



# Electoral Reform Consultation Panel

Original Report

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# Executive Summary

## EXECUTIVE SUMMARY

This is the final report of the Electoral Reform Consultation Panel (ERCP) with recommendations of electoral system options to the Minister of Home Affairs and Parliament for consideration.

A nine-member body, the ERCP was appointed on 28 May 2024 in terms of the Electoral Amendment Act, 2023 to conduct a comprehensive review of South Africa's electoral system and provide recommendations for potential reforms. The composition of the ERCP is as follows:

1. Adv Richard Sizani (Chairperson)
2. Adv Pansy Tlakula
3. Ms Mmatsie Mooki
4. Ms Tomsie Dlamini
5. Dr Michael Sutcliffe
6. Mr Simon Mamabolo
7. Mr Michael Hendrickse
8. Mr Norman du Plessis
9. Dr Albertus Schoeman

The Panel's functions are outlined in Section 23 of the Electoral Amendment Act. They include:

to independently investigate, consult on, report on and make recommendations in respect of potential reforms of the electoral system for the election of the National Assembly and the election of the Provincial Legislatures, in respect of the elections to be held after the 2024 elections.





The Act required the ERCP to submit its final report to the Minister of Home Affairs 12 months from the 2024 election, but on good cause could request an extension of up to six months. In February 2025, the Panel requested a three month extension based on high public demand to expand its public consultation program. The final report was submitted on 29 August 2025, based on the extension granted by the Minister.

The work of the ERCP followed several phases:

- a) Guiding Principles: The ERCP formulated a set of guiding principles to use in evaluating electoral system options.
- b) Call for written submissions: A public invitation for written submissions was issued on 26 August 2024 with an initial deadline of 30 September 2024 and later extended to 31 October 2024. This was accompanied by advertisements, both on print and electronic media, interviews and op-eds by Panellists.
- c) Discussion Paper: The ERCP published a Discussion Paper on 26 November 2024 aimed at providing the necessary context for South Africans to engage meaningfully on the topic of electoral reform as a precursor to public consultations. The Discussion Paper set out the background to the ERCP, introduced key electoral system design considerations and set out the Panel's public consultation process. A summarised version of Discussion Paper was translated into nine official languages reflecting the most widely spoken linguistic groups.
- d) Public Consultations: The ERCP's public consultation process included both community and sectoral consultations. Sectoral engagements, both virtual and physical, started in late November 2024 and ended in March 2025. Community consultations started in January 2025 and ended in March with the ERCP visiting communities throughout the country to elicit people's views on the electoral system and reform. As part of the consultation process, the ERCP planned a public opinion survey. Despite the development of the survey questionnaire, the Department of Home Affairs was unable procure a service provider to conduct the survey before the end of the ERCP's term.
- e) International Conference: The ERCP's consultation process ended with a two-day conference, 9-10 April 2025. The conference brought together key stakeholders including political parties and civil society organisations among others to discuss electoral reform and hear from local and international scholars on key considerations for South Africa.
- f) Research: The ERCP conducted research throughout its term based on a research program agreed at the start of its term. Key research topics included: a mapping exercise to systematically benchmark the South African electoral system against countries using similar systems; electoral system modelling using 2024 election results to understand the potential effects of different electoral models; evidence for the effects of electoral system design on the attainment of the guiding principles; the history of previous reviews and electoral reform in South Africa; international trends in electoral reform and electoral reform case studies; and a systematic review of public submissions to understand common themes emerging from written submissions and the public consultation process.



The legislation stipulates that the report should make recommendations of possible options for electoral reform, including:

- a) Reasons, potential advantages, and disadvantages;
- b) legal and constitutional implications; and
- c) financial implications, for each proposed electoral system or electoral reform identified by the ERCP.

The Act recognises that a situation may arise in which panel members may express divergent views on the electoral system options. In the event of any such disagreement regarding the possible options and recommendations for electoral reform, the Act states that, “the report may be divided into different sections setting out the different views of the members.” While the Panel endeavoured to present a unified set of recommendations, a group of panel members tabled an Alternative Report in the days prior to the report’s finalisation, diverging from an originally agreed process. Different views on the content and recommendations of the Panel’s final report have consequently necessitated the submission of an Original and Alternative Report in terms of the relevant legislation.

This is the Original Report. It starts in Chapter 2 with South Africa’s long journey to universal franchise and the country’s first democratic election in 1994. This includes examining the origins of the system adopted in 1994 as part of South Africa’s democratic transition. Chapter 3 considers the recommendations of previous commissions since 1994 to strengthen South African democracy. Looking ahead to the next thirty years of democracy, we must reflect on where we are heading and whether our institutions are capable of meeting the aspirations of South Africans.

Chapter 4 introduces fundamental concepts in electoral system design. This includes the research evidence for how the various elements of electoral systems impact the realisation of our country’s founding constitutional values as set out in the Panel’s guiding principles. A central finding is understanding the mechanisms behind a two-tier compensatory system, which leads to outcomes identical to a straight nationwide allocation. In such systems, the size of constituencies becomes irrelevant to the final results and overall proportionality of the system as long as enough compensatory seats are allocated at a second stage to correct for any disproportionality at the constituency-level. This leads to the realisation that the underlying constituencies used in our current system can be made smaller to bring representatives closer to voters without any trade-off in proportionality or the inclusivity of election results.

Chapter 5 considers inputs from the public and critical stakeholders. This includes over 360 written submissions and events across all nine provinces to hear the views of communities on the question of electoral reform. Overwhelmingly, these discussions were dominated by concerns over the relationship between voters and public representatives. Citizens feel disconnected from their representatives and that representatives are not accountable to them.

Chapter 6 evaluates three electoral system options against the Panel’s guiding principles based on the research evidence presented in Chapter 4. The three options include:

- retaining the current system with minor adjustments
- introducing smaller multi-member constituencies to bring representatives closer to voters

- introducing single-member constituencies with a compensatory element for overall proportionality

The evaluation of options finds that all three options would be equally proportional and result in the same overall political outcomes. No party would be advantaged or disadvantaged by adopting a different system. On most measures, the three options would meet the guiding principles to the same or similar extent. The main area where options diverge is on the extent to which they foster an effective accountability relationship between voters and their representatives.

On the question of accountability to voters, the current system performs the weakest and presents limited advantages that the other options considered do not offer to the same degree or greater. In several ways, our current electoral system is an outlier compared to similar systems used internationally. This includes using the largest constituencies and largest compensatory tier among equivalent proportional representation systems – the combination of which is unnecessary for achieving objectives of inclusion and proportionality. The reform options we propose would achieve the same objectives and overall proportionality while bringing representatives significantly closer to voters and strengthening the accountability relationship.

In light of these findings and the concerns emerging from public consultations, we strongly recommend that Parliament consider electoral reforms to strengthen the relationship between voters and their representatives. Two electoral system options are recommended for Parliament's consideration:

- The introduction of smaller multi-member constituencies with 300 constituency seats and 100 compensatory seats. This system would require minimal delimitation of constituencies and would use existing local government boundaries to determine multi-member constituencies. This electoral system could be deployed concurrently for national and provincial elections using the same or similar constituency boundaries.
- The introduction of 200 single-member constituencies and 200 compensatory seats to return overall proportionality. This system would require an extensive delimitation process to determine the boundaries of constituencies. These constituency boundaries would need to be updated between elections in response to population changes. Separate boundaries for single-member constituencies would be needed at the provincial level if this system were deployed concurrently for national and provincial elections. This introduces a level of complexity to such a reform and should be carefully considered.

These recommendations are presented for the consideration of the Minister of Home Affairs and Parliament. They are supported by:

- Adv Richard Sizani, Chairperson of the ERCP
- Ms Mmatsie Mooki, Convenor of the Conference Working Group, ERCP
- Ms Tomsie Dlamini, Convenor of the Public Consultation Working Group, ERCP
- Dr Albertus Schoeman, Convenor of the Research Working Group, ERCP

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# Preface

## PREFACE

In his final address to South Africa's first democratically elected Parliament, President Nelson Mandela captured the profound transformation of the country through the democratic process and the path still to walk in securing South Africa's democratic future.<sup>1</sup> More than 25 years later, his words still resonate today:

This day is a moment of deep significance for all of us whom the people of South Africa have entrusted with representing their needs and interests, their aspirations and hopes.

And so it comes to pass that we who have collectively accepted the role of political leadership of our nation, today take leave of one another as members of this, our country's first democratically elected Parliament....

It is in the legislatures that the instruments have been fashioned to create a better life for all. It is here that oversight of government has been exercised. It is here that our society in all its formations has had an opportunity to influence policy and its implementation.

In brief, we have laid the foundation for a better life. Things that were unimaginable a few years ago have become everyday reality. And of this we must be proud....

But even as we do so, we do need to ask whether we need to re-examine our electoral system, so as to improve the nature of our relationship, as public representatives, with the voters!...

[The] world admires us for our success as a nation in rising to the challenges of our era. Those challenges were: to avoid the nightmare of debilitating racial war and bloodshed and to reconcile our people on the basis that our overriding objective must be together to overcome the legacy of poverty, division and inequity.

To the extent that we have still to reconcile and heal our nation; to the extent that the consequences of apartheid still permeate our society and define the lives of millions of South Africans as lives of deprivation, those challenges are unchanged.

I would like to take this opportunity to pay tribute to all the parties represented in this Parliament for their contribution to the progress we have made. Though we have our differences, often important and sometimes profound, we have as a collective demonstrated our overriding commitment to the new order that we have together established. You have ensured that this Parliament is no rubber stamp in the hands of government and given birth to a new democratic political culture.

And so, in the spirit of that democracy we are today taking leave of one another so that our parties can once again submit themselves to the judgement of the people. Many of us will return to the second democratic Parliament. Others will not return to this hallowed institution, whether because of the electorate's judgement on our parties, or because of our own choice, or because of the imperatives of advanced age.

For my part, I wish to say that it has been a profound privilege to be accountable to this Parliament.

Thirty years into our democracy, this work continues. South Africans have seen seven successful and peaceful elections since 1994, including the formation of a Government of National Unity following the 2024 election. Our democracy, however, faces headwinds. Challenges of poverty, inequality and unemployment remain stubbornly

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<sup>1</sup> Mandela, N. Address by Nelson Mandela at final sitting of first democratically elected Parliament, Cape Town. 26 March 1999.

persistent and faith in democracy among South Africans is declining. The 2024 election saw the lowest turnout yet, while many South Africans no longer bother registering to vote. As a result, less than 40% of the voting age population cast their ballot in the 2024 election. The right to vote was once a dream that South Africans marched and laid down their lives for. Today, the majority of South Africans choose not to vote.

The challenges faced by our country once again call upon South Africans to come together. In the course of the Electoral Reform Consultation Panel's public consultations, we saw again and again the commitment of South Africans to their country. Over 360 civil society organisations, political parties, independent candidates and ordinary voters wrote to the Panel to express their views on electoral reforms. During the Panel's consultations in each of the nine provinces, we saw hundreds of South Africans from all walks of life joining to share their concerns and contribute to this important conversation on the future of our democracy. We thank each of them for taking the time to share their views and for putting their trust in us to convey their message to Parliament.

The Electoral Amendment Act, 2023 requires the Panel to conduct research and consult the public on issues of electoral reform to make its final recommendations to Parliament. Over the last 15 months of the Panel's existence, we have taken these obligations seriously in the firm belief that the electoral system options should be responsive to public concerns and grounded in research evidence. It is on this basis that we have made our final recommendations for reform to the Minister of Home Affairs and Parliament.

The Act recognises that a situation may arise in which panel members express divergent views on electoral system options. In the event of any such disagreement regarding the possible options and recommendations for electoral reform, the Act states that "the report may be divided into different sections setting out the different views of the members." While the Panel endeavoured to present a unified set of recommendations, a group of panel members tabled an Alternative Report in the days prior to the report's finalisation, diverging from an originally agreed process. Different views on the content and recommendations of the Panel's final report have consequently necessitated the submission of an Original and Alternative Report in terms of the relevant legislation.

The Panel extends its sincere appreciation to its secretariat and the Department of Home Affairs for their dedicated support throughout this important undertaking. This includes the Director General, Mr Tommy Makhode, and Chief Director of Communications, Mr Siya Qoza. The secretariat—Mr Thembinkosi Josopu, Ms Letitia van der Westhuizen, and Mr Riaz Moosa—played a vital role in maintaining comprehensive records of the Panel's activities and preparing quarterly reports for the Minister.

We are also grateful to the report drafting and research support team, led by Prof Mcebisi Ndletyana and comprising Ms Khanyisile Shezi, Ms Philisiwe Mpondo, and Ms Zenani Tshangela. Their commitment was instrumental in facilitating the public consultation process and ensuring that the perspectives of communities and stakeholders were thoroughly captured. Thank you to Mr Moshoeshoe Monare for editing the final report.

Our thanks go to the Electoral Commission for generously providing the data and information essential for our research.

Finally, we wish to express our gratitude to Minister Aaron Motsoaledi and Minister Leon Schreiber for affording the Panel the autonomy and independence necessary to carry out its work.

The Original Report is presented to the Minister of Home Affairs and Parliament for consideration and is supported by:

- Adv Richard Sizani
- Ms Mmatsie Mooki
- Ms Tomsie Dlamini
- Dr Albertus Schoeman



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# Chapter One: Introduction



## CHAPTER ONE: INTRODUCTION

*“There is no way under the sun that [demarcations] will happen within the period of 24 months.”*

**Minister Aaron Motsoaledi to the Select Committee on Security and Justice.<sup>2</sup>**

In November 2022, the Select Committee on Security and Justice considered the Electoral Amendment Bill and proposals for electoral reform to address the Constitutional Court’s ruling that the law must be amended to allow independent candidates to stand ahead of the 2024 election. Electoral reforms to introduce constituencies were among the proposals presented to Parliament by an advisory committee established by the Minister to advise on electoral reforms to accommodate this ruling.<sup>3</sup> In light of time constraints ahead of the impending 2024 election, Motsoaledi proposed the establishment of a panel of independent experts to consider further proposals for electoral reform after the 2024 election. As a result, a provision was added to the Electoral Amendment Bill for the establishment of an Electoral Reform Consultation Panel (ERCP).

On 28 May 2024, the day before the 2024 election, Minister Motsoaledi appointed the ERCP. The composition of the nine-person Panel was approved in the final session of the Sixth Parliament on 16 May 2024. The Panel included the following individuals:

1. Chaired by Adv Richard Sizani, former Chairperson of the Public Service Commission and the inaugural Acting Secretary General of the Office of the Chief Justice - Constitutional Court
2. Adv Pansy Tlakula, Chairperson of the Information Regulator and former Chairperson of the Electoral Commission
3. Ms Mmatsie Mooki, an academic specialising in constitutional law and human rights
4. Ms Tomsie Dlamini, a consultant with expertise in democracy, governance and community development
5. Dr Michael Sutcliffe, a consultant and former Chairperson of the Municipal Demarcation Board
6. Mr Simon Mamabolo, Chief Executive Officer (CEO) of the Electoral Commission
7. Mr Michael Hendrickse, Western Cape Provincial Head of the Electoral Commission
8. Mr Norman du Plessis, former deputy CEO of the Electoral Commission
9. Dr Albertus Schoeman, a researcher specialising in democratic governance and public sector reform

## FUNCTIONS AND PROCESS

The Panel’s functions are outlined in Section 23 of the Electoral Amendment Act. This includes:

to independently investigate, consult on, report on and make recommendations in respect of potential reforms of the electoral system for the election of the National Assembly and the election of the Provincial Legislatures, in respect of the elections to be held after the 2024 elections.

<sup>2</sup> Parliamentary Monitoring Group. 2022. Electoral A/B: DHA, IEC, CLSO response to public submissions, with Ministry. National Council of Provinces: Select Committee on Security and Justice. 14 November 2022. <https://pmg.org.za/committee-meeting/36011/>

<sup>3</sup> Ministerial Advisory Committee, headed by a former cabinet minister, Valli Moosa.

The legislation envisaged that the Panel would commence its work before the 2024 election to conduct research and after the election, undertake a public consultation process. The Panel's report was set for submission within 12 months of the date of the 2024 election with provision for an extension on good cause.

The legislation stipulates that the report should recommend options for electoral reform, including:

- a) Reasons, potential advantages, and disadvantages;
- b) legal and constitutional implications; and
- c) financial implications, for each proposed electoral system or electoral reform identified by the Panel.

Following submission, the Minister is required to table the report in Parliament for its consideration within 30 days of receiving it. The Panel's role is advisory and the final choice rests with Parliament in line with its constitutional powers to determine the electoral system for national and provincial elections.

The Panel's initially agreed project timeline would make full use of the 12 months provided to comprehensively investigate the question of electoral reform. In the course of its work, it became evident that high levels of public interest in the Panel's work would require an expansion of the public consultation process. This led to an extension of the deadline for written submissions at the request of the Portfolio Committee on Home Affairs and additional time dedicated to consulting widely. The expansion of the public consultation process led to the Panel requesting a three-month extension of its mandate until 29 August 2025. The Panel's activities followed several phases:

- i) Guiding Principles: The Panel formulated a set of guiding principles to use in evaluating electoral system options against the founding values set out in the Constitution.
- ii) Call for written submissions: A public invitation for written submissions was issued on 26 August 2024 with an initial deadline of 30 September 2024 and later extended to 31 October 2024. This was accompanied by advertisements, both on print and electronic media, interviews and opinion articles by Panel members to promote its work.
- iii) Discussion Paper: The Panel published a Discussion Paper on 26 November 2024 aimed at providing the necessary context for South Africans to engage meaningfully on the topic of electoral reform as a precursor to public consultations.<sup>4</sup> The Discussion Paper set out the background to the ERCP, introduced key electoral system design considerations and outlined the Panel's public consultation process. A summarised version of the Discussion Paper was translated into nine official languages representing the most widely spoken linguistic groups.
- iv) Public Consultations: The Panel's public consultation process included both community and sectoral consultations. Sectoral engagements, virtual and physical, started in late November 2024 and ended in March 2025. Community consultations started in January 2025 and ended in March with the Panel visiting communities throughout the country to elicit people's views on the electoral system and reforms. As part of the consultation process, the Panel planned a public opinion survey. Despite the development of the survey questionnaire, the Department of Home Affairs was unable to procure a service provider to conduct the survey before the end of the Panel's term.

<sup>4</sup> ERCP Discussion Paper. <https://www.dha.gov.za/images/PDFs/ERCP-Discussion-Paper.pdf>

- v) International Conference: The Panel's consultation process ended with a two-day conference, 9-10 April 2025. The conference brought together stakeholders, including political parties and civil society organisations, among others, to discuss electoral reform and hear from local and international scholars on key electoral reform considerations for South Africa.
- vi) Research: The Panel conducted research throughout its term based on a research program agreed at the start of its term. The main research activities included:
- a mapping exercise to systematically benchmark the South African electoral system against countries using similar systems;
  - electoral system modelling using the 2024 election results to understand the potential effects of different electoral models;
  - evidence for the effects of electoral system design on the attainment of the guiding principles;
  - the history of previous reviews and electoral reform in South Africa;
  - international trends in electoral reform and electoral reform case studies;
  - and a systematic review of public submissions to understand common themes emerging from written submissions and the public consultation process.

## STRUCTURE OF THE REPORT

The Panel submitted its final report to Minister Leon Schreiber on 29 August 2025. The report is structured into seven chapters. Immediately below this introductory chapter, follows Chapter 2 on the history of franchise in South Africa. The purpose is to underline the significance of this subject in South African history and the origin of the electoral system introduced in 1994. Chapter 3 looks at previous electoral reviews and recommendations for electoral reform over the last two decades. This includes both bodies set up specifically to review electoral law and other inquiries that made recommendations for electoral reform. Reference is also made to court rulings that have influenced the evolution of South African electoral law.

Chapter 4 presents the research on electoral systems including the various elements of electoral system design, and their effects on the attainment of the Panel's guiding principles. The research also examines international trends in electoral reform to locate South Africa within global trends and draw relevant lessons in considering electoral reform. Chapter 5 reports on the public consultation process, engagements with various sectors, and provides an overview of the conference proceedings. Chapter 6 presents evaluations of the electoral system options based on the Panel's research and the public consultation process and makes recommendations for Parliament's consideration. Chapter 7 concludes the report by recounting the key issues emerging from each chapter that inform its recommendations to Parliament.



## Chapter 2: History of Franchise and Negotiations on the Electoral System

## CHAPTER 2: HISTORY OF FRANCHISE AND NEGOTIATIONS ON THE ELECTORAL SYSTEM

The electoral system is more than just a formula for allocating seats in legislative bodies. It is essentially about the fulfilment of citizenship. This relates to fundamental rights that each individual has, both inherent to oneself and in relation to the state. Throughout time, and in various parts of the world, franchise has had a tortured history. It was never conferred unconditionally but has been subject to all manner of conditions – including property, income, gender and race.

South Africa has been no exception. Like most former colonies, the South African state – from colonialism to the Union and apartheid – distinguished itself by separating indigeneity from franchise. This inevitably made franchise contentious, a source of conflict that spanned more than 140 years, marked by death, imprisonment, maiming and banishment. Consequently, franchise took on a different meaning, beyond the status of rights. It became an emotive, if not a spiritual, issue whose exercise is not simply about the fulfilment of rights, but also to honour South Africa's initial advocates.

This chapter provides an account of the history of franchise in South Africa until the early 1990s when negotiations established the basis upon which the country's democratic dispensation was established. It is divided into four sections. The first section looks at the beginning of non-racial franchise in both the Cape and Natal colonies in the 1850s, drawing attention to how native franchise evolved unevenly in the two British colonies. In the second section, focus shifts to the various measures that were subsequently introduced to limit native franchise and the reasons behind the disenfranchisement. The third section highlights the final blows to the native franchise, and the attendant dummy institutions that were introduced to create a veneer of representation. The final section concludes with an explanation on why the drafters of the post-apartheid Constitution adopted the electoral system used for the 1994 election. The conclusion accounts for the choice of the system, with a specific reference to how it was prefigured by history and contemporary concerns.

### COLONIAL PERIOD: ORIGINS OF FRANCHISE - A COMBINATION OF VALUES AND PROTECTION OF PROPERTY

Franchise in South Africa has its origins initially in the Cape and Natal colonies. It was enshrined in the Constitution that granted the two British colonies representative government in 1853 and 1856 respectively. Previously, the Governor was solely in charge, and later a Legislative Council was set up, made up of a combination of officials and publicly nominated members. The Legislative Council only had advisory powers and thus the Governor could overlook its advice, which he did frequently. Inevitably, both the colonial policy and the exercise of executive power, which rested with the Governor, did not always accord with the powerful interests in the settler community.<sup>5</sup>

The constant clash between the will of the people and Governor's despotic powers, eventually heightened the call in the 1840s, for representative government, with the Cape leading the call. Colonists petitioned the British government. It was about more than the Governor's despotism, they also decried mismanagement of their taxes and disbursement of patronage. Additionally, signs that the Governor's office and the Legislative Council were losing legitimacy, also threatened to breakdown authority, which the British wanted to prevent by all means.

While it echoed forcefully in the 1840s, the call for representative government in the Cape went back decades

<sup>5</sup> Trapido, S. 1964. 'The Origins of the Cape Franchise Qualifications of 1853'. *Journal of African History*, V,1,

earlier. Divisions among the settler community – i.e. Dutch and English – and the plight of the Coloured community held back the British government from granting representative government. The English feared that the numerically strong Dutch population would swamp them. John Fairbairn, the editor of the Cape Town-based, *South African Commercial Advertiser*, said: “We dislike the Despotism of One; but we think the Despotism of Fifty Koeberg Boers – or of Fifty who could easily secure their votes – Fifty thousand times worse.”<sup>6</sup> The Dutch were also notorious for their prejudice against the Coloured population, which placed them at a risk of being disadvantaged under a Dutch-dominated legislature and government.

The concern for the welfare of the Coloured population reflected the strong influence of liberal values within the British officialdom at the time. This had been evident years earlier with the promulgation of a law that abolished slavery and granted equal rights to “the Hottentots and other free persons of colour”. As a result, Coloured voters took part in municipal elections.

The balance of power in the Cape colony, therefore, depended on qualifications for franchise. Some proposed a low qualification at £25 property value, others a high one at £50. Each threshold pre-determined who would vote or could not vote. The English, a significant portion of whom were merchants and wealthy, opposed a low franchise qualification. They feared it would enable the Dutch and Coloured population, which outnumbered the English, to vote in large numbers and, upon ascending to power, introduce laws that were inimical to their financial interests.

Other beneficiaries of the low qualification were the Coloured population. Though favourably predisposed towards them, a large section of the English population did not think Coloured voters would utilise their rights and, if they did, would vote for them. They simply were not certain how Coloureds would vote and thus would not leave their fate to an uncertain outcome.

Ultimately, the low franchise qualification of £25 found a strong alliance of advocates. It included the Dutch, humanitarians, colonial bureaucrats and, of course, the Coloured voters themselves. While not enamoured with Coloureds exercising the same rights as them, the Dutch could not oppose the low franchise threshold, because it stood to benefit them as well. If they opposed it to exclude Coloureds, some among them would also be excluded.

While opinion in the colonial administration varied, the Attorney-General and Lieutenant-Governor at the time, William Porter and Henry Darling respectively, were forceful supporters of the low franchise threshold and among the drafters of the Constitution. Porter looked at low qualifications as a way of enticing feuding groupings into democratic institutions to deflate physical confrontation. In a colony already fraught with hostilities, exclusion would fan tensions even further, making violent confrontations more frequent. “I would rather meet the Hottentot at the hustings voting for his representative, than meet the Hottentot in the wilds with his gun upon his shoulder,”<sup>7</sup> said Porter. Represented in the legislature, Porter believed, the aggrieved segments of the colony would be less inclined to turn to violence. Instead, they would elect their own representatives to plead their case in the legislature. And so non-racial franchise began at the Cape, at the moment of the inauguration of representative government in 1853.

For the following 30 years, the schism that was feared would widen between the English and Dutch, did not materialise. The status quo continued, with the English remaining politically dominant. Coloured votes were instrumental in that dominance, while the numerically preponderant Dutch population were not entirely enthusiastic voters. A party system did not emerge until much later in the 1880s.

<sup>6</sup> Cited in Trapido, S. pp47.

<sup>7</sup> Ibid, pp53.

In Natal, however, native franchise assumed an entirely different route in the subsequent years. While its constitution allowed for non-racial franchise, the colony hardly had supporters for native franchise, as was in the Cape. Natal's officialdom did not share the lofty ideas of acculturation and a shared society. They believed in segregation, with Africans subject to customary law, under their own chiefs. As subjects under customary law, a massive part of the native population was excluded from consideration for franchise.<sup>8</sup>

There was recognition, however, that a few among the native population had been "Westernised". Those were exempted from customary and chiefly rule and allowed to apply for franchise. The qualification was comparatively high, however: occupation of property worth £50. As a result, "virtually no African ever qualified for the franchise."<sup>9</sup> In 1865, responding to settlers' concerns that more natives would qualify, a new law<sup>10</sup> was introduced to make qualification even more stringent. One had to show proof of a 12-year long residence in Natal and have three white residents vouch for him, with the support of a magistrate. Even then, the Governor-General had to call a public meeting to hear if there were any objections to the application for franchise. Ultimately, the Governor-General had the discretion to decide.

The Indian population, which had initially arrived from 1860 and grew significantly after 1870, was no exception. Settlers wanted to make sure that, like Africans, Indians did not constitute an electoral threat. To this end, the colonial authority introduced the Franchise Act of 1896, which stipulated, among others, that individuals "whose country of origin did not have representative institutions founded on parliamentary franchise"<sup>11</sup> did not qualify for the vote in Natal.

## ASSAULT ON NON-RACIAL FRANCHISE

The relative acceptance of the non-racial franchise in the Cape was interrupted in the second half of the 1880s. Native franchise came under intense criticism and revision. The change of attitude was due to two factors: the rise of Afrikaner nationalism and the rapid increase in the number of native voters. Once mobilised along racial lines with a political party of their own, the Afrikaner Bond, the Dutch descendants, who initially referred to themselves as *Afrikaners*, saw native franchise as a stumbling block to their political ascendancy. They aimed their attacks at it, with the help of former beneficiaries of natives, the English-speaking politicians.<sup>12</sup>

Although they had agreed on the low franchise qualification earlier, the English and Dutch financial and cultural interests never quite converged. Both the state and public life became increasingly Anglicised. Dutch speakers were no longer employable in the English-medium bureaucracy. In addition, Afrikaner farmers and the emerging financial class did not feel sufficiently supported by the colonial state. They experienced the state as biased towards the English. The Dutch lacked the political power to force concessions from the government. They could only plead and hope for a sympathetic government ear. Generally, officialdom in Natal was not keen on the native franchise, they simply put up a pretence.

To improve the situation, the Dutch elite resolved to turn their attention to their compatriots, assuming that this would result in more support for their cause, to make them into their political base. At the forefront was an alliance of farmers and middle- and financial classes. However, while sharing descent, the elite classes lacked a shared

8 Davenport, T.R.H. 1977. *South Africa: A Modern History*. London: MacMillan Press.

9 Trapido, S. 1963. 'Natal's Non-racial franchise, 1856'. *African Studies*, 22 (3), pp32.

10 Native Franchise Act of 1865, *Ibid*.

11 Davenport, T.R.H. *Op cit*, pp117.

12 Trapido, S. 1964. *Op cit*.



sense of belonging with their working-class counterparts. The class differences were accentuated by cultural and linguistic markers. The middle to upper classes continued to speak Dutch, while the working class and the downtrodden had begun to speak locally grown dialects. There was little that made Dutch descendants identify with each other,<sup>13</sup> until the Afrikaner Bond took it upon itself to manufacture cohesion and reinvent a new linguistic affinity.

Formed in 1880, the Afrikaner Bond supported initiatives to restore cultural ties, through inventing a common language, Afrikaans. This consolidated ties beyond a somewhat forgotten common ancestry. The newly found linguistic kingship reminded them of their connectedness and Afrikaans literature emerged to popularise the language, which was also taught at schools.

Just as Afrikaner nationalism was rising, so was the number of native voters. The colonial state continued with conquest after granting representative government in the 1850s. As colonial boundaries expanded with every war, more native citizens were added to the voters' roll, especially in the 1880s. To be sure, the growth of native voters was not simply the result of continuing conquest. Old frontier towns also experienced growth in native voters. For example, in just four years, Aliwal North alone, experienced a spike from 260 (out of 1 280 registered voters) in 1882, to 800 (out of 1 486 registered voters) in 1886. Native voters outnumbered settlers.

The growth of native voters was partly the result of advocacy. A notable segment of an educated elite, which took a strong interest in political activism, had grown by the 1870s. Its activism was felt in both the media and public life generally. They were graduates of missionary schools, which received a boost from the colonial government from the 1850s. Supported solely by missionaries, the colonial state took upon itself to fund native schools as part of its 'civilising mission'. The idea was to cultivate a segment within the native society that shared the same ideas as the colonial ruling elite. Once socialised in Western values, and having adopted its lifestyle, this elite would in turn become advocates for the acceptance of Western rule and its ethos.<sup>14</sup>

Indeed, the educated elite would go on to take the lead in the public discourse on native matters. The pages of the missionary-owned bilingual newspaper, *Isigidimi Sama-Xosa* (or Christian Express), which was established in 1870, published rigorous debates between the African elite and missionaries on a range of social issues. It was at this newspaper that the natives saw Elijah Makiwane rise as the first editor among their own ranks. Another native journalist, John Tengo Jabavu, would later succeed Makiwane at the *Isigidimi*.<sup>15</sup>

Most of the native elite disapproved of the newspaper because of what they saw as restraint on political coverage and debates. This reflected the rising assertiveness among this group, which was to lead, later in 1884, to the establishment of a truly secular newspaper, *Imvo ZabaNtsundu* (The Opinion of People of Colour) in 1884. Edited by Jabavu, *Imvo* set out not only to cover politics, but also to inform and educate its readers. Efforts were made to cover every political event, and report on important speeches and new legislation or policy at the Cape Legislature. More coverage was given to elections. Getting native voters to take part in the electoral process was central in Jabavu's mission. He urged them to vote for politicians who supported their interests, the so-called "friends of the natives". These happened to be English-speaking politicians, who tended to have a liberal orientation towards the African franchise.

13 Gilliomee, H. 1991. 'The Beginning of Afrikaner Ethnic Consciousness', in Vail, L. (ed.) *The Creation of Tribalism in Southern Africa*. California: University of California Press.

14 Cook, P.A. 1949. 'Non-European Education', in Hellmann, E. (ed.) *Handbook on Race Relations in South Africa*. London: Oxford University Press, pp350.

15 Jordan, A.C. 1973. *Towards an African Literature: The Emergence of Literary Forms in Xhosa*. Berkeley: Berkeley University Press.

Alongside the media was an emerging and vibrant associational life. Organisations, focused on various local issues - such as education and salaries - sprung up to advocate for the cause of their interest groups. The Native Educational Association, formed in 1880, was among them. It was formed mainly by teachers, but extended its interest beyond educational matters that included, delving into politics. Another was *Imbumba YamaNyama* formed in 1882, which was exclusively political, aimed to unite Africans behind a common cause, and to vote for fellow natives.

Coupled with an assertive native class, who were opinion-makers within their community, the growing numbers of native voters triggered fear among settlers, that natives might start voting for fellow natives. If that were to pass, settlers dreaded that their interests would be in danger. And so, in 1887, urged strongly by the old foes of native franchise, Afrikaner Bond, the English-dominated legislature launched the initial salvo against the native franchise.

A new legislation,<sup>16</sup> which came into effect on the first of September 1887, introduced changes on occupancy qualification and in the administration of registrations. Dubbed *uthung' umlomo* (stitching of the mouth) by natives, this law scrapped communal land as an occupancy qualification, requiring instead individual tenure. Most natives lived on communal land, and those who occupied individual plots hardly had title deeds. The zeal to disenfranchise natives also drew attention to the constitutional provision that limited franchise to natural-born or naturalised British subjects. Until this point, it had been taken for granted that all who became British subjects, following annexation, automatically qualified for franchise. Now, there was a revised interpretation that only those born after their territory had been conquered qualified for franchise.

Once started in 1887, a series of disfranchisement measures followed. In 1892<sup>17</sup> occupancy qualification was increased from £25 to £75; and voters to sign their names and write their addresses and occupations. Further attack followed in 1894.<sup>18</sup> This elevated colonial duplicity to a higher level. The new law scrapped communal tenure, replacing it with individual tenure instead. The aim was to avail labour to the emerging mines, which had proven difficult while natives still had means of subsistence.

Introducing individual tenure ensured that only the direct owner of the land, such as the head of the family, would have title deeds, prohibiting access to their dependants. Accompanying this prohibition was the imposition of labour tax on men that didn't own a plot. Coupled with loss of subsistence, the tax was designed to force natives into wage labour. However, native individual tenure was not regarded as a qualification for franchise. This underlined the purpose of the 1894 legislation: to force natives into wage labour, not enfranchise them.

The barrage of legislative assaults, as the 19<sup>th</sup> century neared to a close, had the intended effect of disfranchising a substantial portion of native voters. A comparison of the voters' roll in 1886 and 1887 shows a stark decline. In the Herschel district, the number of natives dropped to 374 in 1887, from 797 in 1886; from 766 to 517 at Queens Town's Kamastone district; from 802 to 483 at Thembuland; and from 1 023 to 706 at Victoria East. By 1891, in the frontier districts<sup>19</sup> alone, the decline stood at 33%; and the 1894 legislative assault was the last delivered on the native franchise under the Cape colony. The level of electoral participation among natives, by this time, was even worse in Natal. In 1903, for instance, the South African Native Affairs Commission "found there were only two Africans on the voters' roll."<sup>20</sup>

16 Parliamentary Voters Registration Act. See: Odendaal, A. 2012. *The Founders: The Origins of the ANC and the Struggle for Democracy in South Africa*. Auckland Park: Jacana Media.

17 Franchise and Ballot Act, No 9 of 1892.

18 Glen Gray Act of 1894

19 Places such as Grahamstown, Port Elizabeth, Albany, Fort Beaufort, Aliwal North, Uitenhage, etc.

20 Ibid, pp22, footnote #1

The subject of native franchise would come up, once again, as the colonies fused towards forming the Union. Once established in 1910, subsequent proceedings within the Union would deal a fatal blow on native franchise. The reopening of the subject of native franchise just as the 20<sup>th</sup> century began, followed the defeat of the **Boer** republics in the 1899-1902 War. Although defeated in war, the **Boer** republics - i.e. Transvaal and the Orange Free State – demanded, as a condition to their joining the Union, that native franchise not be extended to their provinces. The Transvaal government was reluctant to grant franchise even to **Uitlanders** – i.e. foreigners – who had grown to constitute a majority of the population. They had to have lived in the republic for 14 years before qualifying, something that Uitlanders bitterly opposed and became a source of tension between Transvaal and the British. Just like their brethren in the Cape colony and for similar reasons, the **Boers** were determined foes of native franchise. Already no longer advocates of equality, the English conceded to the demand. And so it was that the Union was inaugurated without native franchise in the Transvaal and the Orange Free State.<sup>21</sup>

The attack on franchise was met with the formation of Native Vigilance Associations. These were bodies set up, in the various locales of the Cape colony, to get natives registered and ward off fraudulent attempts at disfranchisement. A new newspaper also emerged in 1897, *Izwi Labantu*, to counterpose *Imvo*, which was no longer strident in its advocacy for African franchise. Instead, *Imvo* had maintained its support for the English-speaking politicians who made common cause with the Afrikaner Bond, against native franchise. English-speaking politicians were funders of *Imvo*. Initially edited by Nathaniel Mhalla, *Izwi* was steadfast in its support for the native franchise. Interestingly, *Izwi* got part of its start-up capital from Cecil Rhodes, who had hoped to use it to canvass for him. Rhodes, who had promised “equality for all civilised men”, would also prove insincere in his claims.

## UNION AND REPUBLIC

As the talks of unification gained momentum in the first decade of the 20<sup>th</sup> century, the protest began to take a national form. Natives throughout the envisaged Union faced a similar enemy. Provincial-wide formations – i.e. Native Congresses – sprung up, with their own mouthpieces. In addition to *Izwi* in the Cape, the Natal Native Congress (NNC) had *Ipepa lo Hlanga*, set up in 1898, whose editor, Mark Radebe, was also the secretary of the NNC. *Ipepa* was succeeded by *Ilanga Lase Natal*. Native agitators had fully realised the importance not only of organising, but also of having their own mouthpieces to articulate their cause (albeit reliance on settler capital that imposed limitations).

As the Union was about to be formed, the various native congresses convened in 1909, in what was dubbed the South African Natives Convention. They drew a uniform response to their anticipated precarious future under the envisaged state, underscoring their objections to the limitation of franchise, and began moving towards forming a national organisation. A delegation was sent to England to petition both Parliament and the Crown not to approve the draft Union Constitution. They made a moral appeal, to the collective conscience of the British establishment: “Nowhere has it been suggested that [voting rights] have ever been abused; on the contrary, the judicious manner in which they have been exercised on the whole has received the unstinted approbation of many colonial statements.”<sup>22</sup>

The petition was unheeded. There was some pretence at protecting the existing franchise with the provision that the native franchise could only be repealed by a two-thirds majority in Parliament. However, that hardly offered any

<sup>21</sup> Odendaal, op cit.

<sup>22</sup> “Petition to the House of Commons, from W.P. Schreiner, A. Abdurahman, J Tengo Jabavu, et al. July 1909”, cited in Carter, G and Karis, T. 1972. From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1964. pp55

protection, as opinion within the settler community was converging around anti-native franchise. On August 31, 1909, the opening line of the editorial of *Imvo* registered the initial reaction: “The blow has fallen ...”. The editorial went on to urge its readers to persevere:

The Natives - men, women and children must bend their energies to the advancement of themselves in all that civilization and true Christianity means, so that their claim to equality of treatment for all civilized British subjects may be irresistible. Let us have faith in the GOD who rules over all, and in the justice of our cause, and let us be patient in the well doing, and be willing like the Syro-Phoenician women who accept thankfully even the crumbs of justice which fell to our lot from the Constitution, while mentally and constitutionally claiming our full heritage.<sup>23</sup>

A fully-fledged national organisation, the South African Native National Congress (ANNC), later renamed the African National Congress (ANC), was eventually formed in 1912. Products of both missionary schools and a humanistic tradition – i.e. Ubuntu - the founders of the ANNC, alongside the Coloured People’s Association and the Natal Indian Congress, remained the true bearers of the non-racial, liberal tradition. They not only continued making the call for non-racialism but also defied racial stereotypes. The membership of the newly formed ANC was exclusive to Africans. This was not a sign of loss of faith in non-racialism, but a statement of self-agency. They had to rely on themselves, not on the Europeans, to secure equality. The so-called liberals could no longer be trusted. “*Ungaz’ umthembe umlungu*”, began the refrain within the African community.

