



ELECTORAL REFORM CONSULTATION PANEL (ERCP)

Majority Report

29 August 2025

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1. Introduction

1. INTRODUCTION

The concept of the Electoral Reform Consultation Panel (ERCP) arose out of the realisation that there was a significant public desire for a fundamental review of South Africa's electoral system. This emerged during the legislative process to amend the Electoral Act to allow for the participation of independent candidates in national and provincial elections, as required by the Constitutional Court's ruling in the *New Nation Movement NPC and others v President of the Republic of South Africa and others* [2020] ZACC 11.

The Electoral Amendment Act of 2023 adopted a minimalist approach in its endeavour to accommodate the participation of independent candidates, largely because there was insufficient time ahead of the 2024 elections for a full review of the electoral system. Consequently, the Electoral Amendment Act included a provision for the establishment of the ERCP, whose mandate is to investigate and make recommendations in respect of potential electoral reforms.

Several commissions in recent years including the Independent Panel Assessment of Parliament (chaired by former Member of Parliament Pregs Govender), the High-Level Panel on the Assessment of Key Legislation (former President Kgalema Motlanthe) and the Judicial Commission of Inquiry into Allegations of State Capture (former Chief Justice Raymond Zondo) have made recommendations to consider the prospects of electoral reform. Thirty years into the democratic era, there appears to be some appetite for a review of the electoral system. Given these realities, the ERCP was conceived as an independent institutional mechanism to undertake a fundamental review of the electoral system and prepare recommendations for Parliament to exercise its constitutional prerogative in determining the electoral system for national and provincial elections.

On 16 May 2024, the National Assembly approved the following persons to serve on the ERCP:

- Adv Richard Khaliphile Sizani (Chairperson)
- Adv Faith Pansy Dikeledi Tlakula
- Ms Mmatsie Mooki
- Ms Tomsie Dlamini
- Dr Michael Oliver Sutcliffe
- Mr Phatudi Simon Mamabolo
- Mr Michael Andre Hendrickse
- Mr Norman du Plessis
- Dr Albertus Schoeman

The then Minister of Home Affairs, Aaron Motsoaledi, formally appointed the ERCP on 28 May 2024. In terms of section 23 of the Electoral Amendment Act of 2023,¹ the functions of the Panel inter-alia are as follows:

- 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.
- To undertake a public participation process regarding the issues falling within its functions.

Within 12 months of the date of the 2024 elections, the Panel must submit a report to the Minister of Home Affairs on the possible options for electoral reform for the election of the National Assembly and the election of the provincial legislatures, which must include:

- Reasons, potential advantages and disadvantages;
- Legal and constitutional implications; and
- Financial implications for each proposed electoral system or electoral reform identified by the Panel.

In terms of the ERCP's mandate, it is important to note the boundaries of its core mandate to provide recommendations on the electoral system for the National Assembly and provincial legislatures. Conceived in this way, questions around reforms to the local government electoral system fall outside of the scope of the ERCP, along with any proposed changes to the National Council of Provinces. In the same vein, suggestions for the direct election of the President, Premiers and Mayors extend beyond the ERCP's core mandate, which is limited to the election of the National Assembly and provincial legislatures.

The ERCP's mandate is also limited to potential reforms of the electoral system, meaning the method and rules for determining how votes are used to calculate seat allocations in the respective legislatures. In this regard, issues relating to election administration are separate from the work of the ERCP, including issues such as electronic voting, mail-in ballots, voter registration and the date of elections. Similarly, issues related to regulating political party funding, while important, extend beyond the ERCP's mandate. Concerns that have been raised in these areas will be collated to share as an annexure to the ERCP's final report, but remain separate from the ERCP's mandate in terms of the Electoral Amendment Act, 2023.

The ERCP's final report is due for submission to the Minister of Home Affairs by 29 August 2025. Following submission to the Minister, the Minister is required to table the ERCP's report in Parliament within a month of submission for Parliament's consideration. The ERCP's role is advisory to Parliament, and the final choice rests with Parliament in line with its constitutional powers to determine the electoral system for national and provincial elections, and may or may not require constitutional amendments.

¹ Republic of South Africa. Electoral Amendment Act 1 of 2023.
https://www.gov.za/sites/default/files/gcis_document/202304/48432electoralamendmentact1of2023.pdf

1.1 METHODOLOGY EMPLOYED

The Panel commenced with its functions, both research and public consultations, only after the 2024 election. Its activities followed several phases:

- a. Guiding Principles: The Panel formulated a set of guiding principles for the electoral review.
- b. Media Campaign: a public invitation was issued on 28 August 2024 for written submissions, with the deadline initially being 30 September 2024 and which was 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: to prepare for public consultations, a discussion paper² was published and summarised into a presentation. These were also translated into the various official languages.
- d. Sectoral Engagements: virtual and physical consultations with a wide variety of sectors, including all major political parties, social movements, traditional leaders and the like, held from late November 2024 until March 2025.
- e. Community Visits and Consultations: from January to March 2025, visits were made to various communities throughout the country, to elicit people's views and recommendations on the electoral system.
- f. International Conference: local and international scholars were invited to share their insights and provide advice over a two-day conference, 9-10 April 2015.

The Panel had planned to do a survey, for which questions were designed, but it was stalled by logistical arrangements.

1.2 STRUCTURE OF REPORT

After a process of reflecting on an initial set of draft chapters for the report, a number of Panel members noted that elements of the structure and content of the report needed refinements. Therefore, this report has been produced to address what was seen as significant weaknesses. Amongst others, these included, in general, a bias towards a particular outcome instead of a purely technical analysis of all the options, which would enable the National Assembly to exercise its constitutional prerogative to choose an electoral system. Furthermore, lack of appreciation of the impact that our history of colonialism and racism has had and which is now writ large on our country's people and settlements. Moreover, the struggles against the lack of franchise by African peoples required appropriate elucidation. The historical context cannot be limited to relatively few aspects of the colonial system, as this impacts the choices of electoral systems over an extended period. Importantly, contextual, technical and practical issues related to electoral systems are possibly far more important than academic texts in evaluating what options should be considered by Parliament.

The language, too, needed to particularly anonymise persons or parties responding in the consultative phases: if one is mentioned, all should be. And in the end, wherever possible, language such as that

² ERCP Discussion Paper. <https://www.dha.gov.za/images/PDFs/ERCP-Discussion-Paper.pdf>

voters “punish” or that all parties (and all within parties) err. Care has been taken to try and avoid general descriptions not based on evidence.

The Chairperson of the Panel has never called a meeting where a consolidated report was tabled, discussed and adopted. His only statement in this regard on 21 August was that “the editor has been working on chapters as they come”. As such, there is no “original report”. Up to now, the panel has not been provided with a copy of the report that was submitted to the copy editor and to which the Chairperson has referred.

Instead, it must be recorded that as at 22 August 2025, the only consolidated version provided to all Panelists was an initial first draft sent to all Panelists by members of the Panel on 13 August 2025 for their consideration, and then a final draft sent by the Majority of members to all members of the Panel on 20 August 2025. The report which follows is the Majority report.

We are mindful of the weighty responsibility entrusted to the Panel by Parliament and the importance of its work. The decision to draft this Report was not taken lightly and followed only after attempts to ensure that all views and opinions were being considered and then incorporated after sincere engagement and reflected fairly. In terms of Section 5(b) of the Electoral Amendment Act, Act 1 of 2023, the Panel must submit a report and “In the case of disagreement as to the possible options and recommendations for electoral reform, the report may be divided into different sections setting out the different views of members”.

The Report is structured into six chapters:

- Immediately below this introductory chapter, follows chapter two, focusing on the history of franchise and opposition to franchise in South Africa. The purpose is to underline the significance of this subject in South African history and memory, and most importantly, to recognise that our country is still addressing the effects of racism, sexism, colonialism, forced removals, restrictions on mobility and settlement, and so on.
- Chapter three looks at previous electoral reviews. These include both bodies set up specifically to review the electoral law and other investigations that made related findings, including also those that made conclusions about problems within party-list systems, even though these may not be common. Reference is also made to court rulings that have influenced the evolution of the South African electoral law.
- Chapter four explains the guiding principles, highlights the various elements that are considered in electoral design and provides an account of why countries initiate electoral reforms. This is a very important chapter as it sets the scene and directly addresses the Terms of Reference for the Panel. This chapter has a significant influence on the options which are presented in Chapter 6. The constitutional principle of electoral systems that result in general proportionality is affirmed as a foundational value. The Chapter identifies the values and principles that are then utilised to consider the various electoral systems options, giving balanced scope and meaning to these

principles, based on empirical evidence and experience. We are also mindful of the supremacy of the Constitution of South Africa, and options must ultimately pass constitutional muster. At the outset, as a Panel, we had agreed that we would adhere to section 46 (1)(d) and Section 105 (1) (d) of the Constitution as it relates to electoral systems for the National Assembly and provincial legislatures, respectively. Therefore, the options will primarily be assessed against the requirement that an option for the electoral system results, in general, in proportional representation.

- Chapter five reports on public consultations, engagements with the various sectors, and the international conference proceedings. Here, the issues raised in these many sectors are listed, while due consideration was given to the various submissions, especially comments and input from the attendees of our public engagements, we are also mindful that we are not required to slavishly follow all the opinions and comments but must rather apply our mind in the exercise of our statutory mandate.
- Chapter six recommends the electoral system options for consideration by Parliament. This is by far the most important chapter in terms of our mandate. Technical descriptions of options are provided for National and Provincial elections, and for each of the Options, the following is provided with the following breakdown:
 - Description
 - Outcome of the model based on 2024 election data
 - Risk analysis
 - Evaluation of the option relative to the guiding principles
 - Advantages
 - Disadvantages
 - Legal implications
 - Financial implications
 - Reason for recommending the option

1.3 RECOMMENDATION

The following members of the Panel support the Report:

- Mr Phatudi Simon Mamabolo
- Mr Michael Andre Hendrickse
- Adv Faith Pansy Dikeledi Tlakula
- Dr Michael Oliver Sutcliffe
- Mr Norman du Plessis



2. History of Franchise and Negotiations on the Electoral System

2. HISTORY OF FRANCHISE AND NEGOTIATIONS ON THE ELECTORAL SYSTEM

“True democracy is defined here as self-rule by average people. It is not connected to voting and certainly disconnected from elections and political representation. It started in Africa.... There is, however, another history to be told, namely that of ordinary people and their resistance against the kind of civilisation characterised by rule, hierarchy, and exploitation.”³

Whilst there are many debates over the history of democratic practice, the reality in Africa in general is that writing any history of democratic practice includes a history of colonialism, racism, sexism, and other forms of oppression. This is particularly true in South Africa, where, like other parts of the world, the 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.

