



PLANACT

**A REPORT ON LOCAL GOVERNMENT ELECTION OBSERVATION, 2021
IN
SOUTH AFRICA**

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Introduction

In October 2021, Planact, a Non-Governmental Organisation focusing on participatory democracy, successfully applied for observer accreditation status with the Electoral Commission of South Africa (Electoral Commission). The accreditation certificate was granted on the 8th October 2021 in terms of section 86 of the Electoral Act, 1998. The organisation received a one-year accreditation on observing the 2021 Local Government Elections (LGE) on condition that it strictly adheres to the Code for Accredited Observers. This report summarises the observations and experiences of Planact LGE Observers Team (Observer Team). The LGE coincided with Planact's implementation of its Elections Accountability project. This project is based on section 1 of the Constitution of the Republic of South Africa, 1996 (Constitution), which enshrines some of the important values, which includes; "[u]niversal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness." Regular elections is one of the important pillars of the country's democracy.

The scope and purpose of the report

This report covers three sections. The first section provides a brief background including the relevance of local government elections to Planact's programmes and the constitutional and legal bases for the participation. The second section gives a sense of the preparations made to empower Planact's Observer Team and the geographic location and exact Voting Districts (VDs) where Planact deployed its observer mission. The third section provides a summary of the Observers Team's experiences on various aspect of the voting process. The observations are classified into the following categories:

- Planact's Observers Team experiences on access to several VDs by its accredited observers,
- the extent of the presence of observer missions from other organisations, with voting starting time, space at voting stations,
- Party Agents access and participation, special votes related matters, safety and security, the voters roll management,
- Usage of the Voter Management Device,
- Competency of the Electoral Commission personnel,
- Covid-19 Protocols, Political Party Campaigning at Voting Stations and
- The Voters' Behaviour.

The fourth and final section of the report provides a conclusion, and recommendations regarding improving future local government elections.

The primary purpose of the report is to share Planact Observers Team's experiences with the Electoral Commission. It is important to note that the report seeks to highlight both good practices and discrepancies identified during the general LGE process. Planact envisages that the recommendations will inform the Electoral Commission's debriefing and future strategies necessary to improve the process. Thus, enabling them to apply recourse necessary to address the deficiencies and avert any further deterioration. Planact notes that failure to address the irregularities has the potential of leading to the questioning of the Electoral Commission's competence and the credibility of elections in the future.

Section I: Background, preparation and voting districts

Background

Planact is not affiliated to any political party and does not contest elections. The organisation has 35 years record of accomplishment of promoting active participation of marginalised communities in local government. Its work primarily focus on the local sphere of government. Planact got involved in this project in order promote free and fair elections.

The project fell within the *Strengthened Grassroots Voices* programme of the organisation, which promotes participatory governance. Capacity building and supporting community participation is at the center of the programme to ensure transparency, accountability and good governance in local governance. The LGE also served as an opportunity for Planact to observe the level of citizen participation in local government. Importantly, Planact also viewed the elections as an opportunity to support marginalized communities to exercise their constitutional rights to participation in local government elections. The aim was to ensure that the marginalised communities benefit from the experience and contribute to the legitimacy, of the elections.

Planact noted that while high profile observers were welcomed and common practice during elections, communities from marginalised communities rarely enjoy this privilege. Planact believed that this exercise feeds into deepening their understanding and appreciation of the democratic processes that govern their everyday lives, and create more conscious citizens and active voters. Although, Planact's conclusion supports the Electoral Commission's declaration of the elections as free and fair, it is important to note a number of issues that require attention for improvement going forward.

A larger component of Planacat's work involves empowering marginalised communities to have a better understanding on how local governments works, the sphere of government which was the concern of the LGE. The 2021 LGE were held on the 1st November to fulfil a constitutional mandate.

The Team Preparations

Planact's election Observers Team comprised of 21 community members and five staff members. Planact took a conscious decision to keep the Observer Team small given that this was a pilot project. Planact lacked the experience in election observation; however, two staff members had participated in previous elections in their individual capacity. The Observer Team committed to observing the process only on the day of the general LGE, excluding the Special Vote days.