The spirit of self-reliance, now embodied in the ANC, had manifested a year earlier. Mpilo Benson Rubusana contested the 1911 election for the then exclusively white Cape provincial legislature. This was the first ever native candidature and he stood at the Thembuland constituency. Hitherto, Africans had always voted for whites to represent them. Accustomed to their role as spokespeople, leading “liberal” personalities, such as Crewe Whitaker and Rose-Innes, objected to Rubusana’s candidature. They said natives were better served by white representatives, and native candidates might just harden white attitudes against natives even further, as they triggered fears of being swamped.<sup>24</sup>

Rubusana ignored the cacophony shouting down his candidature. His opponents were two white candidates, John Tredwell Houghton-Gray and Clarke Fraser. Rubusana relied on the native voters, who numbered 1 399, out of a total of 2 846 registered voters in the Thembuland constituency. On 13 September 1911, he wrote in the *Imvo*, appealing to the readers:

I am one of you. All the efforts I have made for my people should speak for themselves to you ... My message to you is that I would like to represent you in Parliament and speak on your behalf. For that to happen, you need to unite and give me your votes. In that way, I will triumph and will be able to represent you as we live in difficult times under this Union, which also includes Transvaal, those from Natal and those from the Free State. All of these have negative things to say about us, Africans. I am therefore saying we need to do more in such times by placing one of us in Parliament to represent us instead of someone we do not know.<sup>25</sup>

When the results were announced, history was made. Rubusana, the first native candidate for the Cape colony legislature, won by 766 votes, compared to Gray’s 741 and Clarke’s 235. He won by a narrow margin, enabled by the split vote among white voters. The editorial of *Ilanga LaseNatal*, ululated:

<sup>23</sup> Ibid, pp56-7

<sup>24</sup> Maaba, B.B. Forthcoming. Walter Rubusana: A Man of Substance, 1858-1936.

<sup>25</sup> Ibid.

Indeed, a happy sign to this fatherland and one of which should calm many a troubled breast, proving as it does that white men can and still recognise ability even in a black man. This is indeed a rich signal of hope for those who work and pray for the regeneration of Africa, that is the Africa in which the white man and the black man, though different, shall both work, respect and help one another.<sup>26</sup>

Rubusana's historic victory, however, was not to be repeated. Jabavu, who had afforded Rubusana space on his newspaper to campaign in 1911, would turn against him in 1914. He stood against Rubusana in that election as relations between the two deteriorated. Jabavu had come under increasing pressure from his English-politician allies to maintain his support for them. This included supporting them in promulgating the 1913 Land Act that introduced territorial segregation, leaving natives' ownership of land squeezed into 13% of the South African land surface.

Jabavu did not denounce the dispossession. Instead, he claimed that natives accepted the draconian legislation, provoking a fierce reaction from Solomon Plaatje, who derided Jabavu for misleading the public.<sup>27</sup> A leading native personality and an editor in his own right, Plaatje challenged Jabavu to a public debate to test if indeed natives consented to their own dispossession. Jabavu refused the challenge, which proved Plaatje's assertion that his claims were false. His electoral challenge against Rubusana aided the cause of the so-called liberals to exclude native representation in the Cape legislature. The native vote was split between Jabavu and Rubusana, something he had most likely anticipated, to enable the victory of a white candidate.

Political debates in the build-up to Union in 1910, likewise saw the emergence of a movement advocating for a woman's right to vote inspired by similar campaigns around the world at the time. The first women's suffrage groups began forming in the 1890s in South Africa and suffrage groups in the former colonies came together in 1911 to form the *Women's Enfranchisement Association of the Union* (WEAU), which would play an important role in advocating for women's right to vote in the new Union.

The organisation was primarily made up of upper- and middle-class English-speaking white women, reflecting the racial and class divisions of the time. By writing to MPs and holding public events, the WEAU promoted their cause for women to be granted the right to vote on the same terms as men – implying the same racial and property requirements of the franchise during this period. Their campaign did not seek to challenge the racial discrimination of the franchise and this focus on securing the franchise for white women was both a reflection of its membership and a strategic choice by the organisation, which wanted to avoid alienating the political elite preoccupied with debates over the non-racial franchise at the time.<sup>28</sup>

The intersection between these two debates played into the calculations of those seeking to limit the non-racial franchise with Prime Minister Hertzog realising that the enfranchisement of white women would bolster the votes needed to rescind the non-racial Cape franchise and move forward the government's segregationist legislation. This led to the adoption of the Women's Enfranchisement Act in 1930, extending the right to vote to all white women allowing them to vote for the first time in the 1933 election in which the first woman, Leila Reitz, was elected to Parliament.

<sup>26</sup> Maaba, op cit.

<sup>27</sup> Plaatje, S.T. 1916. *Native Life in South Africa*. Braamfontein: Ravan Press

<sup>28</sup> Scully, P. (2001). "White maternity and black infancy: The rhetoric of race in the South African women's suffrage movement, 1895–1930". In *Women's Suffrage in the British Empire*. Edited by Ian Christopher Fletcher, Philippa Levine, Laura E. Nym Mayhall. London: Routledge.

## THE FATAL BLOW ON NATIVE FRANCHISE

Now without any representation, natives nonetheless remained relentless in their call for the extension of franchise throughout the Union. They continued to make their protests in various newspapers and multiple appearances before the South African Native Affairs Commission. The official response was an even more hardened attitude.

As the third decade of the 20<sup>th</sup> century was nearing to a close, the Union government passed the Native Administrative Act of 1927. This Act shifted natives further away from citizenship. It decreed that they were naturally subjects, regardless of their own preference, or worldviews: in other words, natives could never qualify for citizenship within the Union. Instead, they were ordered to participate in traditional institutions, known in indigenous languages as *inkundla* or *lekgotla*, which were headed by chiefs. Officialdom even appointed chiefs where none existed, supposedly to allow all-round representation.<sup>29</sup>

Many of the new appointees into chieftaincy did not have any connection with royalty. They were simply appointed on account of their pledged loyalty to officialdom. Their role was not to enable free and democratic participation in accordance with customary practices of rule by consensus. Rather, they were urged to become local despots.<sup>30</sup> Chiefly rule degenerated to a form of “command and obey.”<sup>31</sup>

After decreeing natives intrinsically “tribal”, the next step was to remove them from the common voters’ roll in 1936, thereby also denying them direct representation. In lieu of their removal, the Native Representative Act introduced the Native Representative Council through which natives elected each other, and their representatives would then advise the government about their needs. Granted their own representative body, officialdom rationalised that natives would no longer be allowed to elect fellow natives Parliament. Instead, they would vote for whites to represent them. In the meantime, six years earlier, officialdom had extended franchise to white women.

Following the natives, Coloureds were the next targets of disenfranchisement. Afrikaner nationalists wanted complete segregation both institutionally and socially. They christened the idea, *apartheid* – i.e. separate development - predicated on racial prejudice. Their initial attempt in 1951 to remove Coloured voters from the common voters’ roll<sup>32</sup> failed, as the Supreme Court annulled the law.

The Nationalist Party’s response was to orchestrate Parliamentary sovereignty, while weakening the judiciary. New laws were introduced to divest the Supreme Court of judicial review powers to arbitrate over the validity of a law. The court itself was enlarged, from 5 to 11, with NP loyalists (just in case the court had to preside over a law that the NP wanted passed). To secure the two-thirds majority in Parliament, the NP government also enlarged the Senate and, subsequently, manipulated procedures to ensure that the newly elected Senators were their members. Now with an enlarged representation in Parliament, the NP was able to pass the new law in 1956, removing Coloureds from the common roll, and placing them in a separate roll. The Coloureds would, henceforth, also elect whites to represent them. When the new law was appealed, the NP-friendly restructured Appeal Court agreed with Parliament.

By the end of the 1950s non-racial franchise in South Africa had ended. The advocacy, however, continued. The Freedom Charter, adopted in 1955 by multiple parties representing South Africa’s racial diversity, echoed the demand for a non-racial franchise. This was a reiteration of a demand made, more than a decade earlier, in the

29 Mamdani, M. 1996. *Subject and Citizen*. Cape Town: David Phillip.

30 Ibid.

31 Hammond-Tooke, D. Op cit.

32 Separate Representation of Voters Act 46 of 1951.



historic document, African Claims. The liberal voices, which had largely turned hostile in the 1890s, were also heard once again from the early 1960s, in support of a non-racial franchise through the Progressive Federal Party (PFP).

The government's response was further territorial and institutional segregation. Already decreed subjects in 1927, and in keeping with apartheid, Africans were granted their own homelands. Each of South Africa's multiple ethnic groups had its own Bantustan. Beginning as self-rule territories in the 1960s, some attained 'independence' in the 1970s, with their own Parliament. Each was headed by a paramount chief in keeping with the supposed African tradition, but elections were later introduced to create a veneer of democracy. In reality, though, chiefs, who were on the payroll of the apartheid state, remained in charge. Those who defied apartheid instructions were dethroned.<sup>33</sup>

## TOWARDS ACCEPTANCE OF COMMON CITIZENSHIP AND TRANSITIONAL NEGOTIATIONS

The various machinations, coupled with violent repression, could neither placate nor suppress resistance. Following a revival of political activism in the 1970s, the 1980s saw an even higher level of the anti-apartheid struggle. The ranks of the liberation movement were swelled by the youth who had left the country following the 1976 Student Uprising. They started returning from the late 1970s, as trained guerrillas, to carry out urban warfare. The revived armed insurgency ignited urban uprisings, which were fanned even more by the call to make South Africa "ungovernable". A nationwide organisation, the United Democratic Front,<sup>34</sup> sprung in 1983 to coordinate the popular uprising.

The government's response, alongside the customary violence, was the usual machinations and co-option. Through the introduction of the Black Local Authorities (BLAs) in 1982, residents were encouraged to elect councillors and generally participate in local government. Coloureds and Indians were drawn into the newly 'reformed' tri-cameral Parliament: House of Delegates (Indians); House Representatives (Coloureds), and the National Assembly (Whites). Neither structure gave blacks genuine power, as they ultimately operated within the parameters of the apartheid state and its logic.

Consequently, both the BLAs and the tri-cameral Parliament were largely rejected. The polls hardly attracted a respectable number of voters. The inaugural election to the tri-cameral Parliament in August 1984, for instance, suffered a markedly low turnout. Only "one in five potential voters actually voted".<sup>35</sup> BLA councillors became targets of violent attacks. They were denounced as 'sell-outs' whose participation legitimised apartheid structures. Residents didn't recognise the BLA councils and refused to pay rates and taxes to register their rejection. "No taxation without representation" was the slogan.<sup>36</sup>

Even more difficult for the apartheid state, most of the world also shared the idea that it was illegitimate. In 1973, the United Nations had declared apartheid "a crime against humanity". South Africa faced cultural boycotts and economic sanctions. Those who defied the boycotts and competed overseas faced protests. Under pressure from a disinvestment campaign, companies started pulling out of the country. New investments in the country encountered fierce opposition. Apartheid South Africa, by the mid-1980s, was a total outcast. It was unmistakably clear that it suffered a profound crisis of legitimacy.

33 Ndletyana, M. 1994. A Fight for the Soul of Local Government in Rural Areas: A Case of the Dalindyebo Area in the Eastern Cape, 1995 – 2001. PhD Dissertation, University of the Witwatersrand, Johannesburg.

34 Seekings, J. 2006. The UDF: A History of the United Democratic Front in South Africa, 1983 – 1991. Cape Town: David Phillip.

35 Ibid, pp110.

36 Lodge, T and Nasson, B. 1991. All, Here and Now: Black Politics in South Africa in the 1980s. New York: Ford Foundation and Foreign Policy Association.



Ironically, the introduction of the BLAs was itself a concession that apartheid was not working. Though still denying them citizenship, officialdom accepted that the Africans who were resident in urban areas, within the Republic, were permanent. It no longer classified them as “temporary sojourners” in urban areas to provide labour and thereafter return to the Bantustans. Once the government conceded permanent residence to Africans in the Republic, it was a matter of time before the entire apartheid edifice crumbled.

Just as the 2<sup>nd</sup> half of the 1980s unfolded, informal talks between the exiled ANC and emissaries of P.W. Botha’s government got underway, testing out each other’s thoughts on the post-apartheid settlement. While initiating informal talks and even meeting the famous political prisoner, Nelson Mandela, Botha was a hesitant reformer. It took his successor, F.W. de Klerk, who was a much younger politician to initiate a definite unravelling of apartheid in 1990.

Expectedly, the electoral system was one of the items tabled for negotiations. The nature of the electoral system settled upon, because it determined the number of seats each won, was to decide both the composition of government and the legislature. The subject itself was of course not new. At its inception in 1910, the Union adopted a relative majority system – i.e. first-past-the-post (FPTP), which survived right up to 1990.

Not all parties were happy with the FPTP system. It affected them unevenly. The major beneficiary was the party-in-government, the National Party. The number of seats it got far exceeded its proportion of the popular vote. Just between 1961 and 1981, for instance, the NP won just more than 50% of the votes but secured about 75% of the seats in Parliament. Other parties decried the disproportional ratio. The NP dismissed the protestation, saying the first-past-the-post guaranteed a stable government.<sup>37</sup>

When negotiating an electoral system for the new democratic South Africa, which would be underpinned by a universal franchise, the NP, however, had a different preference. It now favoured proportional representation (PR). It realised that the FPTP system would be detrimental to it. The system would most likely favour its major rival, the ANC. And the NP had been fearful of being swamped under an ANC-dominated government. This had been a long-standing fear, dating back more than a century in the Cape colony. Now that the universal franchise was imminent, the fear became real. It was also apparent in their negotiation demands, one of which included a rotational presidency, which would secure the NP the presidency, regardless of its electoral support.

Interestingly, the NP’s major rival, the ANC, was not averse either to the PR system. Its reasons, however, were somewhat different. They had to do with its own internal party dynamics as well as the need to enable a smooth transition. Because a PR system afforded a party list, it meant that the ANC leadership would be able to determine the list itself. For a newly unbanned party, which drew its leadership from diverse sectors, with some having been exiled for decades, it was important that it struck a healthy balance in its party list. Moreover, the party was also keen to have its list reflect racial, gender and generational diversity.<sup>38</sup>

In agreeing to the PR system, the ANC also sought to melt away resistance to the transition within the ranks of the NP. The party was alert to the ‘swart gevaar’ that had gripped its main rival. This was partly the reason why the ANC proposed forming a government of national unity, instead of the winning party exclusively forming government; and protecting jobs of senior civil servants for the initial five years of the new government. The ANC’s embrace of the PR system, therefore, was part of a confidence-building measure to enable the transition.

37 Faure, M. 1994. “The Electoral System” in De Villiers. (ed.) *Birth of a Constitution*. Kenwyn: Juta and Co.

38 Lodge, T. 2003. ‘How the South African Electoral System was Negotiated’. *Journal of African Elections*, 2(1).

Both observers and scholars of the South African politics lauded the maturity shown by the ANC. Some had not expected the party to agree to a system that resulted, as Arend Lijphart observed back in 1994, in “close to perfect proportionality”.<sup>39</sup> That said, others nonetheless warned that the large constituencies – i.e. provincial-wide – and the closed party list, which steered voters to vote for parties instead of individuals, would “lessen accountability”. Electoral system experts Arend Lijphard<sup>40</sup> and Andrew Reynolds proposed, even back then, that the country would have to consider designing “smaller constituencies and allowing for an open list”.<sup>41</sup>

Franchise has a long history in South Africa. Its non-racial character was spurred by progressive beliefs in the sameness of humanity, but it quickly succumbed to prejudice and an irrepressible pursuit of material interests. Despite the unkindness of the racist system, which would last for more than a century, the belief in non-racialism, however, endured. Once the racist system could no longer sustain itself, the true bearers of non-racial franchise would insist on a system that was devoid of the brutality of the past, however aggrieved they were. It would not only be enshrined in the Constitution but also protected by the Constitutional Court. The drafters of the Constitution were certain to replace parliamentary sovereignty with a constitutional democracy. And, there was an awareness that, at some point in the future, the electoral system would have to be revised to keep abreast with the times.

39 Lijphart, J. 1994. Unusual Features and Prospects for Reform, pp1.

40 Lijphart, J. 1994. Unusual Features and Prospects for Reform, pp1.

41 Reynolds, A. 1994. A Fair Voting System for South Africa, pp1.



# Chapter 3: Previous Electoral Reviews

## CHAPTER 3: PREVIOUS ELECTORAL REVIEWS

The Electoral Reform Consultation Panel (ERCP) is South Africa's third major review of the electoral system since 1994. It is, however, different from previous reviews as it is constituted in law. Secondly, it has been granted a significantly longer timeframe to thoroughly engage with the public and provide a comprehensive review of the electoral system. An initial review, the Electoral Task Team, was conducted in 2002 to establish a permanent electoral system for South Africa emerging from a transitional arrangement of the 1990s. The second review, the Ministerial Advisory Committee on Reform of the Electoral System, was initiated in 2021 in response to the Constitutional Court ruling that the electoral system should be amended to allow for independent candidates. Concerns over public participation in the process of preparing the legislative amendments to allow for independent candidates, in turn, led to the conceptualisation of the ERCP to conduct a thorough investigation of electoral system options and provide recommendations to the Minister of Home Affairs for tabling in Parliament.

In parallel, several independent commissions established since 1994 have similarly recommended a review of South Africa's electoral system. This includes the 2009 *Independent Panel Assessment of Parliament*, the 2017 *High-Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change*, and the *Commission of Inquiry into Allegations of State Capture*, finalised in 2022. Several court cases, including the *New Nation Movement* judgment, have likewise shaped the legal framework for the South African electoral system.

This chapter looks at the previous reviews and consequential court cases. The purpose is to provide a background to the ERCP, drawing from both targeted and parliamentary reviews. The chapter is structured into six parts. Immediately below is section one on the 2002 Electoral Task Team. Sections two and three deal with parliamentary reviews of 2006 and 2016, respectively. Section four examines the relevant findings from the Commission of Inquiry into State Capture. Thereafter, in section five, attention shifts to the 2021 electoral review. Section six deals with legal challenges to the Electoral Amendment Act passed in 2023. In each section, the chapter not only lays out the content and outcome of the reviews, but also the underlying reasons behind their inception.

### ELECTORAL TASK TEAM, 2002

The electoral system adopted for the 1994 elections was a temporary arrangement agreed as part of the negotiated transition. This was an acknowledgement that the incoming government would still decide the future constitutional arrangements beyond a broadly agreed set of principles. The 1996 Constitution kept this transitional electoral system in place for the upcoming 1999 election, but with the provision that new legislation for a permanent electoral system would still be formulated. This meant that eight years after the inaugural election, new legislation on the electoral system needed to be introduced to replace provisions adopted by the transitional arrangements.

To address this gap in the law, the Cabinet appointed an Electoral Task Team<sup>42</sup> (ETT) in 2002, chaired by Frederik van Zyl Slabbert, to draft legislation for the pending 2004 election.<sup>43</sup> The ETT issued its report eight months later, with the Task Team divided on its recommendations. There were many areas on which the ETT agreed, including the core values of fairness, inclusiveness, simplicity, and accountability. Members of the task team unanimously praised the existing system for accommodating South Africa's diversity.

<sup>42</sup> Electoral Task Team. 2003. <https://www.gov.za/documents/other/electoral-task-team-report-01-jan-2003>

<sup>43</sup> The other 12 members were: Raesibe Tladi, Zamindela Titus, Adv Pansy Tlakula, Stephanus Sebastian "SS" van der Merwe, Norman du Plessis, Adv Rufus Malatji, Prof Jorgen Elklit, Prof Glenda Fick, Nicholas Haysom, Dr Wilmot James, Dren Nupen, and Tefo Raditapole. Tladi resigned three months into the review, and was not replaced.

Of the four values, the majority view<sup>44</sup> felt that accountability was not sufficiently enforced by the system, with insufficient mechanisms for holding Members of Parliament accountable to voters. Their recommendation was to bring representatives closer to voters by using smaller regional multi-member constituencies corresponding to the administrative boundaries of local government districts. Their proposal included 300 seats distributed among 69 multi-member districts, with each allocated between three to seven seats depending on the population size, and 100 seats would be compensatory.

The majority believed that while the system adopted in 1994 performed well on fairness, inclusiveness, and simplicity, it could be improved in terms of the accountability of representatives to voters. Their reasoning drew a distinction between individual and collective accountability. Collective accountability occurs at each election when parties are subjected to the opinion of the electorate. In contrast, individual accountability is between voters and individual representatives. On the latter dimension, the majority argued that accountability could be strengthened by electoral reforms.

In their view, individual accountability could be best achieved by using open rather than closed party lists, with voters influencing the order of candidates without having to reject their favoured party. Alternatively, the use of smaller constituencies made up of three to seven representatives would create a much closer link with the electorate. This meant, they argued, that candidates would need to campaign in constituencies and represent voters afterwards, putting a face to representation.

Conversely, the minority view<sup>45</sup> felt that the majority was proposing a solution to a problem that did not exist. They felt that any changes were unjustified, as the original goals of the electoral system to promote political diversity and broad political representation remained a priority. Thus, they rejected the majority's view of accountability, arguing that accountability was sufficiently supported through regular elections.

The minority view likewise argued that the system used in 1994 and 1999 also received wide support from the broader public, and the majority of political parties. A survey conducted for the ETT showed high levels of satisfaction with the electoral system. The survey showed that 74% of the respondents were satisfied with the fairness and equality of the electoral system, and 81% with its inclusiveness. In terms of accountability, the survey showed that 68% felt that the electoral system helped voters hold political parties accountable, and only 60% felt that the system helped voters hold individual representatives accountable.

In the minority view, this showed that most of the public were content with the system used at the time. While the public also expressed a desire for more contact with representatives, in the minority view, this could be achieved by other means, such as strengthening constituency offices to increase the accessibility of representatives. Consequently, the minority saw no need for changing the system with the view that South Africa "cannot afford to experiment at this critical stage with a system whose form, worth and implications have not been thoroughly thought through, debated, evaluated and publicly interrogated." Parliament ultimately adopted the minority proposal, retaining the system used in the 1994 and 1999 general elections.

## INDEPENDENT PANEL ASSESSMENT OF PARLIAMENT, 2006

In 2006, the Speaker of the National Assembly and the Chairperson of the National Council of Provinces appointed an Independent Panel to review the functioning of Parliament in meeting its constitutional obligations. The panel

<sup>44</sup> These were: Van Zyl Slabbert, Du Plessis, Elklit, Fick, Haysom, James, Malatji, and Nupen.

<sup>45</sup> They were: Tlakula, Van der Merwe, Titus and Raditapole.

was chaired by former Member of Parliament (MP) Pregs Govender,<sup>46</sup> the panel was also asked to look at “the extent to which Parliament ensures that there is accountability, responsiveness and openness regarding the implementation of matters enshrined but not limited to Chapter 4 and 5 of the Constitution”.

Among the issues probed was the relationship between Parliament, voters, and the Executive in relation to oversight and accountability. The Panel deliberated at length on the impact of the party list electoral system on various aspects of Parliament’s work. It noted that the party list system tended to promote accountability of MPs their political parties rather than to the electorate. The MPs of the governing party, the report noted, avoid “confrontation and open criticism of senior members of the Executive”,<sup>47</sup> and the Panel pointed to the electoral system as the cause of such avoidance. In their view, the Executive is made up of senior members of the governing party, who are also responsible for compiling a list of candidates for Parliament. MPs are held back by the fear that, if they criticised the Executive, then they would be excluded from the party list in the next election. In this regard, the “Panel agreed that the electoral system would need urgent reform”.

The Panel argued that an effective Parliament requires strong, independent MPs who act to safeguard the integrity of the legislature and provide oversight over the Executive. In their view, this integrity was called into question in the context of significant political events in the early 2000s. This included a lack of executive action to respond to the HIV/AIDS crisis, Parliament’s handling of the Arms Deal, and the dissolution of the Directorate of Special Operations (known as the Scorpions). This led to public criticism portraying, “Parliament as a rubber stamp of the Executive and/or the ruling political party.”<sup>48</sup>

These public controversies again drew attention to the issue of accountability, and the Independent Panel recommended a review of “the impact of the party list system as it is currently structured in South Africa, as well as alternatives”. The report further argued that the electoral system should be replaced by a system “which attempts to capture the benefits of both the constituency-based and proportional representation electoral systems.”<sup>49</sup>

## HIGH LEVEL PANEL: ASSESSMENT OF KEY LEGISLATION, 2017

Nearly a decade later, a *High-Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change*, chaired by former President Kgalema Motlanthe,<sup>50</sup> was appointed. The panel aimed to review and assess the impact of legislation addressing South Africa’s greatest challenges, including poverty, unemployment, inequality and access to basic services. One of its primary functions was to review the implementation of legislation and identify legislative gaps to assess “the possible unintended consequences, gaps and unanticipated problems in post-apartheid legislation” to propose appropriate remedial measures to Parliament.<sup>51</sup>

Questions of policy implementation, governance and oversight became the core focus of the Panel. It found evidence of weakness on the part of the government to execute policy, which reflected “a lack of political will to pursue stated policy objectives.” For the Panel, this brought into focus questions concerning the effectiveness of

46 Other members were: Selby Baqwa, Colin Eglin, Judith February, John Kane-Berman, Papati Malavi, Koko Mashigo, Aubrey Matshiqi, Siphos Seepe, Max Sisulu and Frederick van Zyl Slabbert.

47 Report of the Independent Panel Assessment of Parliament. 2009. [www.gov.za](http://www.gov.za). pp37.

48 Report of the Independent Panel Assessment of Parliament. 2009. [www.gov.za](http://www.gov.za). pp 6.

49 Ibid.

50 In addition to Motlanthe, the High Level Panel comprised 14 members. These were: Dr Olive Shisana, Prof Haroon Bhorat, Prof Alan Hirsch, Mr Paul Harris, Mr Thulani Tshefuta, Dr Aninka Claassens, Rev Malcolm Damon, Dr Terence Nombembe, Judge Navi Pillay, Ms Bridgette Mabandla, Prof Eddie Maleka, Prof Vivienne Taylor and Dr Yvonne Muthien.

51 Report of the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change. 2017. [https://www.parliament.gov.za/storage/app/media/Pages/2017/october/High\\_Level\\_Panel/HLP\\_Report/HLP\\_report.pdf](https://www.parliament.gov.za/storage/app/media/Pages/2017/october/High_Level_Panel/HLP_Report/HLP_report.pdf)

governance and accountability mechanisms. These included the role of Parliament in providing oversight and the role of the electoral system in facilitating the extent to which the public can hold their representatives to account.

The High Level Panel found the system weak on “holding the politicians to account to the electorate.”<sup>52</sup> As politicians are elected to Parliament based on a list compiled by their parties, this “makes them beholden to the party and its leadership rather than voters and places party politics and loyalties ahead of effectiveness and delivery.”<sup>53</sup> In their view, the system distances Parliament from the people. While constituency offices exist, most people are unaware of their constituency representatives or of the existence of such offices.

The Panel argued that electoral reforms could bridge the gap – i.e. between Parliamentarians and voters - by ensuring that people directly elect the representatives they want in a multi-member constituency-based system. Accordingly, the Panel recommended “that Parliament should amend the Electoral Act to provide for an electoral system that makes Members of Parliament accountable to defined constituencies on a proportional representation and constituency system for national elections.”<sup>54</sup>

## COMMISSION OF INQUIRY INTO STATE CAPTURE, 2018

The Commission of Inquiry into Allegations of State Capture (Zondo Commission) was established in 2018 to investigate allegations of state capture, corruption and fraud in the public sector. The commission also raised concerns over the effects of the party list system on disincentivising executive accountability.

Both Parliament and the ruling party came under scrutiny for their failure to prevent state capture.<sup>55</sup> According to the Commission’s report, the ruling party chose to ignore allegations of corruption and impropriety, which had emerged as early as 2010. The party was found to have obstructed efforts to conduct parliamentary oversight over the President. This included failures by party leadership as well as elected officials to act on allegations of misconduct, with party leaders going as far as forcing party MPs to block parliamentary oversight of the President. When opposition parties tabled parliamentary motions for the initiation of public inquiries into allegations of state capture and corruption in state institutions, the ruling party used their majority to block these motions at the behest of party leaders who threatened to mete out punishment to any of its MPs found to have defied the party line.

In this regard, the Commission’s report found “a determined resistance and unwillingness on the part of the ANC in Parliament for Parliament to investigate and exercise oversight in relation to allegations of state capture.”<sup>56</sup> While party discipline is a legitimate feature of a party-based democratic system, it cannot supersede the constitutional obligations of MPs to exercise oversight of the Executive. As cited in the Commission’s report, this is reinforced by various Constitutional Court decisions:<sup>57</sup>

*The fact that members of the Assembly assume office through nomination by political parties ought to have a limited influence on how they exercise the institutional power of the Assembly. Where the interests of the political parties are inconsistent with the Assembly’s objectives, members must exercise the Assembly’s*

52 Report of the High-Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change. 2017. parliament.gov.za. pp525.

53 Ibid.

54 Ibid.

55 Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud ... Report: Part VI, Vol 2 – Parliamentary Oversight. 2022. <https://www.stateofthenation.gov.za/zondo-commission-reports/Part%206%20Vol%202%20-%20Judicial%20Commission%20of%20Inquiry%20into%20State%20Capture%20Report.pdf> pp658.

56 Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud ... Report: Part VI, Vol 2 – Parliamentary Oversight. 2022. <https://www.stateofthenation.gov.za/zondo-commission-reports/Part%206%20Vol%202%20-%20Judicial%20Commission%20of%20Inquiry%20into%20State%20Capture%20Report.pdf> pp488.

57 Economic Freedom Fighters and Others v Speaker of the National Assembly and Another (CCT76/17) [2017] ZACC 47; 2018 (3) BCLR 259 (CC); 2018 (2) SA 571 (CC) (29 December 2017) at para 144



*power for the achievement of the Assembly's objectives. For example, members may not frustrate the realisation of ensuring a government by the people if its attainment would harm their political party. If they were to do so, they would be using the institutional power of the Assembly for a purpose other than the one for which the power was conferred. This would be inconsistent with the Constitution.*

The Commission's report argued that the tension between party discipline and the Constitutional obligations of Parliament to exercise oversight of the Executive is aggravated by the nature of the electoral system. It argued that the system makes MPs "beholden to 'party bosses' with the power to determine party lists" and the re-election prospects of MPs. This is particularly the case if "the leadership of the Executive branch is - as may well be the case - in a position to jeopardise the party membership of Members of Parliament who exercise (or threaten to exercise) necessary and appropriate oversight over the Executive, including its leadership, this has the potential to suppress or diminish the effectiveness of such oversight."<sup>58</sup> This was demonstrated by the way MPs from the ruling party were threatened with punishment if they were to defy the party line, leading to MPs closing ranks to protect the Executive from being held accountable.

In the Commission's view, a move to a constituency-based system of proportional representation could have several advantages, one of which would be to empower MPs to be more responsive to the political views and interests of their constituents. This would make MPs more accountable to the voters. This contrasts with a "non-constituency based proportional representation system" where an MP does not have that same direct, intimate connection to a set of constituents, but is rather accountable to the party.<sup>59</sup> Having established a connection between the electoral system and the failure of public representatives to hold the Executive accountable, the Zondo Commission "recommended that Parliament should consider whether introducing a constituency-based (but still proportionally representative) electoral system would enhance the capacity of members of Parliament to hold the Executive accountable."<sup>60</sup>

## NEW NATION MOVEMENT JUDGMENT AND THE MINISTERIAL ADVISORY COMMITTEE, 2021

In 2020, the Constitutional Court heard a case brought by the New Nation Movement,<sup>61</sup> which sought to challenge the constitutionality of the Electoral Act to the extent that it did not provide for adult citizens to be elected to the National Assembly and Provincial Legislatures as independent candidates. The applicants contended that this requirement unjustifiably limited the right to stand for and hold public office, as provided by section 19(3)(b) of the Constitution. It was further argued that it infringed on the right to freedom of association under section 18, since it compelled citizens to join political parties in order to participate in representative democracy.

The Constitutional Court delivered three separate judgments. In the majority judgment, the Court found the Electoral Act unconstitutional to the extent that it excluded independent candidates. The Court reasoned that section 18 of the Constitution protects both the right to associate and the right not to be compelled to associate. It held that section 19(3)(b) should be interpreted in a way that promotes freedom of association, meaning that citizens should not be forced to join political parties in order to stand for office. The Court also found that the

<sup>58</sup> Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud ... Report: Part VI, Vol 2 – Parliamentary Oversight. 2022. <https://www.stateofthenation.gov.za/zondo-commission-reports/Part%206%20Vol%202%20-%20Judicial%20Commission%20of%20Inquiry%20into%20State%20Capture%20Report.pdf> pp659.

<sup>59</sup> Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud ... Report: Part VI, Vol 2 – Parliamentary Oversight. 2022. <https://www.stateofthenation.gov.za/zondo-commission-reports/Part%206%20Vol%202%20-%20Judicial%20Commission%20of%20Inquiry%20into%20State%20Capture%20Report.pdf> pp656.

<sup>60</sup> Op cit, pp658.

<sup>61</sup> New Nation Movement NPC and Others v President of the Republic of South Africa and Others (CCT110/19) [2020] ZACC 11.

constitutional value of a multi-party system does not require exclusive party-based representation but rather prohibits a one-party state.

A second, concurring judgment agreed with the majority but added that section 19 must be interpreted in its historical context, particularly considering the past denial of political rights. The concurring judgment argued that the language of section 19 should be given a generous interpretation to give every citizen the fullest protection afforded by the section. It also held that the right to stand for office should be read as broadly as the right to vote, which is exercised individually. According to this judgment, restricting candidacy to party members undermines the intention of section 19(3)(b).

The third judgment disagreed with the interpretation of section 19(3)(b) in the first and second judgments. It argued that the right to stand for office must be understood within the constitutional framework, which prioritises a multi-party system and proportional representation. The dissenting judgment maintained that the Constitution does not expressly require the inclusion of independent candidates and that the majority's interpretation conflates electoral preferences with constitutional rights.

On 11 June 2020, the Constitutional Court declared the Electoral Act unconstitutional to the extent that it required election to the National Assembly and Provincial Legislatures only through political party membership. The Court provided Parliament with 24 months to amend the law and remedy the defects in the Electoral Act.

In response, a Ministerial Advisory Committee (MAC) on Electoral System Reform, led by former Minister of Constitutional Development Valli Moosa, was appointed.<sup>62</sup> One of the questions that the committee faced in reflecting on their mandate was whether they should seek to satisfy the Constitutional Court judgment with as little disruption to the existing system as possible. Alternatively, the committee also considered if this was an opportunity to “address public aspirations for an electoral system that includes a greater element of local representation and individual accountability to voters.”<sup>63</sup>

Divergent views led to the committee making two different recommendations. Option 1, supported by the minority, proposed a modified version of the existing system to allow for the inclusion of independent candidates. This was a minimalist approach. It simply entailed allowing independent candidates to contest one of the nine provincial multi-member constituencies. Option 2, supported by the majority, proposed the adoption of a mixed-member proportional system. This would replace the nine provincial multi-member constituencies with 200 single-member constituencies while retaining the national compensatory list similar to the local government electoral system.

Parliament adopted the minimalist recommendation, which allowed independent candidates to contest one of the nine multi-member constituencies. It also introduced a second ballot for national elections on which voters could only vote for political parties. The adoption of this approach led to objections from stakeholders who felt that there was insufficient public consultation in the process of reforming the electoral system. Consequently, they threatened litigation, posing a risk of derailing the timetable for the 2024 elections. This led to a compromise in which the ERCP was conceptualised and included in the Electoral Amendment Act to address these concerns and provide for a thorough review of the South African electoral system and identify appropriate options for the country.

62 Other members were: Adv Pansy Tlakula, Adv Vincent Maleka, Dr Michael Sutcliffe, Dr Sithembile Mbete, Norman du Plessis, Prof Daryl Glaser and Dr Nomsa Masuku.

63 Ministerial Advisory Committee on Electoral System Reform. 2021. [pmg.org.za/Report\\_of\\_Ministerial\\_Advisory\\_Committee\\_on\\_electoral\\_System\\_Reform.pdf](https://static.pmg.org.za/Report_of_Ministerial_Advisory_Committee_on_electoral_System_Reform.pdf)

[https://static.pmg.org.za/Report\\_of\\_Ministerial\\_Advisory\\_Committee\\_on\\_electoral\\_System\\_Reform.pdf](https://static.pmg.org.za/Report_of_Ministerial_Advisory_Committee_on_electoral_System_Reform.pdf)

## LEGAL CHALLENGES TO THE ELECTORAL AMENDMENT ACT, 2023

Since the passing of the Electoral Amendment Act in February 2023, two legal challenges have been brought against the Act to test its constitutional validity.

In *Independent Candidate Association NPC v The President of the Republic of South Africa and Others*,<sup>64</sup> the applicant challenged the rationality of the 200/200 seat split in the National Assembly established by the amended Electoral Act. The applicant argued that this split unfairly favoured political parties in that independent candidates could only contest for regional seats while parties could also contest 200 national compensatory seats. The applicant proposed a 350/50 split to allow independents to contest more seats.

Parliament opposed the challenge, arguing that the Constitution grants Parliament broad discretion in determining the electoral system and that the 200/200 split avoids the risk of overhang (where more seats are allocated than available), whereas the applicant's proposed 350/50 split could introduce a remote risk of overhang.

The Court held that even if the 350/50 split proposed by the applicant might arguably be fairer and achieve proportionality, the Constitution expressly leaves the choice of electoral system in Parliament's hands. It ruled that the 200/200 split meets the requirements of proportionality. The Court similarly reasoned that while both the 200/200 and 350/50 splits would meet the constitutional threshold for proportionality, it was not for the Court to prescribe to the legislature which of these to adopt.

Parliament further argued that the 200/200 seat split prevents the risk of overhang, which happens when more seats are needed to restore proportionality than are available. The applicant relied on the report of an independent analyst who assessed the risk of overhang and found a remote risk of overhang under the 350/50 split, limited to one seat. On the 200/200 split, however, there is virtually no risk of overhang. The Court noted that while the risk of overhang with the 350/50 split was minimal, there was no legal mechanism to address it if it occurred. Unlike the Local Government Municipal Structures Act, the Electoral Amendment Act lacks a formula to resolve overhang, which could prevent the Electoral Commission from declaring election results if overhang arises.

In this context, the Court concluded that although Parliament's stated objective behind the 200/200 split (to avoid the risk of overhang) was rational in this instance, it should not be interpreted as an indication that overhang will always be an insurmountable challenge. The Court pointed out that the Legislature has, in the context of local government elections, provided a mechanism to deal with it should it arise.

The Court also considered whether the 200/200 split made votes for independents count less or violated equality by treating independents and parties differently. It found that different impacts on groups do not automatically mean a breach of equality, and since both compete for the same regional seats with equal vote weight, and compensatory seats are accepted as party-only. Based on these findings, the Court dismissed the application.

The Electoral Amendment Act's constitutionality was again challenged in *One Movement South Africa NPC v President of the Republic of South Africa*.<sup>65</sup> The first challenge targeted the "signature requirement," which mandated independent candidates to collect signatures totalling 15% of the previous election's quota of registered voters in their region to contest. The second challenge concerned how seats are reallocated when an independent candidate's seat becomes vacant ("recalculation challenge").

<sup>64</sup> *Independent Candidate Association NPC v The President of the Republic of South Africa and Others* (CCT 144/23) [2023] ZACC 41

<sup>65</sup> *One Movement South Africa NPC v President of the Republic of South Africa* (CCT 158/23) [2023] ZACC 42.

The Minister of Home Affairs, Parliament, and the Election Commission opposed the application, explaining that the signature threshold had been reduced from 50% to 15% and applied equally to independents and unrepresented parties. They argued this ensured only serious candidates with a real chance of winning a seat could contest, linking the requirement to a legitimate government purpose.

The Court's majority found that: (a) the signature requirement limited the constitutional right to stand for public office, and (b) the state had not shown this limitation was reasonable or justifiable in a democratic society. The Court emphasised the importance of rights in the Bill of Rights and found the signature requirement imposed a significant, unjustified burden on independents. The limitation was considered arbitrary and excessive compared to other countries. The Court declared the 15% requirement invalid, replacing it with a requirement for 1,000 signatures for both independents and new parties.

On the recalculation challenge, the applicant argued that disregarding votes for independents when their seat becomes vacant distorts proportionality and unfairly benefits parties. The Court rejected this, noting that votes for independents are not transferred to parties but simply removed from the calculation, and that independents can only ever hold one seat regardless of their vote total. The Court concluded that this approach limits the impact on party proportionality and dismissed the recalculation challenge.

