



THROUGH THE LENS OF LIFE ESIDIMENI

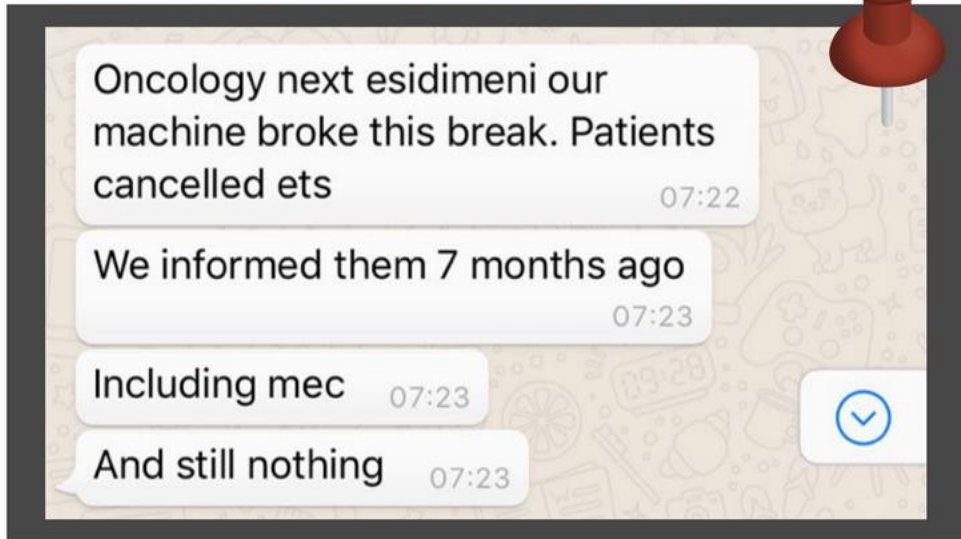
What leads to inefficiency in the public sector and what can the Ramaphosa administration do? **Life Esidimeni as a case study.**

MARK HEYWOOD

EXECUTIVE DIRECTOR, SECTION 27

INTRODUCTION

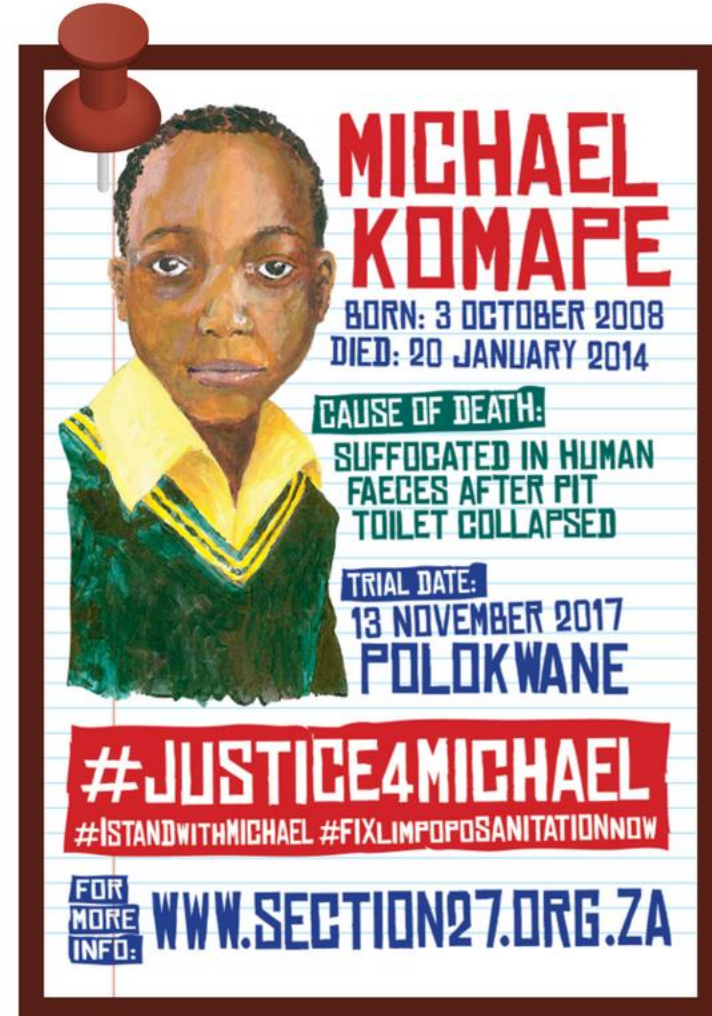
Life Esidimeni was exceptional only in the scale of the tragedy that it engendered.



Limpopo health dept and NGO negotiate to prevent 'another Life Esidimeni crisis'

2018-05-03 20:20

Chester Makana, Correspondent



WHAT HAPPENED?

