from families, expressing their concern on this issue. The JICS could also have played a critical role in the engagement of families and civil society if it were allowed to continue its oversight visits.
15. The cessation of visits as a result of gazetted regulations at all other places where people are deprived of their liberty have also been concerning, particularly because there is very limited information available on the status of monitoring at immigration detention facilities, police cells, and child and youth care facilities, etc. The DJF has written to the SAHRC to garner clarity on the extent of monitoring of detention by the SAHRC (as NPM) but we are still unclear on the extent of monitoring actually carried out.
16. In closing, we thank the committee for the opportunity to make this submission. We recognise the mammoth challenge this pandemic has posed for government departments charged with facilitating the detention of persons and with a duty of care for people in detention; we acknowledge that the government is working around the clock to protect the people in detention from the crisis. We hope that our comments and concerns will be given serious consideration. We look forward to opportunities to work with stakeholders in ensuring and upholding the rights of people in detention.

### **3.2.5 African Criminal Justice Reform at the Dullah Omar Institute – Prof Lukas Muntingh**

1. South Africa is a party to the Optional Protocol to the Convention against Torture (OPCAT) and is required to designate a National Preventive Mechanism (NPM) to fulfil the domestic obligations under OPCAT. To this end the SA Human Rights Commission (SAHRC) was designated as NPM.
2. Shortly before the COVID-19 lockdown in South Africa the UN Sub-committee for the Prevention of Torture (SPT) issued a public advice to all NPMs regarding monitoring of places of detention during lockdown. In essence it advised that monitoring should not stop and that the lockdown should not serve as an excuse for rights violations in places of detention.
3. In response we used the public advice and developed a monitoring tool to assess the performance of the NPM (SAHRC) in fulfilling its obligations under OPCAT. Please see the attached report dated 29 May 2020.
4. It was in our view a fundamental failure in the drafting of the regulations that the Independent Correctional Centre Visitors of the Judicial Inspectorate for Correctional Services (JICS) was not included as an essential service and that monitoring consequently stopped. It is also apparent that the monitoring of other places of detention (e.g. police cells) also fell through the cracks.

5. It is our observation that JICS tried as best it could to engage in monitoring as best it could but that the situation only started to change by mid-June 2020. However, it remains unknown to this day who is or was monitoring other places of detentions such as child and youth care centres as is required under international law, i.e. OPCAT.
6. The report referred to in para 3 was submitted to the SAHRC on three occasions. We are yet to receive a response. In view of this situation the inevitable conclusion is that the SAHRC, as NPM, failed at the first hurdle it faced.
7. We are more than willing to supply additional information on the above.

### **3.2.6 Ilitha Labantu – Ms Ella Mangisa**

The Covid 19 pandemic has hit South Africa and affected many people in the country, even those who were not susceptible to the outbreak have had to endure with the quarantine measures as placed by government. This has led to a massive increase in violence against women and children, poverty and food insecurity. In regards to food insecurity there have been many organizations and corporate partners which seek to diminish the overall scourge this virus has caused, the need far surpasses the support. But with each milestone we seek to alleviate the social and economic scale by which covid 19 has affected our communities and with the help of private sectors, government and other NPO's who have brought much needed relief to families and homes who have seen the most vulnerable groups negatively affected by this pandemic.

As an organization that strives for the betterment of women and children Ilitha Labantu had tasked itself with ensuring people have access to a daily meal when it became evident to what extent the issue of food security was. The issue of food security affects the most vulnerable and this falls in line with Ilitha labantu core mandate.

In 2006 Ilitha Labantu established its comprehensive food security programme as an expansion of the services already supplied by the organization. Food security as defined by the 1996 World Food Summit is a situation in which all people at all times have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. Ensuring people have access to adequate food is not only an organizational issue but also under Section 27 of the Constitution, asserts food security as a right in South Africa. The Constitution states that every citizen has the right to have access to sufficient food and water, and that “the state must by legislation and other measures, within its available resources, avail to progressive realization of the right to sufficient food”.

Ilitha Laban's Comprehensive Food Security Programme and Food Distribution models strongly focus on strengthening community organization for social health and local economic development. Ilitha has created and implemented methodologies that promote a holistic community-driven approach to development by capacitating communities to become food secure through job creation initiatives, food support programmes and extended counselling and rehabilitation services for vulnerable women and children affected by domestic violence.

The objectives of Ilitha Labantu's Comprehensive Food Security Programme include:

- Ensuring access to food for the poor and vulnerable members of our society
- Improve nutrition security of citizens
- Improve food production capacity of households
- Develop market channels for emerging farmers and communal gardens through bulk government procurement programmes of food and private sector markets

- Fostering partnerships with relevant stakeholders within the food supply chain
- Enhance safety nets and food emergency management systems

COVID 19 has swept through many areas and the Western Cape is a known hotspot, in terms of the reach we had hoped to ensure that we went further into the rural areas as we felt that they are in desperate need of assistance.

There were many calls made to the organization by other organizations throughout the province and we had to ensure that we can accommodate all of the people who had enlisted for help, but one has to recognize that assistance can only go so far. In the initial phase we had worked with Solidarity fund and the National Department of Social Development, we were then called upon by the National Department and Old Mutual. But being an internationally recognized UN ECOSOC organization, a call was made by UN Women to help women in the province deal with the effects of Domestic Violence, Femicide and Hunger. This too assisted the needs of many of the beneficiaries we had been able to assist and continue to assist as we have seen that child headed households and women who have escaped from a life of abuse have been at the forefront of this pandemic.

As an organization that has been in existence for more than 30 years I foot print is on the grassroots level where sometimes beneficiaries are overlooked and in most cases cannot receive the necessary assistance due to factors of red tape, bureaucracy, ill health and many other factors. We as Ilitha labantu have developed sound working relationships through our networks of organisations, as the pandemic seeks to not only be focused on a issues of hunger but personal well being too. This vast network has allowed us to critically view the needs of the people and disseminate the needs appropriately. We thrive to be an all-inclusive organization but also understanding that each organization has their own expertise including those in the traditional and faith based sectors, which we can call on to ensure that the benefits received by people are used in manner that will ensure a positive growth in the community and address the needs of those most vulnerable. In such circumstances it is the backbone of Ilitha labantu vision and mission and through our slogan that we are people who care about people, regardless of race, religion, sexuality etc.

### **The Overberg**

The Overberg district remains a place where agriculture; activities are dominant, mostly through the fruit and citrus farming and apples. But as it stands it is also rife with poverty and inequality, where the people have had to make their own means to survive. The areas are rife with alcohol and drug abuse, and the lack of opportunities has caused an upscale in people turning to violent protests to have their fears alleviated.

