



**SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

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**Report**

***Imbizo – A Nation in Dialogue***

***Reflecting on the July 2021 Unrest in KwaZulu-Natal and Gauteng***

**Date: 23 July 2021**

**Time: 09h00 – 12h00**

**Location: Virtual via WebEx**

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## 1 INTRODUCTION

This report is a culmination of an Imbizo which was organised by the South African Human Rights Commission (SAHRC or the Commission) a week after the country experienced unrest, looting and complex human rights violations mainly in the provinces of KwaZulu-Natal (KZN) and Gauteng (GP). The Imbizo was held on 23 July 2021. Through the Imbizo, the Commission sought to dialogue with people in South Africa in a bid to, firstly, understand what brought the country to this situation; secondly, to understand the root causes of the unrest; and thirdly, the Commission through the Imbizo sought to forge collaborations, with like-minded partners, that could deepen its efforts in responding to the situation. It was anticipated that the discussions would enable the Commission to carve a response plan that would assist the country in effectively dealing with the aftermath of the unrest.

The Imbizo took place via a virtual platform, which allowed for participation of people from across the country. This approach also allowed the Commission the opportunity to adhere to the Corona virus (Covid-19) regulations while permitting engagement with a variety of stakeholders and experts on the issues at hand. Participation was, however, limited in that not all potential participants enjoy access to the internet or data. As a result, the Commission was concerned that the Imbizo would not be attended by large numbers of people from the affected communities and sectors in the two affected provinces. Participants from government, civil society organisations, fellow Chapter 9 institutions, religious communities, traditional leadership communities and many other interested parties were nonetheless in attendance.

This report records the proceedings of the Imbizo, the background and purpose of the event, together with outcomes. The report reflects on the three main themes of the event; namely, a) what went wrong, b) response to the unrest and c) consolidating available resources. This is done through outlining some of the topics that came through during the discussion. A conclusion reflecting the outcomes is provided in summary at the end of the three thematic reflections.

## 2 BACKGROUND AND PURPOSE

Early media reports suggest that the unrest (which the President of South Africa has indicated was an 'attempted insurrection') commenced when roadblocks were set up on major highways and about 20 trucks were burnt in KZN on 8 July 2021. These events are alleged by some commentators to relate to the Constitutional Court order for the incarceration of former

president Jacob Zuma. The N3 and N2 highways (major arterial roadways), which link the Indian Ocean ports of Durban and Richards Bay to the industrial hub of Johannesburg and Cape Town, were forced to close due to the unrest.<sup>1</sup> The violence resulted in the loss of lives, with approximately 330 people having reportedly died<sup>2</sup>.

The unrest spread within KZN where shopping malls and businesses were looted and damaged by rioters that stole merchandise including food, electronics, medicines, clothing, and liquor. Attacks on retail centres also spread inland in GP (for example, in Johannesburg and Pretoria). At this point already, enforcement presence (or lack thereof) in the affected areas drew criticism for being inadequate in arresting the situation and to restore order. Since then, questions have been raised about the role and capacity of law enforcement and security agencies to detect and respond to unrest or national security threats like attempted insurrections. The state, in response, ultimately deployed members of the military to reinforce efforts by the South African Police Service (SAPS) and private security companies.

The unrest resulted in the arrest of more than two thousand people. In light of the Covid-19 situation, these arrests posed a challenge that they have the potential to contribute to further overcrowding in places such as correctional centres as well as police cells; creating cramped living conditions that do not allow for physical distancing and may amount to the infringement of various human rights including the right to human dignity. The entire arrest, detention and prosecution effort requires scrutiny.

The events that unfolded during and after the unrest undoubtedly negatively impacted human rights and these impacts were exacerbated by the Covid-19 pandemic. The negative impacts were compounded in respect of vulnerable groups such as women, persons with disabilities, older persons, children and non-nationals. As a result, a number of people were largely unable to secure access to justice or basic services such as healthcare due to the fact that for at least two weeks communities in the affected areas were home bound and were unable to venture out to access those services.