## CONCLUSION

South Africa's electoral system has seen limited change since 1994 despite recommendations for reform over the last two decades. The only significant change to the system was the introduction of independent candidates and the second national ballot. Part of the reluctance for change, despite proposals to that effect, has been that the concerns and objectives the initial electoral system sought to achieve remained relevant. Over time, calls for electoral reform have, however, grown both from the general public as well as various independent reviews initiated by Parliament and Government. A central theme across these reviews has been a lack of accountability between representatives and voters and the failure of Parliament to hold the Executive accountable. It is within this historic context that the ERCP has been tasked with considering and recommending reforms to the electoral system.



# Chapter 4: Electoral System Design and International Trends in Electoral Reform

## CHAPTER 4: ELECTORAL SYSTEM DESIGN AND INTERNATIONAL TRENDS IN ELECTORAL REFORM

A country's choice of electoral system is one of the most important institutional decisions for any democracy as it establishes the link between the political preferences of citizens and the policy choices made by government. The rules of the electoral system determine how we choose our representatives, who gets elected to govern on our behalf, who makes our country's laws and who sets policy and holds government accountable for its performance. While not a silver bullet for all of society's challenges, appropriate electoral institutions are foundational to the quality of democracy and can nudge the political system in the right direction through appropriate institutional design.

This chapter provides an overview of the Electoral Reform Consultation Panel's (ERCP) research, including an introduction to electoral system design, the effects of different design choices to achieving specific values and international trends in electoral reform. The first section discusses the key elements of electoral system design, including the broad categories of electoral systems, the size of electoral districts (constituencies), compensatory seats, ballot structure and electoral thresholds. This is followed by a section on the evidence for the effects of different designs on achieving the guiding principles adopted by the ERCP. These guiding principles were adopted by the ERCP to assess electoral system options in terms of the country's Constitutional values including inclusivity, fairness, accountability, simplicity, electoral manageability, transparency and stable and efficient government. The final section provides a summary of electoral reform trends around the world.

### ELECTORAL SYSTEM DESIGN ELEMENTS

In simple terms, an electoral system is the method and rules that determine how the votes cast in an election are translated into the seats won in legislatures by political parties and candidates. Key design elements include the electoral system type (majoritarian, mixed, or proportional systems), the size and boundaries of electoral districts, formulas for seat allocation, the structure of ballots, and a range of other smaller design elements.

Issues of election administration are separate considerations from electoral system design and are beyond the mandate of the ERCP. This includes questions around the use of electronic voting, the number and location of voting stations, voter registration and candidate nomination procedures. The choice of electoral system may, however, have implications for electoral functionality insofar as it affects ballot structure and ballot numbers per voter, counting procedures and the declaration of results.

### *ELECTORAL SYSTEM TYPES*

Electoral systems are broadly categorised into three main families: plurality/majority systems, mixed systems and proportional representation systems.<sup>66</sup> Plurality/majority systems include first-past-the-post (FPTP) electoral systems such as that used in the United States, the United Kingdom, and various other former British colonies such as India, Botswana and South Africa pre-1994. The French electoral system, based on a two-round system of voting, presents another plurality/majority variant. In such a system a second round of voting takes place if no candidate wins the first round of voting outright – that is, 50 percent plus one. In these systems, voters in a defined electoral region choose one candidate, and the candidate who receives the most votes becomes the sole representative for that area.

<sup>66</sup> International Institute for Democracy and Electoral Assistance. 2005. *Electoral System Design: The New International IDEA Handbook*, <https://www.idea.int/publications/catalogue/electoral-system-design-new-international-idea-handbook>

Systems of proportional representation (PR) allocate legislative seats in proportion to the number of votes received by each party and most commonly use party lists from which candidates are elected.<sup>67</sup> In systems using party lists, voters choose between party lists prepared by political parties rather than voting for individual candidates. The winning candidates are taken from party lists according to the number of seats won in proportion to their share of vote share. South African national and provincial elections make use of a party list PR system, which also allows for independent candidates to contest elections. PR systems are common among European and South American countries, as well as a range of African countries, including our neighbours Namibia and Mozambique.

Mixed electoral systems combine elements of plurality/majority and PR systems. In such a design these systems run alongside each other. In mixed systems, some candidates are typically elected in single-member constituencies<sup>68</sup> while others are elected in multi-member constituencies.<sup>69</sup> South African local government elections use a mixed system whereby candidates are elected in wards and from party lists.

Mixed systems differ according to whether competition in single-member constituencies and PR lists are linked or not. In parallel systems the results of the two elections are distinct, and seats are allocated independently with no interaction between the results in the two systems. This is practised in countries such as Japan, Italy and Ukraine. Other mixed systems have a compensatory component in which the results of these two types of elections are linked. Some see this as a variant of PR as it will still result in overall proportionality. This type of system is most commonly referred to as mixed-member proportional representation (in New Zealand) or personalised proportional representation (in Germany). In these systems the allocation of party list seats is linked to the results of contests in single-member constituency seats, and allocations of party list seats are adjusted accordingly to ensure overall proportionality. Variations can be found in countries such as New Zealand, Germany and Lesotho. South African local government elections use a mixed variant where proportional representation seats are determined by the aggregation of both ward and party list ballots in a two-tier compensatory system.

## ***ELECTORAL DISTRICTS (CONSTITUENCIES) AND DISTRICT MAGNITUDE***

These broad “families” provide a shorthand for identifying some of the main features of different systems, but there is often significant variation between systems sharing the same broad category. Beyond these broad families electoral systems also vary in the size of electoral districts in terms of the number of seats allocated for election in a particular area. An electoral district, or constituency, refers to the geographic boundaries within which a group of voters vote for a set number of candidates. An electoral district can be for the election of one or more representatives to an elected body. In some countries, this is also referred to as a constituency, which is used as a synonym for electoral districts.



**Figure 1: South Africa's Nine Regional Multi-Member Constituencies**

<sup>67</sup> The Single Transferable Vote system is another version of proportional representation in which voters can rank candidates in order of preference within a multi-member constituency.

<sup>68</sup> Some mixed systems make use of block-voting whereby a slate of candidates is elected using a plurality/majority system – although these are rare.

<sup>69</sup> International Institute for Democracy and Electoral Assistance. 2023. Mixed Electoral Systems Design and Practice, <https://www.idea.int/publications/catalogue/mixed-electoral-systems-design-and-practice>



Plurality/majority systems typically make use of single-member constituencies,<sup>70</sup> while all PR systems make use of multi-member constituencies. In mixed systems representatives are usually elected from a combination of overlapping single-member and multi-member constituencies. The size of multi-member constituencies is a key design feature differentiating systems of PR in terms of the number of candidates elected from a specific constituency. This is referred to as the *district magnitude* of a constituency. Party lists are prepared according to the district magnitude of multi-member constituencies, and the number of seats in a constituency is generally proportional to the number of voters in that area.

The Constitution of South Africa sets a maximum of 400 seats for the National Assembly, while provincial legislatures can have a minimum of 30 and a maximum of 80 members,<sup>71</sup> depending on the population size of each province. In line with the Electoral Act, the National Assembly has 400 seats. Of these, 200 seats are divided among nine multi-member constituencies aligned with the boundaries of each of the nine provinces (the regional ballot). The remaining 200 seats are compensatory (including both results from the national and regional ballots).

Within these multi-member constituencies, voters were asked in May 2024 to elect representatives from regional party lists, ranging from five representatives in the Northern Cape to 47 in Gauteng – the largest constituency. Provincial legislatures have a single-tier multi-member constituency; Gauteng and KwaZulu-Natal have the maximum 80 seats, while the Northern Cape and Free State have the minimum of 30 seats. Voters receive a single ballot to vote for the provincial legislature.

Countries using PR systems vary in their approach to deciding the boundaries of multi-member constituencies and, in most cases, follow existing administrative boundaries. Multi-member constituencies can either be at the national level as seen in small countries including Israel and The Netherlands, at the provincial level such as in Brazil, Spain and Switzerland or at the local government level as seen in Norway and Portugal. Some countries such as Sweden and Turkey follow administrative boundaries but subdivide major cities into smaller multi-member constituencies to avoid large discrepancies in the size of constituencies to bring representatives closer to voters.

The size of constituencies is a key design choice within the family of PR systems. The degree of proportionality and the closeness between voters and their representatives depend on the size of constituencies. Electoral districts with a higher district magnitude (the number of seats in a multi-member district) increase the proportionality of an electoral system. However, larger constituencies weaken the linkage between voters and their representatives.<sup>72</sup> This linkage includes defined responsibilities to an area, the ability of voters to identify and engage with their representatives and the degree to which their vote affects the re-election chances of representatives (i.e., their ability to vote representatives out of office for non-performance).

In understanding the effects of district magnitude on the proportionality of electoral results, it is important to recognise that improvements in proportionality diminish as the size of multi-member districts increases. The biggest improvements in proportionality are achieved as the number of seats in a constituency increases from one to five, after which improvements in proportionality flatten out. Any increases in the size of constituencies beyond eight seats show limited improvement in overall proportionality.<sup>73</sup>

70 Block voting is an exception.

71 Section 46 and 105 of the Constitution 108 of 1996

72 Administration and Cost of Elections Project. District Magnitude. <https://aceproject.org/main/english/es/esg04.htm>

73 Carey, J.M. and Hix, S. (2011). The Electoral Sweet Spot: Low-Magnitude Proportional Electoral Systems. *American Journal of Political Science*, 55, 383-397.

An overview of multi-member constituency variations in proportional representation systems can be found in Appendix 1. On average South Africa has the highest district magnitude (largest constituencies) and the second largest average population per constituency being served among all PR systems.

## **COMPENSATORY AND TWO-TIER SYSTEMS**

Where an electoral system uses compensatory seats, these seats will be decisive in determining overall electoral outcomes and proportionality. South Africa's electoral system for the National Assembly makes use of a two-tier system whereby voters vote for candidates drawn from national and regional party lists, or independent candidates. The higher tier national party list is compensatory and seats are allocated based on the overall results of votes on both the regional and national ballots. The allocation takes into consideration the number of seats won in constituencies to determine the final allocation of compensatory seats. Parties that receive too few votes on regional ballots to qualify for one of the regional constituencies can still win national seats based on their overall vote share on both ballots. In the 2024 elections, for example, several smaller parties received too few votes in the regional constituencies to secure a seat but received enough votes overall to win seats in the National Assembly (based on their allocation of compensatory seats).

Compensatory seats, also known as adjustment, levelling or equalisation seats, can be used in mixed-member proportional and in PR systems such as ours. Compensatory seats aim to increase the overall proportionality of electoral systems and are usually introduced to address any disproportionality caused by the use of small constituencies (especially single-member constituencies in mixed-member proportional systems). Appendix 2 provides an overview of countries that make use of two-tier compensatory systems.

The allocation of compensatory seats considers nationwide votes to determine the overall seat share, or entitlement, for parties based on their total vote share. The overall seat entitlement represents the total number of seats due to a party based on its proportional share of the vote. This entitlement is subtracted by the number of seats won by a party in constituencies to determine the number of compensatory seats due to a party. For example, if the overall seat entitlement of a party is 40 seats and it wins 18 constituency seats, the party will be compensated with 22 compensatory seats to make up the difference and return overall proportionality. As far as party seat shares are concerned, the outcome is identical to a straight nationwide allocation. The size of constituencies then becomes irrelevant to the final results and overall proportionality of the system as long as enough compensatory seats are allocated at a second stage to correct for any disproportionality at the constituency-level.<sup>74</sup>

A key question for two-tier systems is how many compensatory seats are needed to overcome the disproportionality arising from constituency-level results. This will depend on the degree of disproportionality generated in constituency results. The more disproportional the lower tier, the greater the share of compensatory seats needed if full compensation is desired.<sup>75</sup> Factors such as the average district magnitude and the number of seats in the legislature will affect the degree of disproportionality in the lower tier.<sup>76</sup> Consequently, very large compensatory tiers are “unnecessary to produce a substantial reduction in disproportionality,” where constituency-level results are already proportional such as where multi-member constituencies are used.<sup>77</sup>

<sup>74</sup> Taagepera, R. & Shugart, M. 1989. *Seats and Votes: The Effects and Determinants of Electoral Systems*. New Haven: Yale University Press. pp 129.

<sup>75</sup> Gallagher, M. & Mitchell, P. 2005. *The Politics of Electoral Systems*. Oxford: Oxford University Press.

<sup>76</sup> Shugart & Wattenberg. 2003. *Mixed-Member Electoral Systems: The Best of Both Worlds?* Oxford: Oxford University Press.

<sup>77</sup> Shugart, M.S. and Taagepera, R. 2017. *Votes from Seats: Logical Models of Electoral Systems*. Cambridge: Cambridge University Press. pp 281.

## ***BALLOT STRUCTURE (OPEN/CLOSED LISTS)***

Another key design feature differentiating PR systems is the ability for voters to indicate candidate preferences on party lists. South Africa uses closed party lists, meaning that the order of candidates on a party list is determined by political parties. In such a case, voters are unable to express preferences for individual candidates. Voters choose between pre-determined party lists rather than preferred individual candidates. In open list systems, voters can indicate preferences for individual candidates on party lists. Currently, 40 of the 82 PR systems use open lists – a near even split between open and closed list systems. Most countries using open list systems are substantially smaller than South Africa, and only three – Brazil, Indonesia, and the Democratic Republic of Congo – have populations larger than South Africa.

There are many variations of open list systems which are distinct in how votes are cast and the extent to which preferences determine the final allocation of seats to individual candidates. In terms of voting methods, the most common form is for voters to vote for a list and for one or more candidates on that list. These candidate preferences are then taken into consideration to determine the order of candidate positions on lists to a greater or lesser extent, depending on the rules of the system. In fully open list systems, the number of votes received by candidates determines their order on the party list. “Flexible” lists introduce a candidate vote threshold that a candidate must pass to move up a party list, usually expressed as a percentage of that party’s votes.

Open lists can give voters a greater choice over the election of individual candidates, which can improve representation and accountability. This can lead to the election of better candidates although this is not guaranteed. The design of these systems, including questions of ballot structure, should be carefully considered to determine whether this can be effectively implemented in a particular system. A key issue is how party affiliation, candidates’ names and/or photos will fit on a ballot paper, which becomes more challenging as the size of constituencies and the number of competing candidates increases.

The adoption of such an open list system in South Africa may be impractical under the current electoral framework. This is mainly due to the large size of constituencies in the most populous provinces, and the large number of political parties and independent candidates contesting elections. In the case of Gauteng, political parties can put forward 47 candidates on their party lists for the regional ballot, and 52 political parties as well as independent candidates contested the 2024 election. This would have practical implications for the preparation and ease of use of ballot papers. For these reasons, open lists are more common in smaller countries, those that use smaller constituencies and those that include a legal threshold.<sup>78</sup>

## ***THRESHOLDS***

Every electoral system has a minimum number of votes that political parties or independent candidates must reach to win a seat. In some countries, there is a legally imposed threshold, usually expressed as a percentage of the vote, to discourage excessive fragmentation of party systems. Some countries allow a degree of leeway in which winning a single seat in a multi-tier PR or mixed system is sufficient to secure representation without meeting the percentage-based threshold, or do not apply thresholds to independent candidates. Some two-tier systems have no threshold for the lower tier but include a threshold for the allocation of compensatory seats from the national list.

<sup>78</sup> Wall, A. 2021. Open List Proportional Representation: The Good, the Bad and the Ugly. International IDEA, <https://www.idea.int/sites/default/files/publications/open-list-proportional-representation.pdf>

The question of a legal threshold has become relevant for South Africa in the context of the recently prepared Municipal Structures Amendment Bill, 2024. The bill includes a provision proposing to introduce a legal threshold for local government elections. Such thresholds are relatively common, with 52% of PR systems and 53% of mixed systems applying them. While proportionality is generally regarded as good, most electoral systems have some way of limiting it, with electoral thresholds being the most explicit barrier to entry. This is usually justified in terms of preventing excessive fragmentation of party systems, which can undermine the formation and stability of coalitions as well as the development of institutionalised political parties.

Another manifestation of the threshold concept is to use the seat quota as a legal threshold such as used in the Netherlands. In this form, the quota becomes the threshold where only parties that achieved the quota in the first instance are considered for further allocations, meaning that parties cannot win seats only based on remainders. This concept is loosely referred to as a quota-threshold.<sup>79</sup> It promotes electoral merit in that contestants need to meet the quota of votes per seats for any consideration of seat allocation.

Countries without a legally imposed threshold instead have *effective thresholds* based on how easy/hard it is to win a single seat. This effective threshold is determined by the size of elected bodies (more seats that can be won) and the permissiveness of electoral rules that make it easier to win seats. This is generally a by-product of electoral system designs with very high proportionality. South Africa's electoral system for the National Assembly is highly permissive and has previously had an effective threshold as low as 0.17% – among the lowest in the world.<sup>80</sup> This should not be confused with *quotas*, such as Droop or Hare, which are used in calculating the number of votes needed for a whole seat and formulas for allocating remainders.

## CONSIDERATIONS FOR SOUTH AFRICA

These various design choices have implications for the degree of proportionality in electoral systems, the linkage between voters and their representatives, the ease with which small parties can be elected and the precision with which voters are able to choose their representatives. In some cases, this may require trade-offs between priorities. However, the relationship between principles is often non-linear, and the effects of a design choice in one area can be counter-balanced with choices in another area of electoral system design to find an appropriate balance between priorities for the South African context.

## PRINCIPLES AND EVIDENCE FOR ASSESSING OPTIONS

When considering electoral system options for South Africa it is important that local circumstances be considered as electoral systems that work in other countries may not be appropriate for the South African context. To navigate the myriad of electoral systems available, the ERCP adopted seven guiding principles for evaluating proposed electoral systems for South Africa. These principles draw on the country's founding values set out in section 1 of the Constitution to establish a multi-party system of democratic government based on accountability, responsiveness, and openness to uphold values of human dignity, non-racialism, non-sexism and the achievement of equality. The seven guiding principles are: inclusivity, fairness, accountability, simplicity, electoral manageability, transparency,

79 In the South African context, the quota is determined by the formula:  $\text{Quota} = \frac{\text{All valid votes}}{(\text{Number of seats} + 1)} + 1$ . Consequently, a quota threshold would be equivalent to 0.249% of the overall valid votes.

80 Gallagher, M. & Mitchell, P. 2005. *The Politics of Electoral Systems*. Oxford: Oxford University Press.

and stable and efficient government. These principles are not exclusionary and instead serve as a starting point for assessing electoral systems and other principles that may also prove applicable to the South African context.

## INCLUSIVITY

*Given South Africa's diversity and history, inclusivity is indispensable. The electoral system choice should encourage participation across the broad political and socio-economic tapestry of South Africa to foster diversity of opinion and encourage representation of all South Africans across demographic and geographic boundaries. This includes gender representation in line with values of non-sexism and equality.*

Majoritarian/plurality systems more often tend to result in competition between two main parties, while systems with an element of proportional representation tend to lead to a greater range of parties winning seats and usually result in the formation of coalition governments.<sup>81</sup> In this way, electoral systems with an element of proportional representation, including PR and mixed systems, are more likely to promote political diversity and representation of minority views, while more closely reflecting the public at large.<sup>82</sup>

Diversity, representation and inclusion can take several different forms:<sup>83</sup>

- Geographical representation implies that each region, be it a town or city, province or electoral district, has members of the legislature representing their area who are ultimately accountable to their community.
- Ideological representation includes the diversity of political perspectives held in society, which contributes to policy deliberations.
- Representation of the political situation that exists in the country in the sense that the legislature should be representative of the relative levels of support for different political views – i.e. outcomes should be broadly reflective of the will of voters to represent views held in society as a whole.
- Descriptive representation whereby the legislature should to some degree “mirror the nation,” including men and women, the young and the old, the wealthy and the poor and reflect the different religious affiliations, linguistic communities, and ethnic groups within a society.

The representation of different communities is a key concern in diverse societies. Systems with high levels of proportionality, allowing for the participation and representation of small parties representing particular communities. South Africa's use of compensatory seats is a powerful tool for ensuring the overall proportionality of electoral results, allowing for the inclusion of small parties. In the current system, most small parties representing minority groups primarily receive seats from the compensatory tier, which considers votes received on both the regional and national ballot to determine a party's seat entitlement across the country as a whole. This means that demographic groups that are not geographically concentrated can still gain the same level of representation despite being dispersed across multiple constituencies. In terms of electoral system design, South Africa's use of compensatory seats is the main design element that allows for the political representation of diverse communities in the legislature.

81 There are exceptions to this tendency. For example, in India where the First-Past-The-Post electoral system has resulted in a multiparty system with successive and large coalition governments over several decades. In turn, some proportional representation systems have resulted in dominant party systems such as in Namibia and South Africa until the 2024 election.

82 Pildes, Richard H. “Ethnic Identity and Democratic Institutions: A Dynamic Perspective.” Chapter 6 In *Constitutional Design for Divided Societies: Integration or Accommodation?*, edited by Sujit Choudhry. New York: Oxford University Press, 2008, 173–203.

83 Administration and Cost of Elections Project. Criteria for Design: Providing Representation. <https://aceproject.org/ace-en/topics/es/esa/esa10>

Gender parity forms another important dimension of representation and inclusion. South Africa currently does well on gender representation based on international comparisons. There is 43% female representation in the National Assembly, 38% across provincial legislatures (ranging from 30-47%), and 37% female representation at the local government level (with similarly wide variations across regions). Fewer women are, however, elected in ward seats (27%) than on party lists (46%) at the local government level.<sup>84</sup> Many factors influence gender representation in legislative assemblies, including societal norms and values, candidate selection processes and the rules surrounding electoral system design.

Both political parties' candidate selection choices and voters' own biases/preferences in casting their ballot affect gender representation. International experience generally regards elite bias, rather than voter bias, as the main factor responsible for women's underrepresentation, with candidate selection processes being a key driver of underrepresentation.<sup>85</sup> Most studies suggest that voters are as willing to vote for women as for men, and in the South African context, voters are positive to female leaders, with the latest Afrobarometer results showing that 56% of respondents strongly agree and 25% agree that women should have the same chances as men to be political leaders.<sup>86</sup> Only 15% thought that men make better leaders than women.

Electoral systems with a party list component outperform plurality/majoritarian systems in terms of gender representation. PR (32%) and mixed-member proportional (36%) systems have the highest female representation (in part because these systems are more likely to have gender quotas, either voluntary or formal, in place)<sup>87</sup> – compared to 22% among plurality/majoritarian systems. Parties' candidate selection processes and the incentives created by electoral rules affect rates of gender representation, with evidence showing that single-member districts disadvantage women relative to multi-member districts.<sup>88</sup>

Single-member districts present a zero-sum game where parties are often more likely to put forward male candidates with the assumption that they have a better chance of winning (despite evidence showing that this is a poor electoral strategy). In turn, parties are more likely to put forward a diverse candidate list in multi-member districts. The second reason why single-member districts can favour male candidates is related to incumbent advantage and in countries with a low turnover in their legislative assemblies, fewer opportunities are presented for women to enter the legislature. However, in the case of electoral reform where single-member constituencies are introduced for the first time, there would be no incumbency advantage in specific constituencies and this effect would not be seen.

The effects of other aspects of electoral system design are nuanced. While single- versus multi-member districts are seen to have a gendered effect, the size of multi-member districts (district magnitude)<sup>89</sup> does not appear to affect gender representation. Statistical tests show no correlation between district size and rates of gender representation.<sup>90</sup> In the South African context, there is little difference between rates of female representation in the regional constituencies (45%) and the national compensatory list (43%). Similarly, differences in the size

84 The Municipal Structures Act (1998 as amended) includes a provision in section 11 (3) that "Every party must seek to ensure that fifty per cent of the candidates on the party list are women and that women and men candidates are evenly distributed through the list."

85 Mona Lena Krook. 2018. Electoral Systems and Women's Representation. In Oxford Handbook of Electoral Systems. Edited by Erik S. Herron, Robert J. Pekkanen, & Matthew S. Shugart. Oxford: Oxford University Press.

86 Afrobarometer. South Africa. Round 9 2021/2023. <http://www.afrobarometer.org>

87 Inter-Parliamentary Union. 2025. Parline data: percentage of women in lower or single house. [https://data.ipu.org/women-ranking/?date\\_year=2025&date\\_month=04](https://data.ipu.org/women-ranking/?date_year=2025&date_month=04)

88 Susan Welch and Donley T. Studlar. 1990. Multi-Member Districts and the Representation of Women: Evidence from Britain and the United States, *The Journal of Politics*, 52(2), 391-412.

89 Adrián Lucardi, Juan Pablo Micozzi. 2022. District Magnitude and Female Representation: Evidence from Argentina and Latin America, *American Journal of Political Science*, 66(2), 318-336.

90 Statistical analysis conducted by ERCP across all PR systems confirms findings showing that there is a weak and non-significant correlation between district magnitude and female representation.



of regional constituencies show no clear pattern, with the Northern Cape as the smallest constituency showing the highest rate of female representation (80%), while KwaZulu Natal as the second largest constituency, has the lowest rate of representation (37%). These provincial patterns are similarly reflected in provincial and local government results, suggesting that candidate nomination procedures account for the differences in the levels of representation rather than electoral rules. Appendix 3 elaborates on rates of gender representation in South Africa.

Scholars find that “party magnitude” (the number of seats won by a party) is a better concept for understanding rates of gender representation as parties make calculations about whether to include women and where to put them on the ballot based on the number of seats they expect to win.<sup>91</sup> Parties that expect to win more seats put forward more female candidates while the party lists of small parties tend to be headed by male candidates.

In terms of open or closed party lists, evidence shows that closed list electoral systems would be better suited for female candidates, but only where voters show a bias against female candidates.<sup>92</sup> In the South African context this bias is limited and it should be recognised that 55% of voters in the 2024 election were women.<sup>93</sup> In countries where voter attitudes are favourable to female candidates, more candidate-centred systems (including open list systems) can facilitate the election of women without the need for quotas.<sup>94</sup>

Equitable opportunities for independent candidates to compete present another dimension of inclusivity. This aspect was raised by various submissions to the ERCP. This is in line with the Constitutional Court’s New Nation Movement judgement, which determined that individuals should be allowed to contest elections as independent candidates. Consequently, the choice of electoral system should enable independent candidates to compete on equitable terms to allow for the exercise of their political rights.

Finally, we can also consider inclusivity from the perspective of voters’ ability to participate in elections. The simplicity guiding principle aims to ensure that the choice of system is accessible to voters. Another dimension frequently raised is that of voter turnout in terms of promoting participation in the democratic process, particularly in the context of rising voter apathy and declining turnout in South Africa. A common impulse is that electoral reform can address challenges with voter turnout. However, international experience with electoral reform shows that in cases where turnout improved after reforms, this tended to be short-lived. Voter turnout rates are instead context-specific and driven by a range of factors beyond the electoral system choices. These include demographic factors, voter identification with political parties and parties’ ability to mobilise voters, the state of the economy and the ease of voting. In the 1990s there was a view that PR performed better in terms of turnout, but further experience with the introduction of democracy in new regions has revised earlier conclusions, and the evidence remains inconclusive. Both PR and majoritarian/plurality systems provide distinct incentives for promoting voter turnout.<sup>95</sup>

91 Mona Lena Krook. 2018. Electoral Systems and Women’s Representation. In *Oxford Handbook of Electoral Systems*. Edited by Erik S. Herron, Robert J. Pekkanen, & Matthew S. Shugart. Oxford: Oxford University Press

92 Golder SN, Stephenson LB, Van der Straeten K, et al. 2017. Votes for Women: Electoral Systems and Support for Female Candidates, *Politics & Gender*, 13(1), 107-131.

93 SABC News. 2024. SA women participation in the 2024 election. <https://www.sabcnews.com/sabcnews/sa-women-participation-in-the-2024-election/>

94 Stina Larserud and Rita Taphorn. 2007. Designing for Equality: Best-fit, medium-fit and non-favourable combinations of electoral systems and gender quotas. <https://www.idea.int/sites/default/files/publications/designing-for-equality.pdf>

95 Daniel M. Smith. 2018. Electoral Systems and Voter Turnout. In *Oxford Handbook of Electoral Systems*. Edited by Erik S. Herron, Robert J. Pekkanen, & Matthew S. Shugart. Oxford: Oxford University Press.



## FAIRNESS

*The principle of fairness gives effect to universal suffrage and values of equality and human dignity. Every eligible voter should have the reasonable opportunity to participate in elections and as much as possible, votes should be of equal value. Election results should closely represent the will of the people and be fair in the allocation of national and provincial seats without undue bias or discrimination against candidates or parties.*

To apply the words of Judge Albie Sachs in *August v Electoral Commission*:

The universality of the franchise is important not only for nationhood and democracy. The vote of each and every citizen is a badge of dignity and of personhood. Quite literally, it says that everybody counts. In a country of great disparities of wealth and power it declares that whoever we are, whether rich or poor, exalted or disgraced, we all belong to the same democratic South African nation; that our destinies are intertwined in a single interactive polity.<sup>96</sup>

The question of fairness is closely associated with the proportionality of an electoral system, which in practice means limited deviation between the votes cast for a party or candidate and the final allocation of seats. Proportionality may also have the benefit of voters being more likely to participate in the electoral system that leads to proportional outcomes, thus limiting the feeling of their votes being inconsequential in not having impact on the winning of a seat. Key variables affecting the proportionality of an electoral system include:

- the number of seats in a legislative assembly (more seats increase proportionality),
- the average district magnitude (higher district magnitude increases proportionality),
- the allocation formula (Hare and Droop formulae are regarded as more proportional than D-Hondt), and
- the use of a second compensatory tier, including the size of the second tier.

One of the key trade-offs in electoral system design is the closeness of the relationship between voters and their representatives, and the overall proportionality of an electoral system. Increasing the size of electoral districts (both in terms of the number of seats and geographic size) increases the distance between voters and their representatives, weakening the linkages between them. But this also increases the overall proportionality of an electoral system. The addition of compensatory seats, however, removes the trade-off between these two principles and is commonly used to address disproportionality caused by small districts at the lower level.

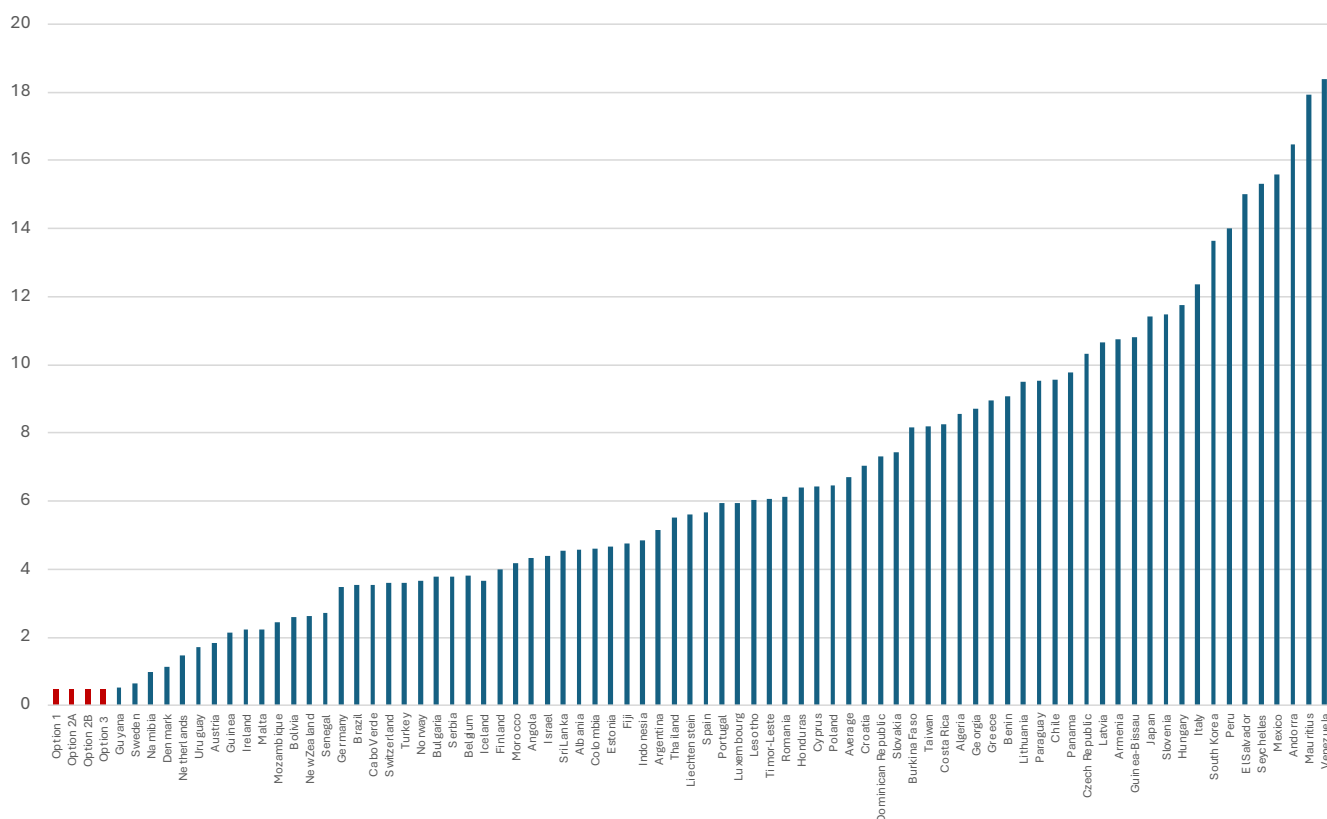
In cases where a compensatory tier is included, the lower tier of seats loses importance in determining overall proportionality, as the compensatory tier is decisive in determining the final allocation of seats. Taagepera and Shugart find that “the magnitude of the basic district becomes irrelevant to the final votes-to-seats conversion, if sufficient numbers of remainder seats or compensatory seats are allocated at a second stage, so that they compensate for district-level deviation.”<sup>97</sup> In such cases, any disproportionality caused by small or single-member districts can be effectively removed through the use of compensatory seats. If sufficient seats are allocated at the compensatory level, the system effectively functions as a nationwide allocation, leading to a high degree of proportionality reflective of the overall support for each party.

<sup>96</sup> Sachs, A. *August and Another v Electoral Commission and Others* (CCT8/99) [1999] ZACC 3.

<sup>97</sup> Taagepera, R. & Shugart, M. 1989. *Seats and Votes: The Effects and Determinants of Electoral Systems*. New Haven: Yale University Press.

The proportionality of electoral systems is commonly measured using the Gallagher Index of Disproportionality to measure the difference between the percentage of votes and seats each party gets following an election.<sup>98</sup> By modelling the effects of different electoral rules using the 2024 election results, it is possible to determine how proportional the electoral system options identified by the ERCP would be. This modelling shows that all options put forward would be equally proportional and would result in the same political outcomes with the same parties represented to the same degree due to the nature of compensatory seat allocations (Figure 2). As mentioned, the compensatory nature of these electoral system options means that they effectively function as a straight nationwide allocation of seats.

**Figure 2: Gallagher Index of Disproportionality and ERCP Electoral System Options**



## ACCOUNTABILITY

*Accountability is a key democratic value based on the principle that elected representatives are appointed to govern on behalf of voters. This relationship places an obligation on elected representatives to enact the will of the people and accountability is the idea that representatives are answerable in some form to citizens to explain their performance and justify their decisions as part of the social contract. Accountability can take both individual and collective forms and is closely linked to the question of responsiveness. While the choice of electoral systems can shape relationships of accountability, it is recognised that electoral systems cannot guarantee that elected representatives will act with accountability. A closer association between voters and representatives may be desirable.*

Accountability is a fundamental democratic principle that ensures government officials and institutions are held responsible for their actions and decisions. It is crucial for maintaining trust and legitimacy in democratic

<sup>98</sup> Gallagher, M. 1991. Proportionality, Disproportionality and Electoral Systems, *Electoral Studies*, 10(1), 33–51.

systems. Parliament's *Oversight and Accountability Model*<sup>99</sup> understands accountability as a social relationship where an actor has an obligation to explain and justify their conduct to another – whether a person, persons or institution – and ideally, the second actor should have the ability to hold the first accountable in some way for their performance. This relationship includes both *giving account* of one's performance/actions and *being held accountable* in terms of punishment or rewards for performance. Accountability in democracy includes both vertical and horizontal dimensions. Horizontal accountability involves the checks and balances between state institutions, including the legislature's oversight of the executive and organs of state. Vertical accountability refers to the mechanisms through which citizens hold their government accountable, with electoral processes forming a key aspect of the vertical accountability relationship.<sup>100</sup>

Both dimensions of accountability are critical and complement each other. Horizontal accountability includes the use of parliamentary instruments to ensure that all organs of state are accountable to the National Assembly in terms of Section 55 of the Constitution. This requires the National Assembly to maintain oversight of the exercise of national executive authority, and any organ of state – including provincial and local government entities. This further includes the possibility of criticising the performance of the incumbents by opposition parties and voting against the policies and bills within the parliamentary processes.

Vertical accountability is best understood within a context of the relationship between voters and representatives. Voters delegate responsibility to elected representatives to govern on their behalf, while representatives remain accountable (answerable) to voters. A common way of understanding accountability relationships is through the principal-agent model, where one actor (the principal) delegates responsibility to another (the agent) who acts on the principal's behalf.<sup>101</sup> The act of delegation creates a risk that agents (elected representatives) may not act in the best interest of their principals (voters) who appointed them. Efforts to strengthen accountability are ultimately about adopting appropriate institutional mechanisms and incentives to reduce the gap between the actions of agents (elected representatives) and the interests of their principals (voters).

In terms of electoral system design, key design questions that will affect the accountability relationship include:

- The process for selecting individual representatives (the initial act of delegation).
- The effects of electoral system design on incentives for representatives to respond to voters (their responsiveness to voters' interests).
- The institutional incentives for representatives to account to voters and for voters to monitor and assess the performance of representatives to determine whether representatives have acted in the best interest of voters.
- Voters' ability to sanction or reward representatives based on their performance.

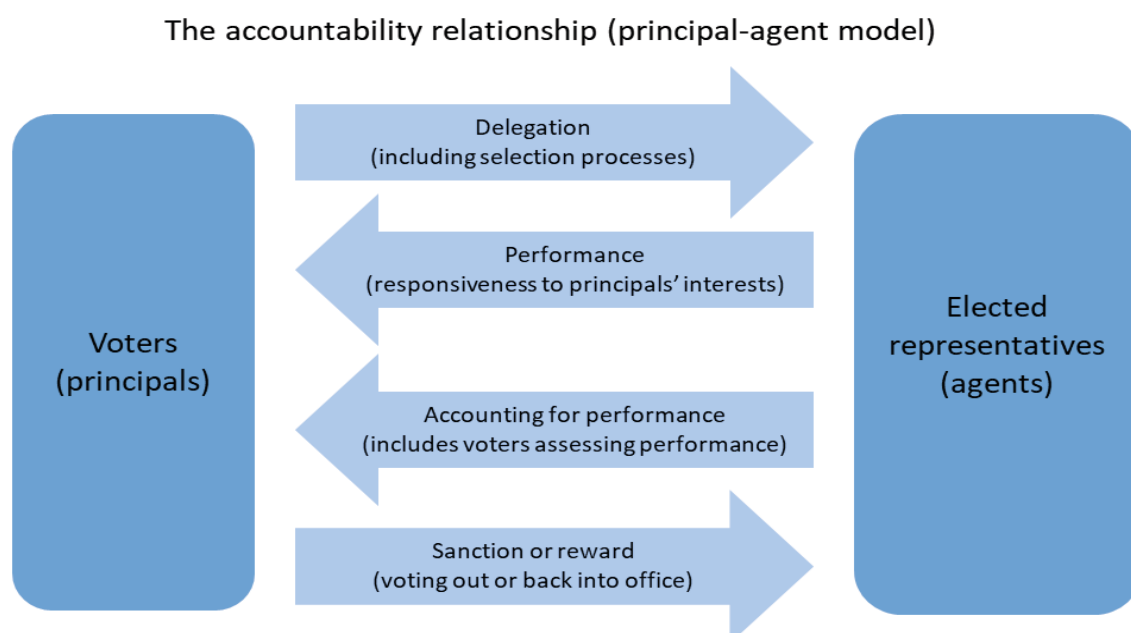
This relationship and its dimensions are illustrated in Figure 3, including the selection/delegation process, the incentives for representatives to respond to their principals, the act of accounting and assessing performance and finally, rewarding or sanctioning representatives based on assessments of their performance.

99 Parliament of South Africa. 2009. *Oversight and Accountability Model*. <https://www.parliament.gov.za/storage/app/media/oversight-reports/ovac-model.pdf>

100 Lührmann, A., Marquardt, K.L. & Mechkova, V. 2020. 'Constraining Governments: New Indices of Vertical, Horizontal, and Diagonal Accountability', *American Political Science Review*, 114(3).