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 the 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 also became an emotive issue whose exercise is not simply about the fulfilment of rights, but also to honour South Africa’s initial advocates (as evident in public views on Chapter 4).

This chapter provides an account of the history of franchise in South Africa until the early 1990s, when the negotiations established the basis upon which our democratic dispensation was established. Of course, the earlier systems of qualified and racially based franchise in the colonial legislatures and Boer Republics, and later in the Union and then the Republic, were not acceptable to the majority of South Africans and from the earliest days a wide variety of struggles against the franchise ensued, all of which were the foundations of the non-racial, non-sexist, united and democratic country we have today.

The Chapter is divided into four sections. The first three sections provide timelines of key forms of franchise and action against the franchise, or the impact of the franchise on South Africans. It draws primarily on the archive provided by the South African History Online and other specific references, which are provided in footnotes. The last section describes briefly the pathway and process of negotiations around the electoral system, ending with an explanation of why the drafters of the post-apartheid Constitution adopted the electoral system they did. Essentially, this section accounts for the choice of the system, with a specific reference to how it was prefigured by history and contemporary concerns.

What should be recognised in covering the history of franchise before democracy is that the colonial system was brutal in its objective to take by force the land, and to force the disenfranchised to be subjected to a variety of mechanisms of control: the pass laws, lodgers permits, Coloured Preference Area, settlement and labour restrictions, etc. At the heart of this was the categorisation of non-whites (blacks, Hottentots, so-called coloured and persons of Asian descent) with arrangements that identify

³ Reiter, B. (2021). The African Origins of Democracy. Academia Letters, Article 414. <https://doi.org/10.20935/AL414>.

them as mere inhabitants of the country of their birth and not as citizens with rights that could include the franchise.

What is most important though, is that the landscape of brutality, from colonialism to apartheid, has created a context which impacts significantly on the electoral system. Possibly the highest rates of income, spatial and social inequality in the world exist in South Africa, and this chapter provides a snapshot of the imposed and then negotiated electoral system, and also the context which has been created over the past few hundred years,

2.1 THE COLONIAL PERIOD

In the period until the establishment of the Union of South Africa, there were four territories which each had its history of colonisation and/or independence:

- The Cape Colony, also known as the Cape of Good Hope, existed from 1795 to 1910 when it became part of the Union of South Africa;
- The Colony of Natal was proclaimed a British colony on 4 May 1843 after the British government had annexed the Boer Republic of Natal.
- Zuid-Afrikaansche Republiek (Transvaal) was established in 1852.
- Orange Free State boundaries were determined by the United Kingdom of Great Britain and Ireland in 1848, when the region was proclaimed as the Orange River Sovereignty, and in 1854, the country became independent as the Orange Free State.

The 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. Whilst it echoed forcefully in the 1840s, the call for representative government in the Cape went back decades earlier. Divisions amongst the settler community – i.e. Dutch and English – and the plight of the Coloured community held back the British government from granting representative government. For the following 30 years, the schism that was feared would widen between the English and Dutch, did not materialise.

The elections in the Cape Colony were thus conducted based on a qualified franchise, limiting it to men who satisfied certain property, salary and literacy requirements. This seemingly non-racial franchise was, however, in practice undermined by the promulgation and practices to dispossess non-whites through overt acts or through, for example, the levying of exorbitant taxes that forced them off the land to seek work. The literacy requirements were particularly arbitrary and humiliating. With the emancipation of slaves still within the existing generations, the lack of access to land and to decent wages, especially on farms, meant that the qualification of non-whites to the franchise was limited to those few who attended missionary schools and could enter a trade. Disenfranchisement and dispossession, therefore, went hand in hand.

In Natal, the native franchise would assume an entirely different route in the subsequent years. Whilst 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 chiefs. As subjects, under customary law, the massive size of the native population was taken out of consideration for franchise.⁴

In large part, these differences between the Cape and Natal colonies could be due to the different contexts: a far smaller African settler population and a history of slavery in the Cape, compared to Natal, which had larger numbers of African communities having a history of settlement many centuries earlier than when the white settlers arrived.

In Natal, though, there was recognition, however, that a few amongst the native population had been 'Westernised'. Those were exempt from customary and chiefly rule and allowed to apply for franchise. The qualification was comparatively high; however, the occupation of property worth £50. As a result, "virtually no African ever qualified for the franchise."⁵ In 1865, responding to settlers' concerns that more natives would qualify, a new law⁶ was introduced to make qualifications even more stringent. One had to show proof of 12 years long residence in Natal, 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 citizenship. 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, amongst others, that individuals "whose country of origin did not have representative institutions founded on Parliamentary franchise"⁷ did not qualify for the vote in Natal.

2.1.1 ASSAULT ON NON-RACIAL FRANCHISE

The relative acceptance of the non-racial qualified franchise in the Cape was interrupted in the second half of the 1880s. The 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.

The Afrikaner Bond, established in 1881 in the Free State, claimed to represent all those who considered Africa to be their home, rather than Europe. In the Cape, though, the Afrikaner Bond took a different approach and saw native franchise as a stumbling block to their political ascendancy. They aimed their attacks at it, with the help of former beneficiaries of the natives, the English-speaking politicians.⁸

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

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

6 Native Franchise Act of 1865, *Ibid*.

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

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

At the same time, the number of native voters was increasing, in part due to increasing numbers of graduates of missionary schools. Indeed, the educated elite would go on to take the lead in the public discourse on native matters, initially through the missionary-owned bilingual newspaper, *Isigidimi Sama-Xosa* (or *Christian Express*), with the first native editor, Elijah Makiwane (followed by John Tengo Jabavu)⁹ and by 1884, though, a truly secular newspaper, *Imvo ZabaNtsundu* (*The Opinion of People of Colour*), edited by Jabavu. *Imvo* set out not only to cover politics, but also to inform and educate its readers. Getting native voters to take part in the electoral process was central to Jabavu's mission. He urged them to vote for politicians who supported their interests, the so-called "friends of the natives". Other organisations, such as the Native Educational Association, formed in 1880, and *Imbumba YamaNyama*, formed in 1882, which was exclusively political, aimed to unite Africans behind a common cause and to vote for fellow natives.

The response was to change the qualified franchise and new legislation¹⁰, which came into effect on the first of September 1887, was dubbed *uthung' umlomo* (stitching of the mouth) by natives, and this law scrapped communal land as an occupancy qualification, requiring instead individual tenure. In 1892 occupancy qualification was increased from £25 to £75¹¹ and other measures in 1894.¹² The aim was to avail labour to the emerging mines, which had proven difficult while natives still had means of subsistence.

This disenfranchisement of those native voters who originally qualified to vote was stark: in the Herschel district, the number of natives dropped to 374 in 1887, from 797 in 1886; from 766 down to 517 at Queens Town's Kamastone district; from 802 down to 483 at Thembuland; and from 1 023 down to 706 at Victoria East. By 1891, just in the frontier districts.¹³

In Natal, the South African Native Affairs Commission "found there were only two Africans on the voters roll" in 1903."¹⁴

The struggle for franchise was not limited to "natives". For example, after 1886, the prospect of gold in the Witwatersrand ridge drew large numbers of newcomers to Johannesburg, where they became a majority of the citizenry and were led by an aristocracy of wealthy mine owners. The Transvaal's long-established rural population of Boers (Afrikaners), afraid of being overwhelmed, passed laws to restrict the Uitlanders' influence. A law of 1888 declared that only the Dutch language could be used in legal proceedings and official documents. Naturalisation and the right to vote, under a law passed in 1890, involved not only a naturalisation fee but also a minimum of 14 years' residence. These restrictions on the franchise became a focus of Uitlander protest, leading ultimately to war in 1899.

In the case of people of Indian origin in Natal, the Natal Indian Congress (NIC) was launched on 22 August 1894, in Durban, South Africa. It was founded by Mahatma Gandhi to organise and fight against

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

10 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.

11 Franchise and Ballot Act, No 9 of 1892.

12 Glen Gray Act of 1894.

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

14 Ibid, pp22, footnote #1

these discriminatory laws and practices targeting the Indian community in the Natal province.

The subject of native franchise would come up, once again, as the colonies fused towards forming the Union, where the Boer republics - i.e. Transvaal and Orange Free State – demanded, as a condition to their joining the Union, that native franchise not be extended to their provinces. And so it was that the Union was inaugurated without a qualified native franchise in the Transvaal and Orange Free State.¹⁵

The native elite did not take the blows without a fight. The very initial attack, in 1887, was met with the formation of Native Vigilance Associations to get natives registered and ward off fraudulent attempts at disfranchisement. In 1897, Izwi Labantu was established to counterpose Imvo.

As the talks of unification gained momentum in the first decade of the 20th century, the protest also began to take a national form. Natives throughout the envisaged Union faced a similar enemy. Provincial-wide formations – i.e. Native Congresses – sprang up, with their mouthpieces. In addition to Izwi in the Cape, the Natal Native Congress (NNC) had Ipepa lo Hlanga, set up in 1898. The editor of Ipepa, Mark Radebe, was 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 mouthpieces to articulate their cause (albeit reliance on settler capital imposed limitations).

Women, too, who had no access to the franchise and were severely affected by restrictions on settlement and movement, were not without a voice in this colonial period. In the Free State, for example, in 1898, women marched and petitioned President Marthinus Theunis Steyn, protesting against being made to carry passes.

In this period, too, the British colonial government implemented policies which included taking land from African people and giving it to the growing number of Europeans in the colonies. In addition, there was the introduction of taxes like the hut tax and poll tax that forced Africans to work for European settlers.

One of the chiefs who organised an armed rebellion against British colonial authority was Zulu Chief Bambatha, who fought against the loss of land his people suffered and the poll tax of one pound that they were forced to pay. He demanded that his people's land be returned and the poll tax lifted.

Over the century before 1900, there were at least 18 Boer republics established. Citizenship of the Zuid Afrikaanse Republiek (Transvaal) was legislated by the constitution as well as Law No 7 of 1882, as amended on 23 June 1890 and was confined to white people born in, or naturalised in, the Transvaal.^{16 17}

In the Orange Free State Boer Republic, a similar situation pertained, with all persons of European blood possessing a six-month residential qualification to be granted full burgher rights. A residence of five years in the country was required before aliens could become naturalised.

15 Odendaal, op cit.

16 Eybers, G.W. (1918). *Select constitutional documents illustrating South African history, 1795–1910*. George Routledge & Sons, Ltd., New York; E.P. Button & Co. pp. 360–361. OL 24129017M.