"This was a harrowing account of the deaths, torture and disappearance of utterly vulnerable mental health care users in the care of an admittedly delinquent provincial government. It is also the story of the searing and public anguish of the families of the affected mental health users and the collective shock and pain of many other caring people in our land and elsewhere in the world."

- Dikgang Moseneke
Former Deputy Chief Justice



4

PHASES OF THE LIFE ESIDIMENI DISASTER

2015 (decision to close) - March 2016 (failed court interdict): Attempts to engage with GDoH

March 2016 - October 2016 (start of Ombud's investigation): "Mass removals" and their consequences

October 2016 - 19 March 2018 (Moseneke judgement): the Ombud's intervention and its aftermath

The implementation and post Arbitration phase

CONSTITUTIONAL PRINCIPLES OF PUBLIC SERVICE

[158] Our democratic project sets admirably high principles for officials in the public service.

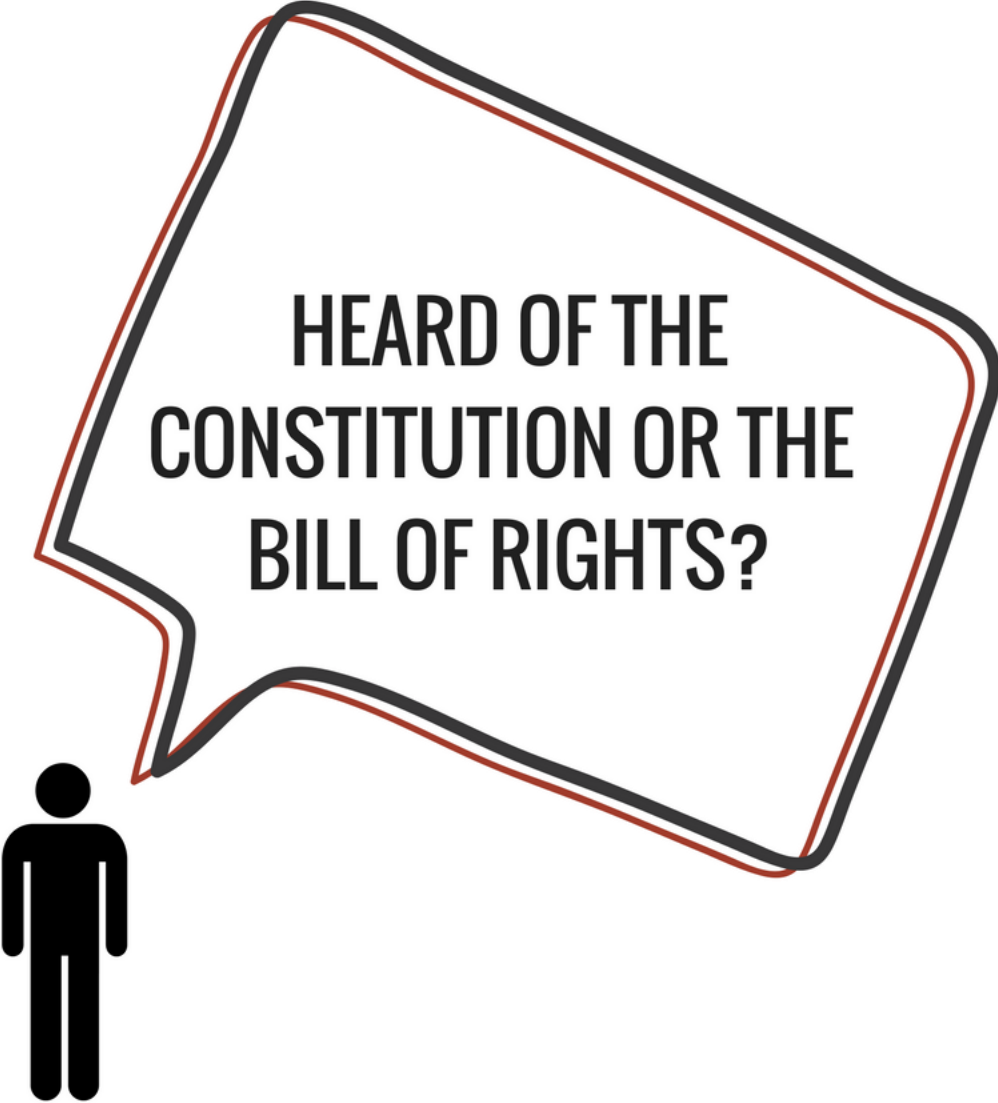
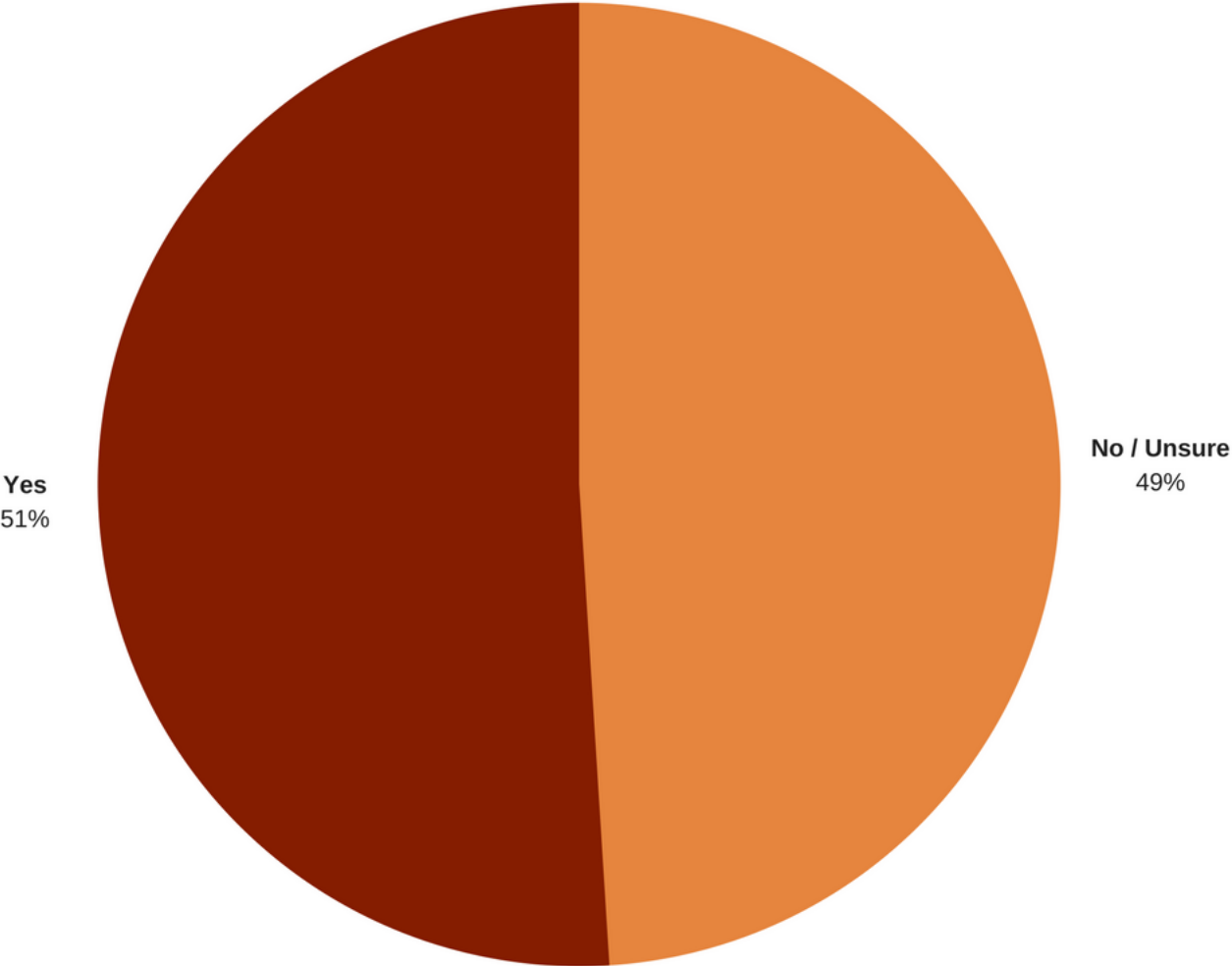
Public administration must occur within the precincts of set values and principles. These include a high standard of professional ethics using public resources in an efficient, economic and effective manner; providing services impartially, fairly, equitably and without bias; and being responsive to people's need and engaging and encouraging the public to participate in policy making. In addition, public administration must be accountable and transparent by providing the public with timely, accessible and accurate information.