101 Warren, M. 2014. *Accountability and Democracy*. In *The Oxford Handbook of Public Accountability*. Edited Mark Bovens, Robert Goodin and Thomas Schillemans. Oxford: Oxford University Press.

**Figure 3: The Accountability Relationship between Voters and Elected Representatives**



Starting with the act of delegating responsibility, an important consideration is the specificity with which voters can choose individual representatives that they believe would be best able to represent their interests. This is to ensure that the gap between voters' interests and the actions of elected officials is minimised in the first instance. Factors such as the use of preferential voting (open lists) and the ease with which voters can pick or reject individual candidates will affect the specificity with which voters can choose representatives that best represent their interests. The size of electoral districts is a key consideration here. In the case of single- or small multi-member constituencies, voters are better able to distinguish between candidates and have greater influence in choosing the candidates they regard as best qualified to represent their interests.<sup>102</sup> Greater emphasis on individual candidates likewise increases incentives for political parties to put forward the best candidates.

South Africa's own experience at local government, however, warns against the assumption that smaller constituencies guarantee good governance and accountable government. There are too many factors that mitigate against this being the norm, irrespective of the electoral system and the factors leading to weak governance at the local government extend beyond the electoral system.<sup>103</sup> Despite apparent governance challenges at the local government level, members of the public often cited the local government system in public consultations with some indicating support for such a system despite these challenges. It is clear from the public consultation processes that what voters seek is not only broader accountability that is exercised at the end of the five-year term, but also responsiveness.

Responsiveness entails voters' ability to assess the performance of individual representatives, which shapes incentives for representatives to be sensitive to the interests of their constituents. Electoral system rules that incentivise representatives to cultivate a personal reputation (open lists and smaller constituencies) promote greater responsiveness by representatives to the concerns of voters.<sup>104</sup> As the size of constituencies increases, the importance of individual candidates diminishes as longer party lists and the use of closed lists inhibit voters

<sup>102</sup> Mitchell, P. 2000. Voters and their representatives: Electoral institutions and delegation in parliamentary democracies. *European Journal of Political Research*, 37,335-351.

<sup>103</sup> Friedman, S. The System is not to blame. Report commissioned by the Council for the Advancement of the South African Constitution April 2015.

<sup>104</sup> Carey, John M., and Matthew Soberg Shugart. 1995. Incentives to Cultivate a Personal Vote: A Rank Ordering of Electoral Formulas, *Electoral Studies* 14(4), 417-439.

from distinguishing between candidates within parties. This disincentivises representatives' responsiveness to voters. Evidence shows that representatives spend less time attending to requests from constituents in such these cases.<sup>105</sup>

Where electoral rules make it more difficult for voters to identify individual representatives and assess their performance, voters have less information to determine whether representatives have acted according to their interests and appropriately reward or sanction them (i.e. hold them accountable). Candidate recognition is lower in closed list PR systems compared to other systems, particularly in cases where large constituencies are used.<sup>106</sup> Afrobarometer data among 20 African countries shows 58% of respondents were correctly able to identify their legislative representative among majoritarian systems, compared to 40% in mixed systems and only 21% in PR systems.<sup>107</sup> In South Africa, only 3% could identify their legislative representative, the lowest rate among the 20 countries.

Where representatives have a weak link with their constituents, there are limited incentives for representatives to respond to the interests of voters. The extent to which voters can monitor the performance of their representatives and ultimately reward or sanction them for their actions is key in shaping incentives for the behaviour of individual representatives.<sup>108</sup> Representatives have stronger incentives to act in the interests of voters where they are more reliant on their constituents for re-election, such as in open list systems or where smaller constituencies are used. Accordingly, such representatives spend more time serving their constituents.<sup>109</sup>

In closed list PR systems, by comparison, representatives are more reliant on party leadership for re-election and can be protected from electoral punishment by voters. The use of large, closed lists reduces the electoral vulnerability of individuals. Placement in top positions in party lists mitigates against electoral punishment by voters so that poorly performing representatives close to party leaders can still be elected even if the party as a whole loses electoral ground.<sup>110</sup>

It is worth stressing that voters also want representatives to be responsive throughout the term. That voters hold parties accountable on election days has been evident in South Africa's electoral outcomes, especially in the recent 2024 national election. However, as evident in the views expressed throughout public consultations, voters seek ways of ensuring that accountability is enforced on an on-going basis. To a large extent, participants in public hearings seemed to associate accountability with the proximity of the elected representative to the voting public. There appears to be two aspects to this concept of accountability. Firstly, closer proximity to the elected representative is likely to result in the voting public knowing who their representative is. Secondly, the representative is likely to work harder to serve the citizens if they are known to the voting public. Both factors are likely to improve the quality of representation.

This is where electoral rules can encourage, or discourage, individual accountability by shaping the range of principals to whom elected representatives respond. This will change based on the extent to which candidates

105 Brian F. Crisp and William M. Simoneau. 2018. Electoral Systems and Constituency Service. In *Oxford Handbook of Electoral Systems*. Edited by Erik S. Herron, Robert J. Pekkanen, & Matthew S. Shugart. Oxford: Oxford University Press.

106 Holmberg, S. 2009. Candidate Recognition in Different Electoral Systems. *The Comparative Study of Electoral Systems*.

107 Sarah J. Lockwood & Matthias Krönke. 2021. Do electoral systems affect how citizens hold their government accountable? Evidence from Africa, *Democratization*, 28(3), 583-603

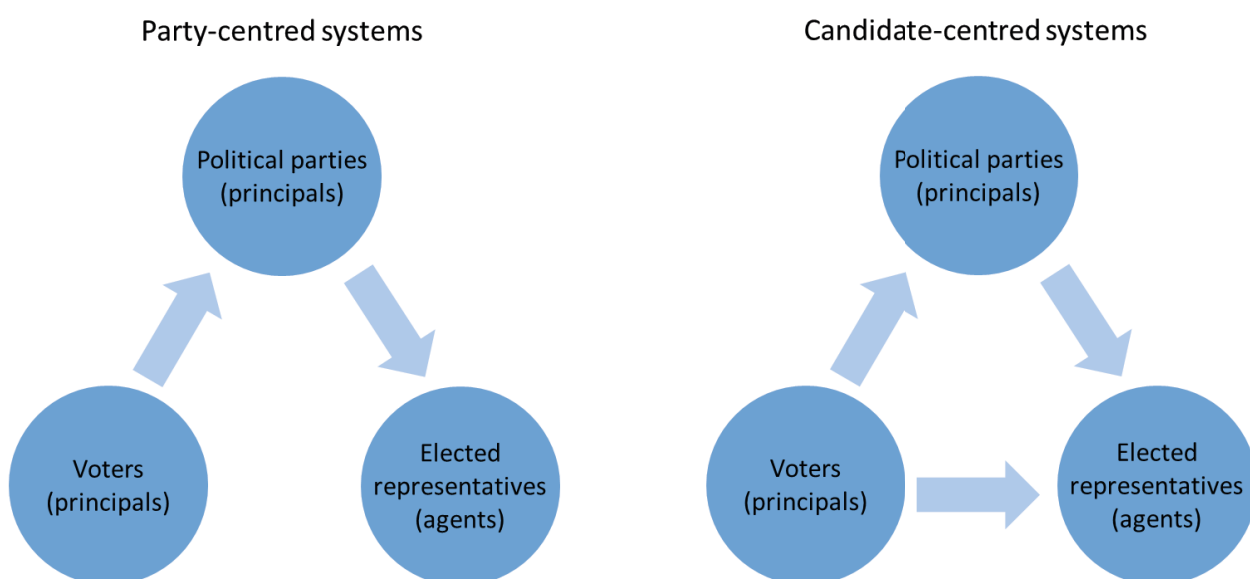
108 Mitchell, P. 2000. Voters and their representatives: Electoral institutions and delegation in parliamentary democracies. *European Journal of Political Research*, 37, 335-351.

109 Bowler, Shaun, and David M. Farrell. "Legislator Shirking and Voter Monitoring: Impacts of European Parliament Electoral Systems upon Legislator-Voter Relationships." *Journal of Common Market Studies* 31, no. 1 (1993), 45-70.

110 Carey, J. & Reynolds, A. 2007. Parties and Accountable Government in New Democracies. *Party Politics*, 13(2), 255-274.

are exposed to direct electoral pressures from voters.<sup>111</sup> Political parties play an important role in candidate selection and holding representatives accountable in any electoral system. But electoral rules that give voters greater leverage over the re-election of individual representatives will strengthen the linkage and accountability relationship between representatives and voters. This is referred to as shortening the route to accountability,<sup>112</sup> as illustrated in Figure 4. In more party-centred systems (closed lists and larger constituencies), the accountability relationship is mediated through political parties and voters have limited mechanisms for holding individual representatives accountable. By comparison, systems which expose candidates to direct electoral pressures from voters (open lists and/or smaller constituencies) expand the range of principals to which representatives respond. This provides stronger mechanisms for voters to hold individual representatives accountable.

**Figure 4: Accountability Relationships in Different Electoral Systems**



## SIMPLICITY

*A degree of simplicity is necessary to ensure that the electoral system is accessible to citizens to enable the exercise of their democratic rights. This requires adopting voting procedures that practically every voter can reasonably understand in order to make their choice(s) reduce spoilt ballots and allow for their effective participation in the democratic system. It should, however, be acknowledged that South African voters should not be underestimated and that voters are familiar with multi-ballot systems and distinguishing between individual candidates and political parties such as that used in the local government context and in the 2024 elections. Similarly, the number of spoilt ballots has been low over the last thirty years with only 1.3% of ballots spoilt in the 2024 general election – despite the introduction of a third ballot.*

Electoral systems with more complex rules, such as the use of preferential voting, can be more challenging for voters. It is crucial to consider the accessibility of the system in voting and understanding how seats are allocated. While more complicated electoral rules may offer certain advantages, they must be balanced against the potential difficulty they may pose to voters. Overall, the goal should not be to maximise simplicity but rather to ensure that the rules are sufficiently accessible to allow voters to effectively exercise their democratic rights.

<sup>111</sup> Carey, J. 2008. *Legislative Voting and Accountability*. Cambridge: Cambridge University Press

<sup>112</sup> Ahmad, J. K., Commins, S., Devarajan, S., Filmer, D. P., Hammer, J., Pritchett, L. H., Reinikka, R. S., Shah S., & Soucat, A. 2004. *World Development Report 2004: making services work for poor*. Washington, DC: World Bank Group. <http://documents.worldbank.org/curated/en/832891468338681960>



South African voters have, however, demonstrated their ability to engage effectively with both proportional representation and the mixed system used at local government level. Similarly, the changes introduced in the 2024 election did not pose significant challenges to voters. The 2024 Election Satisfaction Survey showed high levels of satisfaction and trust in the conduct of the election.<sup>113</sup> The number of spoilt ballots in South African elections remains low by international standards. Based on the latest data, the international average for invalid votes is around 3.6%<sup>114</sup> and South Africa performs much better in both general- and local government elections. Literacy rates in South Africa have also improved significantly over the last three decades with a national literacy rate of 95%, well above the global average of 87%.<sup>115</sup> With this in mind, South African voters should not be underestimated when choosing an electoral system appropriate for the country context.

While South Africans have engaged effectively with different types of electoral systems and multiple ballots, the possible introduction of preferential or open list voting should be carefully considered. The feasibility of introducing open list voting and the ease with which voters will be able to engage with the system will be influenced by the number of seats contested in a constituency and the number of political parties and independent candidates contesting it. Choices around the size of constituencies and the possible introduction of a threshold or changes to election participation requirements to discourage frivolous contestations, would affect the practicality of introducing open list voting.

## **ELECTION MANAGEABILITY**

*While the principle of simplicity supports voters in the exercise of their democratic rights, electoral manageability is aimed at ensuring the effective and efficient conduct of the electoral process. The choice of electoral system should enable effective election management to ensure the credibility of the electoral process and limit frivolous contestations. This principle should be carefully balanced against the achievement of other principles and should not be equated with administrative convenience. Its aim to ensure the integrity of the election process to foster trust in electoral outcomes.*

Much like simplicity, the objective of election manageability is not to choose the simplest system. Instead, the intention is to consider what the implications would be for effective election administration and whether the choice of system would be practically implementable based on the financial and technical capabilities of the Electoral Commission. The adoption of an open list system or two-round electoral systems, for example, would have practical implications for election administration that would need to be considered. The participation of a very large number of parties and candidates in an open list system would have practical implications regarding the complexity of ballot papers and the counting of votes, particularly in large constituencies. For this reason, open list voting is more commonly used in countries with smaller constituencies and in most cases, where an electoral threshold is in place.<sup>116</sup>

The Administration and Cost of Elections Project offers nuanced guidance on evaluating electoral manageability in selecting electoral systems, emphasising that simplicity in the short term does not necessarily equate to long-term cost-effectiveness. A cheap and easy to administer electoral system may not meet the needs of a country

<sup>113</sup> The 2024 Election Satisfaction Survey likewise indicated that 93% of respondents were satisfied with the ballot papers used in the general election, <https://hsrc.ac.za/news/latest-news/30-years-of-electoral-democracy-in-sa-hsrc-survey-captures-voter-experiences-and-informs-electoral-processes/>

<sup>114</sup> International Institute for Democracy and Electoral Assistance. 2025. Voter Turnout Database. <https://www.idea.int/data-tools/data/voter-turnout-database>

<sup>115</sup> Mssiteng, L. 2025. South Africa ranks second in literacy in Africa, <https://insideeducation.co.za/south-africa-ranks-second-in-literacy-in-africa/>

<sup>116</sup> Wall, A. 2021. Open List Proportional Representation: The Good, the Bad and the Ugly. International IDEA, <https://www.idea.int/sites/default/files/publications/open-list-proportional-representation.pdf>



and could lead to disastrous outcomes if it failed to address the country's needs. Conversely, a system that may be more costly and complex to administer may ultimately contribute to the country's stability and support democratic consolidation over time.<sup>117</sup> In this way, questions of cost and ease of administration need to be carefully balanced against what would be most appropriate and responsive to the South African context.

## TRANSPARENCY

*Transparency is critical for the credibility of the electoral process and voters' trust in the system. Processes for determining the allocation of seats for political parties and candidates based on election results should be clear to voters. In cases where voting boundaries are delimited, the process and rules must be transparent, easily understandable and ideally consistent with existing governance boundaries, to foster trust in the system and ensure that citizens regard the electoral system as fair and legitimate.*

Transparency is particularly important for the delimitation of electoral boundaries to ensure that both voters and candidates perceive the system to be legitimate. The use of compensatory seats and the overall proportionality achieved by the ERCP's electoral system options will eliminate the prospect of gerrymandering boundaries to distort electoral results in favour of individual parties or candidates.

Delimitation also has implications for ensuring that electoral boundaries are drawn in such a way that they form cohesive communities and are readily accepted by voters and candidates. To achieve this, it is crucial that the processes and rules surrounding the delimitation of electoral boundaries are transparent and easily understood by communities. Schedule 1 of the Municipal Structures Act, which establishes the criteria for municipal ward delimitation, provides guidance that could be considered in determining processes for the delimitation of electoral boundaries for national and provincial elections. In consultation with the Electoral Commission, the Demarcation Board is tasked with delimiting municipalities into wards, ensuring each ward has approximately the same number of voters while avoiding the fragmentation of communities. This process is based on community consultations to secure buy-in from communities in determining electoral boundaries. Similar processes and criteria could be considered in cases where electoral boundaries for national and provincial elections need to be drawn.

Beyond transparency in the delimitation processes, it is important that the processes for the allocation of seats are transparent. This issue is closely related to the principles of simplicity and electoral manageability. It is based on the idea that processes for determining the allocation of seats for political parties and candidates should be clear to voters. In terms of different electoral systems rules, there is little evidence that some electoral system designs are more transparent than others. Instead, the focus should be on how to incorporate transparency in associated processes, including the delimitation of electoral boundaries and transparency in results reporting.

## STABLE AND EFFICIENT GOVERNMENT

*An electoral system on its own will not determine the emergence of a stable and efficient government, but appropriate institutional design can facilitate stability. The avoidance of political instability is a common concern in electoral system design and includes issues such as the ease of government formation, whether government can efficiently enact legislation and govern, and the overall legitimacy of the political system based on the perceived fairness of political outcomes.*

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<sup>117</sup> Administration and Cost of Elections Project. Making the Election Process Workable and Sustainable, <https://aceproject.org/ace-en/topics/es/esa/esa09>

Systems based on proportionality (including mixed-member systems) tend towards a larger number of parties gaining representation in the legislature, often requiring the formation of coalition governments in cases where no party wins a majority. The process of coalition formation relies on parties finding common ground on policy issues and agreeing on the allocation of portfolios across the coalition partners. Where legislatures are more fragmented, with seats distributed among many different parties, the process of coalition formation can become more difficult in finding common ground among parties. The extent of fragmentation will inform how many coalition partners are needed to form a majority, increasing the complexity of coalition formation in finding common ground and agreeing on policy issues across multiple actors with distinct interests.

The benefits of coalition government include broader representation in governance, checks and balances within government and more inclusive policymaking. On the other hand, coalition governments tend to be more unstable, particularly where coalitions struggle to balance multiple competing interests. This can undermine effective governance and, in cases of prolonged political instability, undermine democratic legitimacy. A key issue affecting the stability of coalition governments is the number of parties needed to form a government, and the inclusion of more parties means more potential conflict channels that can undo a cabinet. Numerous studies have found a strong relationship between the number of parties in a coalition<sup>118</sup> and how long the government lasts.<sup>119</sup>

The question of how many parties are needed to form a working majority in the legislature is strongly linked to the nature of the electoral system which has a large influence in determining the extent of party system fragmentation. This creates a direct link between electoral system rules and government stability.<sup>120</sup> The degree of fragmentation in a party system will also depend on the structure of interparty competition and the nature of society itself, which may encourage the formation of many parties, but electoral rules act as a brake or accelerator for fragmentation, depending on how permissive or restrictive electoral rules are.<sup>121</sup>

The Seat Product Model presents a methodology for measuring the permissiveness of electoral rules and the extent to which the electoral system will allow for the fragmentation of the party system.<sup>122</sup> This will be affected by the size of electoral districts, the total number of seats in the legislature and whether the system uses compensatory seats. Figure 5 shows the Seat Product Model for PR and mixed-member proportional systems as a measure of the permissiveness of electoral system rules, with a higher score indicating that the structure of the electoral rules is more permissive to fragmentation.

118 Taylor, M. & Herman, V. M. 1971. Party Systems and Government Stability, *The American Political Science Review*, 65(1), 28-37.

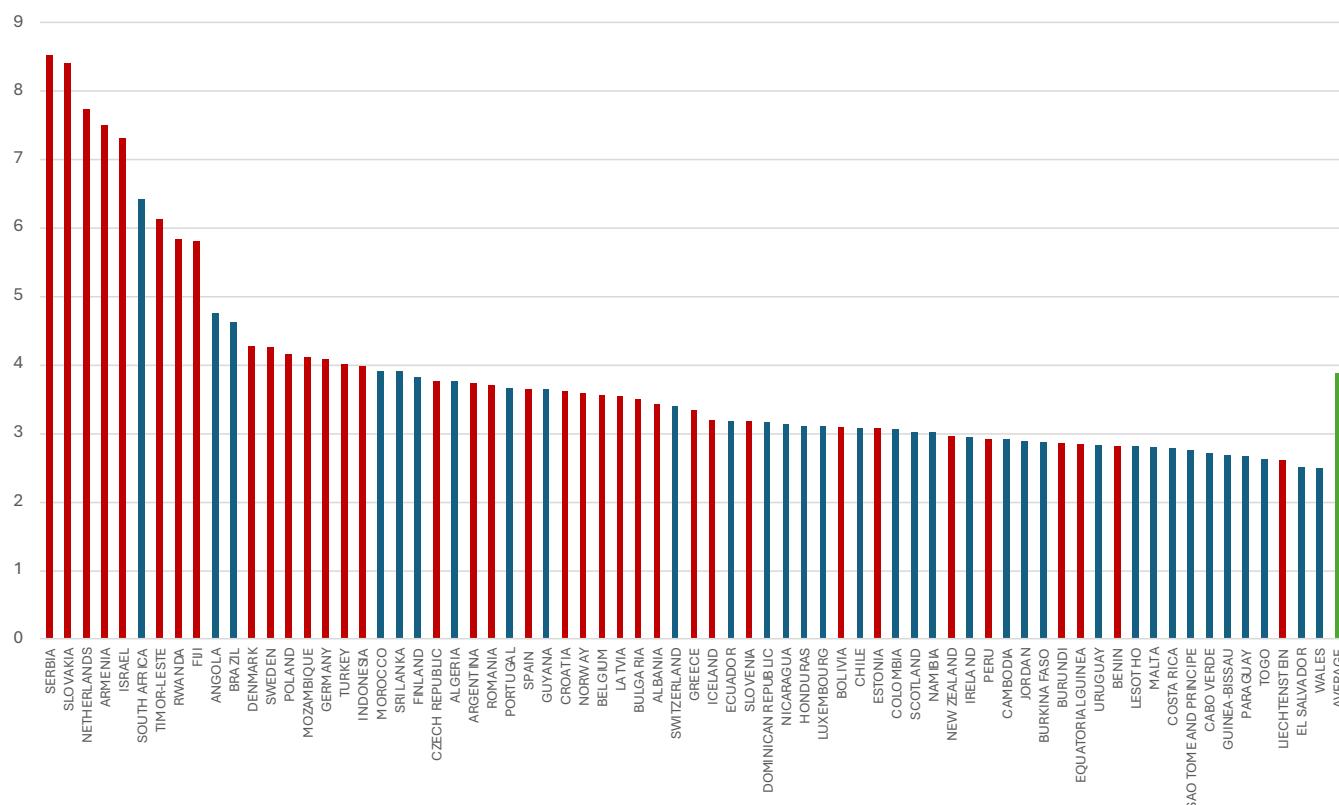
119 Lijphart, A. 1999. *Patterns of Democracy*. New Haven: Yale University Press.

120 Taagepera, R., & Sikk, A. 2009. Parsimonious Model for Predicting Mean Cabinet Duration On the Basis of Electoral System. *Party Politics*, 16(2), 261-281.

121 Marc van de Wardt. 2017. Explaining the effective number of parties: Beyond the standard model. *Electoral Studies*, Volume 45, Pages 44-54.

122 Shugart, M.S. and Taagepera, R. 2017. *Votes from Seats: Logical Models of Electoral Systems*. Cambridge: Cambridge University Press.

**Figure 5: Seat Product Model and Electoral Thresholds**



*Note 1 Red indicates electoral systems with a legal threshold*

The permissiveness of the electoral system shapes incentives for the entry and exit of new parties, which will encourage fragmentation if too many, especially small parties are elected. For this reason, most electoral systems have ways of limiting the fragmentation of party systems.<sup>123</sup> The most direct approach is to introduce a legal threshold that parties need to pass to receive seats in the legislature, and this is most commonly introduced where the effective threshold is deemed too low. Countries with a legal threshold are marked in red in Figure 5. The figure shows that countries with more permissive electoral rules (larger electoral districts, more seats in the legislature and the inclusion of compensatory seats) more commonly introduce legal thresholds to contain fragmentation. South Africa has the most permissive electoral system in the world that does not include a threshold.

## INTERACTION BETWEEN PRINCIPLES

It is important to recognise that these guiding principles have the potential to be interpreted differently, that options may at times require trade-offs between principles, and that principles should be considered in relation to each other. A system that seeks to maximise inclusivity can increase the complexity and difficulty of running elections if it leads to an unmanageable number of candidates and political parties on ballot papers. In turn, if taken too far, simplicity can undermine values of inclusivity, fairness and accountability.

Consequently, the intention should not be to maximise the attainment of any one principle. Instead, the goal is to find an appropriate balance between these guiding principles to give effect to the country's founding values in a way that can be considered broadly legitimate to South Africans and allows for the establishment of functional governments. Some of these values may be considered more important to uphold when considering the relative

<sup>123</sup> Erik S. Herron, Robert J. Pekkanen, and Matthew S. Shugart. 2018. Terminology and Basic Rules of Electoral Systems. In *Oxford Handbook of Electoral Systems*. Edited by Erik S. Herron, Robert J. Pekkanen, & Matthew S. Shugart. Oxford: Oxford University Press.

balance, such as values of inclusivity or fairness. In contrast, others may only require a minimum level of sufficiency – i.e., the system should be simple enough that voters can easily exercise their democratic rights.

It should also be recognised that the relationship between principles and the attainment of specific goals is sometimes non-linear (i.e. changes in one variable do not lead to an equivalent change in another). This is particularly the case for two-tier compensatory systems where many of the conventional relationships between outcomes (for example, the size of constituencies and proportionality) are superseded by the compensatory nature of the system. In such a system, proportionality will remain the same regardless of the size of constituencies, which means that the closeness of the relationship between voters and representatives can be changed without any loss in proportionality. This has important implications for understanding how different aspects of electoral system design interact and affect the achievement of the guiding principles.

## INTERNATIONAL TRENDS IN ELECTORAL REFORM

Many countries have introduced electoral reforms in their efforts to deepen democracy, improve the outcomes produced by their electoral systems and respond to new challenges as their societies evolve and face new political pressures. This section examines international trends in electoral reform to understand how and why countries around the world adopt electoral reforms and the effects these reforms have on improving the quality of democracy in different countries to consider lessons applicable to South Africa.

Electoral reform can take many forms, including changing from one “family” of electoral systems to another (such as moving from a majoritarian system to PR) or changing rules within the same “family” of systems (such as changing the size of constituencies, the ballot structure or introducing electoral thresholds). In the 1990s, electoral reform was considered a rare occurrence with only 10 countries transitioning to a new electoral system family in the period between World War Two and the Third Wave of Democratisation (starting in the 1990s with the end of the Cold War and a wave of political reforms globally). Since the Third Wave of Democratisation, however, at least 44 countries have transitioned to a new electoral system family. The most common changes were from PR to mixed (13), mixed to PR (12), and plurality to mixed systems (11) as seen in Table 1. In many cases these changes have been driven by reforms aimed at deepening democracy, a better understanding of electoral system effects and in response to context-specific challenges.

**Table 1: Changes to Electoral Systems Since the Third Wave of Democracy**

From				
To		Plurality	Mixed	PR
	Plurality		Madagascar (2007); Mongolia (2016)	France (1988); Sierra Leone (2007)
	Mixed	Japan (1996); Lesotho (2002); Macedonia (1998); Madagascar (2013); Mongolia (2012); Nepal (2017); New Zealand (1996); Philippines (1998); South Korea (1988); Thailand (2001); Ukraine (1998)		Bolivia (1997); Bulgaria (2009); Greece (2007); Greece (2015); Italy (1994); Italy (2018); Madagascar (1993); Moldova (2019); Panama (1989); Romania (2008); Turkey (1987); Ukraine (2012); Venezuela (1993)
	PR	Sierra Leone (1996); Sri Lanka (1989); Tunisia (2022); Sierra Leone (2023)	Albania (2009); Armenia (2017); Bulgaria (2013); Croatia (2000); Greece (2012); Italy (2006); Macedonia (2002); Paraguay (1993); Romania (2016); Suriname (1991); Turkey (1995); Ukraine (2006)	

Changes within the same electoral system type have also been common. This includes PR systems, with 74 cases of countries changing the number and size of their constituencies within the PR family. Cases where countries change the number of constituencies by one or two will likely have minor effects, but at least 36 of these reforms within PR would have had substantial effects on the functioning of electoral systems, including questions of proportionality and the closeness between voters and representatives. Of these 36 cases, 22 have decreased the size of constituencies to bring representatives closer to voters (increasing the number of constituencies) as seen in Table 2.

**Table 2: Electoral Reforms Within PR Systems**

Austria (1971) – 25 to 9	Burundi (2005) – 15 to 17	Ecuador (2017) – 24 to 31	Malta (1976) – 10 to 13
Austria (1994) – 9 to 43	Cabo Verde (1995) – 25 to 19	Finland (2015) – 15 to 13	Nicaragua (1996) – 9 to 16
Belgium (2003) – 20 to 11	Chile (1993) – 28 to 60	Guyana (2001) – 1 to 10	Norway (1953) – 29 to 20
Benin (1995) – 6 to 18	Colombia (1964) 19 to 23	Iceland (2003) – 8 to 6	Poland (1993) – 37 to 52
Benin (1999) – 18 to 24	Colombia (1991) – 25 to 33	Indonesia (2004) – 27 to 69	Poland (2001) – 52 to 41
Burkina Faso (1997) – 30 to 45	Czechia (2002) – 8 to 14	Indonesia (2009) – 69 to 77	Portugal (1979) – 24 to 22
Burkina Faso (2002) – 45 to 13	Denmark (1971) – 23 to 17	Indonesia (2019) – 77 to 80	Slovakia (1998) – 4 to 1
Burkina Faso (2007) – 13 to 45	Denmark (2007) – 17 to 10	Ireland (1969) – 38 to 42	Turkey (1983) – 67 to 83
Brazil (1950) – 22 to 25	Dominican Republic (1986) – 27 to 30	Ireland (2016) – 43 to 40	Turkey (2015) – 85 to 79

Another reform seen within the same family of electoral systems is where multi-tier systems rebalance the allocation of seats between the two tiers. This includes mixed and PR systems with a compensatory tier. Among

mixed systems there are 31 instances of systems rebalancing the relative allocation of seats between the two tiers – either increasing or decreasing the number of compensatory seats. Of the 13 PR systems with a compensatory tier, around half have made changes to the relative allocation between tiers, and these changes have usually accompanied a change in the size of constituencies.

These reform case studies are worth considering for understanding the relationship between the two tiers and how they interact (Table 3). As compensatory seats are generally used to correct for any disproportionality created by small constituencies, countries have either increased or decreased the number of compensatory seats based on changes in the size of constituencies in the lower tier. For example, Poland removed its compensatory tier when the country increased the size of its constituencies (and therefore increased proportionality in the lower tier), while Nicaragua introduced compensatory seats when the country reduced the size of its constituencies (and therefore introduced more disproportionality in the lower tier).

**Table 3: Electoral Reforms in Two-Tier PR Systems**

Case	Before	After
Poland presents the one of two cases where a country removed the compensatory tier when it changed its electoral system between the 1997 and 2001 elections to increase the size of its multi-member constituencies. With greater proportionality at in the lower tier resulting from larger districts, Poland felt that compensatory seats were unnecessary	460 seats overall 52 multi-member constituencies (7.5 district magnitude) 69 compensatory seats	460 seats overall 41 multi-member constituencies (11.2 district magnitude) 0 compensatory seats
Iceland reduced the number of multi-member constituencies from 8 to 6 between the 1999 and 2003 elections, (thereby increasing proportionality in lower tier) while simultaneously reducing the size of the compensatory tier from 13 to 9 as less compensatory seats were needed for overall proportionality	63 seats overall 8 multi-member constituencies (6.3 district magnitude) 13 compensatory seats	63 seats overall 6 multi-member constituencies (10.5 district magnitude) 9 compensatory seats
Nicaragua introduced a compensatory tier ahead of the 1996 election after increasing the number of multi-member constituencies from 9 to 16. Reducing the district magnitude brought representatives closer to voters while the introduction of compensatory seats aimed to maintain overall proportionality	92 seats overall 9 multi-member constituencies (10 district magnitude) 0 compensatory seats	93 seats overall 16 multi-member constituencies (4.3 district magnitude) 20 compensatory seats
Guyana changed their system between 1997 and 2001 from a single national constituency to introduce 10 smaller multi-member constituencies. To compensate for the introduction of small constituencies, the country introduced a large compensatory list. This would allow for local representation while maintaining overall proportionality	53 seats overall 1 multi-member constituencies (53 district magnitude) 0 compensatory seats	65 seats overall 10 multi-member constituencies (2.5 district magnitude) 40 compensatory seats

Regional trends show similar patterns in response to context specific challenges. Here it is worth considering the three regions with electoral systems most similar and relevant for South Africa where proportional systems are most commonly found including Africa, Latin America and Europe.

In Africa, many countries in the post-independence period retained electoral systems first introduced by colonial authorities, including the British FPTP system or the French two-round system but there are a range of examples

of reform across the continent.<sup>124</sup> This includes several cases where countries adopted electoral reforms as part of a political settlement, such as in South Africa, Namibia and the Democratic Republic of Congo. In other cases, countries introduced electoral reforms to address political instability and concerns over government legitimacy. These include Lesotho, where the country introduced a mixed-member proportional system to address distortions in election results caused by the FPTP system and Benin which introduced various changes to the system aimed at curbing extreme fragmentation. There are also various examples where countries initiated inquiries into electoral reforms but lacked the political will to follow through such as Zambia, Mauritius and Malawi.

Latin America similarly saw a wave of electoral reforms in the 1990s driven by concerns over economic stagnation and the perceived inefficiency of state institutions. Countries such as Bolivia, Panama and Venezuela moved from PR to mixed-member proportional systems, while Brazil, Colombia, Costa Rica, Ecuador and Peru introduced open lists. Chile, Nicaragua and Guyana reduced the size of multi-member constituencies. These reforms were generally aimed at strengthening the constituent-legislator bond to enhance responsiveness to local constituencies and increase individual accountability by exposing legislators to accountability pressures from outside their parties. These reforms occurred in response to declining trust in political parties, citizen disillusionment with a lack of political responsiveness and accountability of parties, and finally, a desire to reduce the growing alienation between parties and society by bringing representatives closer to voters.<sup>125</sup>

Reforms in Europe since the late 1980s have similarly seen a trend towards the personalisation of electoral systems – that is, giving voters more of a say over the election of individual candidates.<sup>126</sup> Whereas several Latin American countries introduced mixed systems to incentivise personal accountability and strengthen voter-representative bonds, European electoral reforms have usually remained within the confines of PR and have instead focused on strengthening voters' ability to choose individual candidates off party lists and reducing the size of constituencies. This is understood in the context of a widely recognised trend of the “personalisation of politics” among advanced democracies where party identification has declined. Instead, voters increasingly consider factors beyond parties to determine their choice, with an increasing emphasis on the quality of candidates available to them.<sup>127</sup> Electoral reforms in Europe have responded to this trend based on public demand for a greater say in choosing their representatives.

Internationally, the tendency of electoral reforms has been to converge on the middle ground with party-centred systems becoming somewhat more candidate-centred, while candidate-centred systems have become more party-centred.<sup>128</sup> This includes both PR and majoritarian systems shifting to mixed electoral systems as well as greater personalisation among PR systems. This shows a trend of bringing representatives closer to voters and strengthening the linkage between the two. The direction of reform has generally been context-specific, with reforms responding to challenges including concerns over accountability, democratic legitimacy, voter apathy and political instability. Although electoral reform was once considered a rare occurrence, since the 1990s it has become much more common as countries work to deepen democracy and strengthen institutions. It should be recognised that such reforms usually take many years, and where changes are introduced, it often takes multiple electoral cycles for changes to take effect.

124 Christof Hartmann. 2007. *Paths of Electoral Reform in Africa*. In *Votes, Money and Violence: Political Parties and Elections in Sub-Saharan Africa*. Edited by Matthias Basedau, Gero Erdmann and Andreas Mehler. Scottsville: University of KwaZulu-Natal Press

125 John Carey. 2008. *Legislative Voting and Accountability*. Cambridge: Cambridge University Press.

126 Renwick, A. & Pilet, J. 2016. *Faces on the Ballot: The Personalization of Electoral Systems in Europe*. Oxford: Oxford University Press.

127 This includes Cain, Ferejohn, and Fiorina's *The Personal Vote*. 1987; Wattenberg's *The Rise of Candidate-Centred Politics* (1991); Poguntke & Webb's *The Presidentialization of Politics* (2005)

128 Karvonen, Lauri .2010. *The Personalization of Politics: A Study of Parliamentary Democracies*. London: ECPR Press.





# Chapter 5: Public Participation

## CHAPTER 5: PUBLIC PARTICIPATION

The Electoral Amendment Act mandates that the Panel must “undertake a public participation process regarding the issues falling within its functions”. This chapter provides an account of the process undertaken and the findings emerging from the public consultation process. It is divided into six sections. The initial section, immediately below, is an outline of the process and the format of the deliberations. Thereafter, section two contains written inputs submitted online. Then section three reports on community meetings, followed by sections four with inputs from stakeholders, drawn from several sectors. Thereafter section five presents a summarised version of conference proceedings. The focus is on salient issues that offer lessons. Lastly, section six concludes the chapter.

### PROCESS AND FORMAT

The public consultation process entailed multiple phases over roughly eight months from 26 August 2024 to 10 April 2025. The initial invitation to the general public for online submissions was issued on 26 August 2024, through advertisements in multiple media outlets including newspapers, radio, television and social media. Promotion of the Panel’s work included newspaper articles written in English and Afrikaans.

Following the call for written submissions, the Panel moved to sectoral consultations beginning in November 2024 to April 2025. The sessions were physical and virtual. The consulted sectors included:

- Civil society formations: advocacy and community-based organisations
- Faith-based organisations
- Political actors: political parties and independent candidates
- Academics and researchers
- Youth formations
- Business and organised labour
- Former Presidents’ foundations
- South African expatriates
- Traditional leaders

Most public consultations were physical, with the Panel visiting various communities throughout the country, starting on 20 January 2025 at eThekweni. The coastal city was one of the three locations in KwaZulu-Natal where the Panel held consultations. Visits to other provinces followed over a period of two months. Overall, consultations were held in 18 communities<sup>129</sup> made up of urban and rural participants. Seven of the nine provinces had two visits, one<sup>130</sup> had three and the other one.<sup>131</sup>

<sup>129</sup> Places that were visited per province as follows: Eastern Cape: Gqeberha (formerly Port Elizabeth) and EmaXesibe (previously Mt Ayliff); Free State: Mangaung and Phuthaditjhaba; Gauteng: Johannesburg; KwaZulu-Natal: eThekweni, Pietermaritzburg and uLundi; Limpopo: Polokwane and Giyani; Northern Cape: Kimberly and Heuningvlei, Tseo Village; North West: Rustenburg and Sekhing, Ba ga Mothibi Village; Mpumalanga: Mbombela and Middelburg; and Western Cape: Cape Town and George.

<sup>130</sup> KwaZulu-Natal: the population is spread widely over a large landscape.

<sup>131</sup> Gauteng: the province is fully urbanized, and Johannesburg, where the event was held, is easily accessible from any part of the province.

The events were organised with the support of the Department of Home Affairs and the Offices of Speakers in the various provincial legislatures. Public participation is a routine activity at provincial legislatures and they have developed effective ways of communicating their invitations using databases containing a wide range of stakeholders. Moreover, this allowed the Panel to secure public facilities at no cost. The events were hosted at community halls, municipal offices, precincts of provincial legislatures and tribal offices.

In preparation for the public engagements, the Panel published a discussion paper on 26 November 2024. The purpose was to:

- explain how and why the Panel was formed
- provide background to prior electoral reform initiatives
- explain important electoral system concepts and their role in facilitating meaningful public participation and debate
- introduce and explain the guiding principles the Panel adopted to evaluate electoral system options. These principles draw on the founding values set out in the Constitution, which the Panel felt should be reflected in the choice of an electoral system for South Africa

To encourage meaningful consultations, the Panel summarised the discussion paper into an introductory presentation used in all public consultations providing background to the Panel, an overview of the main electoral system design features relevant to the national debate and the guiding principles adopted by the Panel. The introductory presentation urged the audience to consider, in their commentary and recommendations, the following electoral system design features as the basic premise:

- Different families of electoral systems: majoritarian (FPTP), PR or mixed
- Size of constituencies, including the number of seats per constituency
- Relative allocation of compensatory to constituency seats
- Ballot structure, including open or closed list systems
- Introduction of a legal threshold

Panellists were deliberate in pointing out to attendants that their reflections should draw from their experiences and that the guiding principles could be used as a starting point to identify what they want out of an electoral system. This aimed to pre-empt the audience feeling intimidated by technical, theoretical concepts in electoral systems that most people are not widely familiar with.

Where possible, a copy of the discussion paper was circulated in advance of the event. At the start of every session, a summarised version of the discussion paper was presented. Simplified translations of the discussion paper in nine official languages were also compiled and distributed at events. Proceedings were conducted in the dominant local language(s), with interpreters for both oral and sign languages present. Panellists also engaged in local languages where possible. Proceedings were recorded at most events where appropriate facilities were available to the Panel.

Public consultations ended with a conference which brought together key stakeholders, including political parties, civil society and interested parties who had provided written submissions to the Panel. The conference included international and local scholars with expertise in electoral systems. Care was taken to include scholars who had provided advice at the adoption of the initial electoral system in 1994 and who had maintained their interest by monitoring South Africa's electoral system throughout the subsequent years. This was to ensure that the insights at the conference not only focused on contemporary issues but were also historical in perspective.