17 Yap, Melanie; Leong Man, Dianne (1996). *Colour, Confusion and Concessions The History of the Chinese in South Africa*. Hong Kong: Hong Kong University Press. ISBN 9789622094246.

Just 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 up a uniform response to their precarious future under the envisaged state, underlining their objection to the limitation of franchise, and began moving towards forming a nationwide organisation. A delegation was sent to England to petition both Parliament and the Crown not to approve the draft Constitution.¹⁸ In 1909, two petitions from South Africa reached the House of Commons objecting to aspects of the proposed South African Union constitution.

Importantly, as the colonial period closed, it was clear that the white settler classes were moving towards repealing all forms of non-racial franchise. In 1908, in the National Convention of white representatives from the four colonies, negotiating the constitution, the two dominant issues were the “Native” question and the choice between a unitary or federal approach....the Natal Native Congress declared: “We Natives of Natal, though loyal subjects of the Crown and sharing the burden of taxation, are labouring under serious disabilities by being excluded from free access to the Franchise, and having no efficient means of making our wants known to Parliament and no say in matters regarding our most vital interests such as taxation and other things.”¹⁹

2.2 THE UNION PERIOD

The Union was inaugurated without native franchise in the Transvaal and Orange Free State.²⁰ As a result, the constitution provided for an all-powerful government consisting only of white men, even removing the minimal voting rights which black people had previously held.

A fully-fledged national organisation, the African Native National Congress (ANNC), later renamed 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. 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, ignoring the cacophony of noise shouting down his candidature. 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 amongst white voters.

However, Rubusana’s historic election was not to be repeated. Jabavu, who had afforded Rubusana space in his newspaper to campaign in 1911, would turn against him in 1914. He stood against

18 “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

19 Odendaal, 1984:142

20 Odendaal, op cit.

Rubusana in that election, with Jabavu supporting the white settlers' promulgation of the 1913 Land Act that introduced territorial segregation, leaving natives' ownership of land squeezed into 13% of the South African land surface.

The loss of franchise went hand in hand with formal land dispossession through the passing of the Land Act in 1913, making natives only inhabitants of almost 90% of the territory of South Africa. Another petition to the British Parliament, prepared by the newly formed South African Native National Congress, drew "attention to its negative consequences for the African population, which lacked an effective voice in the South African legislature", and was ignored."²¹

2.2.1 RESTRICTIONS ON MOVEMENT AND SETTLEMENT

Not only did the Land Act dispossess natives of the land, but then began a period in which the movement and settlement of native South Africans were restricted:

- The Natives (Urban Areas) Act of 1923 controlled the influx, allowed the establishment of separate residential areas (locations) for Africans on the outskirts of white urban areas.
- The Native Trust and Land Bill and the Representation of Natives Bill, which were met with fierce resistance by non-governmental parties.²²
- The Native Administrative Act of 1927, which meant that natives could never qualify for citizenship within the Union, but were ordered to participate in traditional institutions, known in indigenous languages as inkundla or lekgotla, which were headed by chiefs.²³
- The 1936 Native Representative Act introduced the Native Representative Council, where natives elected each other, and their representatives would then advise the government about their needs.

2.2.2 WOMEN'S STRUGGLES FOR SUFFRAGE

Non white women had often led the struggles against colonial and then the union's qualified franchise and its effects, from lodgers' permits to pass laws. White women also struggled to receive the franchise, and in 1930, this was granted by Prime Minister Hertzog with the Women's Enfranchisement Act for white women only. In large part, this was done as Hertzog realised 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.

The fight for universal suffrage took on a truly national dimension with the historic Women's March to the Union Buildings in 1956 to protest against pass laws. It was not until the end of apartheid that all South African women were granted the right to vote.

21 A.J. Christopher, 2018, South African petitions to the House of Commons, 1833-1914: Grievances, protests, advice and information, *Historia* vol.63 n.1 Durban May.

22 1978, Richard Haines, The Opposition to General JBM Hertzog's Segregation Bills 1925-1936: A study in extra-Parliamentary Protest, MA Thesis, University of Natal

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

2.2.3 COLOURED REMOVAL FROM REPRESENTATION

In the 1948 general elections, the National Party came into power on a platform of Apartheid. Together with its coalition partner, it won a narrow majority of seats in the National Assembly. As is a common feature in First Past the Post single-member constituencies, it did not, however, win the most votes. To implement its racist policy of separate development, but also to remove the possibility of the Coloured vote swinging the outcome in several seats, the government introduced legislation to remove Coloureds from the “common” voters’ roll. This was successfully challenged in the Appellate Court by affected voters, as the government could not achieve a two-thirds majority required to change the entrenched provisions. It then tried to introduce legislation to make the Appellate Court subject to the “High Court of Parliament”, which also failed. The government then resorted to underhanded legislation that enlarged the Senate which allowed it to appoint supporters to attain the required two thirds majority and then also enlarged the Appellate Court so that government supporting judges could be appointed to create a new majority. With an enlarged representation in Parliament, the National Party was able to pass the new law in 1956 removing Coloureds from the common roll. When the new law was appealed, the National Party-friendly Appellate Court upheld the law.

This immoral episode in the history of the country again emphasises why our democratic Constitution entrenched the Supremacy of the Constitution and the fundamental value of the Rule of Law, to prevent such abuse by Parliament.

As a means of appeasement to coloured people, by 1955 started the issuance of permits started as a result of the Coloured Labour Preference Area in the Western Cape. Within the boundaries established by the Government, no African workers could be hired unless the Department of Labour determined that Coloured workers were not available.

2.2.4 ONGOING NATIONAL STRUGGLES FOR THE UNIVERSAL FRANCHISE

The African Claims document was drafted and then adopted in December 1943 by the ANC’s Annual conference held in Bloemfontein on 16 December 1943. It was one of the clearest sets of demands for the Union government to undo its race-based disenfranchisement of black South Africans. The first article in the Bill of Rights: Full Citizenship Rights and Demands makes the demand for franchise in the following terms:

We, the African people in the Union of South Africa, urgently demand the granting of full citizenship rights such as are enjoyed by all Europeans in South Africa. We demand: -

“Abolition of political discrimination based on race, such as the Cape “Native” franchise and the Native Representative Council under the Representation of Natives Act, and the extension to all adults, regardless of race, of the right to vote and be elected to Parliament, provincial councils and other representative institutions.”

In the section on discriminatory legislation, the African Claims demanded:

- The repeal of all colour-bar and/or discriminatory clauses in the Union's Constitution, that is, the South Africa 1909 Act;
- The repeal of the Representation of Natives Act 1936;
- The repeal of the Natives' Land Act 1913 and the Natives Land Amendment and Trust Act 1936;
- The repeal of the Pass Laws, Natives Urban Areas Acts as amended, the Natives Administration Act 1927;
- Repeal of the "Colour Bar" Act or Mines and Works Act 1926, Natives Service Contract Act, Masters and Servants Act, the Natives Labour Regulation Act and the amendment of all discriminatory and disabling clauses against African workers contained in the Industrial Conciliation Act.

By the end of the 1950s non-racial franchise in South Africa had ended. The embrace and advocacy of the value, however, endured. The Preamble to the Freedom Charter, adopted in 1955, states "that only a democratic state, based on the will of all the people, can secure to all their birthright without distinction of colour, race, sex or belief;...Every man and woman shall have the right to vote for and to stand as a candidate for all bodies which make laws; The rights of the people shall be the same, regardless of race, colour or sex; All bodies of minority rule, advisory boards, councils and authorities shall be replaced by democratic organs of self-government".

And so, whereas the apartheid government was implementing legislation entrenching the denial of franchise for the majority of people, this was not without the provision of alternatives predicated on the common citizenship of all.

So strong was the belief in non-racialism, especially within the ANC, that it was willing to suffer a split. The party had a strong Africanist group that opposed non-racial citizenship, which eventually broke away in 1959 to form the Pan Africanist Congress. The liberal voices, which had largely turned hostile in the 1890s, were also heard once again from the early 1960s, in support of non-racial franchise through the Progressive Federal Party (PFP).

Meetings and demonstrations were held in a number of centres, including Langa, Uitenhage, East London, Cape Town and Pietermaritzburg. Women played a leading role in these protests, in which passes were burnt. By 1953, there were still sporadic demonstrations taking place, and these accelerated when local officials began to enforce the new pass regulations. Reaction was swift and hostile, and on 4 January 1953, hundreds of African men and women assembled in the Langa township outside Cape Town to protest against the new laws.

2.2.5 ESTABLISHMENT OF THE BANTUSTAN SYSTEM

The 1950s and onwards also saw the formalisation of the Bantustan system for native South Africans, with legislation such as the following:

- 1951: Bantu Authority Act, Act 68 of 1951, which provided for the establishment of Black homelands and regional authorities,
- 1952: Native Laws Amendment Act and Natives Abolition of Passes and Coordination of Documents Act tightened influx control, and impacted on movement of African women
- 1959: Promotion of Bantu Self-Government Act, Act 46 of 1959, which separated Black people into different ethnic groups. 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.²⁴

2.3 THE REPUBLIC OF SOUTH AFRICA

On 31 May 1961, the Government of the Union of South Africa declared that henceforth the country would be a republic.

The 1960s saw the consolidation and development of the homeland system, accompanied by ruthless repression, arrests, imprisonments and detentions, such as after the successful national general strike in 1961, which led to more than 10,000 people being arrested.

Overall, the National Party moved swiftly to balkanise the country by both allowing native South Africans to remain in “white” South Africa, but with them now having citizenship according to their ethnicity. In this regard, legislation was passed, including:

- 1961: The Urban Bantu Councils Act, Act No 79 of 1961, replaced the Advisory Boards created earlier by the Native (Urban Areas) Act of 1923, and permitted democratic election of new municipal councils with African chairmen, which were assigned some administrative duties. It became known as the “Useless Boys Clubs who were given toy telephones”.
- 1963: The South African Parliament passed the Transkei Constitution Act, replacing the existing territorial authority with a ‘self-governing’ legislative assembly with limited law-making powers.
- 1970: The Bantu Homelands Citizenship Act of 1970 was passed, which allowed Blacks living throughout South Africa to become legal citizens in the homeland designated for their particular ethnic group.
- 1970: Separate Representation of Voters Act ended coloured representation of four members in Parliament. The Coloured Representative Council was established with limited powers over affairs that related to the coloured community. By 1979, due to the pressures within the Council and from outside, it was dissolved.

²⁴ 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.

- 1971: Self-government was granted to Ciskei and Bophuthatswana; on the other hand, Lebowa, Gazankulu and Venda received self-government in 1973.