Moreover, the unrest coupled with the Covid-19 pandemic and Gender-Based Violence (GBV) pandemic, placed into jeopardy the efforts of the country to attain its commitments in terms of

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<sup>1</sup> <https://apnews.com/article/africa-business-biden-cabinet-south-africa2d0aaef63102a661c8e54d3bdf926566> Accessed 20 July 2021

<sup>2</sup> Per statistics provided by the SAPs to media as at August 2021; Media reports citing statistics of the death toll announced by Government to be 330: <https://ewn.co.za/2021/07/23/watch-live-minister>, accessed 30/0921

national,<sup>3</sup> regional<sup>4</sup> and international<sup>5</sup> sustainable development frameworks. The Sustainable Development Goals<sup>6</sup> (SDGs) that relate to No Poverty;<sup>7</sup> Zero Hunger;<sup>8</sup> Good Health and Well-being;<sup>9</sup> Quality Education;<sup>10</sup> Gender Equality;<sup>11</sup> Decent Work and Economic Growth;<sup>12</sup> Industry, Innovation and Infrastructure;<sup>13</sup> Reduced Inequalities;<sup>14</sup> Sustainable Cities and Communities;<sup>15</sup> and Peace, Justice and Strong Institutions<sup>16</sup> have all been egregiously impacted by the unrest.

Given the complexity and fluidity of the situation, there was an urgent need for the Commission to provide a platform to support consultation, and meaningful engagement with the public, and stakeholders. The Commission used the Imbizo methodology to consult, and to shape its responses to protect human rights following the unrest. An Imbizo was proposed as the first step for the SAHRC to initiate its comprehensive institutional response.

Strong partnerships<sup>17</sup> and collaboration will accordingly be needed to ensure that the central principle underlying the sustainable development agenda, namely that of Leave No-One Behind, is given effect in building a stronger and more resilient South Africa.

### 3 WHAT WENT WRONG?

This first session was facilitated by Mr Sello Hatang (Chief Executive Officer of the Nelson Mandela Foundation), who contextualised the session and initiated discussion by inviting reflection about what, according to participants, the possible causes were that led to the unrest and the looting that took place in the two provinces.

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<sup>3</sup> National Planning Commission *National Development Plan* (2012).  
<sup>4</sup> African Union Commission, *Agenda 2063: The Africa We Want* (2015).  
<sup>5</sup> UN General Assembly *Transforming our World: the 2030 Agenda for Sustainable Development* (2015) A/RES/70/1.  
<sup>6</sup> See < <https://sdgs.un.org/goals>>.  
<sup>7</sup> SDG 1.  
<sup>8</sup> SDG 2.  
<sup>9</sup> SDG 3.  
<sup>10</sup> SDG 4.  
<sup>11</sup> SDG 5.  
<sup>12</sup> SDG 8.  
<sup>13</sup> SDG 9.  
<sup>14</sup> SDG 10.  
<sup>15</sup> SDG 11.  
<sup>16</sup> SDG 16.  
<sup>17</sup> SDG 17.

The question was actively engaged with by participants both through comments posted on the platform chat and verbally. Some of the main emerging reasons for the causes of the unrest included:

### 3.1 Inequality, Poverty and Unemployment

Participants indicated that the unrest and looting was partly as a result of the fact that South Africans are experiencing frustration due to lack of employment which exacerbates existing widespread poverty. It was further highlighted that most of the looting happened in township areas and informal settlements where most of the country's poor live. People who lived in affected suburban areas experienced some disruption through inability to access food, fuel and other amenities as a result of the unrest.

Mr Hatang, raised what was referred to as the 'mall culture' in townships and how it contributes to township economy. It was noted that as much as malls provide much needed employment, they are, however, is extractive in nature as the ownership of profits does not necessarily belong with the residents. Similarly, questions around the rate and nature of employment of people who reside in townships in malls was raised. Cases involving black entrepreneurs who commenced their businesses after great challenges and who had invested all their income were also raised. The case sharing, however, indicated that some of the affected small businesses had in fact remained hopeful and had resolved to start afresh despite the devastation of the unrest on their livelihoods.

Related to the issue of poverty and unemployment, one participant indicated that the discontinuation of the R350 Social Relief Grants for unemployed people may have contributed to people deciding to loot and vandalise as a form of lashing out against the discontinuation of the grant. South Africa is faced with high numbers of unemployment, especially of the youth and the social relief grant went a long way to alleviating poverty for most people. The discontinuation of the special grant, which was set far below the food poverty line, was apparently also a contributing trigger to an already frustrated community.