The Panel planned to conduct a public opinion survey as undertaken by the Electoral Task Team in 2002. This would form part of the public consultation process to understand how public sentiment towards the electoral system and elections has changed since 2002. The Panel prepared a survey questionnaire but the Department of Home Affairs was unable to deploy the survey before the end of our term. The questionnaire is attached as Appendix 4.

## WRITTEN SUBMISSIONS

Over a two-months period, September and October 2024, the Panel received 348 written submissions. A few more were received after the deadline and were accepted in the spirit of consulting as widely as possible, placing the final number at over 360 submissions. Inputs were diverse and all-encompassing. Not all addressed the question at hand. Some people commented on voting and various electoral administrative matters, while others took the opportunity to remark on the state of South African politics. While not directly related to the subject, such incidental comments were nonetheless useful as they provide insight into how the electorate feels about the electoral process and public affairs. The summary below is structured into three parts, as follows:

- Electoral Reform Consultation Panel: reception and perceptions
- Electoral System Experience and Commentary
- Recommendations

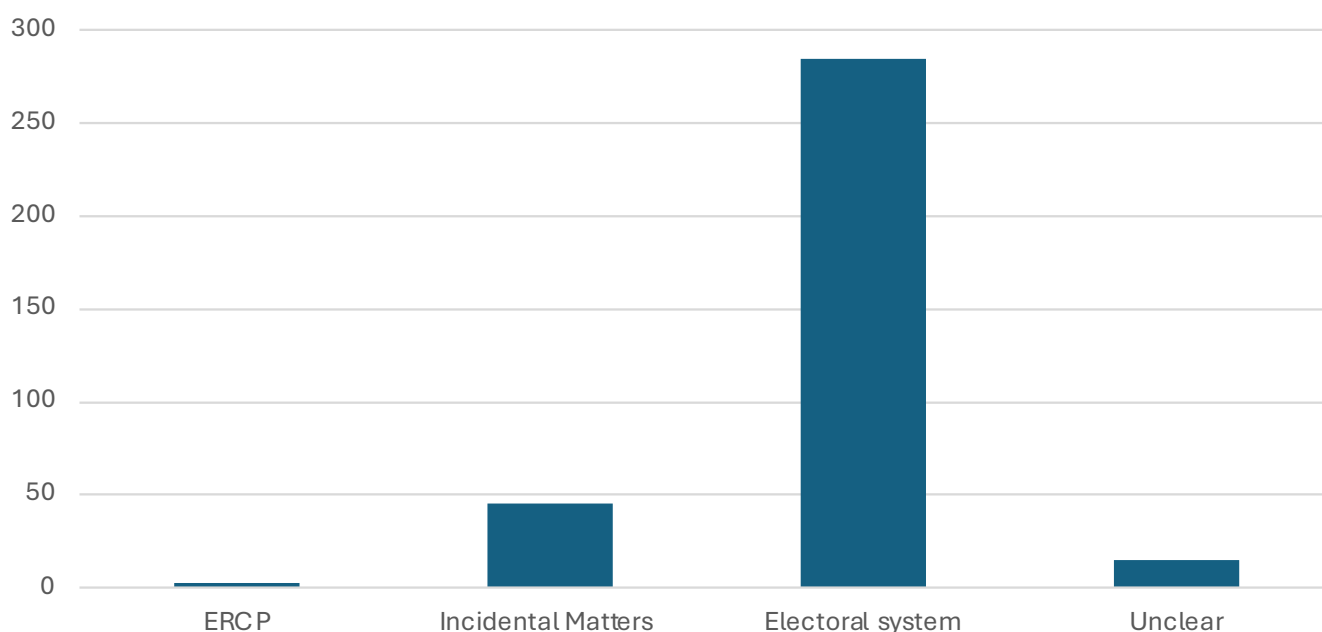
### Electoral Reform Consultation Panel: Reception and Perceptions

The inputs suggest a near-unanimous acceptance of the formation of the Panel and its mandate. Only one submission expressed scepticism about the utility of the Panel, while a few expressed concerns over the Panel's composition. There was a lot of scepticism as the submissions held that whatever recommendations the Panel made would be ignored by political parties making the final decision. The scepticism is derived from the rejection of the recommendations made by the majority during the previous two electoral reform initiatives.

There was a counterview, however, that decried the lack of media reporting on the activities of the Panel, including a lack of visibility on social media platforms and the official website. The Parliamentary Monitoring Group was instrumental in publicising all ERCP updates, mostly after the events. The PMG platform is the most up-to-date source on ERCP information.

The rest of the submissions, through their silence on the Panel itself, appear to have taken its *bona fides* as a given, and/or consider their participation worthwhile. They addressed themselves strictly to the subject of the Panel and related matters.

**Figure 6: Topics Covered in Written Submissions**



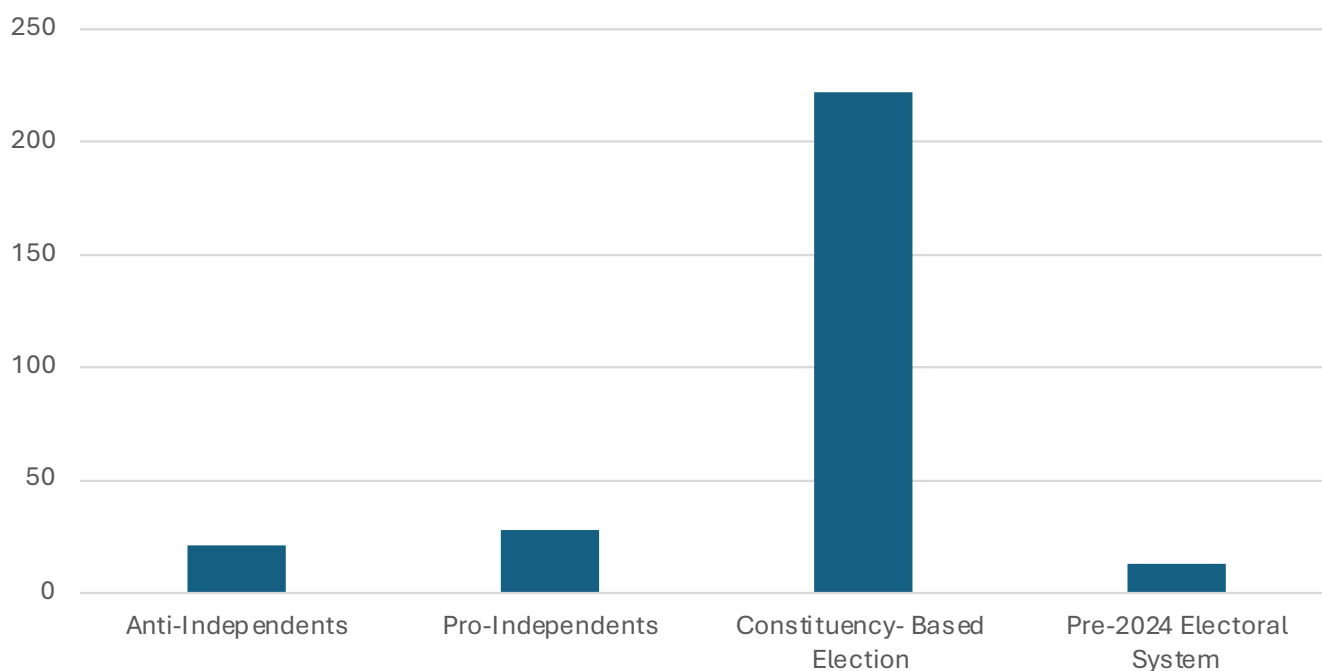
### **Electoral System Experience and Commentary**

The recent changes to the electoral system attracted competing views. Many submissions expressed disappointment at the poor performance of independents. Some viewed their contribution in the last election as simply adding to the fragmentation of the party system, thus creating confusion. These respondents believed that independents should be discarded together with the small parties by introducing a threshold.

Conversely, other submissions attributed the poor performance of independents to the unfairness of the system, believing that the odds were stacked against them. This included lack of funding; competing against parties; having to canvass for votes in huge province-wide constituencies and the limitation of only allowing independents to compete for 200 of the 400 National Assembly seats. In their view, the votes for independents did not count in the same way as the votes for parties.

Most submissions supported strengthening the association between voters and representatives, which was often conceived as a “constituency-based system”. Public submissions did not always provide technical explanations and did not specify whether this meant adopting smaller multi-member constituencies within the PR system or moving to a mixed-member proportional system with single-member constituencies. These submissions, however, expressed a common dissatisfaction with how the current electoral system creates a weak relationship between voters and representatives. This is derived from unhappiness with parties which they feel are unresponsive to their needs. Individual MPs, the argument goes, do not represent the electorate, but seek to please party leaders and their corporate sponsors. In their view, a “constituency-based election”, where candidates are elected directly, would enforce accountability to the electorate. A common feeling was that all government leaders, across the levels of government - i.e. mayor, premier and president – should be elected directly by voters.

**Figure 7: Electoral System Preferences Expressed in Written Submissions**



A small number of submissions expressed support for a return to the pre-2024 electoral system with the view that it was ideal for enabling minority voices. A new system might eliminate small parties, which people still trust. The complaint against smaller parties, one input noted, is opportunistic. People complain about small parties only because their parties did not win as much support as they had hoped and shift the blame to smaller parties, accusing them of taking votes they should have received.

Even though some expressed support for the pre-2024 electoral system, there were also proposals for improvements. The proposals included a mechanism for recalling public representatives and for the tabling of motions of no confidence to be limited. Such motions should only be tabled if the incumbent has committed a serious offence. One view cautioned against introducing change for the sake of it. Change should only happen if the new system has been properly thought through, for each system comes with its own disadvantages.

## Recommendations

The inputs offered varied recommendations determined by the person's standpoint on the electoral system. The recommendations were as follows:

- Submissions in favour of the pre-2024 electoral system, which were in the minority, propose:
  - eliminating constituency-based elections, and
  - restricting electoral participation of multiple, smaller parties.
- Those in favour of bringing representatives closer to voters in a “constituency-based system”, which constitute most of the submissions, recommend:
  - the reduction of constituencies to the level of a metro or district municipality,
  - a different vote-counting formula that does not discard votes for independents,

- a thorough vetting of candidates to ensure that they are of good standing,
- a recall mechanism, if constituents are unhappy with their MP/MPL,
- direct voting for government leaders across all levels of government, and
- more representatives at the constituency level rather than national (for example, 300 constituencies and 100 national).

## COMMUNITY MEETINGS

Participants received the Panel positively. Some participants expressed appreciation that the Panel had come to their communities to seek their views. Previous electoral reviews had not embarked on such expansive public consultations. Participants generally understood what information the Panel sought from them. However, a substantial number of participants decided to use the opportunity to either complain about the Electoral Commission (IEC) or offer advice on how the Commission can improve both its electoral management and the level of voter turnout, especially among the youth. Views on voting were also triggered by a widely publicised conference on e-voting hosted by the IEC during public consultations, which was unrelated to the Panel's activities. The bulk of inputs from community sessions were on experiences and views of the electoral system.

Although welcoming of the Panel, some participants were unsure of what would become of their views, whether Parliament would take them into consideration. The uncertainty had to do with the experiences of the two previous reviews – i.e. 2002 Van Zyl Slabbert Task Team and the 2021 Ministerial Advisory Committee (MAC). Van Zyl Slabbert's review did not lead to any changes, while MAC did not have sufficient time to do a thorough evaluation and public consultation process. There was a concern, therefore, that the recommendations of this Panel would also be ignored. This perception comes from a general sense of scepticism, which was repeatedly expressed in the sessions, that Parliament (and government) generally does not heed people's views.

Audiences were diverse. There were resident associations, organisations of people with disabilities, members of ward committees, youth formations, members of political parties, councillors, academics, students, religious leaders, traditional leaders and ordinary residents. It is worth noting that the presence of religious leaders and formations of people with disabilities was consistent and substantial throughout the consultations.

### Comments and Proposals

Below, the report contains general comments and proposals made by participants. These are drawn from individual reports compiled on each of the 18 community sessions. The various reports are based on the notes taken by three research assistants. Some of the participants joined the sessions online.

Participants expressed a myriad of concerns about the country's electoral system. These related to their relationship with public representatives, how parties nominate their public representatives, the number of political parties and the composition of Parliament and provincial and local legislatures. The concerns are listed and discussed below in order of priority.



a) Voter-public representative relationship – unresponsive and indifferent:

This was the most frequently expressed concern among participants. They feel they have a lack of influence over how public representatives perform their duties and are unable to hold them accountable. Their votes supposedly give them power over public representatives, but voters feel disempowered. They are overwhelmed by a sense of powerlessness which has culminated in popular frustration.

The electoral system, participants felt, is “party-centric” with parties enjoying “excessive power”. This not only means that parties enjoy exclusive power to decide, but also advances their interests, regardless of the adverse impact on voters. In other words, once elected, political parties develop interests of their own, which are either independent of the voters’ wishes or even hostile to them.

b) Lack of trust in political parties:

Stripped to its basic element, the dominant sentiment is a lack of trust in political parties. Voters do not trust politicians to make decisions in their best interests. Communities stated that they are fed up with poor governance and incompetence within the ranks of government. They also mentioned that there were arrogant and out-of-touch elected representatives who did not understand oversight and accountability.

Participants pointed to a lack of services and infrastructure as a sign of neglect and indifference. They alleged that when one of the politicians is accused of corruption, they hardly face punishment. When punishment is eventually meted out, if at all, it is the result of public pressure.

c) Party lists and selection criteria:

The closed party list was cited as an illustration of how parties concentrate power to themselves, and the powerlessness of voters. Party leaders get to choose who they send to Parliament. In doing so, they apply a selection criterion that does not necessarily consider merit or integrity. In the end, the public becomes saddled with representatives that are either incompetent or unethical. One participant, from Sekhing in the North West, remarked: “The voter is blinded in a closed list. It’s like a situation where you buy a goat and get home only to realise that you actually got a pig.”

What makes matters worse is that voters do not know who to approach regarding their enquiries in their communities. One participant, from Mangaung, pointed to deteriorating roads, yet people have heard that a budget was passed for infrastructure development. People do not know who to approach or complain to.

d) Number of political parties:

Participants decried the number of political parties in elections. What they find most disconcerting is that political parties, especially the small ones, seem to campaign on the same electoral platform. The value of those who manage to make it into Parliament with minute margins is unclear. They seem to be more concerned about financial benefits and careerism than contributing to the public good.

Participants did not see the value of smaller parties in Parliament. There is a general feeling that politics has just been monetised. “People sleep one night, wake up the next morning and decide to form a political party”, remarked one from Pietermaritzburg. People form parties not to contribute towards the public good, but to use them for financial gains.

e) Composition of Parliament/Legislatures:

Representation of women and people living with disabilities came up frequently as a source of disquiet. Women representation, it was noted, is relatively low, while people with disabilities are hardly represented.

f) Independents:

Participation of independents attracted mixed commentary. Most participants did not think their participation was necessary, especially because of their poor performance in the May 2024 election. There were participants who disagreed saying their poor performance was the result of hurdles placed in their way – i.e. massive constituencies and an unfair counting formula that favours political parties.

## Proposals

Participants made several proposals. They relate to multiple issues, ranging from a preferred electoral system to party lists, nomination criteria and the number of political parties. Below we expand on each, beginning with the most cited.

a) Preferred Electoral System: Strengthening the Constituency Relationship

Preferences for the options of electoral systems varied, and participants did not always express their preferences in explicit electoral system terms; instead, some indicated what they wanted from an electoral system. The most widely held view was to change the system to strengthen the constituency relationship between voters and representatives.

The primary motivation behind the proposal is to strengthen and reinforce the influence of voters, specifically to shift the balance of power away from parties to the electorate. While participants did not always mention a ratio of seats, they were emphatic about directly electing their representatives.

Public views did not always express clear preferences for either single or smaller multi-member constituencies. Participants simply held that a more “constituency-based system” would reduce their dependence on parties to choose candidates on their behalf. They contended that electing representatives directly would compel public representatives to be more accountable to the voters. This accountability to the voters would, in turn, encourage public representatives to perform their duties diligently so that they could be re-elected.

Participants felt strongly about direct election as a tool to empower them vis-a-vis public representatives. Some of them even suggested that government leaders – i.e. president and premiers - should also be elected directly by voters. This would make public representatives prioritise the electorate over political parties.

To make sure that they are served optimally, some participants proposed a mid-term review to evaluate the performance of their public representative. This review mechanism, according to the proposals, will allow the voters to recall poor performing representatives and elect new individuals.

b) Open List Voting:

Participants were in favour of introducing open list voting to enhance their influence in selecting suitable representatives. This will give voters a greater say in parties’ selection of candidates for Parliament.

Views on open list voting reflected voters' concerns over political parties' tendency to change candidates after the elections and nominate new candidates who were not on the initial lists for Parliament. It is worth noting that the point here is not simply to enable voters to see the list of their potential public representatives, but to force parties to improve the calibre of their candidates. Voters want educated, morally upright and hard-working public representatives.

Equally important for the participants was that party lists should reflect diversity and inclusivity in terms of gender, disability and age. Each of these considerations adds value to Parliament and legislatures, for they serve and address different interest groups.

c) Threshold:

The sheer number of political parties, especially smaller ones, was a common complaint. Many participants proposed a threshold, although this point was often contentious. There was mention of an electoral threshold of 2% and 3% of electoral support, but a cap was not cited frequently. The emphasis was on managing fragmentation by reducing the number of very small parties. Participants expressed concern and questioned the smaller parties' ability to truly represent diverse interests and effectively participate in the political process. There were views that the smallest parties were ineffective, lacking significant impact on policy or governance.

d) Independents:

While independents attracted mixed commentary, the dominant view was that they should be allowed to participate. The idea of individuals contesting elections, outside of parties, appealed to most participants who appear to mistrust parties. However, participants said the system was set up in a way that advantaged independents in favour of parties. Changes should be made on constituency size and in the counting formula to ensure that independents also have a fair chance of getting seats.

## SECTORAL ENGAGEMENTS

### *POLITICAL ACTORS: PARTIES AND INDEPENDENTS*

The Panel held two consultative sessions, with invitations to political parties and independent candidates, on 27 November and 2 December 2024. The sessions were virtual and included represented and non-represented parties in Parliament. In total 13 parties presented their views and recommendations to the Panel. In addition to the presentations, 17 political parties and independent candidates provided written submissions. These included old parties, part of government at both national and provincial levels, the official opposition and newly formed parties.

Below is a summary of the various submissions, drawing from oral presentations and detailed written submissions. The submissions vary in both length and focus. Some submissions expanded beyond the mandate of the Panel to matters related to the administration of elections, political funding and broader structural reform of the system of governance. While such matters are not entirely relevant for our purpose here, some were nonetheless noted and will be collated into a separate attachment.

## Current Electoral System: Views

Most political parties and independent candidates in their written and oral submissions spoke out against the current electoral system. Themes emerging from written submissions from political parties can broadly be categorised as follows:

### *a) Accountability and the relationship between voters and representatives*

Most submissions in favour of reform cited a lack of accountability and a weak relationship between voters and representatives as a core concern. In their view, the current system creates a weak link between representatives and citizens as voters cannot directly choose representatives, and that MPs are not seen as accountable to communities. This makes MPs less accountable to the public, as voters do not have the power to directly remove or vote out underperforming MPs in elections. It is parties that nominate candidates for Parliament, which incentivises MPs to prioritise the interests of party leaders to secure a re-election rather than voters.

### *b) Inclusivity and representation*

Political parties and independent candidate groups commonly agreed on the importance of inclusivity in the choice of the electoral system. Most submissions emphasised the need for proportionality, and most of the reform proposals included a national compensatory list to ensure overall proportionality of the electoral system. The possibility of open list voting to allow voters to indicate support for individual candidates on party lists was also widely supported by many parties. They supported this view for varied reasons, including stronger representation and a view that it could strengthen accountability.

### *c) Fragmentation, thresholds and coalitions*

The question of potentially introducing an electoral threshold was a point of contention in both oral and written submissions, with smaller parties opposed to such a threshold. Some larger parties supported the threshold, although they varied on how low such a threshold should be. Perspectives on the threshold were also tied to concerns over fragmentation of the party system and the instability of coalitions. Various proposals were put forward on strengthening the enabling framework for coalitions.

### *d) Equal opportunities for independent candidates*

Supporters of independent candidates raised several concerns over how these candidates were incorporated into the current electoral system. Independent candidates complained that voters do not understand why they can vote for an independent on one ballot, but not on the other. The independent candidates also felt they bore the burden of having to explain the electoral system, while others had a simple message to convey in their canvassing votes: “vote for us on both ballots”. Independent candidates likewise argued that they needed more votes than political parties to secure a seat, and can only contest 200, out of the 400 parliamentary seats.

Supporters of independent candidates further argued that the size of the constituencies is cumbersome for independents to canvass, with provinces too vast to cover efficiently. Concerns were likewise raised over unfairness related to the filling of vacancies in Parliament. If a vacancy arises as a result of an independent passing away or resigning, no by-election is held to fill the vacancy. Instead, a party fills the vacancy.

#### e) Issues beyond the Panel's mandate

Political funding was a common concern raised in many submissions, including concerns over a lack of transparency and the potential for corruption in political funding. Several parties additionally put forward proposals for the president, premiers and mayors to be directly elected. Other submissions suggested reforms to election management. Those proposals, however, extend beyond the mandate of the Panel.

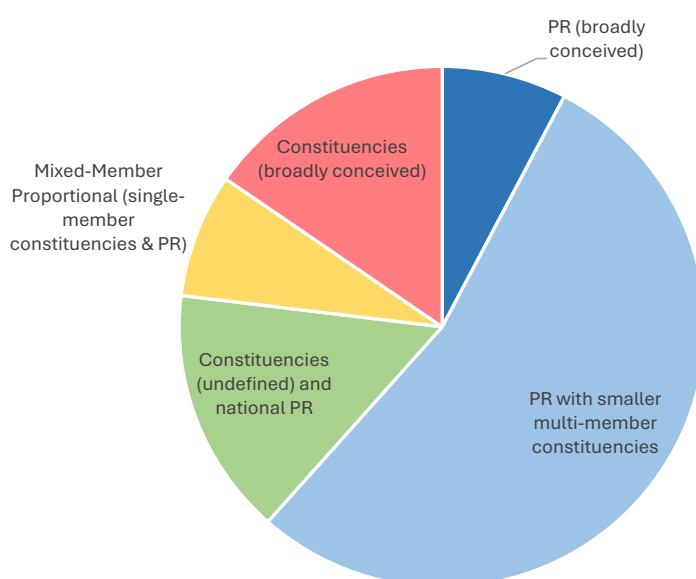
### Electoral System: Preferences

Political actors – i.e. parties and independent candidates – expressed different preferences in terms of their favoured electoral system. Unpacking preferences requires careful consideration, as proposals at times conflate technical electoral system terms.

It is often held that the debate is between PR and a “constituency-based system”, with PR usually conceived as a national party list system without any electoral districts/constituencies. In turn, “constituency-based systems” are understood by some to mean the majoritarian, First-Past-The-Post system, while others understand this to include any system with constituencies. Erroneously, some then refer to the mixed electoral system as any system with both constituencies and a party list element. An electoral system that uses multi-member constituencies (including our current system) is, however, still a PR system.<sup>132</sup> In correct electoral system terms, a mixed system only refers to those systems that combine elements of the FPTP system (single-member constituencies) and PR.

Of the 17 submissions from political parties and independent candidate groups, the most common proposal was PR with smaller multi-member constituencies. One party expressed support for PR broadly, while questioning the value of smaller constituencies. Two parties supported a system with constituencies and a PR element without specifying the nature of the constituencies. One party supported a mixed-member proportional system (i.e. single-member constituencies and a PR compensatory component) and two unrepresented parties expressed support for “constituencies” that could be understood in terms of a FPTP system. Four parties did not specify a preference.

**Figure 8: Electoral System Preferences Identified by Political Parties and Independent Candidate Groups**



<sup>132</sup> Only seven of the more than 80 PR systems worldwide do not include any constituencies/electoral districts and only have one national PR list. This includes Armenia, Fiji, Israel, the Netherlands, Serbia, Slovakia and Timor-Leste.

## Proposals for Reform

Proponents of reform for a greater constituency element to the electoral system attribute their preference to two underlying reasons:

The passage of time, the argument goes, has rendered the initial electoral system without a substantive constituency element outdated. Accountability and the decline in electoral participation have emerged as the two most pressing challenges that require attention. Parties, it is noted, cannot hold their leaders accountable. Party leaders enjoy *carte blanche* because they compile their parties' lists for Parliament. Members of Parliament, therefore, are indebted to party leaders. The consequences of a lack of accountability, especially in instances where the leader of the party also happens to be the president of the country, have been damaging not only in terms of abuse of power but also in citizen-state relations.

The citizenry-state relations have been characterised by, among others, disengagement. Electoral participation has been declining over the last few elections. The 2024 general elections, for instance, registered a 58% turnout, a drop from 66% in 2019. The picture gets worse when turnout is compared to the overall number of eligible voters in the country, with a large decline in voter registration rates. Proponents of reform blame the declining rate of electoral participation on disillusionment. Voters feel their votes do not make a difference. MPs, the argument goes, are indifferent to the needs of voters, making the electorate feel powerless. While there are supposed to be constituency offices, with each MP attached to one throughout the country, voters neither know their MPs, nor the location of their constituency offices.

The following proposals were made:

- a) Ratio of seats:** Most submissions did not express explicit proposals for the ratio between constituency and compensatory seats. Among submissions that considered the relative allocation of seats, the most common proposal was 300 constituency seats and 100 for compensatory seats.
- b) Constituency size:** Among proponents of the PR system with smaller constituencies, demarcation of constituencies would follow municipal district and metro boundaries. Each constituency should have multiple seats, with the exact number determined by population size. While there was a preference for fixed (geographic) boundaries, there was also recognition that population size fluctuates over time, which may necessitate a redrawing of boundaries. This could be done on a five-year interval. Proponents of a mixed system did not specify an approach to the demarcation of single-member constituencies.
- c) Ballot structure:** Most submissions preferred an open ballot to allow voters to rank candidates in order of preference with only one political party expressing a preference for closed lists. Proponents of direct elections believe that voters will gain direct influence over MPs. Knowing that their re-election depends on voters, MPs will be more inclined to work in a manner geared to please their constituents. Moreover, voters will know how to contact their representatives to resolve their problems.
- d) Direct elections:** The proposal on direct voting goes beyond MPs. Several of those who favour reforms propose direct elections of heads of government. Some say it should be limited only to the president, while others recommend that this system be applied across the board to include premiers and mayors.

- e) **Recall mechanism:** To enhance accountability, another proposal is made for a recall mechanism. The contention is that, in instances where an MP or a government leader proves to be inept, voters should be able to remove him/her from office.

These proposals were not without opponents. Their opposition is largely targeted at the constituency aspect (of the system), which they contend:

- i) **Limits diversity and range of representation:** They contend that South Africa remains a patriarchal and diverse society, characterised by numerous minorities and vulnerable groupings. Women and LGBTQ communities, for example, may be overlooked for representation due to prejudice. Left to their own devices, the electorate would not easily elect vulnerable groups to public office.
- ii) **Does not guarantee accountability and effective representation:** Constituencies are made of diverse and multiple interest groups which makes consensus or unanimity on any single issue impossible. The experience of local government is cited to refute the assertion that constituency elections foster accountability of public representatives. Ward councillors, the argument goes, are notorious for a lack of accountability. There's no certainty, therefore, that MPs/MPLs elected on a similar basis will be accountable.

An electoral system, the argument goes, has little to do with encouraging accountability. Rather, accountability is a 'post-election' issue that rests with Parliament and political parties. Both these entities must have a mechanism that fosters accountability of MPs to their constituencies. Lastly, contrary to what is commonly asserted, constituents do not have full control over the nomination of MPs. Political parties will still exercise some sway in the nomination of candidates.

- iii) **Creates an administrative and a financial burden:** Constituency boundaries would have to be constantly redrawn to cater for population changes.

### Submissions in favour of the current system

One political party expressed support for the virtues of the current system and PR more broadly. They cite the following reasons for their proposal:

- a) **Simplicity and familiarity:** It is simple to understand how the system works. The fact that it was used for all the elections, except in 2024, made it even easier for voters because of their familiarity with the system.
- b) **Equality of votes:** All votes count equally, none is discarded.
- c) **Exclusivity and representation:** Because each vote counts, there's maximum representation of political parties in Parliament. This is critical in a society like South Africa, which is still divided along racial lines.

Equally important, the PR system allows for the representation of vulnerable groups in society through inclusion in the list of parties. For a society that still suffers from prejudice against women and the LGBTQ community, the party lists ensure an inclusive and representative Parliament.

### Majoritarian system

Only two unrepresented parties supported a strictly constituency-based, majoritarian system. In their view, the nomination of candidates should be left to constituents, and the executive should be directly elected.



Submissions from the vast majority of political parties and public consultations were overwhelmingly opposed to the introduction of a majoritarian system. Opponents contend that the system favours big parties. In a country like South Africa, which is still characterised by social and racial divisions, the exclusion of small parties is counterproductive. It works against social cohesion.

## ***RESEARCHERS, CIVIL SOCIETY ORGANISATION AND ACTIVISTS***

### **Current Electoral System: Views**

A limited number of the submissions supported the retention of the current electoral model. While introduced as a reform measure on the previous model, to widen inclusion with the introduction of independent candidates, it is not seen as an improvement. One submission remarked that it made a mockery of the commitment to inclusion. This was because the modality of the system was not configured in a way that enabled independents to succeed (as noted below).

Instead, numerous inputs noted that the odds were stacked against independents succeeding. Independents encountered the following hurdles:

- a) Competed against parties, instead of another candidate: this meant that independents were not measured against another individual. Alongside their face on the ballot paper was a party name and logo. A party candidate was possibly helped by the brand of the party.
- b) Contested half of the seats: they could only contest for 200 seats, for instance, and were restricted to three regions.
- c) If an independent won more than one seat, they could only assume one and would have to forfeit the other.

Even before the 2024 reforms, it was noted, the system already had several flaws. These included:

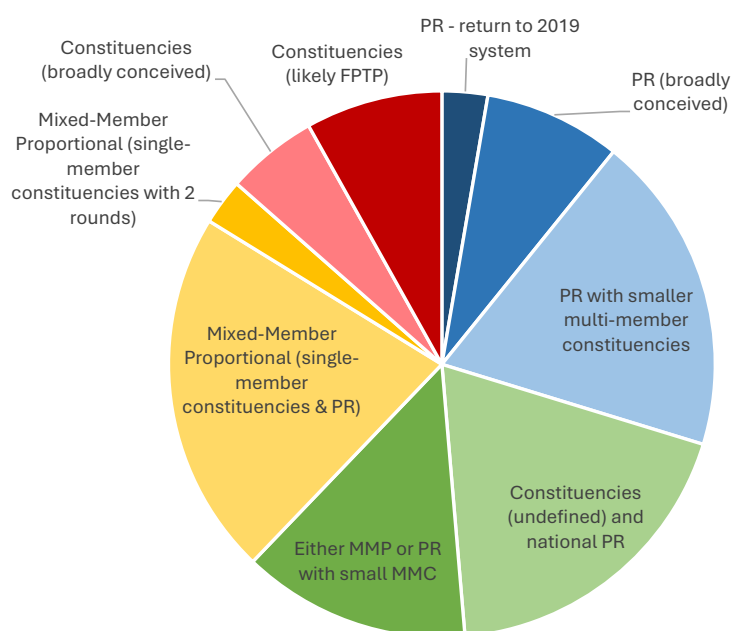
- i) Lack of accountability: government leaders are not held responsible for their actions. This is because MPs are beholden to government leaders, who happen to be party leaders responsible for their election through a party list. The net effect has been a weak Parliament in relation to the executive.
- ii) Poor calibre of public representatives: because of the closed party list system, the electorate does not choose candidates for Parliament. Instead, the party makes the selection. This method of selection does not guarantee the nomination of the best candidate, for merit is not always the first consideration.
- iii) Disconnected citizens: voters have no control over MPs. There are no incentives for MPs to be responsive to the electorate. Their initial election and re-election depend largely on the party, not on the electorate.
- iv) Apathy and disengagement: without influence over public representatives, the electorate feel that their votes do not matter. They disengage from the electoral process, which explains the declining levels of electoral participation.
- v) Distrust in politicians and public institutions: because of a lack of accountability, the electorate has lost trust in both politicians, and public institutions.

## Preferences

Submissions<sup>133</sup> favoured a variety of electoral systems with proposals including both broad preferences (for example, a combination of constituencies and PR without specifying the nature of constituencies) and detailed proposals expressed in technical terms. Proposals broadly fall into four categories as shown in Figure 9:

- 1) PR systems ranging from a return to the 2019 system, to proposals to reduce the size of multi-member constituencies (blue).
- 2) Mixed-member proportional systems including a proposal for a two-round system in single-member constituencies (yellow).
- 3) “Constituency-based” systems with PR compensation including proposals supporting reforms to either a mixed-member proportional system or introducing smaller multi-member constituencies in PR (green). Some proposals expressed support for either system, other proposals expressed support for the broad concept without defining the nature of constituencies.
- 4) A limited number expressed support for entirely constituency-based systems without compensation or party lists (red).

**Figure 9: Electoral System Preferences Identified by Researchers, CSOs and Activists**



The most common theme among proposals was to strengthen the constituency element of the electoral system while maintaining a PR component to ensure proportionality of the system. Their choice of system, one submission pointed out, should not suggest that they believe it will eliminate all of South Africa's socio-economic ills. No electoral system is perfect, they pointed out. In their view, this would, however, offer something that approximates perfection. Another submission, along the same lines, added that opting for a stronger constituency element to the system is not a rejection of PR, which has been in use for the most part of the last 30 years.

<sup>133</sup> This applies strictly to the CSOs, academics, think-tanks, researchers, and activists.

Both submissions were cognizant that the proportional representation system promotes qualities, such as diversity and inclusiveness that South Africa cherishes. But, as the submissions pointed out, changing electoral systems involves trade-offs. While there may be many guiding principles, accountability was a serious concern, and in some cases, participants believed that it should be rated higher. MPs should be held responsible for their performance, and the electorate must have a way of registering their discontent with their MPs.

In their view, the current system has created an accountability deficit and weakened MPs in relation to the party hierarchy. Constituency offices have not worked. People do not know who their public representatives are, and where the offices are located. At the root of the problem is that MPs do not have an incentive to be attentive to their duties to voters. This could change if they are elected directly by voters within a particular constituency where they reside.

In other words, the reasons for supporting reforms to the system are as follows:

**a) Stronger Parliament:** Parliament has been weak so far, partly because MPs are not elected directly by voters, but are chosen by the party. This manner of election, through a party list, makes them beholden to the party. However, if at least half the MPs are elected through constituency, there is more incentive to be responsive to the constituents.

Similarly, Parliament will be emboldened to exercise oversight over the executive. But, as one submission cautioned, there should also be anticipation of a backlash from parties, especially where MPs defy parties as they prioritise the concerns of their constituents. This is something that should be pre-empted.

**b) Improve the calibre of candidates:** Having members elected in the constituency will support the election of candidates of a good calibre. Electorate will most likely, in their preference for leaders, insist on demonstrable public service and good character. Individuals with such profiles would receive preference. Once elected, the MPs will also try hard to remain attentive to their duties to gain re-election

**c) MPs vs Parties:** It does not mean that MPs would not be forced to follow party discipline, even if such decisions are against the interests of constituents. Such tensions will arise, but it is highly likely that MPs won't support decisions that disadvantage their constituents.

**d) Presidential election:** This allows for the possibility of electing a president directly. This will enhance accountability even further. The president will not be indebted to the party but will be answerable directly to the electorate.

**e) Recall mechanism:** Where a public representative fails to fulfil his or her mandate, it would be possible to recall that individual and have a by-election. This will ensure that the electorate has immediate recourse, instead of enduring an incompetent public representative until the next election. This will also incentivise public representatives to be diligent in their duties.

As part of promoting interaction between constituents and public representatives, a proposal was made to legislate public meetings. This will make sure that meetings are held regularly.

## Seats and ballot design

Not all submissions commented on how many seats each constituency should have. Some favoured single-member constituencies demarcated along municipal lines. Others favoured smaller multi-member constituencies in a PR system. There were also different views on the division between compensatory and constituency seats. Among those that remarked on the division of seats, the most common proposal was 300 constituency seats and 100 from a compensatory list; others proposed 250 from constituencies, and 150 from a compensatory list. There was unanimity, that the PR ballot should be based on an open list.

## Threshold

The question of a threshold was mentioned less frequently by this group of stakeholders. Two submissions came out in favour of imposing the threshold. One was not specific on the threshold, and the other proposed 1%. The purpose, it was noted, is to maximise prospects of stability. While this would disqualify several parties, Parliament would remain broadly representative of the largest portion of the electorate.

The proposal on the threshold extended to the formation of the government, which seems likely to remain as a coalition. Here, it was proposed, only parties with 10% of the seats should be considered for inclusion in the coalition government, and the largest party should be allowed to elect the president and premier.

## Supporting Mechanism

Because coalitions are likely to be an enduring feature, it was also proposed that other measures be introduced to strengthen them. These were:

- i. Limiting the number of motions to once a quarter, and be supported by at least 10% of public representatives in Parliament and legislatures
- ii. Extending the coalition formation period to between 30 and 60 days
- iii. Formalising coalition agreements and making them public

## YOUTH FORMATIONS

The most attended of all the virtual consultations, held on 14 March 2025, was the session with youth. It drew a variety of formations.<sup>134</sup> The discussions revolved around a lack of accountability in the current system, which led to young people disengaging with the political process and feeling that their vote would not count. This was attributed to the closed list system, which reserves the nomination of public representatives to parties. In their view, this also meant that representatives were beholden to party leaders rather than voters.

The dominant proposal was that the electorate should be allowed some influence in the selection of candidates. This should be done through an open list system or by introducing a mixed electoral system so that voters can hold individual representatives accountable. Others proposed a direct election of government leaders – i.e. president and premier.

## VOTERS ABROAD

South Africans abroad made both written submissions and oral inputs in a virtual session. They emphasised that

<sup>134</sup> They included Operation Dudula, Independents, Moral Regeneration Movement, former junior mayor of Midvaal, Golden Youth Club, De Klerk Foundation, youth representatives from political parties etc.

South Africans living abroad still maintained an interest in the country's success and, in many cases, only lived abroad temporarily for work. Their most common concern was around the accessibility of voting, with limited voting stations making it difficult to vote.

Under the current system, voters abroad only receive the national ballot and therefore cannot vote for independent candidates (who can only contest the regional ballot) or vote for provincial legislatures. This means that their vote is half the value of ordinary voters in the National Assembly, as the calculation of compensatory seats is based on the combined total of the regional and national ballots. Participants likewise questioned why they were not allowed to vote for provincial legislatures and suggested that their last voter registration address in South Africa could be used to determine which province they should be allowed to vote for on both the regional and provincial ballots.

Another concern was around their representation in the National Assembly, with some proposing a constituency specific to voters abroad to represent their views and hold foreign missions accountable for the services they provide to South Africans abroad. Another proposal included securing representation in the National Council of Provinces (NCOP), with a proposal that they be considered as the 10<sup>th</sup> province, allocated one delegate to the NCOP.

## ***BUSINESS AND LABOUR***

Two sessions were held with labour<sup>135</sup> and business. One combined labour and business, and the other was held separately with the Solidarity Movement. The two sectors raised concerns about accountability and stability. The latter concern stems from the flourishing of coalitions at the local government level, which have been characterised by instability. They blame the instability on the presence of multiple small parties. These parties, they argue, are opportunistic and tend to encourage a frequent change of coalitions as they pursue their own material interests.

Both labour and business were unanimous in their concern over a lack of accountability in the current system, with proposals including a mixed system, introducing constituencies in PR and adopting an open list system. The constituency-based aspect, they elaborate, will ensure that the electorate directly elect their representatives. The also want to know the list of party candidates. In addition, they recommended a threshold to limit the number of parties in Parliament.

## ***TRADITIONAL LEADERS***

The Congress of Traditional Leaders of South Africa (CONTRALESA) submitted a comprehensive proposal advocating for an electoral system that enhances participatory democracy, accountability and inclusivity in South Africa's governance structures. Key proposals include:

- **Electoral Model:** A system where 50% of Members of Parliament (MPs) and Provincial Legislators are elected directly, with the remaining 50% constituted by political party representatives.
- **Direct Election of Executives:** Citizens should directly elect the president, premiers, and mayors. Upon election, these officials must resign from any party-political positions to ensure impartial governance.