In the 1970s, the bantustans taking “independence” were the Transkei in 1976, Bophuthatswana in 1977, Venda in 1979, and Ciskei in 1981. The remaining Bantustans remained self-governing but had no independent rights. In 1972, the KwaZulu Legislative Assembly was established, followed by self-government in February 1977. Bantustans were to become “independent” from South Africa. Elections were held for these legislative assemblies, all of which had almost no acceptance and very low levels of turnout:

- Transkei: legislative elections held in 1963, 1968, 1973, 1976, 1981 and 1986.
- Bophuthatswana: legislative elections in 1972 and 1977
- Ciskei: legislative elections held in 1973, 1978 and 1986.
- Venda: legislative elections held in 1973, 1978 and 1984

The effect of this process was that in 1981, by the time Ciskei celebrated its “independence”, some eight million Africans had been ‘de-nationalised’, in effect becoming foreigners in the land of their birth.

The 1970s brought on growing mass actions against the apartheid state in all its forms, with the struggles for the franchise and other basic rights:

- 1972 onwards: The Durban dockworkers strike and ongoing mass actions and struggles for labour, community and political rights. There was an unprecedented level of resistance in factories and black communities in the 1980s over economic and political issues. It was a period in which the highest level of strikes in South African history was recorded.
- 1973: The United Nations declared apartheid ‘a crime against humanity’. South Africa faced cultural and economic boycotts. Those who defied the boycotts and competed overseas faced protests. By the 1980s, these international campaigns were significant.
- 1974 onwards: rise of mass civic action (rent, transport, food and other protests) against racist local policies
- 1976 onwards: student action across South Africa.

By way of response, in 1978, the Department of Constitutional Development and Planning Reform was established and then created a multi-tiered, interdepartmental structure dominated by the military but staffed by civilians, called the National Security Management System (NSMS), which adopted what became known as an “iron fist with a velvet glove” approach. The approach had as its aim the reinforcement of the Bantustan system.

Clearly, with the international and mass action campaigns gaining momentum, Prime Minister PW Botha tried in vain to establish, in 1979, a “Constellation of Southern African States” (CONSAS). This

was a foreign policy initiative proposed by South African Prime Minister P.W. Botha, who also called on white businessmen to become actively involved in “strengthening economic relations” with these states, including the so-called “independent” bantustans. This was the fourth attempt by the racist apartheid regime to induce African countries into economic cooperation and, through that, break the international isolation, with the others being Vorster’s “outward movement” (1968), secret dialogues (1970/71) and détente offensive (1974).

PW Botha’s last hurrah was effectively countered with the nine frontline states (Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia, Zimbabwe) agreeing to organise themselves and lessen their dependence on South Africa through the creation of the Southern African Development Coordination Conference.

Failing on the international front, PW Botha kept up with new forms of franchise on the domestic front. In 1982, the Black Local Authorities (BLAs) tried to encourage residents to elect councillors and generally participate in local government, but in an advisory role. Residents did not recognise the BLA councils. “No taxation without representation” was the slogan.²⁵

In 1983, the United Democratic Front was launched in Mitchell’s Plain near Cape Town. About 600 delegates from more than 230 organisations and a crowd of about 13,000 people converged on the area.²⁶ There were delegates representing students, youth, worker, civic, women’s, religious, sport and trade union organisations and these organisations committed themselves to reject the constitutional and Koornhof Bills of the apartheid regime and committed themselves to “the achievement of a democratic society under the banner of the UDF through the active participation of thousands of members of our organisations.”

PW Botha continued, though and made a desperate effort to make reforms by introducing the tricameral constitution: three chambers of Parliament were set up, being the House of Delegates (Indians), House Representatives (Coloureds) and the National Assembly (Whites). However, this was widely rejected by the Coloured and Indian people, and this initiative was doomed to fail from its very inception. This legislative arrangement gave no power to black people as they ultimately operated within the parameters of the apartheid state and its logic. The tri-cameral Parliament was rejected by the majority of people, including many inside the parliament, due to being based on and entrenching ethnicity and the exclusion of the majority of South Africans.

This was followed in 1985 to 1987 with a frenzy of desperate reaction, the government declared a series of back-to-back states of emergency, with restrictions on many organisations and the mass detentions of leaders and activists.

Further legislation was passed, including in 1988 the Promotion of Constitutional Development Act, the Extension of Political Participation Bill, the Group Areas Amendment Bill, the Free Settlement Areas Bill, and the Local Government Affairs in Free Settlement Areas Bill. The primary purpose of these Bills

25 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.

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

was to strengthen the hand of ‘moderate’ black people and pave the way for their involvement in the constitution-making process.

Overall, the Bantustan system, the BLAs and the tri-cameral Parliament were rejected by the vast majority of black South Africans. 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 with only “one in five potential voters voting.”²⁷ BLA councillors became targets of violent attacks. They were denounced as ‘sell-outs’ whose participation legitimised apartheid structures. Residents did not recognise the BLA councils and refused to pay rates and taxes to register their rejection. “No taxation without representation” was the slogan.²⁸

Even more difficult for the apartheid state, most of the world shared the idea that it was illegitimate. South Africa faced cultural and economic boycotts. 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 and bankruptcy.

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. Once the government conceded permanent residence to Africans in the Republic, it was a matter of time before the entire apartheid edifice crumbled.

It must be recognised that by the end of the 1980s, thousands of organisations, from different ideological perspectives, had organised themselves in opposition to the Colonial, Union and later Apartheid regimes. Many of these organisations were banned, individuals restricted and imprisoned, and many killed, yet they continued their opposition to the racist and sexist franchise systems which had been introduced over some 150 years in South Africa. In addition to the ANC, PAC, UDF and Congress for a Democratic Future, the important role played by the Black Consciousness Movement led by Steve Bantu Biko and organisations like NUSAS and SASO from the 1960s onwards needs to be mentioned. The Unity Movement, AZAPO, COSATU and thousands of other civic and political movements must be included here. And the opposition was not only from non-governmental organisations. For example, the launch by Prince Mangosuthu Buthelezi of the IFP in 1975 and their continued support for the release of leaders, unbanning of organisations and the creation of a democratic state must be recognised.

²⁷ Ibid, pp110.

²⁸ 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.

2.4 NEGOTIATIONS AND THE ELECTORAL SYSTEM: LATE 1980S TO 1994

2.4.1 PREPARING FOR NEGOTIATIONS

Just as the 2nd 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. Botha was a hesitant reformer, and his successor, F.W. de Klerk, continued the path of negotiations, particularly through the unbanning of liberation movements in 1990. Irrespective of the subjective characteristics of Botha and de Klerk, the National Party had no option: the state was bankrupt, they had lost all major international support, and they had run out of military options.

Importantly, too, the Harare Declaration in 1989 by the Organisation of African Unity clarified a pathway to negotiations.²⁹ The Statement of Principles in that document argued that:

16.3. All its people shall have the right to participate in the government and administration of the country on the basis of a universal suffrage, exercised through one person one vote, under a common voters' roll.

16.4. All people have the right to form and join any political party of their choice, provided that this is not in furtherance of racism.

This was followed by the major progressive forces coming together in December 1989, at the Conference for a Democratic Future. The thousands of delegates assembled at Wits University united in a call that "The adoption of the Harare Declaration should act as the starting point of a process which takes its content to the masses of our people in all corners of the country. The demand for the Constituent Assembly should become a popular demand of the people." This was an important moment as it united the many disparate extra-parliamentary and progressive forces into a single pathway towards a negotiated future.

In parallel with the informal talks with the apartheid regime and building a united pathway to negotiations, the ANC and liberation movements in general had been preparing for the possibility of negotiations. The Post Apartheid South Africa (PASA) initiatives, coordinated by the ANC, had assembled South African and international academics and researchers to research a wide range of policy areas.

Importantly, as part of these processes, in the late 1980s, the Constitutional Committee of the ANC, led by Zola Skweyiya, had also begun exploring the electoral options for a post-apartheid South Africa. By 1990, it had become clear that the ANC would support a proportional representation system. An ANC national workshop at the University of the Western Cape from 2-4 November 1990 led to public discussions on the future electoral system principles:

- Proportionality with a direct relationship between votes and seats

²⁹ 1989, Harare Declaration: Declaration Of The Oau Ad-hoc Committee On Southern Africa On The Question Of South Africa; Harare Zimbabwe: August 21, 1989

- Accountability
- Equal value of votes
- Providing effective choice and natural coalitions
- Maximising consent, having a fair system
- Simplicity in the actual act and process of voting, and
- Accommodating all interests.

2.4.2 NEGOTIATIONS AND THE ELECTORAL SYSTEM

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 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 the relative majority system – i.e. first-past-the-post (FPTP), which survived right up to the last apartheid elections in 1989.

However, for a variety of reasons, the electoral system was the easiest to conclude in negotiations, given that the major parties (ANC, NP and DP) had already decided on a proportional representation system. The NP had realised that the FPTP system would be detrimental to its electoral interests. In 1991, it published its proposals, which “indicated support for the principle of proportional representation, at least concerning a first house of Parliament, but organised in such a way that candidates would stand for election in specific districts. The vagueness of this qualification was an indication of how little thought most National Party leaders had invested in the details of a new electoral system.”³⁰

At its Congress in 1991, the DP Policy Advice Committee recommended a mixed-member PR system in which 300 Parliamentarians would represent 100 constituencies and 100 would be chosen from national lists. This was because historically, the number of seats the NP 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.³¹

The NP had a long-standing fear, dating back more than a century in the Cape colony, of being swamped under an ANC-dominated government. Now that 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.

The ANC was alert to the ‘swart gevaar’ that had gripped its main rival, the National Party. 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 the jobs of senior civil servants for the initial five years of the new government.

³⁰ <https://eisa.org/storage/2023/05/2003-journal-of-african-elections-v2n1-how-south-african-electoral-system-was-negotiated-eisa.pdf>

³¹ Faure, M. 1994. “The Electoral System” in De Villiers. (ed). *Birth of a Constitution*. Kenwyn: Juta and Co.