Planact participated in the *Observer Briefing for Local Government Elections 2021*, held in Sunnyside Park Hotel on 21 October 2021 hosted by the Gauteng province Electoral Commission. The physical meeting was well attended with accredited observers from a number of organisations. Invitation was only limited to three people per organisation and Planact managed to have its three representatives attending. The presentations covered the legislations, procedures, the expected conduct and the code of ethics for observers and other stakeholders, including penalties for prohibited conduct, among other things. The limitation of this workshop was that it was a one-day workshop, contrary to previous local government election training conducted over three days. The Electoral Commission was operating under pressure because it had only three months to prepare for the elections, following the Constitutional Court ruling that elections should continue despite the application made by Electoral

Commission for postponement. This warranted compression of the material into one day because of the pressure.

Planact also participated in the virtual *Briefing of Observers 2021 Municipal Elections* hosted by the national Electoral Commission on 25 October 2021. The virtual meeting was led by national officials of the Electoral Commission including some of the Commissioners (chairperson and deputy chairperson) and the Chief Electoral Officer.

Finally, the Planact team in Mpumalanga attended the *Briefing Session for Accredited Elections Observers for LGE 2021* at Emnotweni Arena, Mbombela on 26 October 2021. The physical meeting went well and addressed issue similar to those addressed in the Gauteng meeting. Three Planact Observers Team members located in Mpumalanga attended.

In addition to the Electoral Commission's led initiatives, Planact hosted a virtual workshop for its accredited observers on 27 October 2021. It is important to note that the workshop was facilitated by one of the Electoral Commission's staff members – Ms Diana Mola. In this regard, Planact did its best to ensure that it was prepared for the task. The virtual workshop was attended by 24 members from the Planact Observers Team. Ms Mola thoroughly took the team through the Electoral Act and the Code of Conduct and other relevant aspects. The training was important as a number of issues were clarified in preparation for the observers to carry out their tasks.

Allocation of Voting Districts

Planact deployed its Observers Team in 22 VDs. It decided to have its team members observing at their nearest VDs given logistical challenges such as transportation. Majority of the Observer Team were situated in Gauteng province while only three were from Mpumalanga province. In the latter province the Observer Team operated in three separate municipal wards in Emalahleni Local Municipality under Nkangala District Municipality. The number of the Voting Districts where members of this component of the Observer Team were deployed are as follows; VD 54700051, VD 54700095 and VD 54650549. In Gauteng province, the Observer Team was spread across a number of municipalities, namely; City of Ekurhuleni Metropolitan Municipality (EMM), City of Johannesburg Metropolitan Municipality (CoJ), City of Tshwane Metropolitan Municipality (Tshwane) and Emfuleni Local Municipality (Emfuleni) in Sedibeng District Municipality. The team was deployed in the following VDs;

- in EMM: VD 33020750, VD 33030335, VD 32890765, VD 33010052, VD 32910544,
- in CoJ: VD 32863529, VD 32860065, VD 32862652, VD 32850918, VD 32863338, VD 32840175, VD 32862641 and VD 33020299,
- in Tshwane: VD 32953293, VD 32952056, VD 32952438, VD 33190017, and
- in Emfuleni: VD 32930568, VD 32930984.

Section II: A summary of observations

Observing elections during the preparation stage

The 2021 LGE came as a challenge because of a number of factors, including the Covid-19 pandemic and the consequent uncertainty on whether free and fair elections could be conducted under the prevailing environment. The uncertainty resulted in delays concerning whether to go to the polls within the originally stipulated timeframe, or to post pone the election to 2022 when a possible recourse or a larger percentage of the population would have vaccinated. The final authoritative pronouncement by the Constitutional Court determined that the elections be held as originally planned without delay. This placed enormous pressure, not only on the Electoral Commission but also, on other stakeholders such as political parties, independent candidates and observers, amongst others. The State President declared the 1st November 2021 the day of elections and a public holiday.