<sup>135</sup> Cosatu was part of the public meeting that was held in Cape Town with academics, researchers and activists. Their views have been included here, with the rest of the labour movement.

- **Reform of Executive Appointments:** The president and premiers should appoint cabinet members based on merit, including individuals from outside the legislature. Appointees must resign from legislative and party roles to uphold the separation of powers doctrine.
- **Enhanced Role for Traditional Leaders:** Four seats in each provincial legislature and 10 seats in the National Council of Provinces (NCOP) should be reserved for traditional leaders, recognising their constitutional role and promoting community-based governance.
- **NCOP Reform:** In addition to traditional leaders, 10 representatives from the South African Local Government Association (SALGA) should be included, with 60 members continuing to be elected via proportional representation.
- **Motivation:** The reforms are rooted in the need to address accountability failures in the current party-centric system and respond to the 2020 Constitutional Court ruling mandating independent candidate participation.

## CONFERENCE PROCEEDINGS

The Panel held a conference on 9-10 April 2025 bringing together key stakeholders to discuss the Panel's initial findings emerging from public consultations. There were 11 presentations made over the days. These included presentations by members of the Panel on what came out of the public participation process, the principles of electoral design and preliminary system options emerging from public consultation. Perhaps more important were insights provided by international scholars on experiences elsewhere, with a view to providing lessons for South Africa. Below are summaries of the various presentations. The focus is exclusively on the presentations made by non-panel members and draws out salient issues.

### **Electoral Reforms in Multi-Tiered Systems: Denmark, Lesotho and, of course, South Africa. *Jorgen Elklit, Professor Emeritus, Aarhus University, Denmark***

The presentation examined two-tiered electoral systems, including Denmark, Lesotho, and South Africa as case studies. While Lesotho makes use of single-member constituencies and Denmark and South Africa use multi-member constituencies, all three countries include a compensatory tier to ensure the overall proportionality of electoral results.

A key difference between South Africa and Denmark's system is their use of a legal threshold for compensatory seats to prevent fragmentation, and the use of preferential voting on party lists, which allows voters to hold MPs seeking re-election accountable. An alternative to introducing a threshold in South Africa could be to raise the ballot access requirements. In Denmark, the required number of signatures is the full quota for a seat in the previous election, whereas in South Africa it is only 15% of the quota, which is overly generous and explains why so many minor parties get on ballot papers.

Regarding the question of electoral reform, Elklit indicated that while South Africa's system has many qualities, there's room for improvement. In his view, accountability remained a key concern. While accountability can best be achieved with single-member constituencies, doing so comes with challenges, including the large demarcation exercise that would be required. Instead, the lower level could be made up of smaller multi-member constituencies than the current regions, including "about 70 MMCs with an average magnitude of 4.5 seats would give 315 MMC seats and 85 compensatory seats. That would certainly be enough to secure an adequate level of proportionality."

**South Africa's Electoral System: Principles and Considerations.** *Andrew Reynolds, Professor Emeritus, Princeton University, USA*

Andrew Reynolds moved from the premise that South Africa is still a divided society. And so, whatever new system is formulated, it shouldn't exacerbate conflict, promote dominant and homogenous parties. Given the current concerns, the system should certainly encourage accountability and a stable government.

Arising from the above, Reynolds provided the following counsel. Incremental changes are advisable. If the current system does not work optimally, it is better to tweak the system rather than jettison it. Given changes over time, reforms become necessary to make institutions more appropriate for the modern era, and this requires trade-offs among the various elements. Not all elements of the electoral design are equally important. Elements that enable the overall, optimal impact on the current concern about accountability should be given priority, and voters need to own the system, not politicians.

Smaller constituencies, with multiple seats, and an imposed threshold could strengthen the current system without losing some of its best elements. An open list and a ballot design that has the names of the candidates could be introduced. Some could have both pictures and names of candidates, and others have names only.

**Open List Proportional Representation (OLPR).** *Alan Wall, electoral administration and democracy advisor based in Australia*

There are multiple variations of Open List Proportional Representation (OLPR): Pure, Flexible, and Protected lists. Each offers a different option. Candidates can either be elected purely on the number of votes; a threshold may be required for a candidate to move up the list in the allocation of seats; or the party may protect some candidate, usually the head of the list, exempted from competition on their party list.

Many recent electoral reforms have been marked by a shift from closed to open list systems. The shift has been prompted by an increasing call for accountability and to improve the calibre of public representatives. Voters are showing interest in voting for individuals, rather than parties, based on their personal attributes and reputation.

While OLPR has advantages, there are also risks to consider. OLPR may be less inclusive, especially on gender, as voters choose individuals. Patriarchal beliefs may discourage some voters from voting for women. Internal party competition may also promote the practice of bribery to influence how party members vote. Ballot design is a key issue to get right. If the ballot paper is likely to be unwieldy, it can create confusion among voters and has the potential to increase the number of spoilt ballots.

**Electoral System Reform: SADC Region.** *Khabele Matlosa, Strategic Institute for Research & Dialogue, Maseru, Lesotho.*

Most countries in the region follow the FPTP system, with the PR system being the second most popular. Only one country has moved to a mixed system, but three countries started reforms towards a mixed system, which have stalled due to a lack of political commitment. Noteworthy about the countries that follow a PR system is that they went through violent conflict. Their adoption of PR was part of consolidating their peaceful settlement.

Matlosa pointed out that a mixed system, much the same way as PR, promotes party fragmentation. This raises the possibility of coalitions, and, by implication, instability such as seen in Lesotho, and this demands robust mechanisms to ensure stability. Reforms only work if accompanied by a concomitant change in mindset.



Politicians must readjust their thinking to align with the requirements of the new system. In South Africa, coalitions are already prominent and are likely to remain a lasting feature. But, it does not look like politicians are willing to make coalitions work for the public, especially at a local level.

Meaningful electoral reform, Matlosa went on to add, ought to bring citizens to the centre of the democratic discourse, and electoral reform should be complemented by wider democratic reforms, including political, economic, and institutional transformation. The declining rates of voter registration and turnout, for instance, are indicators of the eroding trust in institutions. For the reforms to fully realise their objective, they can't simply be limited to mechanical changes. It also requires political leaders to dedicate themselves to democratic principles. This means expanding public participation and reducing elite dominance. The populace must feel a sense of control, or ownership, over political life.

**Electoral Systems and Party System Effects.** *Fernando Casal Bértoa, Associate Professor, University of Nottingham, UK*

The paper examines the effect not only of each category of systems, but the variations within each category on the political system. This involves the impact on gender equality, representation and internal party cohesion. Some of the variations may be too complex for South Africa. Of particular importance, though, is how constituency sizes and the number of seats (whether single or multiple) impact on proportionality, and designing an electoral system involves trade-offs, such as the following:

- **Proportionality v Governability:** Higher proportionality enhances representation but may reduce governmental stability due to coalition complexities.
- **Representation v. Simplicity:** Systems like Single Transferable Vote or Mixed Member Proportional representation increase voter choice and fairness but are harder for the public to understand and administer.
- **Inclusivity vs Fragmentation:** While proportional systems include more political voices, they may lead to fragmented party systems and unstable cabinets.

An effective system requires finding the right balance between trade-offs.

**Country Case: Germany – Election of the Bundestag.** *Axel Bayer, First Secretary: Political Affairs, German Embassy in South Africa*

The current system of personalised proportional representation is a variant of mixed-member proportional representation, including a first vote for candidates in single-member constituencies and a second proportional vote. This allows for localised representation as well as overall proportionality. The Bundestag is made up of a maximum of 630 seats allocated in proportion to the number of second votes.

Based on the number of first votes received, a successful constituency candidate moves to the top of the party's list of candidates in the particular federal state. This means they are the first to be considered in the allocation of seats. However, if a constituency candidate's ranking on this list is not matched by the number of seats the party would receive based on second votes, the constituency mandate is not awarded.

While diversity is valued, fragmentation should be limited. Fragmentation leads to instability, which makes a government somewhat dysfunctional. Germany's answer to fragmentation and the resultant unstable coalitions

is an imposed threshold of 5% to gain representation in the legislature and reflects past challenges with political instability that led to the rise of Nazism.

### **Indonesia's Electoral System Reforms.** *Adhy Aman, Senior Programme Manager, International Institute for Democracy and Electoral Assistance*

Indonesia is a lesson on how contested electoral reforms can be. Though prompted by the need for accountability and to assert more voters' control over public representatives, the process did not unfold seamlessly. The political elite resisted the shift, leading to the process being stalled and producing half-measures. The system continued to be changed over five electoral cycles. One example of half-measures, or the pretext of change, was the introduction of a half-open list system. While giving the appearance of being open, where voters could choose their candidates, the party still retained enormous influence on who was elected. In some cases, individuals who received the highest number of votes were not elected, as party leaders had the final say.

In the long term, the electorate does not surrender if reforms fail to address their concerns. As a result, the system continues to be improved. With the move to a full open list system, competition among candidates has improved the calibre of candidacies and a healthy rate of non-performing incumbents not being re-elected.

There's a concern that contests among candidates have triggered the practice of vote buying. Party supporters are bribed to nominate a particular individual. Although frowned upon, this vice is not unique to an open list system and exists under closed list systems as well.

Perhaps a more genuine concern is the rise of spoilt ballot papers. This was caused most likely by the shift to a new ballot paper design. A great deal of care and education is required both in the design and for voters to know how to express their intent on the ballot. Gender activists have expressed a concern that an open list system works against women's representation, and a way must be found to ensure that popular prejudices against women do not limit their representation.

### **General Comments and Conference Discussion**

**Political Parties and Racial Identity:** There's a rise in parties formed along racial identities. This increases polarisation and is something the new electoral system should investigate.

**Coalitions:** The many parties that South Africa has, and the lack of outright winners, have led to coalitions. Coalition governments are unstable in most cases. Legislation should be introduced to regulate and manage their formation and functioning.

**Threshold:** Views varied on whether an imposed threshold is required to limit the number of parties in order to address the problem of unstable coalitions. One view supported the introduction of a formal threshold, while others argued it should not be imposed, but that parties should be restricted at the registration level. The number of signatures required should be increased and e-signatures should also be considered. Among those who opposed a formal threshold was the view that it would be unconstitutional, as it would bar parties from representation when they've received votes for such.

**Electoral System Options:** Different views were expressed on the options presented by the Panel. There was disappointment that Option 1 was considered, as this implies a retention of the status quo, which has elicited widespread discontent. A call was made to be mindful that the greatest source of unhappiness with South

Africa's political life stemmed from the lack of accountability and disconnectedness between voters and public representatives. A new electoral system, therefore, should be a remedy to this public unhappiness. This should involve smaller constituencies and a bias towards more constituency seats in the composition of legislatures.

There was also a concern raised about the Panel submitting multiple options without a clear preference. The suggestion was that the Panel should propose three options but make a recommendation of one.

**Accountability and Recall:** Non-performing public representatives should be recalled. Care should be taken, however, to make sure that party leaders do not abuse this mechanism to settle their own scores against public representatives. Efforts must be made to involve constituents in the recall process.

## CONCLUSION

The public consultation process was extensive. The Panel covered the length and breadth of the country. Many sectors of South African life participated, and participants were multi-generational and drawn across races. The common complaints, or concerns, about the electoral system were:

- **Lack of a relationship between voters and public representatives:** there's no connection, and, as a result, public representatives are not accountable to voters.
- **Voters distrust political parties:** participants feel that politicians do not prioritise their needs, but their own interests, and look out for each other, even at the detriment of the public.
- **Poor calibre of public representatives:** parties do not prioritise merit in their selection process and appear to value loyalty above everything else.
- **Party fragmentation:** there are too many small parties, something that has already made local government unstable.

Flowing from the concerns, the dominant proposals are as follows:

- **Electoral System:** a combination of constituency-based and proportional representation models. Proposal on the division of seats between constituencies and PR vary: 200: 200; and 300 constituencies and 100 PR.
- **Constituency Size and Number of Seats:** the size of the constituency should be relatively small – i.e. municipal or district size – to enable the electorate to know and form a close relationship with their public representative. Most parties felt that constituencies should have multiple seats.
- **Presidential/Premier Elections:** direct elections for president and premiers should be considered. The purpose is to ensure they account directly to voters, not to their parties.
- **Open Party Lists:** many submissions from political parties, CSOs, and the public supported the idea of open lists, allowing voters to express preferences for individual candidates on party lists.
- **Recall:** public representatives should be recalled if they fail to perform their duties. Voters shouldn't have to wait for the next round of elections to remove an incompetent public representative.

- **Threshold:** a legal threshold to limit the number of small parties. Having fewer parties minimises the prospects of unstable coalitions.

The consultation process was relatively extensive, particularly given the resources and time available, and included a variety of opportunities for comment and opinion to be provided. The issues raised above have been considered by the Panel in arriving at the options recommended in Chapter 6.





















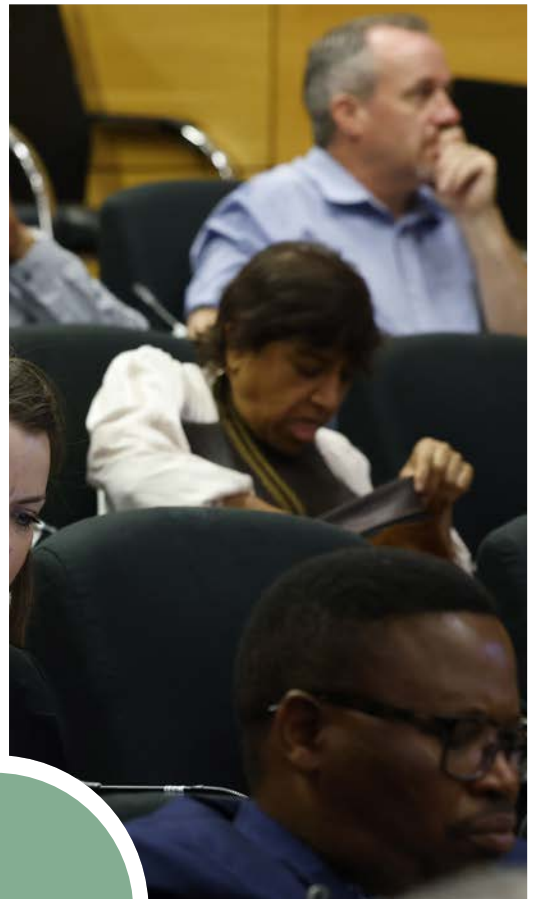














# Chapter 6: Electoral System Options

## CHAPTER 6: ELECTORAL SYSTEM OPTIONS

This chapter evaluates electoral system options and presents recommendations for Parliament's consideration. Three options are evaluated against the research evidence to explain the expected effects of different electoral system options. Two options are recommended for Parliament's consideration based on the assessment of electoral systems and input emerging from consultations with communities and sectoral stakeholders.

The chapter starts with an explanation of the seat allocation process used in compensatory systems, which applies to all options discussed. This is followed by an evaluation of common systems proposed for elections to the National Assembly. This includes three options: retaining the current system, introducing smaller multi-member constituencies, or adopting single-member constituencies while retaining overall proportionality. The three options are subsequently compared to explain where the options differ in their attainment of the guiding principles to inform our final recommendations for reform. The chapter ends with a discussion of options for provincial elections and their implications in relation to reforms considered at the national level.

### SEAT ALLOCATION IN COMPENSATORY SYSTEMS

Before explaining the different electoral system options considered by the ERCP, it is helpful to return to the seat allocation process in compensatory systems, as this is a common feature of all three options. As explained in Chapter 4, the compensatory nature of the options identified means that all three options will result in the same overall political outcomes with the same parties represented to the same degree. In effect, if any of these three systems had been used in the 2024 election, the final seat allocation in the National Assembly would be the same. The seat allocation process for the National Assembly follows two main steps set out below and would apply to all three options.

#### Step 1. Constituency seats

- Seats are assigned to constituencies in proportion to the number of registered voters in an area.
- A separate regional ballot paper is used for voters to choose either a political party or an independent candidate.
- In Options 1 and 2, seats are allocated to political parties and independent candidates in proportion to their share of the vote. This is determined using a Droop quota and the largest remainders method. In Option 3, where single-member constituencies are used, the person or party that receives the most votes wins that seat.
- If an independent candidate wins a seat, they are elected. Votes for independent candidates are not considered in the next stage, because only parties qualify for compensatory seats.

#### Step 2. Compensatory seats

- There is a separate national ballot contested by parties. If someone voted for an independent candidate in the first ballot, they can, in this instance, elect a party for the overall national results.
- The compensatory allocation considers total votes across the whole system to assign seats proportional to the overall results. In effect, the outcome is identical to a straight nationwide allocation.



- A new Droop quota is determined across all 400 seats based on the votes received on both the regional and national ballots by qualifying parties.<sup>136</sup> The quota and largest remainder method are used to determine how many seats each party should be given in the 400-member Assembly,<sup>137</sup> based on the total votes for qualifying parties.
- Compensatory seats are then allocated to make up the difference between the total number of seats a party is due and the number of constituency seats it has already won. For example, if a party is entitled to 40 of the 400 seats in the National Assembly and it wins 18 constituency seats, it will then be compensated with 22 seats to make up the difference and ensure overall proportionality.

## NATIONAL ASSEMBLY ELECTIONS

Electoral system options for the National Assembly are assessed below in terms of the guiding principles adopted by the ERCP. This is based on the evidence for the effects of different aspects of electoral system design as set out in Chapter 4. Our final recommendations are guided by the research evidence and concerns raised during public consultations.

### OPTION 1 – THE CURRENT SYSTEM

Option 1 maintains the current electoral system structure based on a two-tier system with 200 constituency seats and 200 compensatory seats. Nine multi-member constituencies follow provincial boundaries and the 200 constituency seats are allocated in proportion to the number of registered voters in each constituency. The size of constituencies ranges from five to 47 seats. The sole reform proposal considered by the ERCP under Option 1 is to change the process dealing with remaining seats following the first allocation based on the quota. Under the proposed reform, only the largest remainder method would be used to assign the remainder of the seats rather than combining it with the highest averages method as is currently done.

### EVALUATION AGAINST GUIDING PRINCIPLES

**Inclusivity:** The use of compensatory seats and high levels of proportionality allow for inclusion and diverse representation in terms of gender, political parties and demographic groups across geographic locations. The use of party lists will encourage political parties to put forward diverse lists, including female representatives.

**Fairness:** All options are equally proportional, and all votes hold equal value due to the compensatory nature of the electoral system.

**Accountability:** Electoral accountability is primarily exercised on a collective basis where voters can make their choice to reject or reaffirm the electoral mandate of parties every five years. Closed lists mean that voters cannot identify individual candidates on the ballot, nor can they vote for individual candidates across party affiliation. This reduces individual accountability of representatives to voters.

In terms of vertical accountability, the use of such large constituencies weakens the accountability relationship between voters and their representatives. Large constituencies make it more difficult for voters to determine

<sup>136</sup> If a party wins a constituency seat but does not qualify for compensatory seats, it keeps its seat, but its votes are not counted for compensation. This would occur if a party won more constituency seats than it is due based on the overall results.

<sup>137</sup> The quota is determined for 400 seats minus any seats gained by an independent candidate or seats gained by political parties that do not qualify for compensation. If Parliament were to introduce a legal threshold, it would apply at this stage and votes for parties below the threshold would not be considered in determining the quota for compensatory allocation.

individual responsibility for their area and distinguish between representatives. This also makes it more difficult for voters to assess and monitor the individual performance of representatives and reward or reject representatives at the next election. Large party lists make it difficult for voters to show their support for particular candidates and to reject representatives for poor performance. Weak or poor performing candidates can be protected through a high party list position making it difficult for voters to reject them. This makes individual representatives primarily accountable to party leaders rather than directly to the electorate as parties nominate candidates and voters have no leverage in determining the re-election prospects of individual representatives. As a result, there are limited incentives for public representatives to be responsive to voters.

In terms of horizontal accountability, large constituencies and the closed list system tend to skew the balance of power in favour of party leaders, who decide the compilation of party lists. This disincentivises MPs from holding the executive accountable. As a result, public representatives are incentivised to place the interest of party leaders ahead of their constituents.

**Simplicity:** The system is straightforward and easy for voters to use and find their party or independent candidate on the ballot. The number of spoilt ballots is relatively low compared to international standards.

**Electoral Manageability:** This system has been used previously without any issues. The introduction of measures to minimise non-competitive participation by political parties and independent candidates with limited prospects of electoral success should be considered.

**Transparency:** There is no need to delimit new constituencies as this option uses the existing provincial boundaries. Changing population trends over time will only require changes to the number of seats in regional constituencies and this is based on a transparent process.

**Stable and Effective Government:** As all three options will result in the same overall electoral outcomes, there will be no expected difference among the various options in terms of their effect on party system fragmentation. The adoption of an electoral threshold for compensatory seats could be used to reduce fragmentation in the party system.

#### **Advantages:**

No delimitation of constituency boundaries is required. This will prevent disputes over electoral boundaries.

Political parties and voters are familiar with the system.

Advances equitable gender and minority representation.

#### **Disadvantages:**

Option 1 presents the weakest accountability relationship between voters and their representatives. The use of large constituencies creates a substantial distance between voters and representatives, undermining the association between the two. Public consultations indicate that this leaves voters feeling unrepresented as they do not know their representatives, and representatives do not account to them.

The link between voters and elected representatives is through arbitrary constituency offices established after elections. This weakens the direct link between constituency services and the ballot. The ballot is the primary mechanism through which voters reward or reject candidates based on their performance and responsiveness to

community needs. If the connection between the constituency office and the electoral district is broken, voters will find it harder to hold representatives accountable for their performance, thereby diminishing the effectiveness of democratic representation. This blurs lines of accountability and weakens the value of the ballot as a mechanism for holding MPs responsible to their communities.

The use of large, closed party lists means that voters do not have any influence in the election of individual representatives. As a result, voters lack an immediate mechanism to penalise individual representatives for poor performance or misconduct. This disincentivises the responsiveness of public representatives to the public as voters lack direct influence on their re-election.

The vast size of these provincial constituencies makes it difficult for independent candidates to campaign effectively. This also does not allow independent candidates to compete on similar terms against the merits of individual candidates from political parties.

## OPTION 2 – SMALLER MULTI-MEMBER CONSTITUENCIES

This option is a contemporary variant of the proposal put forward by the Electoral Task Team led by the late Frederik Van Zyl Slabbert. It is a two-tier system with compensatory seats and smaller multi-member constituencies. In this option, multi-member constituencies are delineated at the local level following existing municipal boundaries to combine local municipalities into multi-member constituencies. The largest metros<sup>138</sup> are subdivided into smaller multi-member constituencies based on combinations of ward boundaries to ensure that all constituencies are similar in size.<sup>139</sup> Constituencies do not cross provincial boundaries. The constituency delimitation considered by the ERCP results in 41 multi-member constituencies using combinations of local municipal boundaries, but it is possible to consider other variations with more constituencies.

Local government boundaries have changed in the two decades since the Electoral Task Team's 2002 report. This means that the same 69 multi-member constituencies considered in their model are no longer possible. The overall approach is, however, still valid. The model considered by the ERCP combined local municipalities rather than district council boundaries as used by the Electoral Task Team. The use of local municipality boundaries provides more flexibility in forming constituencies of a similar population size; but the use of district council boundaries or their combination would accomplish the same overall purpose and alternative delimitations of multi-member constituencies would be equally valid.

This option has two variants, 2A and 2B. They are similar in most respects. The only difference is the ratio of seat distribution between constituency and compensatory seats. Variant 2A has a 200/200 seat distribution for constituency and compensatory seats, while 2B offers 300 constituency seats and 100 compensatory seats. The two variants will lead to the same final results. In 2A, the number of seats varies between three and six per constituency (five on average). In 2B, this ranges from four to ten seats (seven on average).

Variant 2B, using 300 constituency seats, is considered the stronger version. Option 2A presents no additional advantages that are not accomplished by Option 2B, which achieves the same objectives while bringing a greater number of representatives closer to voters without any trade-offs in proportionality or other principles. The primary justification put forward by panellists supporting the Alternative Report for a 200/200 split between constituency and compensatory seats rather than 300/100 is to reduce the risk of overhang.

<sup>138</sup> Ekurhuleni would be subdivided into 2 regions, Johannesburg 3, Tshwane 2, eThekweni 3, and Cape Town 3.

<sup>139</sup> A voter deviation of no more than 15% is maintained so that each constituency seat represents a similar population size.

Monte Carlo simulations presented by panellists supporting the Alternative Report to test the robustness of electoral system options with simulated results, however, show that a negligible risk of overhang only arises in Option 2B in the most extreme cases of fragmentation. The simulations presented show that the potential for overhang only reaches more than 1% in 1,000,000 simulations in cases where the Effective Number of Parties (ENP)<sup>140</sup> is greater than 14. This level of fragmentation is significantly higher than seen in real-world circumstances, where the highest ENP is 9.9 (Brazil) compared to an average of 3.9 among all PR and mixed systems, and 4.2 in South Africa's last election (its highest yet).

In effect, the simulations presented show that a perceptible potential for overhang will only arise in cases where fragmentation has reached levels vastly higher than currently seen anywhere in the world. In the South African case, it will mean worse than three times the level of fragmentation currently seen in election results. In short, the potential for overhang should be regarded as a vague possibility that could arise if the South African party system were to fragment to an extent significantly worse than anything seen in the real-world.

Regardless, the potential for overhang can easily be addressed with appropriate legal provisions and as the Constitutional Court has indicated previously, is not an “insurmountable challenge.”<sup>141</sup> There is precedent for this in the local government electoral system. The Municipal Structures Act,<sup>142</sup> states that in circumstances where a political party wins more constituency seats (excess seats) than it is entitled to (based on the overall seat allocation calculation), it retains its constituency seats. In such a scenario, the number of party list seats is accordingly reduced for allocation among the remaining parties. The effect on proportionality would be no different to a single independent candidate winning a seat. In this context, panellists supporting the Original Report consider the potential for overhang negligible and the effects manageable based on similar legal provisions in the local government electoral system.

## EVALUATION AGAINST GUIDING PRINCIPLES

**Inclusivity:** The use of compensatory seats and high levels of proportionality allows for inclusion and diverse representation in terms of gender, political parties and demographic groups across geographic locations. The use of party lists will encourage political parties to put forward diverse lists, including female representatives. International evidence shows no correlation between the size of multi-member constituencies and rates of gender representation.

In fact, the smallest regional constituency in South Africa currently has the highest female representation. Consequently, Options 1 and 2 should result in similar rates of gender representation. The smaller size of the compensatory tier in Option 2B likewise should not affect gender representation. Under the current system, more women were elected in regional constituencies than in compensatory seats in the 2024 election.

**Fairness:** All options are equally proportional and all votes hold equal value due to the compensatory nature of the electoral system. The increase in the number of constituency seats allows independent candidates to compete on a more equitable basis, as there are more seats to be contested. More constituency seats will also increase the chances of smaller parties winning such seats.

<sup>140</sup> The Effective Number of Parties is a widely used formula for measuring fragmentation of election results. In effect, this would be equivalent to the vote being equally split among 14 parties with each party receiving around 7% of the vote.

<sup>141</sup> Independent Candidate Association NPC v The President of the Republic of South Africa and Others (CCT 144/23) [2023] ZACC 41

<sup>142</sup> Schedule 1, Section 16 of the Local Government: Municipal Structures Act.

**Accountability:** The system creates a closer link between voters and their representatives than is the case in Option 1. Of the options, Option 2B will bring the most representatives closer to voters through the use of 300 constituency seats. The use of smaller constituencies will make it easier to determine the responsibility of individual representatives to voters in a specific area, better incentivising responsiveness to communities. Smaller constituencies are better at “putting a face” to individual representatives and clearer lines of accountability will make it easier for voters to monitor and assess the performance of representatives elected to their area.

Smaller party lists and greater line of sight of candidates make individual candidates more electorally answerable for poor performance (compared to large party lists where poor candidates can be protected by a high list position). This gives voters greater leverage in re-electing individual representatives, and more power in rejecting or rewarding candidates based on the performance. This incentivises responsiveness and accountability to voters.

The use of multi-member constituencies rather than single-member constituencies (as used in Option 3) will mean that multiple representatives, seven on average, are accountable to a specific area. In most cases, this would likely result in the largest parties winning more than one seat in a constituency and would also allow for smaller parties to win constituency seats. This would encourage competition between party members as well as between candidates from different parties at the constituency level. This competition will incentivise more responsiveness to serving communities.

**Simplicity:** There is little difference from the current electoral system and voters will therefore understand it easily. This makes it unlikely to increase the number spoilt ballots. The change may require some voter education, but voters are familiar with the idea of local representation in a specific area.

**Electoral Manageability:** The system is largely similar to the current one and has been implemented successfully in the past. The introduction of individual ballots for 41 smaller constituencies will initially require some changes to the electoral administration process. The introduction of measures to minimise non-competitive participation by political parties and independent candidates with limited prospects of electoral success should be considered.

**Transparency:** This option makes use of existing municipal boundaries as constituencies. The use of fixed constituency boundaries limits the need for new delimitation every election. The only changes between election would be to the number of seats if population changes are substantial enough and this determination is based on an objective and transparent process. Only if municipal boundaries or population trends change very substantially would changes to constituency boundaries be necessary.

Moreover, the compensatory nature of the system means that gerrymandering results to favour parties or candidates is not possible as all votes count towards the final nationwide allocation. The option is clear in its intentions, and the overall concept of linking representatives to smaller geographic areas is well understood by the electorate given their experience of the local government electoral system.

**Stable and Effective Government:** As all three Options will result in the same overall electoral outcomes, there will be no expected difference among the various options in terms of their effect on party system fragmentation. The adoption of an electoral threshold for compensatory seats could be used to reduce fragmentation in the party system.

### ***Advantages:***

There is a closer association between voters and public representatives, making it easier for voters to identify their public representatives. This encourages constituency service and accountability to voters by providing voters with identifiable representatives, whom voters can easily monitor.

Option 2B would be able to bring the most representatives closer to voters without a trade-off in the attainment of other objectives.

Replaces party-centrism with a potentially responsive system, where public representatives prioritise their constituents.

Advances equitable gender and minority representation to the same extent as Option 1.

Voters and parties are familiar with the basic system, as it is somewhat similar to the current national system.

The use of existing municipal boundaries would mean that limited delimitation is required for constituencies compared to Option 3.

The use of smaller multi-member constituencies would mean that multiple parties would be represented in constituencies, compared to single-member constituencies, where only a representative from one party would represent an area.

The use of smaller constituencies would allow independent candidates to contest on more equitable terms against other candidates put forward by political parties.

### ***Disadvantages:***

Multiple representatives in a constituency can make lines of accountability more blurred compared to single-member constituencies, where there is one representative solely accountable for an area. Conversely, this can also encourage healthy competition between representatives in a constituency.

Some delimitation would be required to initially establish the system, following which fixed boundaries could be used in subsequent elections.

The use of closed party lists would make it more difficult to penalise a specific representative for poor performance or misconduct than would be the case in single-member constituencies. Smaller party lists would, however, make representatives more electorally answerable for non-performance than the large party lists used in the current system. In the longer term, the introduction of open list voting would be more viable in Option 2 due to the use of shorter party lists.

There is a practically negligible potential for overhang in the most extreme cases of fragmentation. This can, however, be dealt with through appropriate legal provisions as is currently done in the local government electoral system.

## OPTION 3 – SINGLE-MEMBER CONSTITUENCIES AND OVERALL PROPORTIONALITY

Option 3 would introduce a similar system to the one currently used at the local government level, where some representatives are elected in single-member constituencies while others are elected from party lists. The option is similar to the proposal adopted by the majority of the Ministerial Advisory Committee led by Valli Moosa. This option is a type of mixed-member proportional representation system. The option includes 200 single-member constituencies and 200 compensatory seats to restore proportionality to results.

Constituencies are based on combinations of municipal wards, maintaining a voter deviation of no more than 15%. Again, constituencies do not cross provincial boundaries, and the total number of seats within a province would be the same as in Options 1 and 2. In single-member constituencies, the party or independent candidate winning the most votes wins that seat. The large compensatory tier will, however, restore proportionality, and the overall results would be the same as in Options 1 and 2.

### EVALUATION AGAINST GUIDING PRINCIPLES

**Inclusivity:** The use of compensatory seats and high levels of proportionality also allow for inclusion and diverse representation in terms of gender, political parties and demographic groups across geographic locations. The use of single-member constituencies means that constituencies are likely to be male-dominated as parties generally prefer male candidates for single-member constituencies, which might limit women's representation. However, the use of a compensatory list would help restore gender representation. Internationally, mixed-member proportional systems are seen to lead to similar overall levels of gender representation to PR systems.

**Fairness:** All options are equally proportional and all votes hold equal value due to the compensatory nature of the electoral system. The use of single-member constituencies will allow independent candidates to compete on more equal terms to individual candidates put forward by a political party.

**Accountability:** Option 3 proposes the smallest constituencies of all the options and would bring individual representatives closest to voters (although Option 2B would bring more representatives closer to voters). The direct election of public representatives and the closer relationship between them and voters will strengthen the accountability relationship at the constituency level.

The use of single-member constituencies means that there is a clear identification of the elected representative for the constituency. As a result, voters will be able to assess candidates and make informed choices, and reward responsive representatives, while rejecting poor performers. Voters will have greater leverage in the re-election prospects of a candidate, which strengthens incentives for responsiveness. Constituency vacancies must be filled through a by-election. This will enable voters' continuous assessment of the parties' performance.

**Simplicity:** Voters are familiar with the system based on its current use at the local government level, which shows in the marginal number of spoilt ballots. The system is straightforward and easy for voters to find their party or independent candidate on the constituency ballot.

**Electoral Manageability:** This option is similar to the system used for local government elections, which has been administered successfully. The introduction of measures to minimise non-competitive participation by political parties and independent candidates with limited prospects of electoral success should be considered.



**Transparency:** The option is clear and well understood. The proposed use of municipal ward boundaries to determine single-member constituencies will require some delimitation. This would likely need to align and expand on the ward delimitation/review process which takes place every five years ahead of local government elections. The use of compensatory seats leading to the overall proportionality of results means that gerrymandering of constituencies to influence the overall election results is virtually impossible. Nevertheless, it will be important to ensure that the process for determining the boundaries of single-member constituencies is done in a transparent and consultative manner.

**Stable and Effective Government:** As all three Options will result in the same overall electoral outcomes, there will be no expected difference among the various options in terms of their effect on party system fragmentation. The adoption of an electoral threshold for compensatory seats could be used to reduce fragmentation in the party system.

**Advantages:**

There is a clear link between the constituency and a single elected representative. Voters will easily understand the system, given their experience of local government elections, including both ward and PR seats.

Encourages constituency service by providing voters with identifiable representatives whom voters can easily monitor.

Presents strong prospects of individual accountability as the re-election of a public representative is directly tied to a group of voters.

The retention of compensatory seats on a party list allows for equitable gender and minority representation.

By-elections arising from vacancies in single-member constituencies allow for the evaluation of parties' performance in Parliament between regular elections.

The use of smaller constituencies would allow independent candidates to contest on more equitable terms against other candidates put forward by political parties.

**Disadvantages:**

Political parties' candidate selection processes may lead to biases in putting forward male candidates in single-member constituencies, which may lead to over-representation of men in constituency seats. The use of a party list for compensatory seats should help restore overall gender balance. The use of gender quotas could be considered to address concerns over gender balance.

The system will likely lead to changes in the electoral boundaries of single-member constituencies every election, which may lead to disputes. While it would be near impossible to manipulate overall results through the delimitation process, the winner-takes-all nature of single-member constituencies may heighten public concerns over the manipulation of the delimitation processes.

It is likely that single-member constituency seats are only won by a few large parties with smaller parties only represented through compensatory seats.

The plurality factor in single-member constituencies will mean that the winner may be elected with less than 50% of the vote in a particular constituency and so may not have the support of the majority of a community.

The use of single-member constituencies will lead to some level of deviation from proportionality in the first tier, but compensatory seats will return overall proportionality. If the disproportionality in constituency seats is too high, there is potential for a party to win excess (overhang) seats – more constituency seats than they should be entitled to in the overall allocation. Appropriate legal provisions would consequently be necessary to deal with such a scenario, as is currently used in the local government system.

### Constitutional and Legal Implications

Amendments to the Constitution are not necessary. All three options would require amendments to Schedule 1A of the Electoral Act. Options 2 and 3 will require assigning responsibility for the delimitation process for constituencies.

### Financial Implications

The financial implications of the Options include changes required to business processes related to counting votes and communicating reforms to the public.<sup>143</sup> Many of these costs would be a one-off expense to change the system. Demarcation costs under Option 2 would only be for the initial delimitation of constituencies following which these would be used in subsequent elections. In Option 3, this process would be required for each election and could build on the Municipal Demarcation Board's five-yearly process to delimit ward constituencies ahead of local government elections.

	Option 1	Option 2	Option 3
Ballot papers	R37 700 000	R60 000 000	R220 000 000
Additional counting staff	R55 311 280	R55 311 280	R55 311 280
Additional staff training	R24 755 700	R24 755 700	R24 755 700
Business applications	R15 000 000	R28 000 000	R56 000 000
Voter education	R24 100 000	R24 100 000	R48 200 000
Communication	R35 000 000	R35 000 000	R70 000 000
Warehouse staff cost	-	R7 657 020	R7 657 020
Temporary warehouse clerks	-	R13 640 000	R13 640 000
Warehousing	-	-	R313 500
Demarcation cost	-	R26 000 000	R52 000 000
Logistics Project Manager (Metros)	-	-	R6 806 240
Total cost	R191 866 980	R274 464 000	R554 683 740

## COMPARING OPTIONS AND RECOMMENDATIONS FOR REFORM

On most measures the three options will achieve the guiding principles to the same or similar extent. The primary difference is the extent to which each option fosters an effective accountability relationship between voters and representatives. Option 1 to retain the current system presents limited advantages that other options do not offer

<sup>143</sup> The financial implications in this chapter are based on the figures prepared for the ERCP in the course of its work. These figures were confirmed as final in the ERCP's meeting on 15 July 2025 by panel members tasked with this aspect of the ERCP's work.

to the same degree or greater. In terms of inclusivity, the three options would accommodate a diversity of views and demographic groups to the same extent, as all systems would be equally proportional. This allows the same parties to compete and gain seats on equal terms across all three systems and would lead to the same overall outcomes.

The use of party lists across all three options should facilitate gender representation. International experience shows similar levels of gender representation across proportional representation and mixed-member proportional systems (although in the case of Option 3 there is a likelihood that single-member constituencies will skew towards male candidates). There should be no expected difference in the level of gender representation between Options 1 and 2. Both international and South African experience show no correlation between the size of multi-member constituencies and levels of gender representation.

Option 1, however, presents the weakest accountability relationship between voters and their representatives based on the use of such large constituencies. Public consultations raised concerns that voters do not know their representatives, that voters have no say in choosing their representatives and that representatives primarily account to party leaders rather than voters. These concerns are not merely speculative. This lived experience is confirmed by the empirical evidence on the effects of closed list PR systems with large constituencies. This evidence shows that large constituencies disincentivise contact with voters, reduces candidate recognition among voters and diminishes the ability of voters to vote out undesirable candidates.