As Lodge argues: “The essential features of South Africa’s electoral system were decided at the Convention for a Democratic South Africa (Codesa), which opened on 20 December 1991 and was attended by eight parties as well as the administrations of the former ‘homelands. Through the activities of five working groups, the Codesa negotiations continued until mid-May 1992, when the African National Congress and the National Party disagreed over the size of the majority which would be required to determine the final Constitution. Subsequently, constitutional discussions proceeded at the Multi-Party Negotiating Forum to which 26 delegations from political parties were invited on 26 April 1993. The electoral system was further elaborated on, though its most important principles were not changed, in electoral legislation passed between 1996 and 1998 in conformity with the provisions of the 1996 Constitution. The 1994 election was held under the terms of the 1993 Interim Constitution and accompanying transitional legislation. The 1999 election was organised through the almost identical provisions of the 1996 Constitution and subsequent legislation.”³²

The Constitutional Assembly post-1994 reached consensus on the final constitution, bar the electoral system. The principle of proportionality was not the issue and, as such, remained in the final constitution. The bone of contention was nine multi-member constituencies or a larger number of multi-member constituencies. An agreement was then reached that the first election (1999) under the new permanent constitution would be based on the 1994 system. Simultaneously, the new system, post-1999, would no longer be part of the constitution, but would be dealt with in ordinary legislation, whilst the proportionality requirement remained part of the constitution. The electoral debate could then be resolved without the pressure, at the time, of having to finalise the final constitution. This then led to the 1998 Electoral Act that dealt with the mechanics of the 1999 election under the 1994 arrangements. Post 1999, South Africa did not have a detailed electoral system, and that is why the Slabbert task team was established. The acceptance by Parliament of the minority view in Slabbert left South Africa with a permanent electoral system broadly similar to the 1994 arrangement.

2.5 CONCLUSION

South Africa has a long history of contestation for a fair electoral system. Many electoral systems and their consequences had been forced on the majority, from the qualified franchise to treating the majority as simply inhabitants of their country, through to forced removals, the reshaping of the human settlement patterns, and restrictions on movement and settlement. All of this was met with resistance and responses to bring about a democratic electoral system.

Ironically, with all the major parties accepting a proportional representation system, this proved to be a relatively easy part of the negotiations, compared with the other challenges in negotiating a democratic dispensation. Importantly, though, the real consequences of the previous few centuries remain imprinted on our geography and trapped us in high inequality, unemployment and poverty.

32 <https://eisa.org/storage/2023/05/2003-journal-of-african-elections-v2n1-how-south-african-electoral-system-was-negotiated-eisa.pdf>



3. Previous Electoral Reviews

3. PREVIOUS ELECTORAL REVIEWS

The 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 from a transitional arrangement of the 1990s. The second review, the Ministerial Advisory Committee on Reform of the Electoral System, was initiated in 2020 in response to the Constitutional Court ruling that the electoral system should be amended to allow for independent candidates. However, calls for a comprehensive review of the electoral system 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. The Minister, in turn, will table the ERCP's report in Parliament.

Although not charged with the responsibility for electoral reform, several independent commissions established since 1994 have 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's process, drawing from both targeted and Parliamentary reviews. The chapter is structured into six parts, which follow sequentially. Immediately below is section one on the 2002 Electoral Task Team. Sections two and three deal with Parliamentary reviews of 2008 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 2020 electoral review. Section six deals with legal challenges to the Electoral Amendment Act passed in 2023. In each section, the chapter focuses on their high-level electoral reform proposals.

3.1 ELECTORAL TASK TEAM, 2002

The Cabinet appointed an Electoral Task Team³³ (ETT) in 2002, chaired by Frederik van Zyl Slabbert, to draft legislation for the pending 2004 election.³⁴ The ETT issued its report eight months later, with the Task Team divided on its recommendations. There were many areas in which the ETT agreed, including the core values of fairness, inclusiveness and simplicity. I

The report concludes, "no electoral system can compel an elected representative to behave democratically, take care of a constituency or party responsibilities, or be a disciplined, dedicated member of parliament. Insofar as these issues may relate to accountability, additional measures,

³³ Electoral Task Team. 2003. <https://www.gov.za/documents/other/electoral-task-team-report-01-jan-2003>

³⁴ 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.

policies, rules or regulations are needed to operate alongside or parallel with an electoral system.”³⁵ 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.

In addressing the matter of individual accountability, the majority view³⁶ felt that it would not be strengthened with a system that contained single-member constituencies, even if that was an evident solution. Members would mostly be elected as a result of their association with a political party, and one can only reject a candidate by voting for a candidate of another party. It felt that this reality would seldom materialise. Open lists were also considered as a solution for the accountability problem, since a voter would be able to reject a candidate without concomitant rejection of a party. It felt that it was not a practical possibility at the time, but that the possibility could be kept in mind for future evolution. Their recommendation thus was to bring representatives closer to voters by using smaller regional multi-member constituencies and at least put a face to party representatives. Constituencies would correspond 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.

Conversely, the minority view³⁷ 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

³⁵ Page 9 of the Electoral Task Team Report

³⁶ These were: Van Zyl Slabbert, Du Plessis, Elklit, Fick, Haysom, James, Malatji, and Nupen.

³⁷ They were: Tlakula, Van der Merwe, Titus and Raditapole.

interrogated.” Parliament ultimately adopted the minority proposal, retaining the system used in the 1994 and 1999 general elections.

3.2 INDEPENDENT PANEL ASSESSMENT OF PARLIAMENT, 2009

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 was chaired by former Member of Parliament (MP) Pregs Govender.³⁸ 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 regarding 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 was noted that the party-list system tends to promote accountability of Members of Parliament to their political parties rather than to the electorate.... The Panel recognised that alternative electoral systems also have drawbacks. The Panel strongly recommends that Parliament debates the relative merits of various electoral systems and considers the impact of these systems on the institution’s ability to give expression to its Constitutional mandate. The view of the Panel is that the current electoral system should be replaced by a mixed system which attempts to capture the benefits of both the constituency-based and proportional representation electoral systems.”³⁹

Furthermore, the Panel noted that: “While all Members of Parliament have a common obligation to hold the Executive accountable, the party list electoral system undeniably does influence how oversight is exercised. The use of party lists to fill seats in the legislature means that Members of Parliament of the majority party are often in a position where they must exercise oversight over senior members of their own party, the same members who may be able to influence the composition of the list during the following elections.”⁴⁰

The Panel contrasted the Party-list system with the constituency system as follows: “In constituency-based electoral systems voters directly elect the representative(s) for their constituency, and citizens therefore generally have more contact with and greater knowledge of Members of Parliament in these systems than in proportional system where Members of Parliament are elected based on party lists (page 60)”⁴¹ “⁴².

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

39 Report of the Independent Panel Assessment of Parliament. 2009. www.gov.za. pp 6.

40 Report of the Independent Panel Assessment of Parliament. 2009. www.gov.za. pp 37.

41 Report of the Independent Panel Assessment of Parliament. 2009. www.gov.za. pp 60.

42 Report of the Independent Panel Assessment of Parliament. 2009. www.gov.za. pp 94.

3.3 HIGH-LEVEL PANEL: ASSESSMENT OF KEY LEGISLATION AND ACCELERATION OF FUNDAMENTAL CHANGE, 2017

In 2017, a High-Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change, chaired by former President Kgalema Motlanthe, was appointed.⁴³ 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" and to propose appropriate remedial measures to Parliament.⁴⁴

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 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 also found the system weak on "holding the politicians to account to the electorate."⁴⁵ 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."⁴⁶ In their view, the system distances Parliament from the people. While constituency offices exist, most people are unaware of their constituency representatives or even 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."⁴⁷

3.4 COMMISSION OF INQUIRY INTO STATE CAPTURE, 2018 - 2022

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.

43 In addition to Motlanthe, the High Level Panel comprised 14 members. These were: Dr Olive Shisana, Prof Haroon Borat, 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 Maloka, Prof Vivienne Taylor and Dr Yvonne Muthien.

44 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

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

46 Ibid.

47 Ibid.

Both Parliament and the ruling party came under scrutiny for their failure to prevent state capture.⁴⁸ The major conclusions of the Commission with respect to the electoral system are contained in Sections 227.2, 263 and the main recommendation in 264. The pertinent aspects are presented as follows:

“227.2 It is 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. If Parliament considers that introducing a constituency-based system has this advantage, it is recommended that it should consider whether, when weighed against any possible disadvantages of, this advantage justifies amending the existing electoral system.

263. The proposal that consideration be given to making necessary constitutional amendments to ensure that the President of the country is elected directly by the people, is aimed at ensuring that anyone who becomes President of the country does so on the basis of their popularity with the people, not on the basis that, if voters vote for a particular party, that party will make him or her President.

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264. It is recommended that serious consideration be given to the majority recommendation on electoral reforms as given in the Report of the Electoral Task Team of January 2003. The Task Team included Dr F Van Zyl Slabbert, who was the Chairperson”.

3.5 NEW NATION MOVEMENT JUDGMENT AND THE MINISTERIAL ADVISORY COMMITTEE, 2020

In 2020, the Constitutional Court heard a case brought by the New Nation Movement,⁴⁹ 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 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 to stand for office. The Court also found that the constitutional value of a multi-party system does not require

48 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.

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

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.

Based on the majority judgement, 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, and including seven other individuals, was appointed.⁵⁰ 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.”⁵¹

Whilst a single report was adopted by the Committee, divergent views led the Committee to make two different recommendations. Option 1, supported by 3 members, proposed a modified version of the existing system to allow for the inclusion of independent candidates. This approach simply entailed allowing independent candidates to contest one of the nine provincial multi-member constituencies. Option 2, supported by 4 members, proposed the adoption of a two-tier compensatory system. In essence, this approach combines single-member constituencies contested based on First Past-the-Post and a compensatory element to achieve proportional representation. 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 first approach, which allowed independent candidates to contest in the nine multi-member constituencies. It also introduced a second compensatory ballot for national elections

50 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 (ex officio representing the IEC).

51 Ministerial Advisory Committee on Electoral System Reform. 2022. https://static.pmg.org.za/Report_of_Ministerial_Advisory_Committee_on_electoral_System_Reform.pdf

on which voters could only vote for political parties. Importantly, after engagements with a range of parties, Parliament agreed to the establishment of the ERCP, which was included in the legislation.

3.6 LEGAL CHALLENGES TO THE ELECTORAL AMENDMENT ACT

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

In *Independent Candidate Association NPC v The President of the Republic of South Africa and Others*,⁵² 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 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 there was no legal mechanism to address it if it occurred. Unlike the Local Government Municipal Structures Act, the Electoral Amendment Act lacks a mechanism 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

⁵² *Independent Candidate Association NPC v The President of the Republic of South Africa and Others* (CCT 144/23) [2023] ZACC 41

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*.⁵³ The first challenge targeted the "signature requirement," which mandated independent candidates to collect registered voters' signatures totalling 15% of the previous quota of votes per seat in the region of contest. The second challenge in this matter concerned how seats are reallocated when an independent candidate's seat becomes vacant ("recalculation challenge").

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 only for independent candidates.