Observers Access to Voting Station

Some members of the Observers Team experienced challenges regarding access to voting stations on the day of general LGE. Three members of the team experienced serious challenges as they were denied access to the voting stations where they were deployed or were frustrated to the extent of not being able to effectively exercise their role or not being able to execute their tasks at all as accredited by the Electoral Commission. The presiding officers either required some additional documentation that Planact was not able to produce as it was not made aware of that in the process of accreditation, or they simply disregarded the accreditation certificate produced including the identity tags provided by the Electoral Commission also supported by personal identification documents. This happened at the Voting Districts numbers 32890765, 32863338 and 32840175 where the accredited observers Somsy Selaelo Matso, Wetu Memela and Hloniphile Simelane, respectively, were assigned to observe the processes. The Planact coordinator of the Observer Team eventually managed to successfully intervene in Mr Matso's case. The other two team members completely lost the opportunity to do their tasks on the day. This was embarrassing for the directly affected parties, and also had negative implications for Planact's plans to participate effectively in the process. This also left a negative impression about the level of emphasis concerning the role of observers during training of the relevant Electoral Commission's personnel, in particular Presiding Officers in this regard. What appears to be inadequate understanding of the process by some of the Presiding Officers is a matter of concern. It was also clear that there were no immediate effective mechanisms for recourse when such incidents occur.

Observer Presence

Planact Observer Team observed that there was no sufficient accredited observer at voting stations. In the 22 voting stations where the Observer Team operated, observers from other organisations were spotted only in two voting stations, in VD 32862652 and VD 32953293, with the latter being international observers. The reasons behind limited domestic observers in particular require serious attention. It is also important that additional efforts are made to attract more international observers at voting station level for LGE. The frustrations encountered by Planact in accessing some VDs could be one factor that may have discouraged some local organisations from applying and participating in the process if they have experienced such in the past. There may have been poor education and investment of resources towards the process.

Voting starting time (Punctuality)

- Planact considered it important for the Observer Team to be at the voting station well in time to observe compliance with the prescribed opening time of voting stations. Late start of the voting process, appeared to be common in a number of voting stations where members of the Team were positioned. For instance; In VD 54700095 the ballot papers arrived late causing the station to start operating only at 08:00.
- In VD 32862652 material entered the gates of the voting station under police escort at 06:57, and the Electoral Commission's staff only got access to their t-shirts then and also had to start preparing the station. The station only started to operate from 07:35.
- In both the VD 33030335 and VD 33020299 voting started at 07:30. The first voter only gained access to the voting station at 07:45 in VD 32930568. The operation of the station at VD 32952438 also started late. Generally, it appears that the opening time was a serious shortfall in many voting stations. Most voting stations had voters already queuing at the set opening time. There were a number of voting stations which were reported to have opened in time such as in VD 32850918 and VD 32860065 both in Johannesburg.

Despite the late start, there was no consideration for special attention on vulnerable people such as the disabled and pensioners on the queues. The late start has also disadvantaged some voters who had come very early to be at the front of the queue with the hope that they could proceed with other businesses of the day immediately after voting. It is no secret that despite the day been declared public holiday some workers were compelled to go to work for one reason or the other. The late start could also account as a contributory factor in low voter turnout as some people decided to leave when what they were told via the media was not materialising in practice in a number of voting stations. Of course it will not be easy to quantify the magnitude of this contributory factor at this point but it need attention for correction.

Voting Station Space (Venues)

The size of the voting stations to allow voters to cast their ballot in secrecy was generally not a major challenge. However, the Observer Team identified a serious shortfall concerning the size of some voting stations. The VD 32930984 that was situated at Waterdal General Dealer was the worst in terms of acceptable standard regarding size. Actually the Voting District was not in the building of the store itself as the Electoral Commission's available information suggests, but it was in a very small building of about 3m² attached to the store. Also in the opinion of the team members stationed at VD 33020750 and VD 54650549 the stations were too small. The VD 33020299 was reportedly often overcrowding because of limited space. The Municipal Electoral Act No. 27 of 2000 is unambiguous about the preservation of the principle of secrecy in relation to voting. The above conditions, as observed in VD 32930984 in particular, clearly undermine this principle and consequently amount to the violation the Constitution and legislation.