### **Cape Wine lands**

The cape wine lands district has extremely been hard hit by the covid 19 epidemic due to the fact that wines and wineries have had to close during this period and even those non seasonal workers have had no gains and permeate workers have had to be retrenched. The wine industry is the backbone of Western Cape agricultural GDP and without a proper source of income people in the area are doomed to have dismal opportunities.

### **Cape West Coast**

Similar to the cape wine lands but the area also is susceptible to the arid forecast due to the fact that it forms part of the Karoo and thus it is dry arid area, with limited rainfall. The cape west coast also suffers tremendously from the alcohol and drug abuse, with 1 in 3 people

addicted to substances and 1 in 2 addicted to alcohol. This is due to the history of the area and payment of labourers in alcohol, aka the dope system.

### **City of Cape Town**

Throughout the years the Cape Town metro has been one of the highest municipalities to experience food insecurity according to the STATSSA general household survey. There is also a plethora of outside factors that contribute to the needs of communities but are barely addressed due to rampant violence, drug related crimes, major influx of the population and a shrinking job network. There is a sense that we have not scratched the surface in regards to alleviating the food crisis in the western cape as there many areas such Delft, Mitchells plain, eMfuleni etc. that have little and or no access to food relief due to the spike of violence aimed at the relievers but also have a majority of its citizens living beneath the poverty line and this needs to results in an expansion to these areas through positive engagement with both national provincial and local government

### **COVID-19 and Violence Against Women & Children / GBV**

The emergence of the corona virus pandemic in South Africa has exacerbated pre-existing social disparities and inequities in South Africa, this meant that those living in poorer communities were more disproportionately affected than those living in affluent communities. Women in the rural areas and township communities were adversely effected as a result of their poor economic status they could not leave their partners and at the same time there was increased difficulty in accessing support services, the courts and even the police, abusers exploited the inability of women to call for help or escape this placed many survivors in a predicament and having to choose between two evils; the COVID-19 pandemic or endure continued abuse and torment at the hands of their oppressor. With this in mind Ilitha Labantu embarked on a public awareness campaign to help raise awareness about the coronavirus and the need for people to adhere to the lockdown regulation imposed by government as well as to practice social distancing and to maintain good health and hygiene during this period. The public awareness campaign which fundamentally focused on raising awareness about the emergence of the pandemic also recognized the need to focus on the issues gender based violence and particularly family violence and violence that is perpetrated against women and children.

In the South African context and especially in disadvantaged and poor communities there are many compounding issues that are further exacerbated by novel coronavirus such as poverty, crime and violence, lack of access to essential resources, joblessness, lack of adequate access to quality healthcare, persons living with chronic illnesses and poor health are pre-existing issues that are further exacerbated by the covid19 pandemic and lends themselves to increased levels of anxiety and stress of being under lockdown.

Ilitha Labantu's public awareness campaign visited various communities in the Cape Flats region namely Philippi, Nyanga, Gugulethu, Langa, Athlone/Bridgetown, Khayelitsha, Elsies River, Delft, Mfuleni and Mitchells Plain. The abovementioned areas of the Cape Flats notorious for having high levels of crime and violence and in conjunction to this are also notorious for having high incident rates of violence that is perpetrated on women and children.

Since the beginning of the lockdown period the organization has received over 30 child abuse related cases from these communities alone further highlighting the effects the lockdown has had on children and call for the need to further prioritize the protection of children during this period and beyond. Furthermore the lockdown has presented many challenges for



women and children from disadvantaged communities whom are disempowered by their poor economic status resulting in them enduring abuse at the hands of their intimate partner whom they are dependent on for financial support. These issues highlighted above further legitimizes the organizations need to empower vulnerable members of the community who are at the helm of the destructive forces of violence and abuse.

Despite the challenges posed by the COVID-19 pandemic the organization made its services readily available on all its online platforms including our website, our social media (Twitter, Facebook and Instagram) so that survivors of abuse can access our services without the added risk of spreading COVID-19. The information provided ensured that our clients, survivors and the general public could contact the organization when they needed to access our services through the use of telephonic communication in which two numbers were provided with WhatsApp capabilities and also through our social media interface, these access points are efficient and cost effective for our clients.

Throughout this period Ilitha Labantu has been at the forefront of addressing cases of violence against women and children, most noticeable cases that Ilitha Labantu has been directly involved in were the Amahle Quku and Sibongiseni Gabada. 36 year old Sibongiseni Gabada from Khayelitsha had gone missing for weeks until her decomposing body was discovered stuffed in a bag on the 29th of May 2020. The case against her boyfriend who was in custody for allegedly being linked to her death has been dropped due to inconclusive evidence in spite of the fact that he confessed that he discovered her lifeless body and proceeded to put her body in bag and placed it behind his shack for no one to see until which it was discovered by neighbors 2 weeks later.

Ilitha Labantu took it upon itself to challenge the immoral decision taken by the South African justice system to drop the case in light of the seriousness of the crime that was committed, furthermore what was particularly worrying was the precedent that the actions taken by the justice system would set in the fight against the scourge of violence against women and children, this decision was premature and ill-informed considering that not all legal avenues were considered. Ilitha Labantu used all available platforms to help bring light to the injustice that had taken place, the organization approached media outlets about the incident and circulated a press statement which expresses the shock in the manner in which the case was handled, this press statement was published on major Independent Media newspapers (Cape Times, Cape Argus and local community newspapers Vukani and City Vision).

The organization then wrote a letter to the National Prosecuting Authority urging it to reconsider its decision and to look into the merits of the case into greater detail, this was then followed by an online petition titled #JusticeForSibongiseni which was shared on all social media platforms including Twitter, Facebook and Instagram which helped to direct social media users to the Change.org website provided in the link, to this date the petition has received over 21 762 signatures.

It is important to note that during this particular period there were two other significant incidents that took place in South Africa, one involving the murder of 29-year-old Tshegofatso Pule was eight months pregnant when she was murdered and the other involving 25-year-old Naledi Phangindawo from Mossel Bay in the Western Cape. The three tiers that connects all of these incidents or cases is that they were all young women, they are black and they were murdered by their intimate partners or someone they knew. The Sibongiseni Gabada case brought attention to the manner in which many cases of violence against women and children were treated by the justice system brought about increased pressure to politicians and National Prosecuting Authority, this led to an interview with the Police

Minister Bheki Cele on eNCA featuring Ilitha Labantu's Executive Director Mrs Ella Mangisa highlighting the inconsistencies that the organization had encountered in the mistreatment of cases citing the lack of adequate training by police and investigating officers as a fundamental concern which often results in cases being dropped.

In less than a week after President Ramaphosa made his announcement denouncing the brutal killing of women and children in South Africa the body of 17 year old Amahle Quku was discovered at Siyahlala informal settlement in Browns Farm Philippi. A 25 year old man was arrested in connection with her murder the suspect is also known to the victim, this also correlates with the 3 tiers found in the other cases that the victim is black woman, young and the suspect is known to the victim. Ilitha Labantu also took the lead in this case making number of appearances in court to support the family and friends of the deceased, to help raise awareness about the plight of women and children and to apply the much needed pressure on the justice system so that the case can be properly managed and to ensure that the suspect receives a lengthy sentence for the crime that he has committed.