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.

3.7 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. 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 some disadvantages with the party-list system and the failure of Parliament to hold the Executive accountable. It is within this historic context that the ERCP has been tasked with recommending reforms to the electoral system.

⁵³ *One Movement South Africa NPC v President of the Republic of South Africa* (CCT 158/23) [2023] ZACC 42.



4. Electoral System Design and International Trends in Electoral Reform

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 the 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.

As reflected in Chapter One, we are also mindful of the supremacy of the Constitution of South Africa, and options must ultimately pass constitutional muster. At the outset, as a Panel, we had agreed that we would adhere to section 46 (1)(d) and Section 105 (1)(d) of the Constitution as it relates to electoral systems for the National Assembly and provincial legislatures respectively. Therefore, the options will primarily be assessed in terms of the requirement that an option for the electoral system results, in general, in proportional representation. When abiding by the Constitution, we must not only reference provisions that directly refer to the electoral system, but all its provisions and overall purpose. This includes the Preamble with the essence of government being an expression of the will of the people and the collective oneness of Ubuntu, our foundational values and the entrenched human rights. Cognisance must also be taken of the constitutional scheme of the three spheres of government at National, Provincial and Local that are distinctive, interdependent and interrelated not only in terms of structures and composition of their legislatures, but also functions and powers.

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 on 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.

4.1 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.

4.1.1 ELECTORAL SYSTEM TYPES

Electoral systems are broadly categorised into three main families: plurality/majority systems, mixed systems and proportional representation systems.⁵⁴ 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 per cent 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.

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.⁵⁵ 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 the vote. 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 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 constituencies⁵⁶ while others are elected in multi-member constituencies.⁵⁷ 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 is 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

⁵⁴ 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>

⁵⁵ 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.

⁵⁶ Some mixed systems make use of block-voting whereby a slate of candidates is elected using a plurality/majority system – although these are rare.

⁵⁷ 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>

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 uses 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.

4.1.2 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.

Plurality/majority systems typically make use of single-member constituencies,⁵⁸ 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. There is general agreement that the crucial determinant of an electoral system’s ability to translate votes cast into seats won proportionally is the district magnitude, which is the number of members to be elected in each electoral district. 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.

Section 46 (1) (d) of the Constitution of South Africa prescribes the electoral system for the National Assembly, that results in general in proportional representation. Section 105(1)(d) has the same provision as it relates to the electoral system for provincial legislatures. This Report does not propose any amendments or removal to these two provisions, which means that any discussion on electoral principles and values, as well as on electoral system options, must fall within the requirements and scope of an electoral system that results, in general, in proportional representation. It is with this premise that discussions in this and other chapters must be contextualised. It also follows that the benefits as well as shortcomings of proportional representation are inherent in the options to be discussed later in this report.

⁵⁸ Block voting is an exception.

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,⁵⁹ 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.



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

The number of seats in a multi-member constituency is a key design choice within the family of proportional representation electoral systems. Electoral districts with a higher district magnitude (the number of seats in a multi-member district) increase the proportionality of an electoral system. It is also argued, though, that except for single-member districts, more seats in a constituency can weaken the linkage between voters and their representatives.⁶⁰ 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).

An overview of multi-member constituency variations in proportional representation systems can be found in Appendix 1. South Africa, on average, has the highest district magnitude and has the second largest average population per constituency being served among all Proportional Representation systems.

According to the International Electoral Knowledge Network (ACE), most scholars agree, as a general principle, that district magnitudes of between three and seven seats tend to work quite well. It points out, however, that this is only a rough guide, and there are many situations in which a higher number may be both desirable and necessary to ensure satisfactory representation and proportionality. The systems which achieve the greatest degree of proportionality will use very large districts, because such districts can ensure that even very small parties are represented in the legislature. The converse is that the very large constituencies will weaken the direct link with voters in that electoral district. In many countries, the electoral districts follow pre-existing administrative divisions, or provincial boundaries,

⁵⁹ Section 46 and 105 of the Constitution 108 of 1996

⁶⁰ Administration and Cost of Elections Project. District Magnitude. <https://aceproject.org/main/english/es/esg04.htm>

which means that there may be wide variations in their size.⁶¹

Finally, it is important to consider some contextual issues in considering the South African situation. Clearly, in the case of a single-member district, there is only one person elected, and so it is easy to assign responsibility for non-performance for personal constituency services of voters, but with more than one elected person in a constituency, non-performance is far more difficult to assign to a single individual. For example, in a multi-member constituency, are all members recalled if there is non-performance?

More importantly, though, the increasing use of social media for political communication introduces new ways for voters to interact with representatives and can mean that geographic distance is less important for contacting representatives than it was decades ago. Indeed, in the South African context, even if we had no compensatory seats, in a single-member constituency, the average area covered by each MP is 3,050 square kilometres serving a population of at least 155,000 persons.

The geographic size of constituencies is also an important consideration in South Africa, given its vast size relative to population and the density of population across the country. By way of example, let's compare South Africa to the United Kingdom (UK). In South Africa, the average density (population per square kilometre) is around 50 persons per square kilometre (ppsk), whilst the UK is far denser in population terms at around 280 ppsk. In South Africa, each MP serves around 155,000 persons, whilst in the UK each MP serves around 100,000 persons. And in South Africa, on average, each MP covers an area of 3,050 square kilometres, whilst in the UK, each MP only serves an average area of around 370 square kilometres.

Related to this, of course, are the challenges in demarcation, even if municipal boundaries are used, as no one model would fit without distortions.

These issues on the spread of population in South Africa are equally important in considering the number of persons being elected in each constituency.

4.1.3 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

⁶¹ The Electoral Encyclopaedia of the ACE Electoral Knowledge Network. <https://aceproject.org/ace-en/topics/es/esd/esd02/esd02c/esd02c01> The Network is the world's largest online community and repository of electoral knowledge International IDEA, the International Foundation for Electoral Systems (IFES), and the United Nations Department of Economic and Social Affairs (UNDESA), ACE was initially created as the Administration and Cost of Elections project

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 allocation, for parties based on their total vote share. The overall seat allocation represents the total number of seats due to a party based on its proportional share of the vote. This allocation 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.⁶²

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.⁶³ 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.⁶⁴ 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.⁶⁵

The risk of overhang was central in the matter of Independent Candidate Association SA NPC v President of RSA & Others 2023, which served before our Constitutional Court. As the Court noted, “overhang occurs where the election formula requires political parties to be allocated more seats than are available in the Legislature. Put differently, overhang occurs where a party wins more regional seats than the compensatory or national party vote entitles it to. This, in turn, has implications for proportional representation” [paragraph 62 of the judgement]. This is the risk that an electoral system must at best avoid, and at worst mitigate to mathematically the most remote possibility, especially where the electoral

62 Taagepera, R. & Shugart, M. (1989). *Seats and Votes: The Effects and Determinants of Electoral Systems*. New Haven: Yale University Press.

63 Gallagher & Mitchell. 2005. *The Politics of Electoral Systems*. Oxford: Oxford University Press.

64 Shugart & Wattenberg. 2003. *Mixed-Member Electoral Systems: The Best of Both Worlds?* Oxford: Oxford University Press.

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

legislation uses the maximum number of seats as prescribed by the Constitution. The option then is to not use the maximum number of available seats but to reduce it, allow for allocation in the case of an overhang, or unfairly have the affected party forfeit such seat(s). The other alternative is then to repeal the constitutional upper limit of 400 seats and/or the requirement that our electoral system must result, in general, in proportional representation. Does the mischief we seek to address warrant such drastic intervention, and will it have a meaningful impact for the better, especially if it can essentially be avoided at the outset?

4.1.4 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.

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 increase.

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 example, if on average there are five candidates per party and 52 parties, almost 250 names/photos/logos would have to appear on each ballot. For these reasons, open lists are more common in smaller countries, those that use smaller constituencies and those that include a legal threshold.⁶⁶

⁶⁶ 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>

4.1.5 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.

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. Proportionality is generally regarded as encouraging the participation of many parties in order to provide voters not only with options but also to provide the opportunity for varied opinions to be represented and have a voice in the legislature. The integrity of the electoral system, however, requires that frivolous participation must be regulated, and various electoral systems have some way of limiting it, with electoral thresholds being the most explicit limitation 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.⁶⁷ It promotes electoral merit in that contestants need to meet the quota of votes per seat 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 a 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.⁶⁸ 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.

⁶⁷ In the South African context, the quota is determined by the formula: $\text{Quota} = \frac{1}{N}$. Consequently, a quota threshold would be equivalent to 0.249% of the overall valid votes.

⁶⁸ Gallagher, M. & Mitchell, P. 2005. *The Politics of Electoral Systems*. Oxford: Oxford University Press.

4.1.6 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 can 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.

When considering electoral system options for South Africa, it is important that the local context be taken into account, as electoral systems that work in other countries may not be appropriate for the South African context. It bears highlighting again that South Africa is a constitutional democracy based on fundamental values and the supremacy of the rule of law. It has three distinct spheres, which are government at the national, provincial and local levels that are interdependent and interrelated, with their powers and functions. Our highest Court has upheld the individual rights of our citizens while also affirming the presence of Ubuntu as a nation. The legacy of the injustice and inequality lingers front and centre, while universal service delivery remains unattained. A myriad socio-economic challenges remain, while a multitude of interests seek access to power.

The other fact that shapes the contest is the relative authority and influence which parties wield over their members and supporters. Parties control geographic areas and blocs of voters and devote greater effort to maintaining unity in their own camp than seeking support in other blocs – so parties may win huge majorities even when there appears that voters are unhappy with them, **[S Friedman: The System is not to blame. Report commissioned by the Council for the Advancement of the South African Constitution, April 2015]** - as evidence with service delivery protests. This factor continues irrespective of the electoral system. The context of our country is much more multifaceted and complicated than what has been stated before, and in this situation, we are called upon to consider electoral systems for our country. The electoral system is not a panacea, nor are individual efforts, but both extremes can contribute.

4.2 PRINCIPLES AND EVIDENCE FOR ASSESSING OPTIONS

These various design choices have implications for, and are affected by, the degree of proportionality in electoral systems, the linkage between voters and their representatives including challenges around who and how recall mechanisms could work, the ease with which small parties can be elected, the population density, the land area of the country and the precision with which voters can choose their representatives. In some cases, this may require trade-offs between priorities, but often the relationship between principles is 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. It is exceedingly important that values are not structured into a hierarchy of importance. To do so would negate the strength of each value. More importantly, the choice of an electoral system can be enhanced, or in the case of shortcomings, countered, through ancillary

legislative and administrative measures. Such measures are applicable irrespective of the electoral system.