Party Agents Access and Participation

The Electoral Commission facilitated smooth access to voting station for Party Agents. They were allowed to observe the opening and the sealing of ballot boxes where they happened to be present. Due to limited space in some cases an acceptable arrangement between them and the Presiding Officers was made for member of the same party to alternate. Party Agents were also allowed to raise their objections and reduce them to writing as prescribed by the law. However, in some instances

some Party Agents appears to overpower the presiding officer and being able to do as they please. In VD 32862652 one of the Party Agents issued an instruction that the Electoral Commission's staff, observers and other Party Agents should observe a moment of silence in recognition of the "Creators", and got away with this. Someone who was not part of the Electoral Commission's staff made all listed people to stand up and keep silent (few minutes meditation) in recognition of God or Allah, etc. This was despite the fact that the station was late for opening already and that he had no authority to make that instruction, but it was allowed. The presiding officer was supposed to have been asked and either grant permission or not.

Special Votes

- While Planact opted not to observe the Special Votes component of the process due to some limitations it was noted that on the day of general LGE there was a huge number of vulnerable people such as pensioners and the disabled. As noted above these category of voters received no preferential attention on the LGE general voting day. The high number of these voters, amongst other factors, suggests that awareness raising about what special vote mean is still lacking. More effort in this regard will go a long way to mitigate this challenge. At VD 54700095 a pensioner couple that was blind and one deaf were seen at the voting station and this raised questions on whether they were aware of the special vote privilege. There a few more voting stations where the Observers Team reported to have seen people who qualify for special vote in the queues such as in VD 54700051, VD 33010052, VD 33030335, VD 54700095 VD 32863529, VD 32860065, VD 33190017, VD 32930568, VD 32930984 and VD 33020750.

Safety and Security

The Observers Team noted that the law enforcement agencies were visible in all station, both members of the South African Police Services and Metro Police in metropolitan municipalities. They always intervene where required, although there were not many incidents reported. They did not only deal with managing the situation, but were also seen carrying out the task of escorting voting material which is also crucial in preventing undue interference prior and after the voting process has been conducted. This is crucial for ensuring free and fair elections, and their role in the elections is commendable.

The Voters Roll and Voter Management Device

While commentators in the media appeared to emphasise a number of factors for low voter turnout, experiences from the Observer Team also suggest that there may have been challenges with the staff efficient management of the voters roll. A significant number of people were reportedly turned away at almost all voting stations and this may have had negative implications on statistics of voter turnout. It is accepted that there may have been people who may have not registered or confirmed their details but the scale at which voters were turned away require serious examination of the registration process and general management of the voters roll. This was a general trend in many voting stations where the Observers Team was stationed.

The VMD constantly experienced technical glitches in many voting stations and this slowed the process of voting down such as in VD 32860065, the machine stopped working for some time. The VMD was not working in VD 32930568. The manner in which the manual process was followed as a result of the failures of the VMD was questioned in some instances as it led to a lot of human error as in some cases

it was not very clear whether some of those allowed to vote were legible. While the device had its advantages of tracking and confirming if people were on the voters roll, and capturing demographics it also had disadvantages. The device did not pick up many people who claimed that they had registered, resulting in being unable to vote. Some of the voting stations where challenges with the VMD were experienced are the following; VD 33020750, VD 33030335, VD 33010052, VD 54700051, VD 54700095, VD 32863529, VD 32930984, VD 33190017. The vast majority voters were turned away or they would simply leave the queue as they became impatient with the process.

Registering Party Agents and Observers on Presiding Officers' Diary

In few instances the Party Agents and observers were not registered in the designated section of the Presiding Officers' diary, they were made to write their details in the wrong section. For instance, in the VD 32952438 an observer was made to sign the diary under the section reserved for visitors, which is inappropriate. While the Presiding Officers generally recorded observers and Party Agents in their diaries these were some inconsistencies on the section in which this was recorded. This is something that need attention to ensure accuracy for the Electoral Commission's benefit.