### 3.2 Social Cohesion – Reconciliation and Forgiveness

Another point that strongly emerged during the discussion is the notion that South Africa is still experiencing the remnants of the past dispensation and social cohesion is still very much a distant dream. One participant indicated that South Africa still suffers from psychological

scars and is essentially a wounded nation. This is evident in the way in which racial tensions and intolerance persist in our societies. People still classify each other in terms of race<sup>18</sup> and certain races are still considered as inferior and superior. The unrest which included the loss of life and destruction of private property largely in KZN was said to have exacerbated the racial tension between some communities. Media reports were cited that people of certain races were barred in certain places during the unrest as they were regarded as 'looters'. Areas such as Phoenix in KZN resorted to the use of private security bodies to set up roadblocks and to prevent access to the areas. These mechanisms led to violent incidents between largely African people seeking to pass through the area during the looting and community and private security at the time. The events have focused attention on racial tensions between African and Indian communities which continue to attract attention. The discussions highlighted the need for the Chapter 9 institutions to work together to bring about the much needed social cohesion in the country.

### 3.3 Leadership Vacuum/ Shortcomings in Leadership

The discussants also noted shortcomings in leadership that led to difficulties in arresting the situation before a lot of damage was done at the outset of the unrest. One participant indicated that the lack of decisive leadership, from those who are in a position of power rendered the situation worse than it would otherwise have been. The institutions that are put in place to protect the country, such as the SAPS were found wanting and inadequate to deal with the unrest. Discussants pointed out that the law enforcement agencies in South Africa are reactive rather than proactive. One participant indicated that there seemed to be a lack of vision or plan in place when occurrences such as unrest happen.

A development was, however, highlighted by one participant in that some community leaders played a significant role in ensuring that the looting stopped and not allowed to spread to other places. Many people came out in protection of their surrounding places of trade and refused looters an opportunity to enter. In this sense, participants pointed out that comparatively many sectors and groups had worked together to discourage the unrest and looting. The strong stance taken by the taxi industry in its messaging that it would not support looters was cited as a case in point.

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<sup>18</sup> The government also utilizes apartheid-era race classifications to measure transformation, see further, for example, the Employment Equity Act and SAHRC *Equality Report 2017/18: Achieving Substantive Economic Equality through Rights-Based, Radical Socio-economic Transformation* (2018).

### 3.4 Corruption

Corruption is another factor that was deemed as having contributed to the unrest. For many years now it has been reported that corruption is becoming more and more prevalent in South Africa and most of it is alleged to be conducted by the leaders in senior positions. More discouraging is the fact that there seems to be no consequence management in place where such cases of corruption occur.

Looting of state coffers has become a norm and the participants accepted that people are aware of this. The unfortunate result of it is that people are greatly affected in that intended services end up not being delivered. The erosion of the rule of law by political leadership entrusted with the future of our country and the apparent impunity with which the state may be captured for personal gain, sets a bad example for a populace that is struggling to survive, in stark contrast to the constitutional promise of a better life for all. It is therefore understandable that years of State Capture has eroded respect for the rule of law and the social compact symbolised by the Constitution. Corruption was seen as not being punished and has led people to believe that there are no consequences to criminal conduct. Accordingly based on the example of corrupt public officials, some members of the frustrated public may feel that they too can get away with disregarding the rule of law.

### 3.5 National Security

The unrest also raised a question of national security and how people can loot and vandalise, sometimes in front of law enforcement agencies such as the SAPS and such agencies do nothing. It was also observed on media and during the Imbizo that in most cases the people involved in looting vastly outnumbered the SAPS, and SAPS were as a result, rendered incapable to arrest the situation. The situation raised serious concerns for participants about security and the effectiveness of the security structures in South Africa to adequately ensure safety for people. The resulting deployment of members of the defence force also raised concerns. In this regard participants expressed concerns that the military are not trained in the management of civilian unrest outside of conflict situations against the State, or in appropriate crowd management. The first lockdown that was instituted due to Covid-19, was cited as an example of the inadequacy of reliance on the military as during this period, many people allegedly lost their lives at the hands of members of the defence force.



Another security issue that concerned people during the Imbizo was the national intelligence agency was not in a position to detect signs prior to or at an early stage that there would be unrest. Participants indicated that leaders in the security cluster had yet again created more anxiety in that they appeared to have not had a coordinated response in terms of whether or not intelligence services were able to optimally do their job.

### 3.6 Rule of Law

When the unrest began, there were reports that pointed to a possibility that the unrest was happening due to the incarceration of the former president Jacob Zuma. One participant mentioned that this raised serious concerns that people will take the law into their hands when they do not agree with the rule of law and what it prescribes. This also leaves questions relating to who does the rule of law apply to? Also, the fact that politically connected people who break the law either through corruption or other means do not get arrested also raises the same question. The question was asked whether the rule of law is applicable only to the poor and to those with no political affiliations. The question was also asked whether people care about upholding the rule of law.