We do hope that our submission will bring about the required input from a Civil Society organization perspective and hope that the Ad hoc Committee will see how NPO's are critical partners for government as no one can do it alone particularly during a time of such uncertainties.

#### **4. THEME: Health Update**

##### **4.1 Overview and background**

The Committee requested a briefing from the Western Cape Department of Health (the Department) for an update on the COVID-19 pandemic in the Western Cape, on 16 September 2020.

The purpose of the meeting was to receive an update on COVID-19 pandemic in the Province with information on the health indicators and health responses to the pandemic, death rates and peak projections, testing data, future projections, the "new normal" and the outlook on the health system post the peak.

##### **4.2 Observations and challenges**

- 4.2.1 The Committee noted a positive turnaround in respect of the spread of the virus, as it had been several weeks where reports showed that the number of active COVID-positive cases were under 3 000, even after restrictions were eased.
- 4.2.2 Dr Cloete informed the Committee that the COVID-19 Daily Dashboard, which is updated every day, has been nominated for an IP Innovations Award.
- 4.2.3 At the end of June and beginning of July 2020 the Province peaked in terms of how much oxygen it was using on a daily basis. Since then, oxygen use has decreased. At the peak, the Province was using approximately 62 percent of its daily oxygen allocation. Currently, 54 percent of the daily oxygen allocation was being used. The number of private and public hospital admissions has decreased. This includes confirmed cases and persons who were still under investigation. At 16 September 2020, there were approximately 600 persons admitted to hospitals for COVID-related illnesses, overall, compared to 2 000 persons admitted to hospitals during the peak of the pandemic.
- 4.2.4 According to Dr Cloete, there were a number of COVID-related deaths that were reported; however, these numbers were potentially under-reported. The Department has been working with the South African Medical Research Council (SAMRC),

which releases a weekly update on “excess natural deaths”. The Department has been correlating its number of reported COVID-related deaths to the SAMRC’s statistics to ensure that the figures are aligned.

- 4.2.5 The Department has officially revised its COVID-19 testing criteria to include pre-operative testing for asymptomatic patients, natural causes of death at home, public sector essential workers with symptoms, incarcerated people with symptoms, learners and school staff with symptoms, and workers with symptoms.
- 4.2.6 The Test Positivity Rate measures the percentage of tests conducted that yield positive results. There was a slight increase in this rate during September 2020 because of the delay in test results over the past three to four weeks. The Test Positivity Rate has decreased since then, week-by-week, and is the lowest for the country, which is a good sign for the Western Cape. There are fewer positive results for the tests that are conducted.
- 4.2.7 Statistics showed that the Western Cape experienced COVID-positive cases and deaths over a much longer duration than the rest of the country, but the Western Cape experienced a flatter, lower peak if compared with overall statistics for the country. The deaths from natural causes for the Western Cape was 1.6 times higher than what was expected at the peak. However, the deaths from natural causes during the peak in Eastern Cape was twice the amount expected, for Gauteng it was 2.4 times higher than expected, and for the Johannesburg Metro it was 2.6 times higher than expected.
- 4.2.8 Google Mobility Data showed that the Western Cape had lower numbers of workers returning to the workplace than other provinces, was slower to use public transport than other provinces, had a lower number of persons returning to grocery and pharmacy shopping, and had a significantly lower number of people returning to parks and other recreational activities, than other provinces. These patterns indicated that Western Cape citizens adhered more to the lockdown regulations and retained restrictive measures in respect of movement, which could explain why the Province had a flatter curve than the rest of the country.
- 4.2.9 The Department is in the process of implementing serological testing, which is a blood test that looks for antibodies in blood that indicates whether a person has had prior COVID infection. The body produces antibodies approximately two weeks after a person is infected with the virus. There are studies that have indicated that the antibodies can be present in the bloodstream for up to three months from becoming infected, possibly longer, but it is still too early to confirm this.
- 4.2.10 Approximately 2 700 serological tests have been conducted on residual specimens of primary care antenatal and HIV patients coming in for routine pregnancy and HIV blood tests in Cape Town Metro facilities. The preliminary serology findings have indicated that 40 percent of the samples that were tested were positive, ranging from 30 to 46 percent across the sub districts in the Metro, 37 percent (antenatal) to 42 percent (HIV) by patient group, 33 percent (men with HIV) to 45 percent (women with HIV) by gender, and 36 to 43 percent by 10-year age group between the ages of 20 to 60 years old. However, Dr Cloete warned that this testing should be interpreted with caution due to differences between those tested and the general population. These were patients who used the public sector and health services where they may have been exposed to the virus. There were also socio-economic differences and differences in infection exposure, which made it difficult to say that the results could be generalised to the entire population. However, the data supported the interpretation that, especially in poorer communities, a relatively high proportion of people have been exposed to, and infected with, COVID-19. The Department plans to commence with community serological testing within the next few weeks.
- 4.2.11 According to Dr Cloete, it is unlikely in the short term to see explosive outbreaks of the virus in high-density vulnerable communities, which have already experienced high levels of morbidity and mortality. However, even in areas with high

seroprevalence and lowered risk of repeat outbreaks, many individuals remain susceptible to infection. There will likely be communities or population groups where ongoing vigilance is critical in order to interrupt transmission through outbreak response.