CONSTITUTIONAL PRINCIPLES OF PUBLIC SERVICE

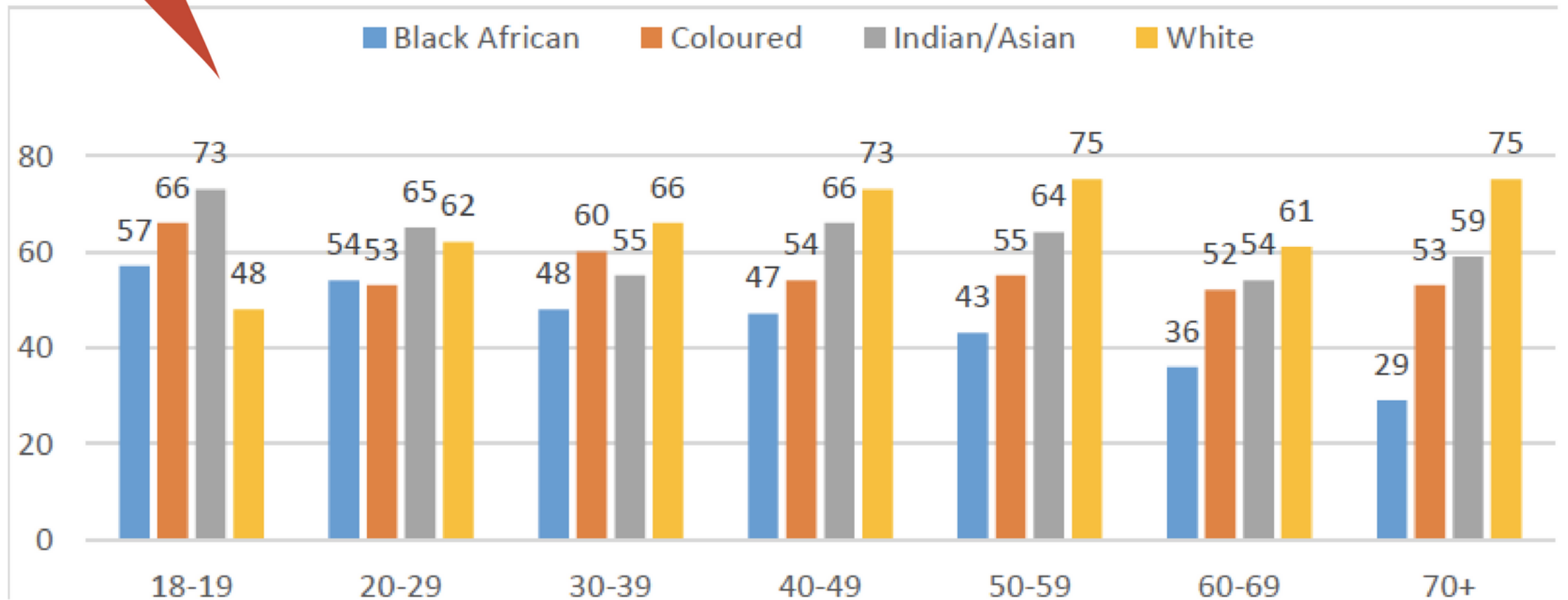
[159] Here, it is useful to record that the Constitution expressly, albeit self-evidently, imposes duties of fidelity to the law, transparency and accountability on the member of the Executive Council. To cut to the chase, Ms Mahlangu, was responsible for the executive function related to health care in the province as assigned by the Premier. She was obliged to act in accordance with the Constitution. **She was "accountable collectively and individually"** to the legislature for the performance of her functions and duties and she bore the duty to give full and regular reports to the Legislature.

SOCIO-ECONOMIC JUSTICE FOR ALL

Baseline survey, March 2018



HEARD OF THE CONSTITUTION OR THE BILL OF RIGHTS BY AGE COHORT AND RACE



A background image showing a protest or demonstration. People are holding up signs. One prominent sign on the right reads "GAUTENG HEALTH MEC MURDERED ESIDIMENI". The image is dimmed and serves as a backdrop for the text.

“The failures in the public (and the private for that matter) health system are structural in nature and will not change unless there are changes to the governance architecture.”

*- Prof Alex van den Heever,
Wits Chair in the field of Social Security*



UNFINISHED BUSINESS

A decision maker wielding public power may not act arbitrarily, without a good or for no reason. Least still a decision-maker may not act for an ulterior purpose, particularly when she makes a decision that impinges adversely on the rights of other people. Absent rationality in the use of public power, arbitrariness and tyranny will flourish. The death and torture in the Life Esidimeni tragedy stemmed from the irrational and arrogant use of public power.

UNFINISHED BUSINESS

Their irrational and thus unconstitutional decision was the reason for the death and torture that ensued. And yet, the claimants and indeed the nation knows not the true reason why the triggering decision was taken by powerful Government Officials against defenseless mental health care users and their families. Absent the truth, closure for the claimants is only hardly possible.

This wanton, arbitrary and unaccounted decision has caused so much pain and suffering, stress, trauma and morbidity, and in my view, is a very serious breach of the constitutional obligations by the State and its servants. Such a breach, together with other considerations will weigh heavily on the character of just and equitable redress.