### 3.7 Lockdown Fatigue

Reference was also made during the discussion that people in South Africa appear to be experiencing lockdown fatigue, referring to lockdown measures instituted in terms of the national state of disaster. Government's response to containing the spread of the Covid-19 pandemic has been to introduce a range of restrictions on people including movement. South Africa has been at varying levels of lockdown for at least 17 months due to the Covid-19. The fact that people came out in numbers to loot and disregarded almost all of the lockdown rules points to the fact that they are tired and do not care about any consequences such as being infected with Covid-19 or spreading the virus to others and thereby jeopardising the lives of others and contributing to the overburdening of the public health system.

## 4 RESPONSE TO THE UNREST

This session was facilitated by Professor Tshepo Madlingozi (Director and Associate Professor at the University of Witwatersrand's Centre for Applied Legal Studies). The aim of the session was to allow participants to share views and input on what they would like to see happen as a response to the unrest. Viewpoints for responses to the unrest included recommendations to the SAHRC and other constitutional bodies as part of their mandate. Many suggestions envisaged the participation of Chapter 9 bodies as facilitative. The main responses which emerged are discussed briefly below:

### 4.1 Strengthening of the Security Cluster

Participants weighed in robustly on the issue of national security and how it has proven to be weak and ineffective. The issues in respect of security ranges on the one hand from the police appearing inadequate, failing to stop the looting, through to reliance on the military forces for assistance. On the other hand, the rift in intelligence was manifest through uncoordinated and opposing statements given by leaders in the security cluster as regards national security post the unrest. The participants were therefore of the view that the improvement of security competency, capability and accountability is of paramount importance. It was recommended that the Commission engages in a multi-sectoral security oversight operation to ensure that anything that happens is within the confines of the Constitution, and that security and enforcement follows a rights-based approach. One participant called for a complete overhaul of the security cluster as clear factionalism appeared to exist within the cluster. There appeared, however, to be consensus that the current state of affairs adversely affects effective security operations and puts South Africa at risk. The level of public confidence in the ability of security and enforcement to protect basic human rights was therefore quite low.

### 4.2 Focus on Human Security

The question of people security as opposed to state security also arose during the Imbizo. In particular emphasis was brought to bear on the importance of the state to ensure safety and security of people, especially vulnerable people including children, the elderly, people living with disabilities, women and foreign nationals when dealing with public spates of violence like the recent unrest and service delivery protests. Children, for example, were greatly affected

by the unrest and some were also seen looting and some were injured during these activities. The Department of Social Development (DSD) was also not seen carrying out its role of protecting the vulnerable by both providing food and essential items to those affected. There is a need for the DSD to have a contingency or crisis management plan in place to protect the most vulnerable in situations such as this one. Moreover, one participant stressed the need for information to be collated on all the children that may have died, were injured (including the nature of their injuries) and incarcerated because of the unrest. This information will assist in providing the necessary help for these children by child-focused non-governmental organisations (NGOs) as well as the Commission as the National Human Rights Institution (NHRI) for South Africa.

#### 4.3 National Healing and Cleansing – Spiritual Renewal

It was suggested that the SAHRC must take a lead in facilitating national healing initiatives as a form of spiritual renewal post the series of unfortunate events that has happened. This can be done by visiting national shrines. In doing this, all the names of the people who died as a result of the unrest should be made known, together with the events under which they lost their lives so that their spirits are laid properly to rest in order to facilitate healing.

#### 4.4 Series of Imbizo's/ National Dialogues

The Commission was also advised to facilitate a series of further Imbizo's to continue the dialogue on many issues that emerged out of the initial Imbizo but which could not be discussed at length. Some of the topics suggested were an Imbizo on national security, one on human security with a focus on safety for vulnerable groups and one on political economy.

#### 4.5 New Social Compact

A suggestion was made that there is a need for South Africa to relook at its social system and adopt more socially progressive policies that will ensure the alleviation of poverty and inequality if it is to curb unrests of this nature in the future. Poverty and inequality have been identified as two of the drivers that fueled the unrest. One participant mentioned that if there were instigators to the unrest then such instigators used poor people as pawns in their chess

game. At the end, unfortunately, it was the poor people that were left dealing with the consequences. The Commission was therefore urged to put more pressure on government to strengthen initiatives geared towards ending poverty and inequality in communities as a matter of urgency.