- 4.2.12 There has been a phenomenon in most developed countries that there is a second peak/wave of the virus approximately three months after the initial peak of the virus. The Department has noted that there is a slightly different pattern for countries similar to South Africa. Therefore, the pattern of infection may not necessarily follow those of the more developed countries. Some of the departmental officials are part of an advisory group that will release information, within the next few weeks, on the likelihood of a second peak in the country.
- 4.2.13 In respect of the Surveillance Strategy, there is uncertainty about the likelihood, timing, location and magnitude of the resurgence. However, it was important to monitor global experiences. The pattern of inequality and spatial geography may result in ongoing risks differing extensively by location and socio-economic status. A case-based surveillance and outbreak response will be key foundations for the Surveillance Strategy for the next 18 to 24 months, supplemented by population surveillance approaches.
- 4.2.14 Dr Cloete informed the Committee that the COVID-19 pressure has eased considerably in the metro and rural districts. Cape Metro acute hospitals have started to decrease their COVID bed capacity and have started to reintroduce normal comprehensive, non-COVID clinical services. The Thusong Hospital and Cape Town International Convention Centre Hospital of Hope have been closed and Brackengate had 29 patients as at 16 September 2020.
- 4.2.15 The continuation of immunisations was critical throughout the pandemic as a decrease could result in outbreaks of other diseases such as measles or polio. By June 2020, more children had been immunised than in the preceding two years (in the month of June) in both the rural and metro areas. TB testing dropped significantly by 47 percent across the country. The Department will increase TB testing significantly in the Western Cape over the next six months, and ensure that these patients are receiving treatment.
- 4.2.16 The Department will use an evidence-based and data-driven approach to the reintroduction of comprehensive clinical services. Clinical services will be phased in and activities that represent low COVID risk but have significant impact on the population outcomes will be prioritised (such as immunisations, increased TB testing etc.). The Department will optimise the use of technology to support service delivery, for purposes such as delivery of chronic home medication etc.
- 4.2.17 Certain individuals seem to suffer from “long COVID” where the COVID symptoms continue long after the diagnosis and become somewhat of a chronic illness. This was reported on in international news, but has not seemed to be raised in local news. This has not particularly been tracked in the Province and was not a prominent matter so far.
- 4.2.18 South Africa seems to have missed the “flu season”. There have not been any reported cases of the flu in the sentinel sites. There was a large flu vaccine uptake during 2020 (the largest flu vaccine uptake in the Western Cape in ten years), as well as social distancing and masking, which could have contributed to the lack of flu cases. There were also fewer deaths in TB and HIV patients in 2020 than in 2019, which could also have been attributed to the flu.
- 4.2.19 The Department will be publishing a full review of what it has done over the pandemic, including its successes and lessons learned during the pandemic.

## 5. Acknowledgements

The Committee thanked the individuals and organisations for engaging with the Members and for sharing their hardships with the Committee. The Chairperson also thanked the Provincial Department of Health for its exemplary leadership in respect of tackling the pandemic, and congratulated officials for the success they have had in the Province.

## 2. Report 7/ 2020

### **Ref: Public Participation - Deliberations on Submissions Received from Members of the Public during the Public Participation Process**

**Report of the Ad Hoc Committee on COVID-19, in performing oversight over the work of the provincial executive authority as it responds to the COVID-19 pandemic, including oversight over any part of the provincial executive authority, any provincial department, any organ of state and any provincial entity involved in activities dealing with the pandemic, on the themes/meetings covered for October 2020, as follows:**

#### **The Ad Hoc Committee on COVID-19 consists of the following members:**

Ms M Wenger (DA)(Chairperson)  
 Mr R Allen (DA)  
 Mr D America (DA)  
 Ms D Baartman (DA)  
 Mr G Bosman (DA)  
 Mr F Christians (ACDP)  
 Mr C Dugmore (ANC)  
 Mr B Herron (GOOD)  
 Ms P Lekker (ANC)  
 Mr P Marais (FFP)  
 Mr D Mitchell (DA)  
 Ms W Philander (DA)  
 Mr A van der Westhuizen (DA)  
 Ms R Windvogel (ANC)  
 Mr M Xego (EFF)

#### **Alternative Members:**

Ms L Botha (DA)  
 Mr R MacKenzie (DA)  
 Ms M Maseko (DA)  
 Ms N Nkondlo (ANC)  
 Mr K Sayed (ANC)  
 Mr D Smith (ANC)

#### **Procedural Staff:**

Ms Z Adams, Procedural Officer  
 Ms L Cloete, Senior Procedural Officer

## **1. Introduction and Background**

The Ad Hoc Committee on COVID-19 (the Committee) was established by the Speaker of the Western Cape Provincial Parliament on 14 April 2020 in accordance with Standing Rule 119(1)(b) of the Standing Rules of Western Cape Provincial Parliament. The Committee was tasked with the responsibility to perform oversight over the work of the provincial executive authority as it responds to the COVID-19 pandemic, including oversight over any part of the provincial executive authority, any provincial department, any organ of state and any provincial entity involved in activities dealing with the pandemic.

The meetings have been held virtually, so as to comply with COVID-19 lockdown regulations issued by National Government, as well as a decision of the Programming Authority, to enforce social distancing rules.

## **2. Election of Chairperson, Adopted Themes and the Rules of Engagement**

On 17 April 2020, Member M Wenger (DA) was elected to serve as the Chairperson of the Committee in accordance with Standing Rules 82(1) and 85. The Committee adopted 12 themes around which it would address the COVID-19 pandemic, also agreeing to hold two meetings per week, given the urgency of the matter. Each meeting would primarily focus on one theme. The 12 adopted themes were as follows:

1. Health Department Responses and Preparations
2. Policing, Security and Police Brutality
3. Food Security
4. Protection of the Vulnerable
5. Disaster Management and Local Government Oversight
6. Economic Recovery, Support and Livelihoods
7. Transport and Infrastructure
8. Schooling and Education
9. Human Settlements
10. Citizen Surveillance
11. Intergovernmental Relations and Community Cooperation
12. Government Finance and Budgets

**Additionally, the Rules of Engagement during virtual meetings were indicated as follows:**

1. All meetings would be open to members of the public and media via livestreaming;
2. All Members microphones must be muted at the beginning of the meeting to avoid background noise;
3. Members are to flag Points of Order in the Chat Function of Microsoft Teams (the application through which virtual meetings are held);
4. All videos and audio must be switched off to improve the quality of the connection; however, if a Member/Minister/HOD/Official is speaking, they may put on their audio and video;
5. Participants must switch off their microphones once they are finished speaking;
6. In terms of maintenance of order, in accordance with the “Directives for Sittings of the House and Meetings of Committees by Electronic Means”, ATC’d on Friday, 17 April 2020, Section 8 states that “when a Member is considered to be out of order by the presiding officer, the presiding officer may mute the microphone of such a Member and call such a Member to order”; and

7. Section 10 of the Directives ATC'd on 17 April 2020 speaks to the application of Standing Rules. Section 10 states that "in instances where these directives are not clear or do not cover a particular eventuality in respect of sittings of the House or meetings of the committees by means of videoconferencing, the Standing Rules must apply as far as this is reasonably and practically possible and, in instances where they cannot be applied, the ruling by the presiding officer must be final".

**The theme/meeting covered in October 2020 included:**

- Public Participation - Deliberations and report back by Committee Members on the submissions received from members of the public during the public participation process – 14 October 2020.
3. **PUBLIC PARTICIPATION: Deliberations on the Submissions received during the Public Participation Process**

**3.1 Overview and background**

The Committee embarked on a citizen engagement phase and invited the voices of the private sector, the NGO sector, unions, business chambers as well as civil society to speak about their experience during the pandemic. The Committee therefore requested submissions/inputs from Members of the Public on certain matters pertaining to the COVID-19 pandemic. Submissions were received from members of the public between 12 July and 12 August 2020. The Committee requested comments/submissions on the following COVID-related matters, under the main question, "What has been your experience of the Government's reaction to the COVID-19 pandemic?"