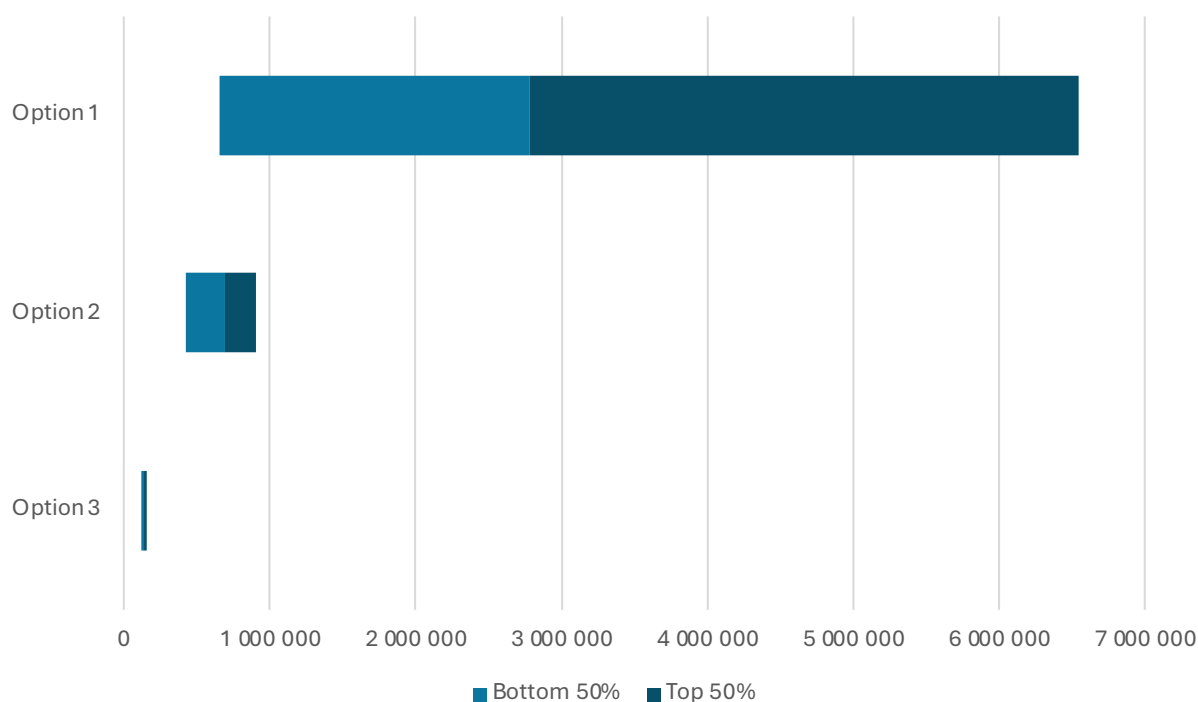
### ***REASONS FOR REJECTING OPTION 1***

**Unnecessarily large constituencies:** The combination of large constituencies and a large compensatory tier is unnecessary from an electoral system design perspective. Large constituencies are used to increase the proportionality of electoral systems. But as the size of constituencies increases, so does the distance between voters and representatives, weakening the accountability relationship between the two. While proportionality is crucial for the South Africa context to achieve political diversity and representation, such large constituencies are unnecessary in a context where compensatory seats are used.

Other Options put forward by the ERCP, using smaller constituencies to bring representatives closer to voters, are equally proportional and lead to the same political outcomes and allocation of seats. Large constituencies therefore present no advantages in relation to improving proportionality and the representation of diverse groups. The primary effect of these large constituencies is that it creates a substantial separation between voters and representatives – a common complaint heard throughout public consultations. South Africa has the largest constituencies among all PR systems including those that do not use a compensatory tier.

Options 2 and 3 present the opportunity to bring representatives significantly closer to voters and build a stronger linkage between the two without any trade-off in proportionality or the inclusivity of the electoral results. This retains the best aspects of the current system while responding to voters' concerns and growing voter apathy. Figure 10 shows the substantial differences in the size of constituencies proposed by the three Options based on the number of registered voters in a constituency. In Option 1, constituencies range from 656,826 to 6,540,567 registered voters in a constituency. In Option 2, this would be between 423,930 and 906,815 voters in a constituency. In Option 3, each single-member constituency would have between 118,548 and 151,373 voters.

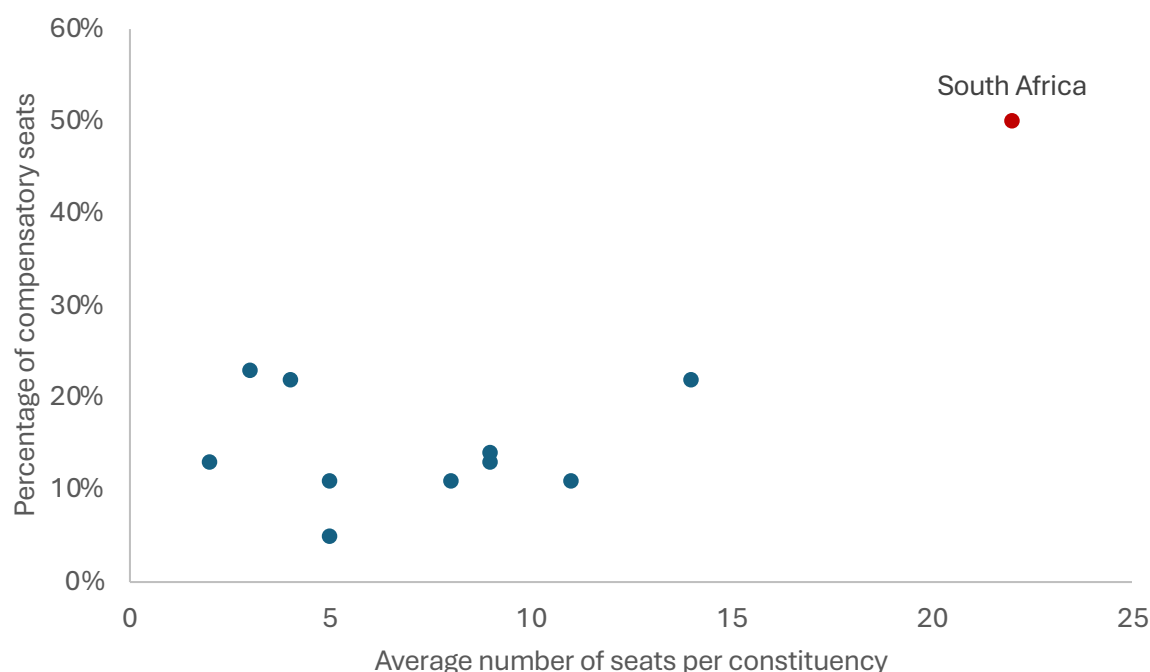
**Figure 10: Number of Registered Voters Per Constituency**



**Unnecessarily large compensatory tier:** The use of a large compensatory tier (200 seats), as proposed in Options 1 and 2A, is also unnecessary for overall proportionality in a PR system using multi-member constituencies. The use of 100 compensatory seats in Option 2B will lead to the same proportional and electoral outcomes while bringing more representatives closer to voters at the constituency level. Concerns over the potential for and implications of overhang in a two-tier PR system, such as Option 2B, are overstated.

Other countries with PR systems that include compensatory seats use both smaller constituencies and smaller compensatory tiers and still achieve comparable levels of proportionality. South Africa's combination of large constituencies and a large compensatory tier makes it an outlier compared to similar PR systems using compensatory seats (Figure 11). As shown in the figure, South Africa has both the largest constituencies and the largest compensatory tier among equivalent PR systems – despite this making no contribution to the overall proportionality of electoral results.

**Figure 11: South Africa compared to equivalent PR systems with compensatory seats<sup>144</sup>**



In Option 2B, the use of multi-member constituencies in the first tier will already lead to high levels of proportionality. These multi-member constituencies would consist of seven seats on average. As explained in Chapter 4, improvements in the proportionality of electoral results diminish as the size of multi-member constituencies increases. Any increase in the size of constituencies beyond eight seats shows very limited improvement in overall proportionality.<sup>145</sup> A large compensatory tier in Option 2B is consequently unnecessary for restoring proportionality in the same way that this is needed in Option 3. Where single-member constituencies are used, the winner-takes-all nature of the system will usually result in a deviation from proportionality. This is why mixed-member proportional systems, such as Option 3, need more compensatory seats to restore proportionality.

Based on the assessment of the Options against the guiding principles, it is clear that Option 1 presents no advantages in the attainment of the guiding principles that other Options do not achieve to a similar or greater degree. The primary advantage of Option 1 over alternatives is its simplicity for the Electoral Commission to manage, albeit at the expense of a closer linkage and stronger accountability relationship between voters and their representatives. Based on the frustrations expressed in public consultations and growing dissatisfaction with South African democracy, electoral reform is imperative.

## THE IMPERATIVE OF ELECTORAL REFORM

South African democracy is struggling. The 2024 election saw the country's lowest voter turnout yet with only 58.6% of registered voters casting their ballots. More concerning, the gap between the number of eligible and registered voters is growing. Many South Africans no longer bother registering to vote. As a result, less than 40% of the voting age population voted in the 2024 election down from 86% in 1994. In the 2024 election, South Africans had a choice between 52 political parties and 11 independent candidates. Instead, the majority chose not to vote.

<sup>144</sup> Angola is excluded due to malapportionment in the lower tier whereby each province is granted five seats regardless of population size, necessitating more compensatory seats to restore proportionality.

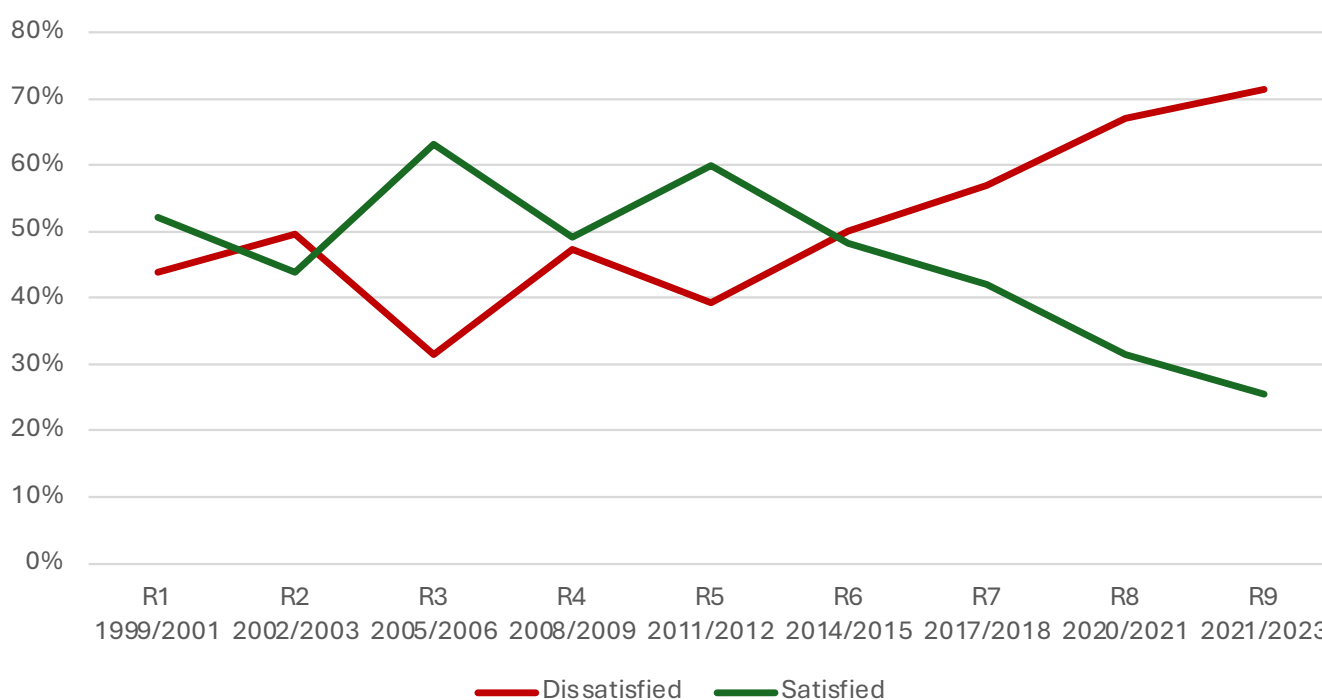
<sup>145</sup> Carey, J.M. and Hix, S. (2011). The Electoral Sweet Spot: Low-Magnitude Proportional Electoral Systems. *American Journal of Political Science*, 55: 383-397.

Some argue that this should be understood in the context of a broader global trend of declining voter turnout. In reality, South Africa now has the 162<sup>nd</sup> lowest turnout rate of 200 countries.<sup>146</sup> Our problems lie at home, and support for our hard-fought democracy is rapidly disappearing. The latest Afrobarometer data shows that 71% of South Africans are dissatisfied with the way democracy works in our country (Figure 12).<sup>147</sup> Worryingly, the majority of South Africans now think that it doesn't matter what kind of government we have (30%) or that non-democratic systems are sometimes preferable (24%) (Figure 13).

During the ERCP public consultations across the country, we heard the same concerns over and over again. Across provinces, languages, stakeholder groups, rural or urban locations – the lack of accountability was a common theme. Voters complained that they do not know their MPs, they have limited say in choosing their representatives, and MPs are indifferent to their concerns. Overwhelmingly, consultations were dominated by the topic of accountability and the sense of distrust towards political parties and politics was clear. In several cases, when participants were told that the ERCP is only advisory and that Parliament will make the final decision, citizens expressed their frustration, saying that the consultation process was then meaningless.

This dissatisfaction with the electoral process and frustration with politics is likewise reflected in public opinion data.<sup>148</sup> Only 28% of the public believe that elections enable voters to remove unrepresentative leaders from office “very well” or “fairly well.” Only 31% believe that elections ensure that National Assembly representatives reflect the views of voters. For the vast majority of South Africans, elections to the National Assembly are seen as ineffective in holding representatives accountable or ensuring the representation of citizens.

**Figure 12: Satisfaction with Democracy in South Africa**

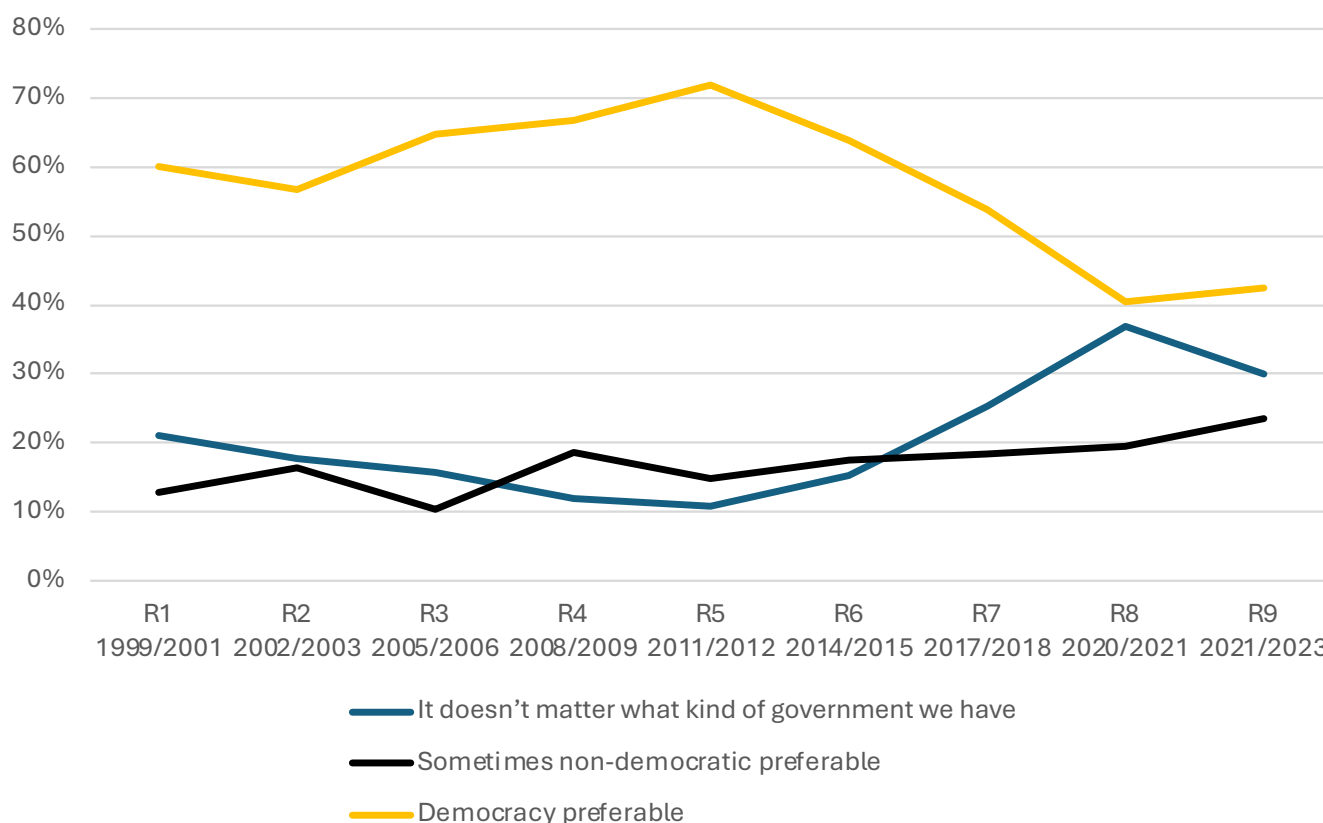


<sup>146</sup> International Institute for Democracy and Electoral Assistance. 2025. Voter Turnout Database: Voting Age Population Turnout Parliament. Available at [https://www.idea.int/data-tools/data/question?question\\_id=9191&database\\_theme=293](https://www.idea.int/data-tools/data/question?question_id=9191&database_theme=293)

<sup>147</sup> Afrobarometer Data. 2025. South Africa, Rounds 1-9, Year 1999-2023, available at <http://www.afrobarometer.org>

<sup>148</sup> Afrobarometer Data. 2025. South Africa, Rounds 1-9, Year 1999-2023, available at <http://www.afrobarometer.org>

**Figure 13: Support for Democracy in South Africa**



Successive reports have identified this deficiency in the electoral system. In 2002, the Electoral Task Team commended the 1994 system for its fairness and inclusivity but indicated that it could be improved to strengthen individual accountability. In 2009, the Independent Panel Assessment of Parliament found that the system disincentivised MPs from holding the Executive accountable using examples of delayed action on the HIV/AIDS crisis and investigations into the Arms Deal. In 2017, the High-Level Panel led by former President Motlanthe found that the system made MPs beholden to party leadership rather than voters at the expense of service delivery. In 2021, the majority of the Ministerial Advisory Committee on Electoral Reform recommended reforms to address public aspirations for greater local representation and accountability. The following year, the Zondo Commission again found that the system undermined parliamentary oversight and recommended that Parliament consider electoral reform to strengthen accountability.

It should be remembered that these were all formal processes established by government or Parliament. Both the public and successive enquiries have found the current system wanting. Apart from a handful of small countries,<sup>149</sup> every electoral system in the world seeks to establish some form of strong constituency and accountability relationship between voters and their representatives. This is based on an established consensus among electoral system scholars that the size of constituencies is fundamental to shaping the accountability relationship.

A common line of argument against reform is that electoral systems “cannot guarantee accountability.” This is true. In the same way that democracy does not guarantee accountability or good governance. Institutions do not guarantee anything, rather they shape incentives to encourage behaviour that we want and penalise bad behaviour. Regarding electoral systems, we could also say that an electoral system cannot guarantee inclusivity or

<sup>149</sup> Only seven of the more than 80 PR systems worldwide do not include any constituencies/electoral districts and only have one national PR list. These predominantly very small countries including Armenia, Fiji, Israel, the Netherlands, Serbia, Slovakia and Timor-Leste.



gender representation. There are many factors that shape representation, including parties' candidate selection processes, who chooses to run for office or how voters choose to cast their ballot. Parties could choose to put forward all-male candidate lists regardless of the system and unless there are formal gender quotas in place, the system cannot *guarantee* that parties will put forward diverse candidates.

However, based on research of different systems, we can see that PR and mixed-member proportional systems have higher rates of female representation than FPTP systems. In these cases, we can study how different institutional rules shape incentives differently. In multi-member constituencies, parties are incentivised to put forward a variety of candidates that could win the support of different types of voters. In single-member constituencies where only one candidate can be put forward for an area, parties tend to put forward male candidates, believing that they would perform better. Based on these observations of how different institutional rules shape incentives, we can say with confidence that certain design features tend to result in better outcomes for gender representation. We cannot guarantee that this will result in the desired outcomes, as parties can choose to put forward a specific type of candidate regardless. But we can be confident that the design of institutional rules will create the incentives to encourage the type of behaviour that we want.

In the same way, research on electoral systems shows that certain design features strengthen the public's ability to hold representatives accountable and incentivise MPs to be more responsive to citizens. Systems that give voters more of a say in the re-election prospects of representatives incentivise MPs to be more responsive to the concerns of citizens. When voters are better able to identify clear lines of accountability and responsibility to specific representatives, they can monitor the performance of representatives and their responsiveness to the concerns of citizens. When this is combined with giving voters greater power over re-electing or rejecting individual candidates, representatives are incentivised to be more responsive to the interests and concerns of voters.

Representatives that are exposed to direct electoral pressures from voters know that they may lose their seat in the next election if they engage in unethical conduct, act against the public interest or fail to respond adequately to the concerns of voters. Political parties know that if they put forward weak or unethical candidates, voters will reject them. Expanding the public's influence in choosing their representatives and holding representatives to account does not remove the role or importance of parties. Instead, it makes representatives accountable to both their parties *and* voters. The evidence for the effects of electoral system design on the accountability relationship between voters and their representatives is discussed in detail in Chapter 4.

Global experience in electoral reform among PR systems shows a clear trend towards bringing representatives closer to voters and giving them more say in choosing their representatives – whether by introducing open lists, smaller constituencies or the adoption of a mixed-member proportional system. Debates over electoral system design have always revolved around a tension between the proportionality of electoral systems and the closeness of the relationship between voters and their representatives. South Africa's existing use of a two-tier compensatory system overcomes this conventional trade-off in electoral system design. This presents a unique opportunity for electoral reform presented by Options 2B and 3 to bring representatives significantly closer to voters and strengthen the accountability relationship without any trade-off in proportionality or the inclusivity of the electoral results.

We recommend that Parliament consider electoral reforms to introduce smaller multi-member constituencies (Option 2B) or single-member constituencies (Option 3) to foster a closer and more direct relationship between voters and public representatives. Option 2B, introducing smaller multi-member constituencies and 300 constituency seats would bring the most representatives closer to voters and strengthen the accountability

relationship between voters and the most representatives. Option 3's 200 single-member constituencies create a clear link between voters and a single elected representative for their area.

In considering these two systems, Parliament should, however, also consider whether the same electoral system could be practically implemented concurrently at the provincial level. In the case of Option 2, the same or similar multi-member constituencies could be used concurrently for both national and provincial elections. In Option 3, the delimitation of single-member constituencies at both the national and provincial level would introduce complications as the two elections would need to use distinct boundaries for their constituencies. This introduces significant complexity for voters and election administration. This issue is examined in greater detail in the final section dealing with provincial elections and should be carefully considered in choosing between options.

## ADDITIONAL CONSIDERATIONS

### *OPEN LISTS*

The prospect of introducing open lists was widely supported by political parties as well as the broader public. The practical implications of open list voting would, however, need to be strongly considered before such a reform is introduced. We caution against this reform without due consideration of the conditions necessary for its effective rollout.

The practicality of introducing open lists is dependent on three issues: the number of seats in a constituency, the number of parties and independent candidates contesting, and the ability of voters to effectively engage with new electoral rules. Open lists would be highly impractical to introduce to the existing system (Option 1) due to the large size of multi-member constituencies. In Gauteng, for instance, each party would be required to put forward up to 47 candidates for voters to choose from on the regional ballot for Gauteng. Smaller multi-member constituencies, such as used in Option 2, will reduce the number of candidates each party would need to put forward on an open list and may be more manageable in terms of the size of ballot papers and accessibility to voters to assess different candidates.

The large number of parties contesting elections would, however, still remain a challenge in both Options. In the 2024 election, 52 political parties contested and even in Option 2's smallest constituency with four seats, this would present voters with a bewildering number of candidates to choose from. For this reason, open list voting is more common in systems where electoral rules are in place to contain the number of parties contesting an election. There are two possible approaches to address this issue. The first is raising ballot access requirements to discourage frivolous contestation. This can include raising the signature requirements for registration or the election deposit required of parties. Alternatively, an electoral threshold would discourage parties with limited prospects of success from contesting.

The third question to consider is the extent to which voters could effectively engage with open list voting. As has been mentioned, the number of spoiled ballots in South African elections is low by international standards and South African voters should not be underestimated. The introduction of multiple electoral reforms simultaneously may, however, present challenges with election management and with voters' understanding of reforms. For this reason, we strongly advise considering the importance of reform sequencing and emphasise that electoral reforms often span multiple electoral cycles. Open list voting will likely only become practically implementable in the longer term if issues related to the size of constituencies and the number of participants are addressed, and once voters have become familiar with such reforms.

## ELECTORAL THRESHOLDS

Panellists supporting the Alternative Report propose the introduction of a quota threshold. This would effectively use the seat quota for compensatory seats as the legal threshold for representation. Only parties meeting the seat quota in the first instance are considered for further allocations. In the South African context, the quota is determined by the formula: 
$$\text{Quota} = \frac{\text{All valid votes/}}{(\text{Number of seats}+1)} + 1.$$

A quota threshold would consequently change based on fluctuations in voter turnout (the number of total valid votes) and the number of seats won by independent candidates (the number of seats available for compensation). This floating quota can present challenges for voters and new political parties to easily understand and consider the likely prospects of a successful run for office for a very small political party. Should Parliament deem a legal threshold necessary, a percentage-based threshold would be significantly easier for voters and political parties to understand over a quota threshold. It is fixed, clear and not dependent on various variables that voters and parties may not always understand.

The possibility of an electoral threshold was a contentious issue, particularly among smaller political parties. This is a delicate issue to balance between the inclusion of a wide range of political contenders and the importance of political stability for effective governance. There is a well-established relationship between the permissiveness of electoral systems and the extent of party system fragmentation. In turn, the extent of fragmentation in a legislature is a key indicator in determining the prospects of coalition survival – again, as shown by a strong body of research evidence discussed in Chapter 4.

Regulating coalition agreements may contribute to reducing coalition instability once coalitions are formed, but it would not address fragmentation in legislatures and the complexity that it introduces to government formation in the first instance.<sup>150</sup> The extent of fragmentation will inform how many coalition partners are needed to form a majority, increasing the complexity of coalition formation in finding common ground and agreeing on policy issues across multiple actors with distinct interests. Even in cases where coalition agreements are in place, complex and fragmented coalition partnerships increase the likelihood of collapse. Some level of legal threshold is likely necessary to contain excessive fragmentation. Currently, South Africa has the most permissive electoral rules in the world without an electoral threshold, and again, it is unique in this regard.

If Parliament considers a legal threshold necessary, a phased approach to its introduction over successive electoral cycles should be considered. This could start with a very small threshold in the first election with a clear timeline for incremental increases in subsequent elections. This would establish clear expectations to provide time for political parties to adjust to changes and for voters to become familiar with the principle.

## PROVINCIAL ELECTIONS

The provincial electoral system received limited input in the course of public consultations, and few written submissions addressed this aspect of reform. However, the same concerns raised about the national system are equally applicable. In the current system, representatives in Provincial Legislatures are elected in province-wide constituencies ranging from 30 to 80 seats. This presents even larger party lists than currently used for the regional ballot, and concerns about the relationship between voters and their representatives are similarly applicable.

<sup>150</sup> The necessity of reviewing the legal framework for coalition formation was frequently raised in public consultations including written submissions. This is beyond the purview of the ERCP's mandate but is worth considering by Parliament. This includes proposals to revisit Section 51 of the Constitution which requires the first sitting of the National Assembly no more than 14 days after election results have been declared.

In our constitutional framework, the main functions devolved to provinces relate to healthcare and education, taking up the vast majority of their budgets. Provinces have a range of concurrent responsibilities shared with the national government, but most importantly, have a key role in supporting and overseeing local government through Provincial Treasuries and local government departments. These functions mean that provincial governments are a critical part of the service delivery ecosystem, including their role in healthcare and education, and in overseeing and supporting local government service delivery. In this context, effective oversight and constituency service should form a major focus of Provincial Legislatures.

The options for the provincial electoral system align with the three options presented for the National Assembly. Implications for the attainment of the guiding principles, and the advantages and disadvantages of different models remain the same. These need not be repeated as the same effects apply.

### **Provincial Option 1 – The Current System**

Representatives are elected in a single province-wide constituency ranging from 30 to 80 representatives. The sole reform relates to the process for allocating seats left over after the first quota allocation. This would see seats left over allocated on the basis of largest remainders.

### **Provincial Option 2 – Smaller Multi-Member Constituencies**

This option would introduce smaller multi-member constituencies within provinces, following the same boundaries used in Option 2 of the national system. For Provincial Option 2, an equal split (50:50) between constituency and compensatory seats is recommended for provincial legislatures on the basis that there are fewer seats in Provincial Legislatures which affects overall proportionality.

### **Provincial Option 3 – Single-Member Constituencies and Overall Proportionality**

This option includes a combination of single-member constituencies and a compensatory party list. There would be an equal split in constituency and compensatory seats. The delimitation of single-member constituencies at the provincial level introduces a level of complexity, and it would be difficult to use single-member constituencies for the National Assembly and Provincial Legislatures concurrently.

For example, National Assembly elections in Option 3 would include 47 single-member constituencies in the Gauteng region. Under Provincial Option 3, there would be 40 single-member constituencies (as half of the 80 seats in the Gauteng Provincial Legislature would be set aside for constituencies). Consequently, different boundaries would be needed to maintain similar population sizes per seat. Similar complexities would be applicable to other provinces based on their unique circumstances. Adopting single-member constituencies at both the national and provincial levels simultaneously would be very complex. These implications would need to be considered very carefully.

The same challenges would not apply to adopting Options 2 concurrently as the number of seats in multi-member constituencies can be adjusted based on the number of available seats and population size. Consequently, the same boundaries can be used. This would be easier for voters to understand and support election manageability as the same set of ballots would be used in a particular area.

### Introducing a Second Provincial Ballot

Both Provincial Options 2 and 3 would require the introduction of a second ballot for Provincial Legislatures as is currently the case for the National Assembly. One ballot would be for constituency representatives (including independent candidates) and the second ballot for overall compensation. This will require voter education but is not insurmountable. The introduction of the third ballot in the 2024 election did not have a significant impact on voters’ ability to effectively engage as evidenced by the low number of spoiled ballots and the 2024 Election Satisfaction Survey.<sup>151</sup>

### Constitutional and Legal Implications

Amendments to the Constitution are not necessary. All three options would require amendments to Schedule 1A of the Electoral Act. Provincial Options 2 and 3 will require assigning responsibility for the delimitation process for constituencies.

### Financial Implications

Increased costs related to Options 2 and 3 are driven by the introduction of a second ballot, increasing printing costs, as well as communication costs to explain reforms and the second ballot to voters.

	Option 1	Option 2	Option 3
Ballot papers	R37 700 000	R112 000 000	R120 000 000
Additional counting staff	R55 311 280	R55 311 280	R55 311 280
Additional staff training	R24 755 700	R24 755 700	R24 755 700
Business applications	-	R28 000 000	R28 000 000
Voter education	R24 100 000	R48 200 000	R48 200 000
Communication	R35 000 000	R105 000 000	R105 000 000
Warehouse staff cost	-	R7 657 020	R7 657 020
Temporary warehouse clerks	-	R13 640 000	R13 640 000
Demarcation cost	-	R26 000 000	R26 000 000
<b>Total cost</b>	<b>R176 266 980</b>	<b>R420 564 000</b>	<b>R428 564 000</b>

## CHAPTER 7: RECOMMENDATIONS FOR REFORM

<sup>151</sup> Our report started in Chapter 2 with South Africa's long journey to universal franchise and the country's first general election in 1994. See <https://www.electoralcommission.org.za/news/latest-news/30-years-of-electoral-democracy-in-sa-hsrc-survey-captures-voter-experiences-and-informs-electoral-processes/>





# Chapter 7: Recommendations for Reform

democratic election in 1994. This included examining the origins of the system adopted in 1994 as part of South Africa's democratic transition. In Chapter 3, we considered the recommendations of previous commissions since 1994 to strengthen South African democracy. Looking ahead to the next thirty years of democracy, we must reflect on where we are heading and whether our institutions are capable of meeting the aspirations of South Africans.

Chapter 4 introduced fundamental concepts in electoral system design. This includes the research evidence for how the various elements of electoral systems impact the realisation of our country's founding constitutional values as set out in the Panel's guiding principles. A central finding is understanding the mechanisms behind a two-tier compensatory system, which leads to outcomes identical to a straight nationwide allocation. In such systems, the size of constituencies becomes irrelevant to the final results and overall proportionality of the system as long as enough compensatory seats are allocated at a second stage to correct for any disproportionality at the constituency-level. This leads to the realisation that the underlying constituencies used in our current system can be made smaller to bring representatives closer to voters without any trade-off in proportionality or the inclusivity of election results.

Chapter 5 considered inputs from the public and critical stakeholders. This included over 360 written submissions and events across all nine provinces to hear the views of communities on the question of electoral reform. Overwhelmingly, these discussions were dominated by concerns over the relationship between voters and public representatives. Citizens feel disconnected from their representatives and that representatives are not accountable to them.

Chapter 6 evaluated three electoral system options against the Panel's guiding principles based on the research evidence presented in Chapter 4. The three options included:

- retaining the current system with minor adjustments
- introducing smaller multi-member constituencies to bring representatives closer to voters
- introducing single-member constituencies with a compensatory element for overall proportionality

The evaluation of options finds that all three options would be equally proportional and result in the same overall political outcomes. No party would be advantaged or disadvantaged by adopting a different system. On most measures, the three options would meet the guiding principles to the same or similar extent. The main area where options diverge is on the extent to which they foster an effective accountability relationship between voters and their representatives.

On the question of accountability to voters, the current system performs the weakest and presents limited advantages that the other options considered do not offer to the same degree or greater. In several ways, our current electoral system is an outlier compared to similar systems used internationally. This includes using the largest constituencies and largest compensatory tier among equivalent proportional representation systems – the combination of which is unnecessary for achieving objectives of inclusion and proportionality. The reform options we propose would achieve the same objectives and overall proportionality while bringing representatives significantly closer to voters and strengthening the accountability relationship.

In light of these findings and the concerns emerging from public consultations, we strongly recommend that Parliament consider electoral reforms to strengthen the relationship between voters and their representatives.

Two electoral system options are recommended for Parliament's consideration:

- The introduction of smaller multi-member constituencies with 300 constituency seats and 100 compensatory seats. This system would require minimal delimitation of constituencies and would use existing local government boundaries to determine multi-member constituencies. This electoral system could be deployed concurrently for national and provincial elections using the same or similar constituency boundaries.
- The introduction of 200 single-member constituencies and 200 compensatory seats to return overall proportionality. This system would require an extensive delimitation process to determine the boundaries of constituencies. These constituency boundaries would need to be updated between elections in response to population changes. Separate boundaries for single-member constituencies would be needed at the provincial level if this system were deployed concurrently for national and provincial elections. This introduces a level of complexity to such a reform and should be carefully considered.

These recommendations are presented for the consideration of the Minister of Home Affairs and Parliament. They are supported by:

- Adv Richard Sizani, Chairperson of the Electoral Reform Consultation Panel
- Ms Mmatsie Mooki, Convenor of the Conference Working Group
- Ms Tomsie Dlamini, Convenor of the Public Consultation Working Group
- Dr Albertus Schoeman, Convenor of the Research Working Group

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# Appendices

## APPENDIX 1. OVERVIEW OF VARIATIONS IN PROPORTIONAL REPRESENTATION SYSTEMS

Types of Multi-Member Constituency (MMC) Boundaries Used in Different Proportional Representation Systems	
Some Demarcation	Un-demarcated
MMCs based on combining local government units using existing administrative boundaries	MMCs using existing local government administrative boundaries
MMCs based on existing local government but with new subdivisions for large cities	MMCs using existing provincial administrative boundaries
MMCs based on existing provincial boundaries but with new subdivisions for large cities	One MMC at the national level
MMCs demarcated distinct of administrative boundaries	Multi-tier systems using existing administrative boundaries at different levels of government

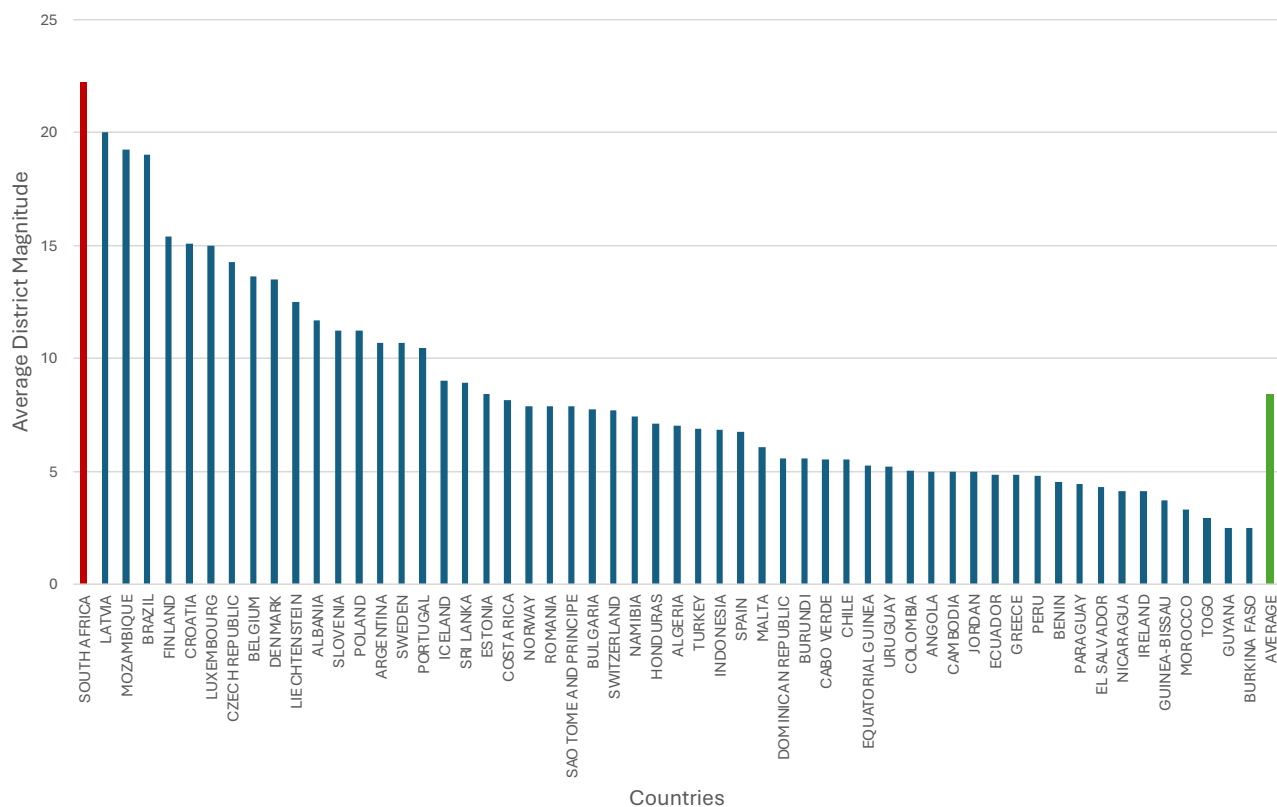
Variations in the Design of Proportional Representation Systems			
Country	Level of MMC	Number of MMCs	Average District Magnitude
<b>Combined local governments</b>			
Benin	Combined communes	24 multi-member constituencies splitting the 12 departments in two along commune boundaries (3 and 8 seats)	5
Latvia	Combined municipalities	5 multi-member constituencies (from 12 to 36 seats). Expatriate votes are counted in the capital constituency	20
Liechtenstein	Combined municipalities	2 multi-member constituencies (15 and 10 seats)	13
Luxembourg	Combined municipalities	4 multi-member constituencies (7 to 23 seats)	15
Malta	Combined municipalities	13 multi-member constituencies (5 seats)	6
<b>Local government with city subdivisions</b>			
Guinea-Bissau	Combined districts & capital subdivision	27 multi-member constituencies (3 to 6 seats) and 2 single-member constituencies for two seats reserved for citizens living abroad	4
Iceland	Combined districts & capital subdivision	6 multi member constituencies (10 to 13 seats)	9
Indonesia	Combined districts & capital subdivision	84 multi-member constituencies (3 to 10 seats)	7
Ireland	Combined districts & capital subdivision	39 multi-member constituencies (3 to 5 seats)	4
Jordan	County & city subdivisions	23 multi-member districts (between 3 and 9 seats each) for 115 seats. In addition, there are 15 seats reserved for women who received the most votes but failed to be elected on their list	5
Poland	Combined districts & city subdivision	41 multi-member constituencies (7 to 20 seats)	11
Sweden	County & city subdivisions	29 multi-member constituencies for 310 members (2 to 34 seats) and 39 leveling seats to ensure proportionality	11