4.2.1 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 the 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.⁶⁹ 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.⁷⁰

Diversity, representation and inclusion can take several different forms:⁷¹

- 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 and 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

69 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.

70 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.

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

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. This is borne out of the recognition that South Africa is a heterogeneous society with varied interests. One of the founding values of our Constitution is of a multiparty democracy, buttressed no doubt by the context and reality that South Africa is not an entirely homogenous group that all want the same policies and have the same expectations from the spheres of government but rather have a varied number of interests, be they national, sub-national or even local. It is to accommodate this reality that the electoral system must enhance multiparty democracy by making room to be inclusive. The added benefit is that electoral systems that facilitate a higher number of parties contesting mean that there is less reason for a voter to abstain due to a lack of policy options.

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.⁷² 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 ballots 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.⁷³ 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.⁷⁴ 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 in place)⁷⁵ – 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

72 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."

73 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.

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

75 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

that single-member districts disadvantage women relative to multi-member districts.⁷⁶

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, 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)⁷⁷ does not appear to affect gender representation. Statistical tests show no relationship between district size and rates of gender representation.⁷⁸ 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 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.⁷⁹ 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.⁸⁰ In the South African context, this bias is limited, and it should be recognised that 55% of voters in the 2024 election were women.⁸¹ 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

76 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.

77 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.

78 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.

79 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.

80 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.

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

the need for quotas.⁸²

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.⁸³

4.2.2 FAIRNESS

The principle of fairness gives effect to universal suffrage and values of equality and human dignity. Every eligible voter should have a 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 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.⁸⁴

82 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>

83 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.

84 Sachs, A. *August & Another v Electoral Commission & Others* 1999 Constitutional Court SA per Sachs J @ paragraph 17]***full ref**

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 an 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. 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.

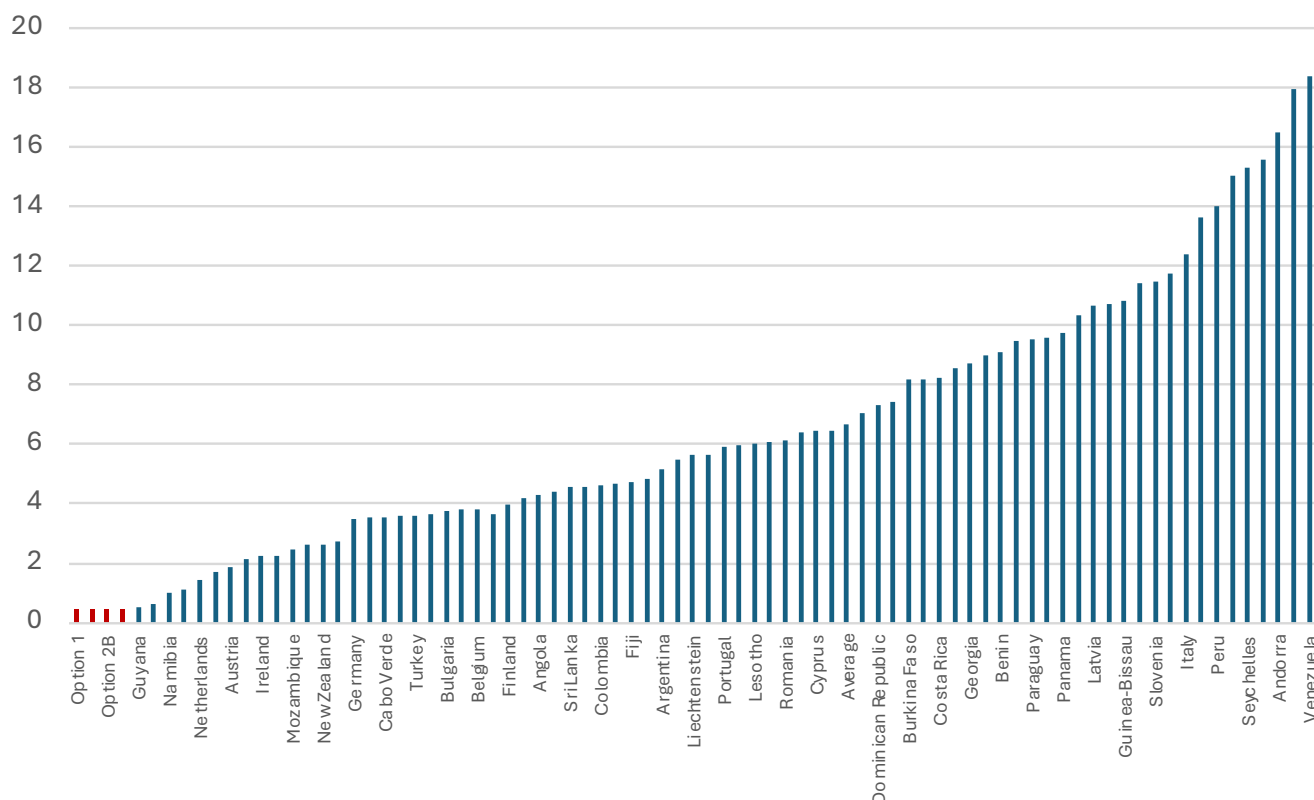
In cases where a compensatory tier is included, the lower tier of seats loses importance in determining overall proportionality, as the compensatory tier is decisive in determining the final allocation of seats. Taagepera and Shugart find that “the magnitude of the basic district becomes irrelevant to 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.”⁸⁵ 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.

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.⁸⁶ 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).

⁸⁵ Taagepera, R. & Shugart, M. (1989). *Seats and Votes: The Effects and Determinants of Electoral Systems*. New Haven: Yale University Press.

⁸⁶ Gallagher, M. (1991). Proportionality, Disproportionality and Electoral Systems, *Electoral Studies*, 10(1): 33–51.

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



4.2.3 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 systems.

The concept of electoral accountability means voters correct or reward incumbents periodically by casting votes that are conditional on the incumbent's good or bad performance in office. Accountability in terms of the electoral system can thus be viewed primarily with term limits of legislatures and the constitutional requirement of regular elections – when their term is up, the government, legislatures, political parties and representatives must account what they did with their current/previous mandate, and if voters are not satisfied they must have the opportunity to not vote them in again.

Electoral systems could notionally foster a political climate conducive to accountability. However, electoral systems would never guarantee accountability. Accountability in its complete sense incorporates significant aspects of political culture. Pertinently, this includes aspects such as structures of political parties, the internal democratic practices, and mechanisms of candidate selection, amongst others. At the public level, this speaks to the responsiveness of public administration, especially relating to the provision of services, development planning processes, public participation and budgeting processes. Therefore, accountability is also affected by a confluence of factors both inside and outside of political formations and the configuration of the public-citizens interface in governance processes.

In the South African context, the system of governance is rooted in the distribution of competences between the different arms of the state. Elections of representatives are essentially about constituting legislative assemblies which bear defined competencies largely relating to passing legislation and playing an oversight role over the executive. Therefore, accountability should also be viewed through a lens of legally defined competencies. Section 44 of the Constitution vests legislative-making authority in Parliament and the various provincial legislatures. When all is said and done, elected representatives may exercise accountability in relation to the limited oversight role, invoking horizontal accountability practice. This may include the role in parliamentary debates and the passing of legislation.

Parliament's Oversight and Accountability Model⁸⁷ 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 an account of one's performance/actions and being held accountable in terms of correcting or rewarding 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.⁸⁸

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 the context of a relationship between voters and representatives, characterised by delegation and accountability. Voters delegate responsibility to elected

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

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

representatives to govern on their behalf, while representatives remain accountable (answerable) to voters. One of the ways 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.⁸⁹ This transfer of agency 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). The principal agent analogy may, however, be too narrow a construction of the relationship with a modern democracy with its complexity, rapid change, volatility, etc. That makes it difficult for the principal to continuously engage and receive approval for all the decisions and actions required. There may be instances where representatives need to deviate from the preferences of voters, such as when preferences clash with other more important principles of justice or national interests. In these situations, representatives are not just following instructions; they are making decisions. That is also the reason the electoral mandate has a fixed period. This ongoing movement for congruence between constituent and representative is thus dynamic, influencing the perception of the responsiveness element.⁹⁰ Stated differently, this raises the debate of whether elected representatives are independent trustees or mandated delegates.

It may be that during the term of office, depending on the issue at hand, the representative alternates between these roles. In this regard, the level of congruence between representatives and voters may still be a factor in how voters hold their representatives and parties accountable.

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

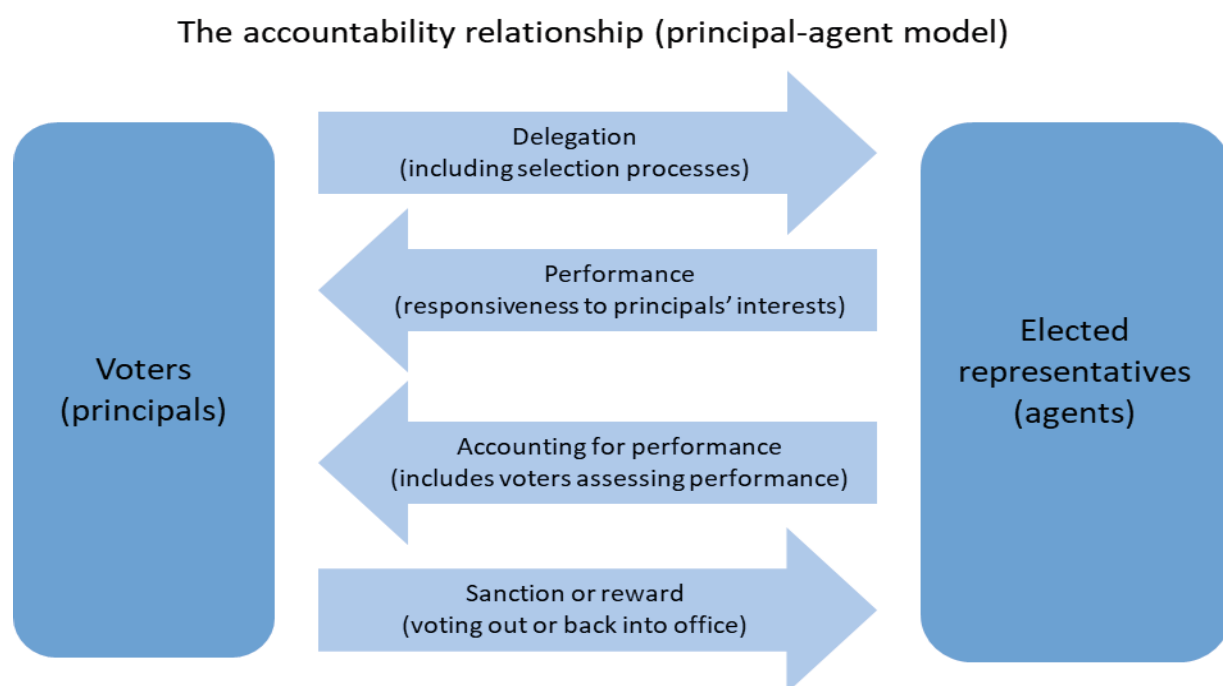
- The process for selecting individual representatives (the initial act of delegation).
- The effects of electoral system design on incentives for representatives to respond to voters (their responsiveness to voters' interests).
- The institutional incentives for representatives to account to voters 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.