- Have you or a family member been exposed to the coronavirus? Share the experience you had of the health system.
- Were you able to access food support when you needed it?
- Do you understand why you need to wear a mask?
- Do you know how to access COVID-19 grants/ support for small businesses?
- Did you feel safe when you went back to work?
- Does the public transport you use have sanitisers available?
- Is your child's school practising social distancing and conducting temperature checks every day?
- What are your thoughts about the reopening of early childhood development (ECD) centres?

The COVID-related questions were published on social media platforms (Facebook and Twitter) in the form of infographics, and adverts were published in mainstream and community newspapers – Isolezwe, Die Burger, the Argus, George Herald, Weslander and Swartland Joernaal. Members of the public were invited to comment via email as well as WhatsApp messages and voice notes. Approximately 17 000 submissions were received.

The Committee Members were divided into Working Groups and allocated a number of submissions to deliberate on, which were then reported on at the meeting of 14 October 2020.

**The working Groups were as follows:**

	<b>Group 1</b>	<b>Group 2</b>	<b>Group 3</b>	<b>Group 4</b>	<b>Group 5</b>
<b>Lead Member</b>	M. Wenger	D. Mitchell	D. America	D. Baartman	A. van der Westhuizen
<b>Member 2</b>	C. Dugmore	R. Allen	W. Philander	R. Windvogel	G. Bosman
<b>Member 3</b>	F. Christians	B. Herron	M. Xego	P. Lekker	P. Marais

## **3.2 Working Group Reports**

### **3.2.1 Working Group 1**

#### **Exposure to the virus and experience of the health system**

Comments from members of the public noted that support received after receiving a positive COVID-19 test result was inconsistent. Some received regular contact checks while others did not, similarly some received food parcels while in isolation and others did not. Some commented that the COVID-19 medical test was painful to undertake, while several other comments made it clear that there was a lack of understanding of the testing regime – which also changed over time. One person commented that the private healthcare’s x-ray screening protocols were poor. Some comments noted disappointment that COVID-19 testing in the private sector was not subsidised. Residents that commented received no remuneration during the self-isolation period.

#### **Food support availability**

Stakeholders indicated that not only was the access to food challenging, but the accessing of sanitisers were also problematic. Concern was raised about the rise in starvation in South Africa due to the pandemic, as well as the unequal distribution of food parcels during the pandemic.

#### **Attitudes towards mask wearing**

There was an overwhelming support for the wearing of masks, including some comments that those who were caught not wearing masks should be arrested and face prosecution. Although some stakeholders were against the wearing of masks, many expressed reluctance to wear masks, but would wear one anyway. Concerns were highlighted in terms of the correct use of masks, including not enough information being available on the use and management of masks. These included how often masks were to be worn and the frequency of the washing of masks.

#### **Access to COVID-19 grants**

Stakeholders indicated that their applications were rejected without providing reasons, while there was a belief that there was an inconsistent approval and disbursement of grants. Older persons stood in long queues to draw their South African Social Security Agency (SASSA) grants. There were long waiting times for the SASSA grants and there was no social distancing in the queues. The SASSA call centre did not answer calls which queried SASSA grants pay-outs. Stakeholders also indicated that they were unsure how to access grants, including how to access and apply for indigent grants. The Unemployment Insurance Fund (UIF) offices were also closed during the pandemic, which made it challenging to draw UIF pay-outs. The stakeholders also indicated their concerns around the corruption around the R350 COVID-19 relief grant pay-out that was earmarked for unemployed and older persons.



In addition, the stakeholders opined that there was an unfair disbursement of support which was based on race.

### **Workplace Safety**

Stakeholders indicated that small business were not recipients of any aid during the pandemic. There was also no employee contact tracing that was carried out by the businesses who indicated that their employees tested positive for COVID-19.

### **Availability and use of PPE on public transport**

Concerns were raised around the fact that sanitisers were not always available on public transport, including the use of questionable sanitising products by public transport providers. Some stakeholders were of the opinion that public transport providers used their own self-made “concoctions” as sanitisers. There were also a belief that the public transport providers were not adhering to the PPE protocols as communicated by government. Many inputs received thought it unfair that taxis could operate at 100% while there were restrictions on other sorts of gatherings or visiting family members.

### **Social distancing and temperature checks at schools**

Stakeholders raised concern around the fact that school fees has to be paid while the children were home-schooling. There were also disapproval around the fact that when children were requested to attend school, that government employees were working virtually from home and was not required to return to their offices. Some stakeholders noted that the distribution of PPE at schools was satisfactory.

### **Views on the reopening of ECD centres**

Stakeholders indicated their disappointment that parents were left stranded without support for their child-care needs as ECD centres remained closed during the COVID-19 pandemic.

### **Other major recurring inputs on issues outside of the themes**

- The ban on alcohol and cigarettes was unfair and caused a loss of revenue for the South African government.
- An overwhelming amount of input that the regulations were either irrational or completely unnecessary, or that some of the regulations were not necessary. Few submissions indicated support for the regulations.
- The lockdown regulations destroyed the economy, as well as incurring financial loss of the country and its citizens.
- Stakeholders raised concerns that the regulations had violated certain human rights and eroded freedoms afforded by the Constitution.
- The South African Broadcasting Corporation (SABC) could have played a bigger role in online learning for children when schools were closed.
- Residents experienced a loss of income or were put on furlough.
- Loss of life occurred through the rapid spread of COVID-19.
- COVID-19 also caused fear of being in contact with each other, due to the risk that they might become infected.
- The Western Cape Government did a good job during the pandemic to keep its citizens informed through awareness programmes and executing good governance practices.

- The information from national Government was conflicting between the presidential address and the address of the ministers.
- The information provided to citizens by the President on the status of the pandemic was infrequent.
- Stakeholders raised concerns on the psychological and emotional impact the pandemic had on the citizens, children and marriages. Moreover, there were concerns raised on potential suicides due to job losses. There were psychological impact on families not being able to see one another.
- Corruption and self-enrichment by some officials and politicians were unethical.
- Stakeholders were in agreement with the initial lockdown period that was initiated by President Ramaphosa. But the subsequent lockdown(s) and regulations caused a loss of trust in the national government, as well as the National Command Council.
- The night curfew imposed reduced crime, pollution and noise.
- Concerns were raised over the inability of the Department of Home Affairs to register and processes key life documents.
- There was a failure in the criminal justice system. Arrests have been irrational under the lockdown, including the excessive force that were used by the South African National Defence Force and South African Police Services on civilians. Concerns were raised of the release of prisoners during the lockdown period.
- A major concern for stakeholders where the increase in gender-based violence during the lockdown.
- Municipal rates have increased which put strain on the finances of citizens.
- The ban on the use of nature reserves during the lockdown was unfair. The ban on exercise, especially for healthcare workers, was seen as unfair.
- Stakeholders indicated anger through their submissions.
- The vulnerable and sick should have been isolated.
- The fitness, tourism, music and arts and culture industries were negatively impacted by the lockdown. The real estate and film industries were also negatively affected by the lockdown.
- The salaries and care to nurses should be reviewed.
- Stakeholders could not print any grants application or regulation forms as the internet cafes were all closed during the lockdown.
- The citizens who were dependent on chronic medication experienced challenges in accessing their prescriptions.
- There was a lack of financial assistance from financial institutions.
- There was no support given to the middle class citizens.
- Stakeholders raised concerns that some of them were unable to obtain permits to feed the hungry during the pandemic.
- The closing of the e-commerce sector during the pandemic was ill-conceived.
- There was confusion on how to apply to access funds through the Solidarity Fund. Stakeholders also believed that the Solidarity Fund only benefitted some citizens, and not everyone.
- Not all schools provided feeding schemes to the learners who were negatively affected by the lockdown.
- There were inadequate public education initiatives and drives around the COVID-19 pandemic.