Political Party Campaigning at Voting Stations

At VD 33020750 and VD 54700051 political parties were seen distributing the parties' branded t-shirts just outside the voting station. This is prohibited by law. Voters found themselves entering the voting station holding the t-shirts in their hands. Campaigning outside voting station was also observed at VD 32890765, VD 33010052, VD 32863529, VD 33030335 and VD 54700051.

Training of Personnel

More often than not the Electoral Commission personnel appear to lack sufficient training in the work. In some instances, others appear to be handling the VMD for the first time. The Presiding Officers were in some cases handling similar matters differently, a typical example is the understanding of what is required for an observer to be allowed access to the voting station. What often appeared to be poor training contributed to the slow movement of queues. There were also experiences of some of the Electoral Commission's personnel not effectively managing the voters, struggling to follow the assist voter identify their surnames despite being arranged in alphabetic order in the voters roll.

Adherence to Covid-19 Protocols

While the Electoral Commission provided for sanitisation at the entrance of the voting station little to no efforts seem to have been applied in ensuring that social distance is kept in queues leading to the entrance. The biggest violation of the protocols as determined by the Electoral Commission was that of multiple usage of the "inking cotton bud". In all stations where observers were stationed the cotton buds were used multiple times. It was not used once and disposed as per the undertaking by the Electoral Commission. One factor might be that the staff soon realised that they may ran out of these cotton buds before the voting process end. The pens were generally not sanitized as frequent as it was expected.

The Voters' Behaviour

During the voting day there were voters who left the voting stations with a sense of contentment. In one of the voting stations, some voters were relieved and happy after voting and celebrated when the technological challenges were finally overcome where they occurred. Others showed excitement for

the opportunity to exercise their power to choose leaders to govern their municipalities. Some people were happy before voting and after voting, there were instances where they could be heard shouting; ululating and singing. Some were even revealing who they voted for. Others were excited about additions of new alternatives in the ballot paper. Most youth showed excitement at the experience of voting for the first time. Besides the youth, other first time voters were happy to cast their vote. For instance, in another voting station, there was a family (husband, wife and a daughter) and the daughter expressed excitement about casting her vote. There were others who were just happy to vote, saying no matter what happens they will always exercise their right to vote.

Section III: Conclusion and Recommendations

Planact supports the Commission's declaration of the elections as free and fair. However, there were a number of discrepancies that require serious attention to avoid a situation where the standard could drop below expectation. The decline in standard could lead to dire consequences such as discrediting elections results and pose a threat of political instability, such as possible post elections violence because of frustrations from the aggrieved, as it has been witnessed in some African countries. Despite the identified challenges, the Electoral Commission has thus far generally demonstrated standard of good practice and this must be maintained with some adjustments noting some of the anomalies raised herein. In the section below, Planact presents recommendations regarding addressing some of the above-mentioned gaps observed during the election process.

1. More effort must be placed in raising awareness about the importance of observers and to encourage participation of community based organisations, and domestic and international organisations in local government election observation.
2. Election Observers' access to voting stations must be well managed at all times, and quick and effective mechanisms for correction or recourse where challenges occur must be introduced.
3. Ensure that the opening time of the stations that is communicated to the public is respected and kept.
4. Intensify the Special Vote awareness campaign and providing special attention for the vulnerable in queues must be considered, especially if there is proof that they had registered for Special Votes.
5. The Electoral Commission should consider setting basic size standards for voting stations noting the principle of secrecy of the vote.
6. The Electoral Commission should give voters some form of proof of registration that could be produced where it become necessary to avoid dispute that are often unresolved.
7. Invest more time in thoroughly training staff to understand their roles better, including on technology that is introduced to improve the registration and voting process.
8. Voter education, including understanding of the electoral system and awareness of certain process such as special votes registration must be reinforced. Voter education must be an ongoing process to reinforce the value of democracy in South Africa.
9. During Covid-19 periods, ensure measures to strictly comply with set protocols