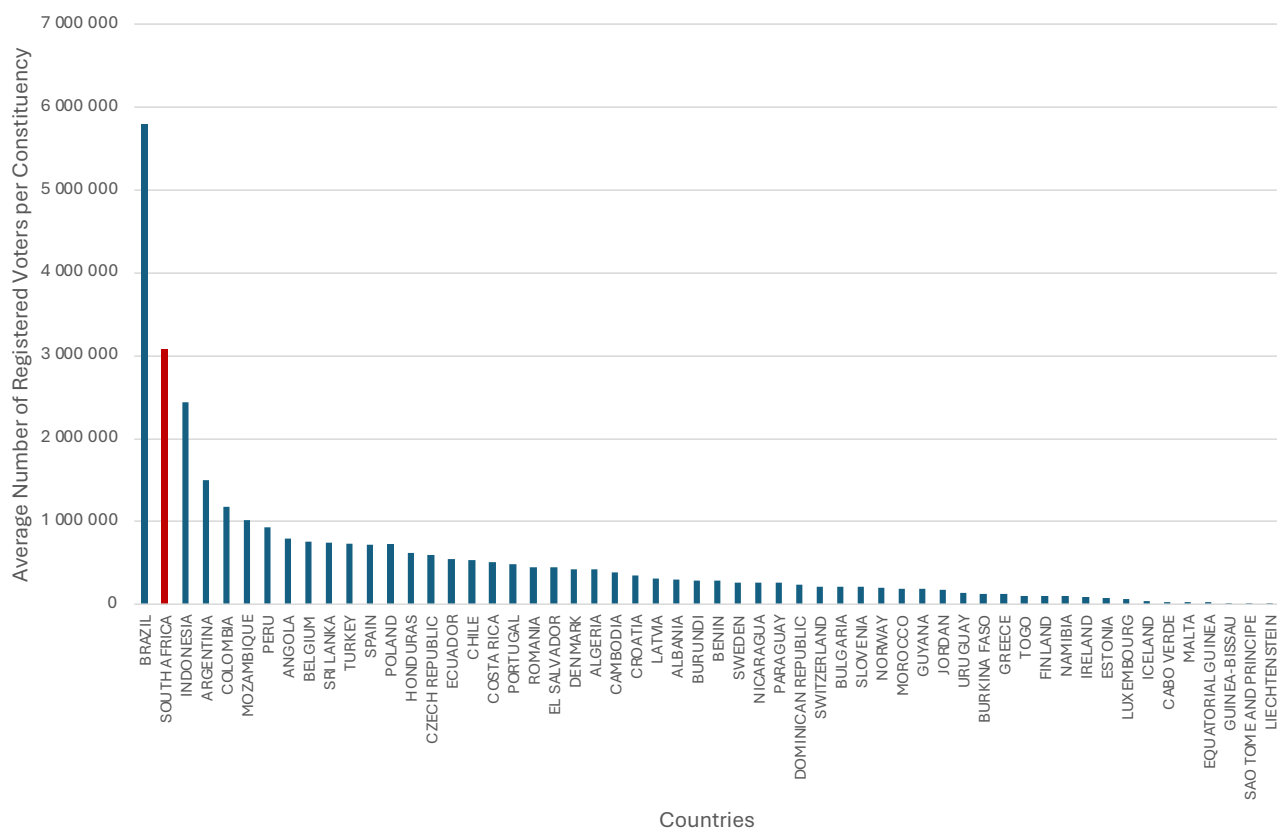
Provinces with city subdivisions			
Bulgaria	Provinces & subdivided capital	31 multi-member constituencies (4 to 16 seats)	8
Chile	Provinces & subdivided cities	28 multi-member constituencies (between 3 and 8 seats). Composed of 16 regions, with capital city area further subdivided as well as second city as a standalone constituency	6
Turkey	Provinces & subdivided cities	87 multi-member constituencies (1 to 36 seats)	7
Demarcated distinct of administrative boundaries			
Croatia	10 multi-member constituencies (14 seats each) for 140 seats - one special constituency (three seats) for Croatian citizens residing abroad (constituency No. 11) - one national constituency (eight seats) reserved for national minorities (constituency No. 12)		15
Slovenia	8 multi-member constituencies (11 seats each) - special constituencies for two members, respectively representing the Hungarian and Italian minorities		11
Un-demarcated local government			
Albania	County	12 multi-member constituencies (4 to 32 seats)	12
Denmark	County	10 multi-member constituencies (2 to 20 seats)	14
Equatorial Guinea	District	19 multi-member constituencies (1 to 10 seats)	5
Estonia	County	12 multi-member constituencies (5 to 16 seats)	8
Norway	County	19 multi-member constituencies (4 to 19 seats)	8
Portugal	District	22 multi-member constituencies (2 to 48 seats)	10
Romania	Counties & capital	42 multi-member constituencies for counties and Bucharest (4 to 29 seats) 1 constituency abroad (4 seats)	8
Sao Tome And Principe	District	7 multi-member constituencies (2 to 14 seats)	8
Togo	County	39 multi-member constituencies (2 and 10 seats)	3
Un-demarcated provinces			
Algeria	Province	58 multi-member constituencies. 8 seat constituency for overseas voters	7
Argentina	Province	24 multi-member constituencies (5 to 70 seats)	11
Belgium	Provinces & capital	11 multi-member constituencies (4 to 24 seats)	14
Brazil	Provinces & capital	27 multi-member (8 to 70 seats)	19
Burundi	Province	18 multi-member constituencies (4 to 11 seats)	6
Cambodia	Province	25 multi-member constituencies (1 to 12 seats)	5
Colombia	Province	33 multi-member constituencies (2 to 18 seats)	5
Costa Rica	Province	7 multi-member constituencies (4 to 19 seats)	8
Czech Republic	Provinces & capital	14 multi-member constituencies (5 to 26 seats)	14
Dominican Republic	Provinces & capital	32 multi-member constituencies. 3 multi-member constituencies abroad	6
El Salvador	Department	14 multi-member constituencies (2 to 16 seats)	4
Honduras	Department	18 multi-member constituencies (1 to 23 seats)	7
Finland	Province	12 multi-member constituencies (6 to 37 seats) and one single-member constituency (autonomous Aland)	15

Mozambique	Province	11 multi-member constituencies (12 to 45 seats). 2 single-member constituencies for citizens abroad	19
Namibia	Province	14 multi-member constituencies	7
Paraguay	Departments & capital	18 multi member constituencies (1 to 20 seats)	4
Peru	Provinces & capital	27 multi-member constituencies (1 to 33 seats)	5
Spain	Provinces	52 multi-member constituencies (1 to 37 seats)	7
Switzerland	Cantons	26 multi-member constituencies (1 to 36 seats)	8
Uruguay	Department	19 multi-member constituencies (2 to 40 seats)	5
<b>National</b>			
Armenia	National	One national constituency (107 seats)	
Fiji	National	One national constituency (55 seats)	
Israel	National	One national constituency (120 seats)	
Netherlands	National	One national constituency (150 seats)	
Serbia	National	One national constituency (250 seats)	
Slovakia	National	One national constituency (150 seats)	
Timor-Leste	National	One national constituency (65 seats)	
<b>Multi-tier systems</b>			<b>District magnitude of lower tier</b>
South Africa	Province & National	9 multi-member constituencies (5 to 47 seats) and one national constituency	22
Angola	Province & National	18 multi-member provincial constituencies (5 seats) one national constituency (130 seats)	5
Austria	Local, Provincial & National	39 regional constituencies, 9 provincial constituencies, and one national constituency	2
Burkina Faso	Province & National	45 multi-member provincial constituencies (2 to 9 seats) and one national constituency (16 members)	2
Ecuador	Province & National	24 multi-member constituencies and one national constituency	5
Greece	District & national	59 multi-member constituencies (1 to 19 seats) and one national constituency (15 seats)	5
Guyana	District & national	10 geographical constituencies (1 to 7 seats) and one national constituency (40 seats)	3
Morocco	Local & Provincial	92 multi-member local constituencies (2 to 6 seats) and 12 regional MMCs (3 to 12 seats)	3
Nicaragua	Department & National	17 multi-member constituencies for 70 seats (from 2 to 19 seats each) and one nationwide constituency (20 seats)	4
Sri Lanka	Combined districts and national	22 multi-member (4 to 19 seats) constituencies (for 196 seats) and one nationwide constituency (29 seats)	9

**Figure 14: Average District Magnitude Across Proportional Representation Systems**

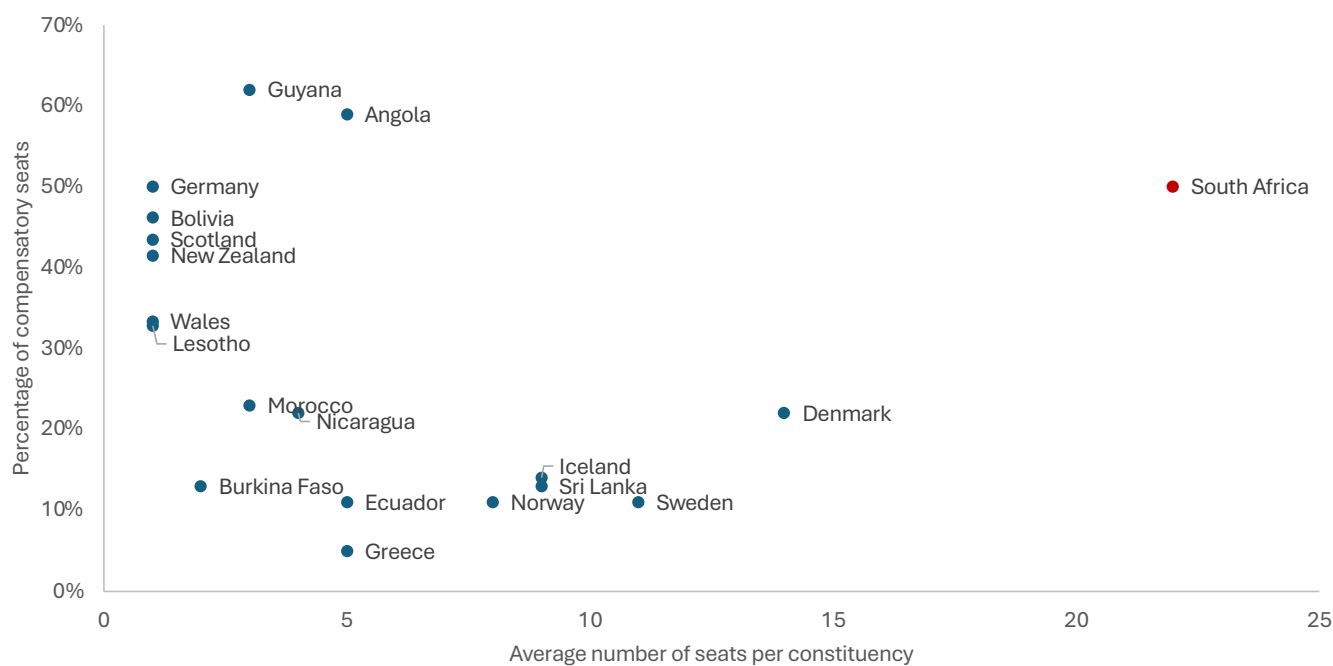


**Figure 15: Size of Constituencies in Proportional Representation Systems by Number of Registered Voters**



## APPENDIX 2. TWO-TIER COMPENSATORY SYSTEMS

Figure 16: Size of Constituencies and the Percentage of Seats Allocated for Compensation<sup>152</sup>



<sup>152</sup> Mixed-member proportional systems form the first row on the left where single-member constituencies are used. All other systems make use of multi-member constituencies. Guyana's electoral system uses both multi- and single-member constituencies. Angola's regional constituencies include five seats for each province regardless of population size leading to malapportionment at the constituency level, necessitating more compensatory seats to restore proportionality.

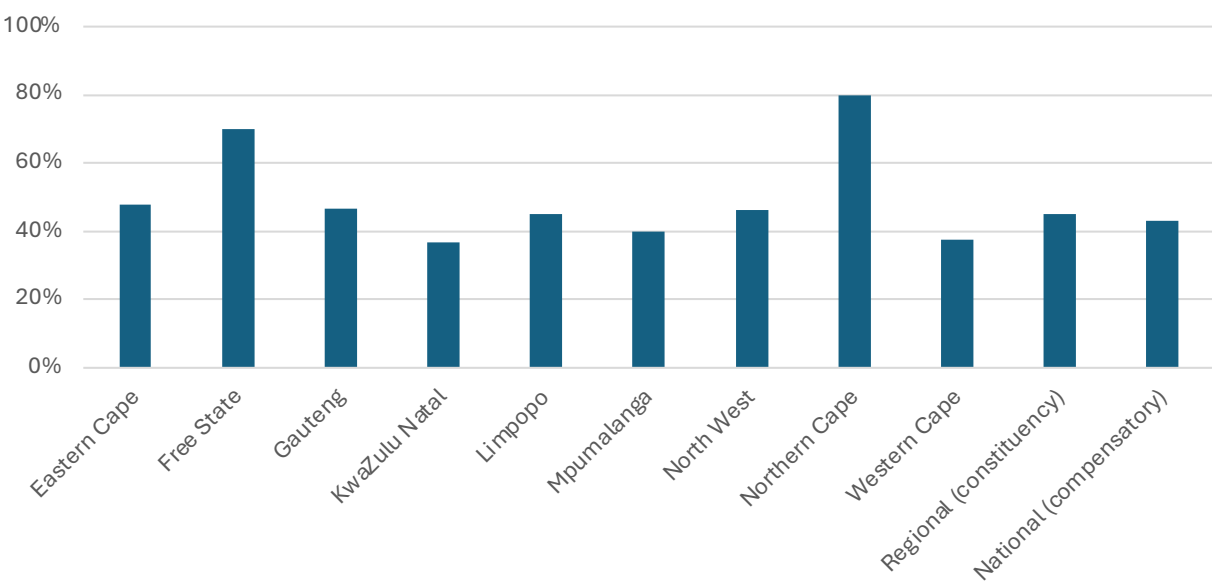
### APPENDIX 3. GENDER REPRESENTATION IN SOUTH AFRICA

Gender representation in the National Assembly has steadily increased since the 1994 election from 27% to 43% of women occupying seats in the National Assembly following the 2024 election (Table 1). The decline following the recent election can be attributed to the loss of support for the largest party, which applies internal gender quotas. Gender representation in the regional constituencies varies provincially, with the two smallest constituencies, the Northern Cape (5 seats) and Free State (10 seats), showing the highest rates of women elected to the National Assembly. In the 2024 election, more women were elected in the regional constituencies (45%) than the national compensatory tier (43%).

Table 1: Women’s Representation in the National Assembly

Year	Members of Parliament (% Women)
1994	27%
1999	30%
2004	33%
2009	43%
2014	40%
2019	46%
2024	43%

Figure 17: Women’s Representation in the National Assembly Including Regional and National Lists

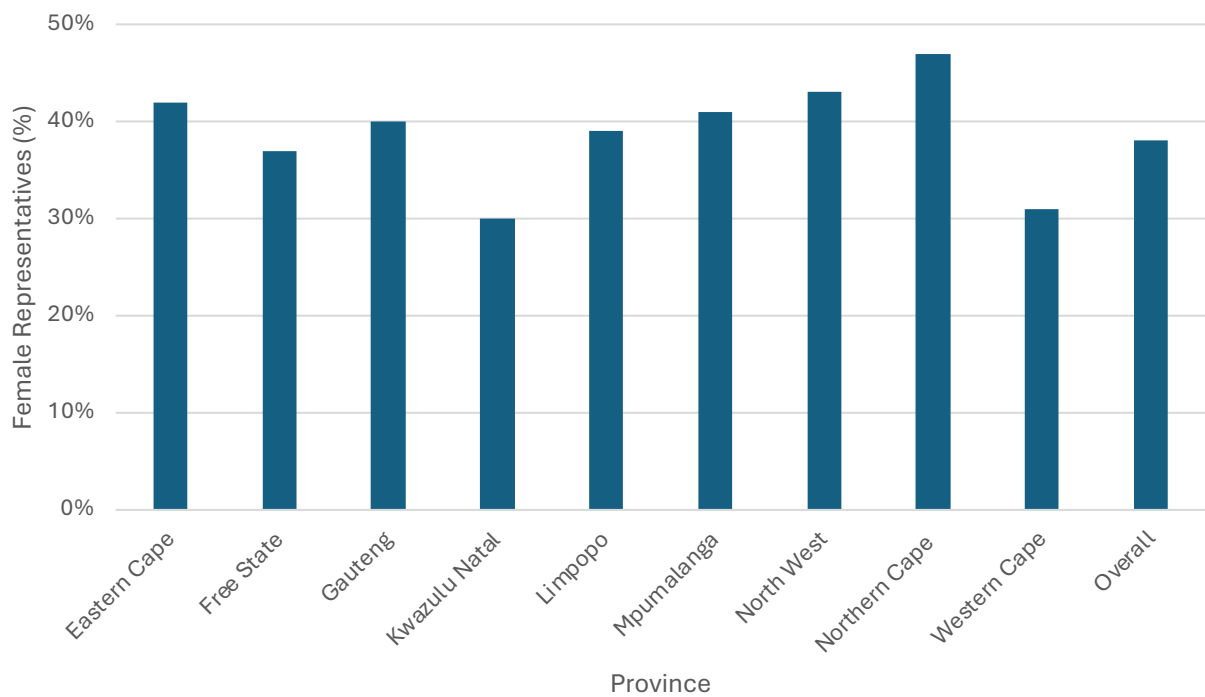


Women’s representation in provincial government has similarly increased since 1994, albeit at a slower pace than the National Assembly. Following the 2024 election, women occupy 38% of seats of all Provincial Legislature seats (Table 6). There is, however, wide variations between Provincial Legislatures with rates of female representation ranging from 47% in the Northern Cape Provincial Legislature to 30% in the KwaZulu-Natal Provincial Legislature (Figure 18). Again, this is largely due to the significant decline in support for the major party in KwaZulu-Natal and Gauteng.

Table 5: Women’s Representation in Provincial Government

Year	Provincial Legislators (% Women)
1994	24%
1999	27%
2004	32%
2009	41%
2014	37%
2019	44%
2024	38%

Figure 18: Female Representation in Provincial Legislatures (2024)



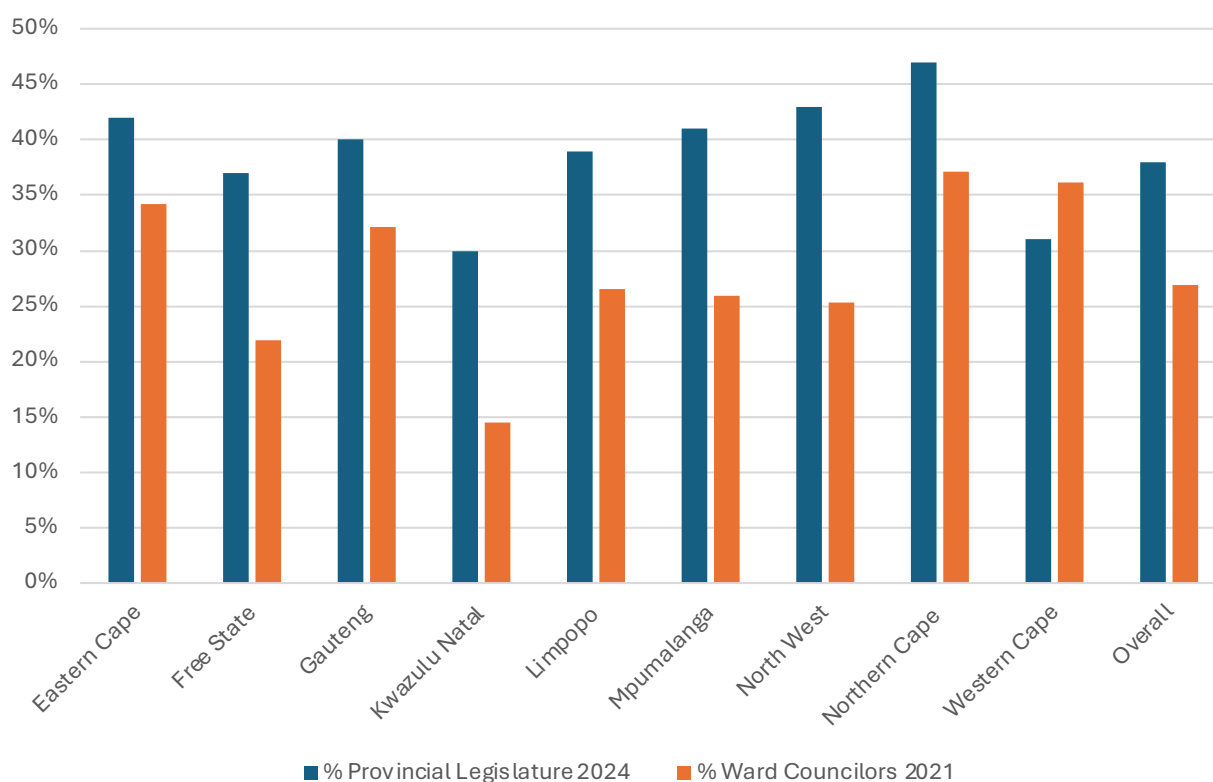
At the local government level, gender representation has similarly improved over the years, albeit with the 2021 election presenting a setback in the overall rate of women’s representation. As expected for mixed systems, single-member constituencies skew towards males based on political parties’ candidate selection strategies, but the party list component helps correct gender parity (Table 7). On average, rates of women’s representation have been similar at local (34% overall) and provincial government (35%) and there is a clear regional dimension to women’s representation with statistical tests showing a moderate correlation (0.4) between rates of female representation across provinces, suggesting that provincial level dynamics including party candidate selection processes influence gender outcomes despite the use of different electoral systems at the provincial and local government level (Figure 19).



**Table 6: Women's Representation in Local Government**

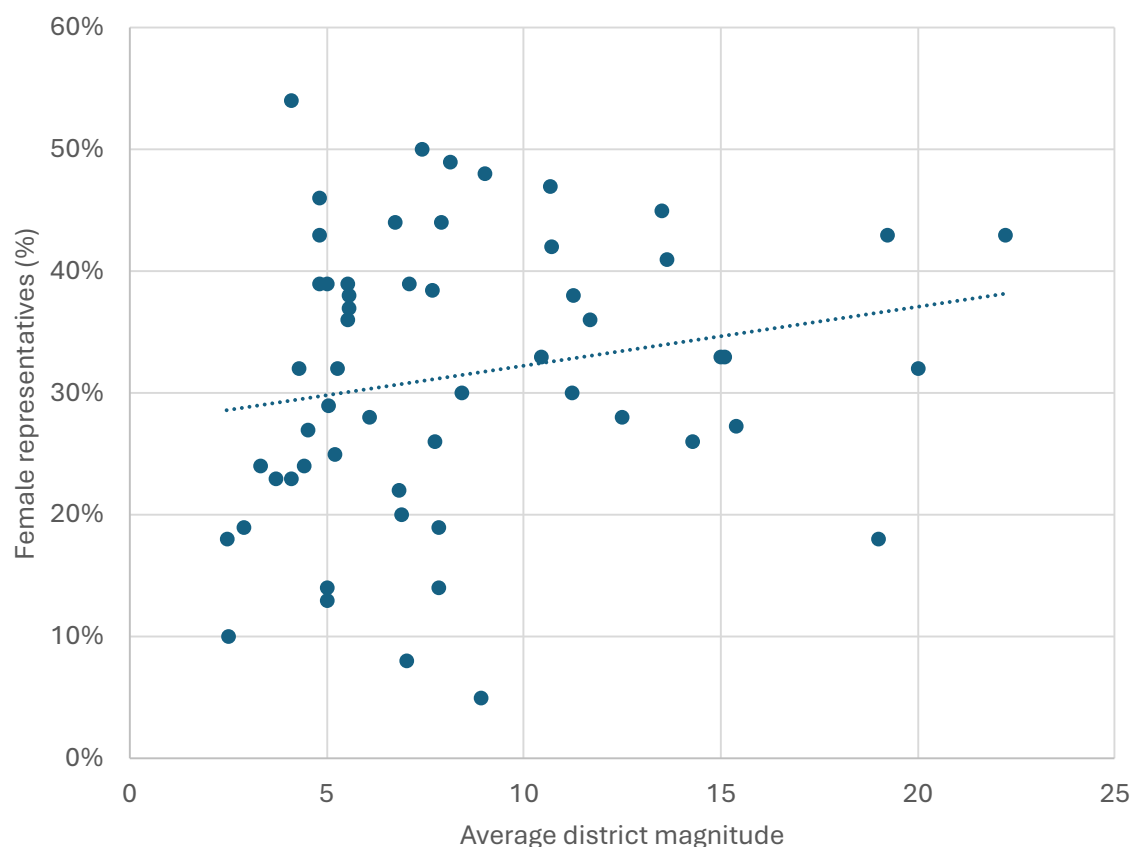
Year	Ward Councillors (% Women)	PR list Councillors (% Women)	Overall (% Women)
1995	11%	28%	19%
2000	17%	38%	29%
2006	37%	42%	40%
2011	33%	43%	38%
2016	33%	48%	41%
2021	27%	46%	37%

**Figure 19: Women's Representation in Local and Provincial Government**

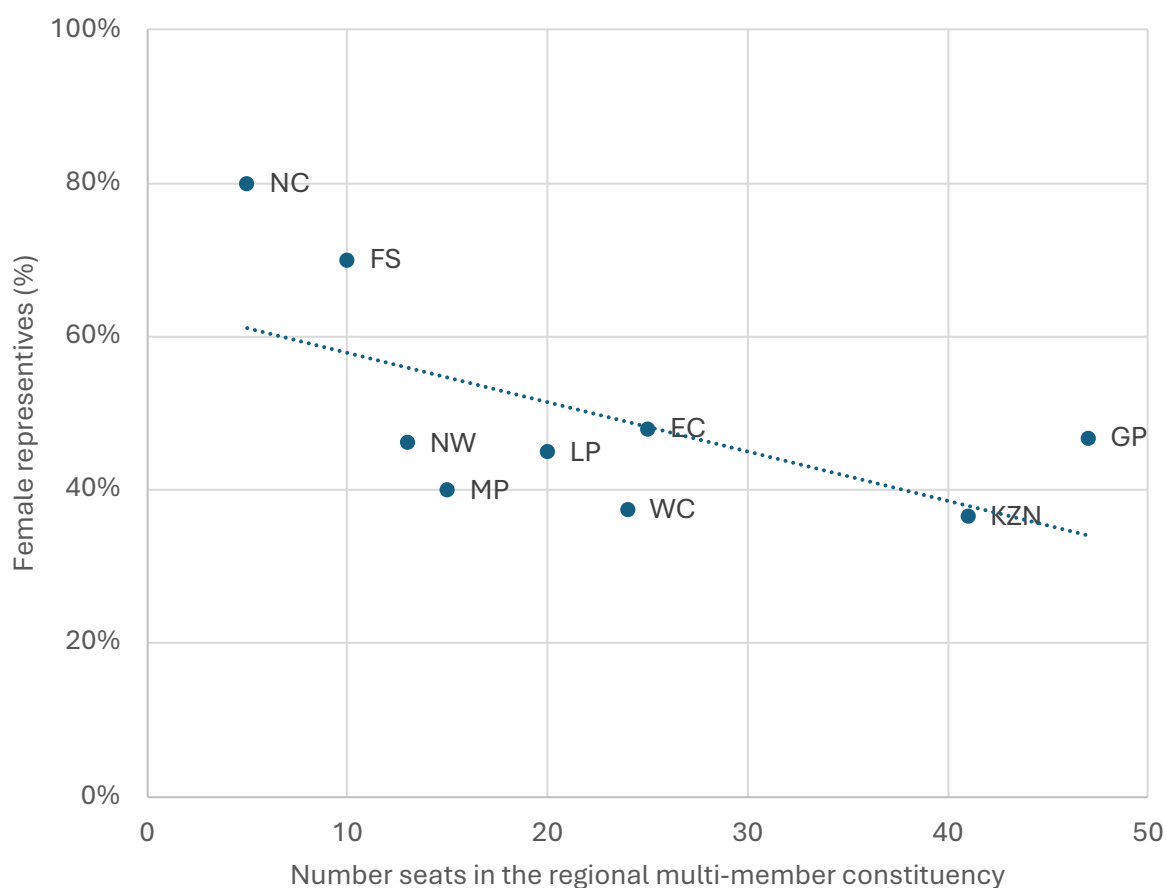


In terms of electoral system design, statistical tests show a very weak correlation (0.19) and non-significant (P-value 0.14) relationship between the size of multi-member constituencies and rates of female representation across PR systems. This tells us that the size of multi-member constituencies does not affect rates of gender representation in different countries (Figure 20). Among PR systems, rates of gender representation are instead determined by a range of other factors separate from the electoral system. The South African experience similarly finds a non-significant relationship between the size of regional constituencies and rates of gender representation, as well as between the size of provincial legislatures and rates of gender representation (Figure 21). As previously indicated, in South Africa, the smallest regional constituency (Northern Cape) with the smallest provincial legislature has the highest rate of female representation.

**Figure 20: Women's Representation and the Size of Multi-Member Districts**



**Figure 21: Women's Representation in Relation to the Size of Regional Constituencies**



# APPENDIX 4. SURVEY QUESTIONNAIRE

**Enumerator states:**

Good day. My name is . . . and I am from .... a leading opinion research company. We are working on behalf of the Electoral Reform Consultation Panel, which has been appointed by the Government to reconsider the way South Africans elect people to Parliament. This is very important for the political future of our country. Could I please have about 30 minutes of your time to ask some questions? Your answers will be treated confidentially, and your name will not be given to anybody outside our company.

Let me begin by assuring you that this survey is being undertaken in the strictest confidence. In particular:

- a) No one outside of the team, including anyone in the government, will be able to associate the individual answers you provide with you, so please feel free to answer honestly;
- b) The answers that you provide will be **completely** anonymous and any published data will be completely anonymous. The researchers are interested only in the truth; and,
- c) Your participation in this study is completely voluntary. If you choose to be in this study, you may withdraw your participation and data from the study at any time without penalty. Data will be held indefinitely for research purposes.

**Module A: Experience of Current Electoral System and Satisfaction with Democracy**

Label	Question	Responses
EXP_01	How interested are you in politics and elections?	1 = Not interested 2 = Somewhat interested 3 = Very interested 900 = Don't know 998 = Refuse to answer
EXP_02	Did you vote in the 2024 national and provincial election?	1 = Voted 2 = Decided not to vote 3 = Unable to vote 4 = I was not eligible to vote 900 = Don't know 998 = Refuse to answer
EXP_03	How much do you want to vote in the next election in 2026?	1 = I definitely do not want to vote 2 = I do not really want to vote 3 = I do not know 4 = I want to vote 5 = I definitely want to vote 998 = Refuse to answer

Label	Question	Responses
EXP_04	How often, if at all, do you vote in elections in South Africa?	1 = Every election without exception 2 = Almost every election – may have missed one or two 3 = Some elections 4 = Rarely 5 = Don't vote in elections 900 = Don't know 998 = Refuse to answer
EXP_05	Which of these statements do you agree with most?	1 = It is important who is in power because it can make a difference to our lives 2 = It doesn't really matter who is in power, because in the end things go on much the same 900 = Don't know 998 = Refuse to answer
Indicate the extent to which you trust or distrust the following institutions in South Africa at present.		
TRS_01	National government	1 = Strongly trust 2 = Trust 3 = Neither trust nor distrust 4 = Distrust 5 = Strongly distrust 900 = Don't know 998 = Refuse to answer
TRS_02	Parliament	1 = Strongly trust 2 = Trust 3 = Neither trust nor distrust 4 = Distrust 5 = Strongly distrust 900 = Don't know 998 = Refuse to answer
TRS_03	Your local government	1 = Strongly trust 2 = Trust 3 = Neither trust nor distrust 4 = Distrust 5 = Strongly distrust 900 = Don't know 998 = Refuse to answer

Label	Question	Responses
TRS_04	Political parties	1 = Strongly trust 2 = Trust 3 = Neither trust nor distrust 4 = Distrust 5 = Strongly distrust 900 = Don't know 998 = Refuse to answer

## Module B: Views on current system

General elections are normally held every five years. In these elections, people vote for a political party. The top people from each party's list of candidates then go into Parliament or the provincial assembly according to how many votes each party receives. Once Parliament is elected, the Members of Parliament elect the president, and the Members of Provincial Legislatures elect the premiers.

CUR_01	Are you satisfied with the way we elect our government in South Africa?	1 = Not at all satisfied 2 = Not very satisfied 3 = Fairly satisfied 4 = Very satisfied 900 = Don't know 998 = Refuse to answer
CUR_02	Do you think all parties were treated equally in the 2024 general election?	1 = Not treated equally 2 = On the whole, treated equally but with major problems 3 = Treated equally with some minor problems 4 = Treated completely equally 900 = Don't know 998 = Refuse to answer
CUR_03	Do you think that all voters were treated equally in the 2024 general election?	1 = Not treated equally 2 = On the whole, treated equally but with major problems 3 = Treated equally with some minor problems 4 = Treated completely equally 900 = Don't know 998 = Refuse to answer
Here is a series of statements about the voting system that we have in South Africa. For each of the following, please tell me whether you agree or disagree.		

CUR_04	The voting system is fair towards all political parties	1 = Strongly Agree 2 = Agree 3 = Disagree 4 = Strongly disagree 900 = Don't know 998 = Refuse to answer
CUR_05	Voters can influence Parliament	1 = Strongly Agree 2 = Agree 3 = Disagree 4 = Strongly disagree 900 = Don't know 998 = Refuse to answer
CUR_06	The voting system helps voters hold the parties accountable for their actions	1 = Strongly Agree 2 = Agree 3 = Disagree 4 = Strongly disagree 900 = Don't know 998 = Refuse to answer
CUR_07	The voting system helps voters hold individual representatives of government accountable for their actions	1 = Strongly Agree 2 = Agree 3 = Disagree 4 = Strongly disagree 900 = Don't know 998 = Refuse to answer

## Module C: Preferences

Parliament will soon be reviewing how we vote and elect our political representatives. In choosing a new voting system for South Africa we want to understand what is most important to the public.		
Values		
VAL_01	How important is it to you that the voting system ensures that different groups in society are represented in Parliament?	1 = Not at all important 2 = Not very important 3 = Somewhat important 4 = Important 5 = Very important 900 = Don't know 998 = Refuse to answer



VAL_02	How important is it to you that the electoral system provides opportunities for smaller parties to be represented in Parliament?	1 = Not at all important 2 = Not very important 3 = Somewhat important 4 = Important 5 = Very important 900 = Don't know 998 = Refuse to answer
VAL_03	How important is it to you that the voting system allows you to hold individual politicians accountable for their actions?	1 = Not at all important 2 = Not very important 3 = Somewhat important 4 = Important 5 = Very important 900 = Don't know 998 = Refuse to answer
Prioritisation of values		
VAL_04	Which of the following principles do you think are most important for South Africa's voting system? (rank top three values)	1 = The voting system should ensure that lots of diverse views and groups are represented 2 = The voting system should treat voters equally 3 = The voting system should allow voters to hold political parties and politicians accountable 4 = The voting system should be simple to understand 5 = The voting system should be easy for the Election Commission to manage 6 = The voting system should be transparent in how seats in Parliament are decided 7 = The voting system should allow for stable and efficient government
VAL_05	Second preference	
VAL_06	Third preference	
Preference choices		
PRF_01	Which would you prefer the most? Having many small parties in Parliament representing many different views OR having a few big parties that try to appeal to a broad range of people?	1 = Having many small parties in Parliament representing many different views 2 = A few big parties that try to appeal to a broad range of people 900 = Don't know 998 = Refuse to answer

PRF_02	Which would you prefer the most? Having many small parties in Parliament representing many different views OR having a few big parties that try to appeal to a broad range of people?	<p>1 = Having many small parties in Parliament representing many different views</p> <p>2 = A few big parties that try to appeal to a broad range of people</p> <p>900 = Don't know</p> <p>998 = Refuse to answer</p>
PRF_03	Which of these statements do you agree with most?	<p>1 = The most important thing is for Parliament to represent all parts of society, even if it takes longer to debate and make decisions</p> <p>2 = A Parliament that represents too many opinions will not be able to make decisions easily, so it is important to have a party with a strong majority that can pass laws and get things done</p> <p>900 = Don't know</p> <p>998 = Refuse to answer</p>
PRF_04	Which of these statements do you agree with most?	<p>1 = Members of Parliament (MPs) should be able to criticise their own political party</p> <p>2 = MPs should always be loyal to their party leaders because they were elected on their party's platform</p> <p>900 = Don't know</p> <p>998 = Refuse to answer</p>
PRF_05	Which of these statements do you agree with most?	<p>1 = Members of Parliament should always vote the way their party decides</p> <p>2 = Members of Parliament should vote according to their own beliefs</p> <p>900 = Don't know</p> <p>998 = Refuse to answer</p>
PRF_06	Which of these statements do you agree with most?	<p>1 = Parliament should be able to represent as many parties as possible</p> <p>2 = Too many parties may make Parliament unmanageable</p> <p>900 = Don't know</p> <p>998 = Refuse to answer</p>
PRF_07	Do you prefer to vote for an individual, or do you prefer to vote for a political party?	<p>1 = Individual</p> <p>2 = Political party</p> <p>900 = Don't know</p> <p>998 = Refuse to answer</p>
Local representation		
In the local government elections, voters have two votes. They can vote for both ward councillors (who represent a specific area) and party list councillors (chosen by political parties).		

LR_01	In your experience, do you think that ward councillors are representative of their communities?	1 = Not at all 2 = To a minor extent 3 = To some extent 4 = To a great extent 900 = Don't know
LR_02	In your experience, do you think that party list councillors are representative of their communities?	1 = Not at all 2 = To a minor extent 3 = To some extent 4 = To a great extent 900 = Don't know
LR_03	In your experience, do you think that ward councillors are responsive to their community's needs?	1 = Not at all 2 = To a minor extent 3 = To some extent 4 = To a great extent 900 = Don't know
LR_04	In your experience, do you think that ward councillors are responsive to their community's needs?	1 = Not at all 2 = To a minor extent 3 = To some extent 4 = To a great extent 900 = Don't know
LR_05	Political parties draw up a list of people who stand for elections. Who should decide who should be on those lists?	1 = Political party leaders 2 = All political party members 3 = Ordinary voters 900 = Don't know 998 = Refuse to answer
LR_06	Do you feel close to any particular political party?	1 = Yes 2 = No 900 = Don't know 998 = Refuse to answer
LR_07	Are you a member of a political party?	1 = Yes 2 = No 900 = Don't know 998 = Refuse to answer

LR_08	Do you want to vote for a candidate from the area where you live?	1 = Yes 2 = No 900 = Don't know 998 = Refuse to answer
Independents		
IND_01	In the next national election would you like to see independent candidates, who do not belong to any political party, elected to Parliament?	1 = Yes, definitely 2 = Yes, probably 3 = No, probably not 4 = No, definitely not 900 = Don't know 998 = Refuse to answer
IND_02	Would you consider voting for an independent candidate, at the next national election?	1 = Yes, definitely 2 = Yes, probably 3 = No, probably not 4 = No, definitely not 900 = Don't know 998 = Refuse to answer

#### Module D: Demographic identifiers<sup>153</sup>

Label	Question	Responses
DEM_01	How old are you?	Write in
DEM_02	What is your gender?	1 = Male 2 = Female 3 = Other 900 = Don't know 998 = Refuse to answer
DEM_03	How would you describe yourself in terms of population group?	1 = Black 2 = Coloured 3 = Indian or Asian 4 = White 5 = Other (specify 900 = Don't know 998 = Refuse to answer

<sup>153</sup> This data will only be used for the weighting of survey results to correct for sampling errors that may occur in the course of conducting the survey exercise and will only be used for the purposes of ensuring that the data is representative of the South African population and weighted accordingly.

Label	Question	Responses
DEM_04	What language do you speak most often when you are at home?	1 = Afrikaans 2 = English 3 = IsiNdebele 4 = IsiXhosa 5 = IsiZulu 6 = Sepedi 7 = Sesotho 8 = Setswana 9 = SiSwati 10 = Tshivenda 11 = Xitsonga 12 = Other (SPECIFY): 998 = Refuse to answer
DEM_05	What is your highest level of education?	1 = No formal schooling 2 = Some primary schooling 3 = Some secondary/high schooling 4 = Secondary/high schooling completed/matric 5 = Post-secondary qualifications, other than university or technikon 6 = Some university or technikon 7 = University or technikon graduate (Bachelors or Diploma) 8 = Postgraduate degree completed
DEM_06	What type of dwelling does your household occupy?	1 = House or brick structure on a separate stand or yard 2 = Traditional dwelling such as a hut or rondavel 3 = Flat in block of flats 4 = Town/cluster/semi-detached house 5 = House/flat/room in backyard 6 = Informal dwelling NOT in backyard, e.g. in an informal settlement 7 = Room/flatlet not in backyard but on a shared property 8 = Collective living quarters such as a hostel 9 = Other (SPECIFY):

Label	Question	Responses
DEM_07	What province do you live in?	01 = Eastern Cape 02 = Free State 03 = Gauteng 04 = KwaZulu-Natal 05 = Limpopo 06 = Mpumalanga 07 = Northern Cape 08 = North West 09 = Western Cape
DEM_08	How would you best describe your main activity or work?	1 = Working full-time 2 = Working part-time Not working: 3 = Housewife 4 = Student 5 = Retired/pensioner Unemployed: 6 = looking for work 7 = not looking for work



## NOTES

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