### **3.2.2 Working Group 2**

**Most of the Reponses indicated that the regulations were unnecessary**

However some of the responses were in agreement with the regulations and indicated that the regulations should have been more strictly enforced.

The overwhelming sentiments were that some of the regulations did not make sense when it came to the following matters:

- Closed municipalities and government services;
- Curfew;
- Queues at government pay points (SASSA grants);
- Taxi 100% occupancy allowed vs family/religious gatherings limitations;
- The freedom of choice relating to smoking and drinking;
- Travel ban within a country; and
- Opening of schools versus not to open schools until the peak is over.

### **Exposure to the virus and experience of the health system**

The overall response were that the health systems in South Africa were not fully functional and prepared for the pandemic The initial lockdown announced by the President should have been utilised to adequately prepare the health system to deal with the pandemic but it highlighted the complete mismanagement of the health care systems

### **Food support availability**

- Food parcels were promised but not delivered;
- There was clear mismanagement of the manner in which the process of food parcels process was handled;
- Food parcels were not received by the correct /identified recipients, with no consequences to the persons who managed the process;
- Theft of food parcels are despicable;
- Food parcels were used for personal and political gain; and
- Food parcels were distributed in certain areas only and were not made available to all poor and needy people.

### **Attitudes towards mask wearing**

Most submissions received indicated that masks should be worn with the odd submission indicating a refusal to wear a mask. A few submissions indicated that it is unnecessary to wear masks, however, the individuals would still wear them.

### **Access to COVID-19 grants**

- Grants are being stolen;
- Social grants were not enough or adequate;
- Grants should be paid electronically and people should not be standing in queues for hours;
- Hardly any transparency occurred of where the funds were allocated in terms of beneficiaries of these funds;
- Chaos at social grant pay-out points; and
- The process of applying for grants and UIF are difficult, especially for those persons living in rural areas.

### **Availability and use of PPE on public transport**

There was a vast concern from the public that taxis are allowed to operate at 100% capacity, as this could increase the COVID-19 infection rate.

### **Views on the reopening of Early Childhood Development (ECD) centres**

One submission was received to request the reopening of ECD centres, crèches, etc., with the view that the parents should decide if their children are safe at these facilities or not.

### **3.2.3 Working Group 3**

#### **Exposure to the virus and experience of the health system**

- A high percentage of respondents were not directly exposed to the virus and very few of the respondents were tested.
- The tests results for the majority of the people who had been tested were negative.
- Concerns was raised about the waiting times for results and about the manner in which the testing was done.
- The overall response to the way in which the government reacted to the pandemic was extremely poor.
- In preparation for the pandemic more attention should have been given to the upgrading of existing health facilities rather than building temporary health facilities.
- The response with regard to the quality of health care and frontline workers was excellent.
- The decisions that were made by the government were erratic and the lack of proper consideration of the circumstances of the public eroded the trust in the government.
- There was no logic in the decision-making by the government, especially with regard to the sale of alcohol and cigarettes.
- Appreciation was expressed for the President's briefings on the pandemic but there was a feeling that the briefings should have been more regular.
- The regulations that was made to deal with the pandemic had a negative effect on small businesses.

#### **Food support availability**

- The government could have done more to ensure proper food security and there should have been better control over the distribution of food parcels.
- Job losses grew faster than the spread of the coronavirus and the pandemic had a negative impact not only on the economy but also on food security.

#### **Attitudes towards the wearing of mask**

- The majority of the respondents indicated that they found the wearing of masks unnecessary but that they would wear masks.

#### **Access to COVID-19 grants**

- The grant of R350 per month was inadequate in the light of the size of some families and it was a frustrating experience to apply for the UIF grant and then to access the funds once the grant was approved.

- The level of corruption and theft of UIF funds and of food parcels is a major concern and there should be better control.
- Accusations of racism were raised with regard to the pay-out of relief funds for small businesses.

#### **Workplace safety:**

- Respondents could not understand why they could not go to work but they could go to the shops. Positive feedback was received about access control (including the taking of temperatures, sanitising and the wearing of masks) at shops on shopping centres.

#### **Availability and use of PPE on public transport:**

- There should be stricter control of the delinquent and lawless taxi industry. It was clear that the responsible people did not understand the regulations that was applicable to the taxi industry.

#### **Social distancing and temperature checks at schools:**

- The majority conformed to the requirements of temperature checks, social distancing and the wearing of masks.

#### **Other major recurring inputs on issues outside of the themes**

- Lockdown regulations were not clear enough and too strict, especially with regard to family visits;
- During the strict lockdown there should have been more education about the wearing of masks, the sanitising of hands and the pandemic in general;
- The rationale for the prohibition of the sale of cigarettes and alcohol was not clear;
- The pandemic had a negative impact on the economic environment and small businesses are still struggling to recover;
- The people in more densely populated areas such as Khayelitsha did not adhere to government interventions; and
- Incidents of police brutality were more prevalent in rural and township areas than in suburban areas.

### **3.2.4 Working Group 4**

#### **Exposure to the virus and experience of the health system**

- People in private hospitals received better service than those who went to public hospitals/facilities.
- The lockdown was about getting the healthcare system ready, but there is a question of whether the healthcare sector is ready for the second wave.

#### **Food support availability**

- People were promised food parcels but this promise was not delivered;
- Communication around food security and availability was poor;
- People are concerned about the food availability strategy going forward; and
- No clear distinction about who received food parcels or criteria used to identify people who were entitled to food parcels.

### **Attitudes towards mask wearing**

- Many submissions indicated that individuals refused to wear masks. In stark contrast, some submissions indicated that people should be arrested for not wearing masks.