#### 4.6 Media Oversight

The media played a pivotal role during the unrest in capturing and communicating what was happening. Social media, however, exacerbated the situation as information (sometimes inaccurate and misleading information) was transmitted easily from one person to the next, reaching millions of people in an instant. There is a need to monitor how media platforms are utilised in such situations. The Commission was further urged to provide media oversight and ensure that media is invested in spreading useful information such as human rights education. It was suggested that the power of the media needs to be looked at carefully because media allows people to receive information in their native language through community radio platforms and this ensures that people are able to engage with the information as they understand it.

#### 4.7 Human Rights Education

A participant from a Chapter 9 institution emphasised the need for Chapter 9 institutions to accelerate their collaborative efforts in spreading human rights education to communities. The idea was that if people are taught about their rights and how the rights are accessible they would not resort to unconstitutional ways in airing their frustrations.

#### 4.8 Focus on Improving Township Economy

As previously mentioned, inequality was identified as one of the biggest issues that requires urgent attention in the country. Some participants mentioned that racial tensions rife in the country are due to the inequality that is experienced. The fight between the “haves” and the “have-nots” will not stop until some sort of bridge in the inequality gap is achieved. One way this can be done is through improving township economy, providing basic services like quality

housing, water and sanitation to the poor. SAHRC was again urged to accelerate its efforts in holding the government to account in providing socio-economic rights.

## 5 CONSOLIDATING AVAILABLE RESOURCES

The last objective of the Imbizo was to focus on identifying and consolidating all available resources that will be crucial in responding to the situation and curbing unrests in the future. The session was facilitated by Ms Pregs Govender (former Deputy Chairperson of the Commission). Ms Govender opened the session by outlining some of the practical steps that may be taken by responsible entities that will assist in responding to the issue of the unrests going forward. Participants also made suggestions and these include the following points:

- National, provincial and local government departments and agencies, including disaster management, should ensure protection of people's lives and lifelines (food, vaccines, social grants etc.);
- Security agencies should identify and arrest those responsible for destroying infrastructure;
- Transparency should be ensured in respect of available resources that are meant to assist communities affected by the unrest. Universal access to data becomes a facilitative right that will ensure everyone is able to access these resources;
- Institutions Supporting Democracy (ISDs) such as the Commission to use their powers together with civil society to ensure that there is a stop in any further loss of life and livelihoods and build peace;
- Peace facilitators should mobilise their resources and ensure that peace accords within communities are developed; clear protocols for community safety are developed and adhered to; police and army ensure prevention of racism, xenophobia, racial profiling, gender-based violence and other abuses of power;
- The State should address the plight of those who lost their homes, mainly in the informal settlements and lower working class in townships;
- The State should assist small businesses and those in informal economy who have no access to insurances to rebuild their businesses;
- Re-look the economic structure and advance a structure based on nurturing lives and livelihoods;

- Treasury to cease cutting budgets especially budgets for education and health;
- State to provide basic income grant to assist people faced with poverty and unemployment to make ends meet;
- Put more focus on children and other vulnerable groups and ensure that they are not severely adversely affected by the unrests and service delivery protests; and
- Learn from other countries who have strong and working social security systems. Also, utilise available learning resources such as documents on scenario planning and start planning accordingly.

## 6 CONCLUSION

Through this initial Imbizo, the Commission expressed the need for wider public engagement, particularly with affected communities. In this regard, it noted that more needed to be done facilitate public participation which could be limited by the regulations under the national state of disaster. The Commission recognised that challenges in access to electricity, the high cost of data, and access to the online platforms would greatly inhibit wider community participation. To this end, the Commission committed to continuing its engagements through local efforts in the future. Similar concerns were noted in respect of access to online mediums in respect of persons with disabilities and more efforts were to be made to support active participation through interpreters and enhancements to current online platforms.

In conclusion, the recent unrest took South Africa by surprise and left some devastating effects that will take a long time to correct. Some people in affected areas are still dealing with the negative effects such as not having anywhere to buy bread and milk nearby as the shops were looted and torched. People lost their employment, others were prevented from having access to healthcare services which resulted in health challenges. There is a definite need to understand what caused the unrest and what should be done to respond to the situation. Further, there is a need to identify bodies that must play a role in ensuring that South Africa returns to normality and is prepared with tools to detect and prevent possible future unrests. This Imbizo was first of a series of Imbizo's that will be hosted by the Commission in order to ensure that all questions related to the unrest are answered as they affected various human rights and solutions implemented.