### **Access to COVID-19 grants:**

- There were many instances where UIF/TERS was applied for by employers and not paid over to employees, which could be classified as UIF fraud; and
- There were broken promises where UIF/TERS was promised, but not delivered as well as stolen grant money – Some employers applied for UIF for their employees at the same time but only some employees received money from UIF. Employers tried to share the money received between employees, which upset some employees.

### **Availability and use of PPE on public transport**

- Concerns were raised that there could be 100% capacity in public transport, especially school transport, which was a major concern in respect of the spread of the virus.

### **Views on the reopening of Early Childhood Development (ECD) centres**

- The economy opened slowly but ECD centres remained closed – this had an impact on parents who needed to return to work but did not have anywhere to send their children while they were at work.

### **Other major recurring inputs on issues outside of the themes**

- **Regulations:**
  - Government's handling of the pandemic was extremely poor. Some people thought that the questions posed by the Committee were related to national government. The majority of the inputs received related to national government mandates. This was in respect of government regulations. The Disaster Management Act regulations can only be gazetted by national government.
  - Many people did not understand the scientific reasons used to decide the ban on alcohol and cigarettes. Some people called it “unreasonable” and “irrational”. Emotive language was used. The result was that the regulations (ban on the sale of cigarettes and alcohol) turned ordinary people into criminals. The money used to buy illegal cigarettes and alcohol went to the black market, and as a result, the black market has flourished.
  - Many people objected to the curfews imposed, saying they were unnecessary.
  - Many people objected to social distancing regulations and the contradictions related to these regulations – taxis could have 100% capacity, but people could not visit family. There was no social distancing at state funerals but attendance was regulated at other funerals and events. Enforcement of regulations in suburban areas versus rural and township areas by police was different. Incidents of police brutality were more prevalent in rural and township areas than in suburban areas. Police were more involved in enforcing regulations than looking at incidents of Gender-Based Violence.
  - Loss of business during the pandemic and many businesses are still struggling to keep their doors open because of the impact of the regulations, especially businesses in the retail sector.
  - Some people thought the initial lockdown was necessary but the continued hard lockdown was unnecessary and a violation of their rights.

- **Health Matters**
  - There was secrecy around deaths and lack of clarity around reporting of deaths, particularly in respect of COVID.
  - Mental health concerns and assistance – government must be more aware of mental health challenges over the next few months, especially for all frontline workers (nurses, doctors, police etc.).
  - South African doctors and nurses needed more assistance but foreign doctors (Cuban doctors) were brought in to the country to assist and were given certain privileges that South African doctors were not, such as laptops.
  
- **Economy and Business**
  - The homeless were uncared for, as well as foreign citizens who are not part of the formal social development system. These include foreign citizens who are involved in informal businesses.
  - Load shedding compounded the impact of COVID-19 and broke an already struggling economy. No provision was made during the lockdown for cheaper electricity.
  - Impact on the tourism sector – what is the government going to do going forward? Small businesses in the tourism sector (as well as other small businesses) are impacted more than large businesses. International borders were closed for the lockdown and this is being lifted, slowly. Tourists from high risk countries are not allowed into the country, however, tourists from low-risk countries are allowed into South Africa. All international tourists, who test negative for the virus, should be allowed to enter the country.
  - The Level of corruption and abuse in government during the pandemic – people are concerned about the level of corruption and looting by public officials. The government must look at the consequences for these individuals.
  
- **Education**
  - The quality of teaching and learning from home, especially in underprivileged areas, was concerning. Some learners did not have enough tuition time, and some learners felt that their parents did not have the experience and knowledge to assist them with their school work. The result is that some learners might choose to repeat grades and even drop out of school if their assessments show poor results.

### 3.2.5 Working Group 5

#### Government's Response to COVID-19

- Recognition was given for government's early response to the pandemic.
- The overwhelming majority of the comments received rated government's response to the pandemic as poor. A significant number of responses criticised government for not moving quickly to prepare for the pandemic during the first few weeks when there were strict lockdown regulations in place.
- Some of those that criticized governments' response time as poor, qualified their statement by contrasting it to Western Cape. The Western Cape received accolades for the swiftness within which the health care facilities were upgraded in response to the COVID-19 pandemic.
- The overall consensus was that the population's best interest was not taken into consideration by government in that economic hardships such as bankruptcy, retrenchment, loss of income and short pay were not adequately considered when businesses were forced to suspend activities.

- The general view on government's position on the banning of the sale of alcohol and cigarettes was that these regulations did little to prevent the spread of the virus, and that it was punitive and unnecessary. Reference was made to the vast amounts of money that were spent on illegal cigarettes and alcohol which were sold at exorbitant prices. The perception was that the ban on the sale of these products created the ideal circumstances for the illicit trade to flourish.
- People felt that government has failed them with draconian laws which penalised ordinary citizens instead of focusing on strategies to provide psychological and economic support to citizens who had to deal with abuse, death of primary caregivers and loss of business and income.
- Concern was raised that there was no consensus on the decisions by government in terms of the banning of specific items. There seemed to be a conflict in relaying the message to the population. This was compounded by the fact that the president did not allow for questions from the media regarding decisions that were taken when he addressed the nation.
- A significant number of submissions expressed the view that many regulations were not based on health and risk considerations, but that they were drafted to suite certain lobby groups. Examples cited were taxi and religious groups that were allowed traveling at full capacity and having a higher number of people present than what was allowed for social meetings. Reference was also made to the fact that restaurants were allowed to receive clients and serve people not wearing masks, but families were not allowed to visit or provide care for the elderly.
- Anger was directed at the fact that politicians were receiving a full salary when the population was suffering economically, due to the decisions by the politicians.

### **Submissions regarding the Regulations**

- The general consensus was that the pandemic required extraordinary measures to curb the spread of the virus.
- Predominantly it was submitted that the regulations were arbitrary, illogical and unnecessarily harsh, and not in the best interests of South Africa. The view was that the regulations were not solely motivated by the need to provide protection, but to grab more power and to enforce draconian regulations.
- Attention was drawn to the fact that public input was not sought before certain decisions were made. Health information on the virus was not made available to verify the authenticity and effectiveness of the decisions taken by government. The regulations should have been adapted to suit the specific needs of each province as the virus affected provinces differently. People were of the opinion that government did not have a smart approach when formulating the regulations.
- The regulations were criticised for the ban and regulation of feeding schemes and soup kitchens. Mention was made that ordinary citizens had to step in with feeding schemes, to ensure that there was food for the needy.
- The government could not effectively enforce the regulations that they have announced.
- There is a feeling that members of the public were treated like children.
- Certain regulations were perceived as if the population was not trusted.
- The closing of beaches was cited as an example of a regulation that was not based on any objective evidence that linked the spread of the virus to outdoor activities. Some submissions linked these regulations with political considerations.
- The fact that taxis were allowed to transport passengers at 100% capacity was repeatedly referred to as an example of illogical decision-making.



- Some criticism was directed at the fact that casinos were effectively allowed a higher number of clients, than the number of people allowed to attend a funeral.
- A number of submissions felt that the regulations contained numerous inconsistencies. Examples cited referred to schools that were opened, while many parents were still not allowed to return to work.

### **About the compulsory wearing of face masks**

- The general view was that people were willing to wear face masks, on the other hand, a much smaller number indicated that they were not at all willing to wear masks.
- There is a general feeling that the wearing of masks is unnecessary, but that they will comply.
- Complaints were raised regarding the negative aspects of wearing a mask, but most have ultimately accepted that wearing a mask is the new normal.
- There is a minority view that masks provide a health risk to those that do wear them. Some submissions even referred to websites that deal with the infection dangers brought about by face masks.
- Mention was made that there were no standardised designs of what the mask should adhere to.
- The submissions were silent on the cost of masks.
- Very few people indicated that masks should be provided by government or employers or schools.
- The fact that people are allowed to take off masks in public, such as in restaurants, seemed to be a thorn in the flesh for some respondents.
- Some people indicated that they felt suffocated wearing a mask.
- Some indicated that they knew of people that contracted the virus, despite them diligently wearing masks in public.
- Very little evidence is available to indicate that the mask protects you, as the wearer.
- In general people expressed their willingness to wear masks but nothing was raised regarding the maintenance of the mask; guidelines were needed regarding the maintenance of masks and the design of the mask.
- The regulation that masks should be worn when outside of one's residence, and therefore when in a car by oneself or with family, was seen as silly. It was notable that submissions did not refer to the advantages that the wearing of a mask held for others with whom an infected person may come into contact with. This seems to be an area that should be addressed in a public information campaign.

### **Have you and/or your family members been tested**

- The vast majority of submissions indicated that the respondents have not been tested.
- Quite a large percentage of respondents that indicated that they were tested, had this done through private laboratories. Many of them referred to the significant costs for the tests.
- At least one submission mentioned that the person was held liable for the cost by the employer, when the test result was negative.

### **Other major recurring inputs on issues outside of the themes**

- The perception of high-handedness, and that government used the pandemic and the regulations to infringe on people's rights;
- That many regulations were too strict and illogical;

- That the regulations fuelled illegal activities and that many other-wise law-abiding citizens (such as smokers) felt the need to circumvent the regulations;
- The lack of effective economic support for those that suffered economically;
- The fact that social needs were not appreciated;
- The perception of inconsistency in the regulations and the actions of government;
- The lack of evidence linking certain regulations to the spread of the virus; and
- Some individual cases required exceptions (for example on the travel ban), which the regulations did not allow for.

### **3.3 Recommendations**

The following recommendations were agreed to by the Committee following the reports of the Working Groups:

- 3.3.1 There should be continued communication campaigns on the wearing of masks, as well as on how to use them; including social distancing.
- 3.3.2 Government should communicate clearly on the COVID-19 testing regime, and especially if any changes are effected in these protocols.
- 3.3.3 The UIF should open their offices in order for stakeholders to access their funds.
- 3.3.4 SASSA should assist beneficiaries with applications and be transparent in its application processes. SASSA should ensure that safety protocols are implemented and maintained at pay point queues.
- 3.3.5 Financial support should be given to all affected people, not just on the basis of race.
- 3.3.6 Traffic or law enforcement officials should enforce the implementation and use of sanitisers in public transports and the taxi industry should play an active role to enforce PPE compliance in taxis.
- 3.3.7 The SABC should play a bigger role in home learning. Psychological support should be provided to children, elderly and the disabled who reside in care facilities.
- 3.3.8 A government support and economic recovery plan is needed.
- 3.3.9 Public Education on the grant process and socio-economic support from government should be offered to the communities.
- 3.3.10 There must be a clear and strong stance against corruption.
- 3.3.11 Although the virus did not discriminate, the government should have clear policies in place to assist households during disaster situations like COVID-19.
- 3.3.12 Proper attention should be given to the regulations and the implementation and enforcement of them because the regulations contributed to ordinary citizens becoming involved in criminal activities.
- 3.3.13 A differentiated approach needs to be followed during the various levels of the lockdown as not all areas are affected in the same way.
- 3.3.14 Request that the Department of Economic Development and Tourism assist small and medium-sized businesses that are closing down, with business rescue procedures.
- 3.3.15 The Department of Economic Development and Tourism assist informal businesses with cutting red tape in order to continue trading.
- 3.3.16 There must be proper, clear communication to the public on accessing the Solidarity Fund. Small local businesses must be prioritised instead of larger companies.
- 3.3.17 Outstanding UIF grants should be paid out and UIF should be easily contactable by applicants.
- 3.3.18 If businesses can prove that they have sustainable businesses plans, then government loans should be converted to grants.
- 3.3.19 The research and evidence for the respective health regulations that were Gazetted should be published so that members of the public can understand the rationale behind the enforcement of the regulations.

- 3.3.20 Government should allow Non-Governmental Organisations and members of the public to distribute food to the public.
- 3.3.21 Should there be a second level 5 and 4 lockdown, government needs to relook at social distancing regulations and visitations to family members, given how contradictory some of the regulations were during the past few months.
- 3.3.22 The closure of ECD Centres was a flawed regulation and should be reconsidered if there are regulations imposed in the future.
- 3.3.23 The filling of taxis to 100% capacity must be informed by health evidence and research.
- 3.3.24 Currently, tourists from high-risk countries are not allowed to travel to South Africa. However, there is also a chance that tourists from low-risk countries can test positive for COVID when they arrive in South Africa. Tourists from all countries that test negative for the virus should be allowed to travel to South Africa.
- 3.3.25 The rebuilding of the post-COVID-19 economy should now be government's priority. This will require drastic action in the review of economic and employment policies and legislation to support labour-intensive economic growth.
- 3.3.26 Those that were already vulnerable before the pandemic, suffered the most. Government support should now be focussed even stronger on the needs of the poor.
- 3.3.27 Some of the innovations developed during the pandemic should be retained and further developed. This include actions such as the distribution of chronic medicine to homes.
- 3.3.28 The Western Cape Government should summarise strategies implemented to innovatively deal with the provision of emergency services dealing with COVID-19 patients and infection "hot spots". This should then be escalated to National Government as a form of best practice should similar pandemics occur in the future.
- 3.3.29 Government should review the social aspect of providing better support to the population who are in vulnerable situations; (e.g. Social support in homes for abused women and children etc.)
- 3.3.30 Future actions and decisions by government should follow public-participation and not create the impression that government decisions are only influenced by certain lobby groups close to government.

#### **4. Acknowledgements**

The Chairperson thanked the Committee Members for their deliberations on the submissions and the contributions made to the recommendations, to be included in the Committee's Final Report, which will conclude the business of the Ad Hoc Committee on COVID-19.