89 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.

90 Matt Golder and B Ferland *Electoral Systems and Citizen-elite ideological congruence* In *Oxford Handbook of Electoral Systems*. Edited by Erik S. Herron, Robert J. Pekkanen, & Matthew S. Shugart. Oxford: Oxford University Press. From page 213]

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.⁹¹ 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.⁹² 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 in spite of challenges faced by the sector. 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.

⁹¹ Mitchell, P. (2000), Voters and their representatives: Electoral institutions and delegation in Parliamentary democracies. *European Journal of Political Research*, 37: 335-351.

⁹² Friedman, S.: *The System is not to blame*. Report commissioned by the Council for the Advancement of the South African Constitution April 2015.

Accountability as a value covers a broad range of concepts. One of these is the requirement of responsiveness when it comes to the voters. Responsiveness can be in the form of the elected representatives being more amenable and open, even supporting the views and opinions of the voters. It can also be, and this was clear from the public participation process, being able to assist with the personal constituency services of voters. These can be personal constituency services as a group or community, or they can be in response to assistance to resolve an individual complaint or non-performance by a government department or official. This type of accountability is also sometimes referred to as interim accountability or accountability in between elections. Individual responsiveness of elected responsiveness is not solely determined by the electoral system but a combination of factors, including the powers and functions at the sphere of government for such personal consistency service.

In the context of our country, given our recent history, accountability is also often extended through the electoral system beyond non-congruence of individual representative performance to include standards of ethics, delinquency and moral turpitude of representatives. Without detracting from its importance, such issues fall outside of the direct purview of the electoral system. Rather than legislative measures, over and above self-regulation codes, in line with the rule of law, provide objective, impartial adjudication of what standard of conduct and behaviour to those who swear allegiance to the constitutional values.

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.⁹³ 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.⁹⁴ 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.⁹⁵ 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.⁹⁶

One must also be wary of overemphasising smaller geographic constituencies without taking into account the level of government to which that representation relates – the closer the power and functions of a sphere of government relate to personal services of a voter or community, the closer the

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

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

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

96 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.

link between constituent and representative required. This is because constituency service, which is the mainstay for the closer link between voter and representative, involves activities addressing non-policy grievances in their “district”, typically relating to private or public goods benefiting an individual.⁹⁷

While political parties with any electoral system will, by their very nature and purpose, exert control over the choice of candidates and the adherence to party policies, this is a particular concern in closed list PR systems. The use of large, closed lists reduces the electoral vulnerability of individuals. Placement in top positions in party lists mitigates against electoral correcting 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.⁹⁸

Conversely, the threat of losing seats or its majority will, irrespective of the electoral system, also galvanise parties to similarly intensify constituency services by their representatives. Parties will act in the self-interest of maintaining and or securing more seats in legislatures and are well aware of the consequences where the party and its representatives are not being responsive to their constituents. Political parties also have internal mechanisms and processes to involve their members, supporters and even stakeholders in the process on the choice of choosing candidates.

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. One study reveals that the incidence of legislative turnover is believed to be about three times more common in PR and mixed systems than in majoritarian systems.⁹⁹

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 are exposed to direct electoral pressures from voters.¹⁰⁰ 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,¹⁰¹ 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.

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

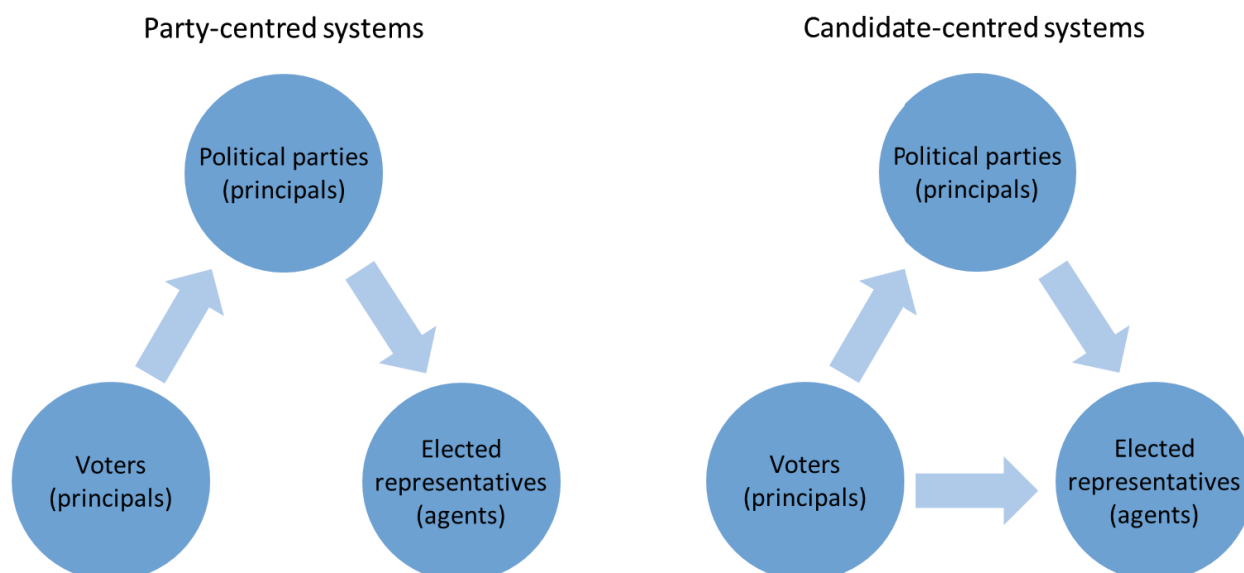
98 Carey, J., & Reynolds, A. (2007). Parties and Accountable Government in New Democracies. *Party Politics*, 13(2), 255-274.

99 cited in S Friedman: *The System is not to blame. Report commissioned by the Council for the Advancement of the South African Constitution April 2015; pages 13-14*

100 Carey, J. (2008). *Legislative Voting and Accountability*. Cambridge: Cambridge University Press

101 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>

Figure 4: Accountability relationships in different electoral systems



Finally, it should be noted that as only options were provided in the discussion document and at the hearings, with no accompanying statistics, the public reactions on the issue of accountability were generally abstract concepts focused on the non-responsiveness of existing elected representatives. Interestingly, in a few cases, complaints were made about the lack of responsiveness of ward councillors, yet there are over 25 times as many ward councillors as there are MPs.

It is important that future public and other engagements provide realistic statistics to participants to ensure they understand the actual population being served and the area size of the constituencies in the various models. Ideally also comparisons with existing wards and municipalities should be provided so that the idea of closeness, as not just a geographical concept, is properly articulated.

The Constitution requires a proportional representation system. Intrinsically, by its nature, there are trade-offs in terms of the advantages and disadvantages. If the country is to persist with proportional representation, it is of little import to compare it to the benefits of other systems that will negate our constitutional requirements. Since the inception of electoral democracy in 1994, lists of candidates have been published and open to public objections. This is an important component of our electoral framework, as those standing for public office must first be known to the public, and if they do not qualify for candidature and eventual office, an opportunity is created to raise objections. The number of objections against candidates is increasing.

Solutions to the perceived challenges of accountability, including responsiveness, must be institutionalised to ameliorate these, and in many instances, such solutions lie not in the electoral system itself, but other measures, including those that foster intra-party democracy, access to information by voters and objective performance monitoring and evaluation.

4.2.4 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 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.

South African voters have, however, demonstrated their ability to engage effectively with both proportional representation and the mixed system used at the 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.¹⁰² 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%¹⁰³ 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%.¹⁰⁴ With this in mind, South African voters should not be underestimated when choosing an electoral system appropriate for the country's 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.

¹⁰² The 2024 Election Satisfaction Survey likewise indicated that 93% of respondents were satisfied with the ballot papers used in the general election. <https://hsr.ac.za/news/latest-news/30-years-of-electoral-democracy-in-sa-hsrc-survey-captures-voter-experiences-and-informs-electoral-processes/>

¹⁰³ International Institute for Democracy and Electoral Assistance. 2025. Voter Turnout Database. <https://www.idea.int/data-tools/data/voter-turnout-database>

¹⁰⁴ Mssiteng, L. 2025. South Africa ranks second in literacy in Africa. <https://insideeducation.co.za/south-africa-ranks-second-in-literacy-in-africa/>

4.2.5 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. It aims 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 Election 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.¹⁰⁵

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 and could lead to disastrous outcomes if it fails 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.¹⁰⁶ 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.

4.2.6 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. The electoral system must thus foster transparency that will lead to electoral integrity in the elections held in terms of such a system.

¹⁰⁵ 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>

¹⁰⁶ Administration and Cost of Elections Project. Making the Election Process Workable and Sustainable. <https://aceproject.org/ace-en/topics/es/esa/esa09>

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, the processes and rules surrounding the delimitation of electoral boundaries must be 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 the determination of 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.

4.2.7 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 the government can efficiently enact legislation and govern, and the overall legitimacy of the political system based on the perceived fairness of political outcomes.

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. Excessive fragmentation makes coalition formation more

difficult and affects chances of coalition survival, with evidence showing that instability increases with greater fragmentation. An electoral system may have seat allocation rules in place to contain excessive fragmentation, including legal thresholds and or application of a seat calculation formula for allocating any remaining unallocated seats.

An electoral system that leads to a protracted impasse requiring multiple elections may have a negative perception in the eyes of the public and lead to voter fatigue.

The choice of system should therefore facilitate political stability, including effective government formation and encourage the overall legitimacy of the system.

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 coalition¹⁰⁷ and how long the government lasts.¹⁰⁸

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 on determining the extent of party system fragmentation. This creates a direct link between electoral system rules and government stability.¹⁰⁹ 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.¹¹⁰

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.¹¹¹ 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.

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,

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

108 Lijphart, A. (1999). *Patterns of Democracy*. New Haven: Yale University Press.

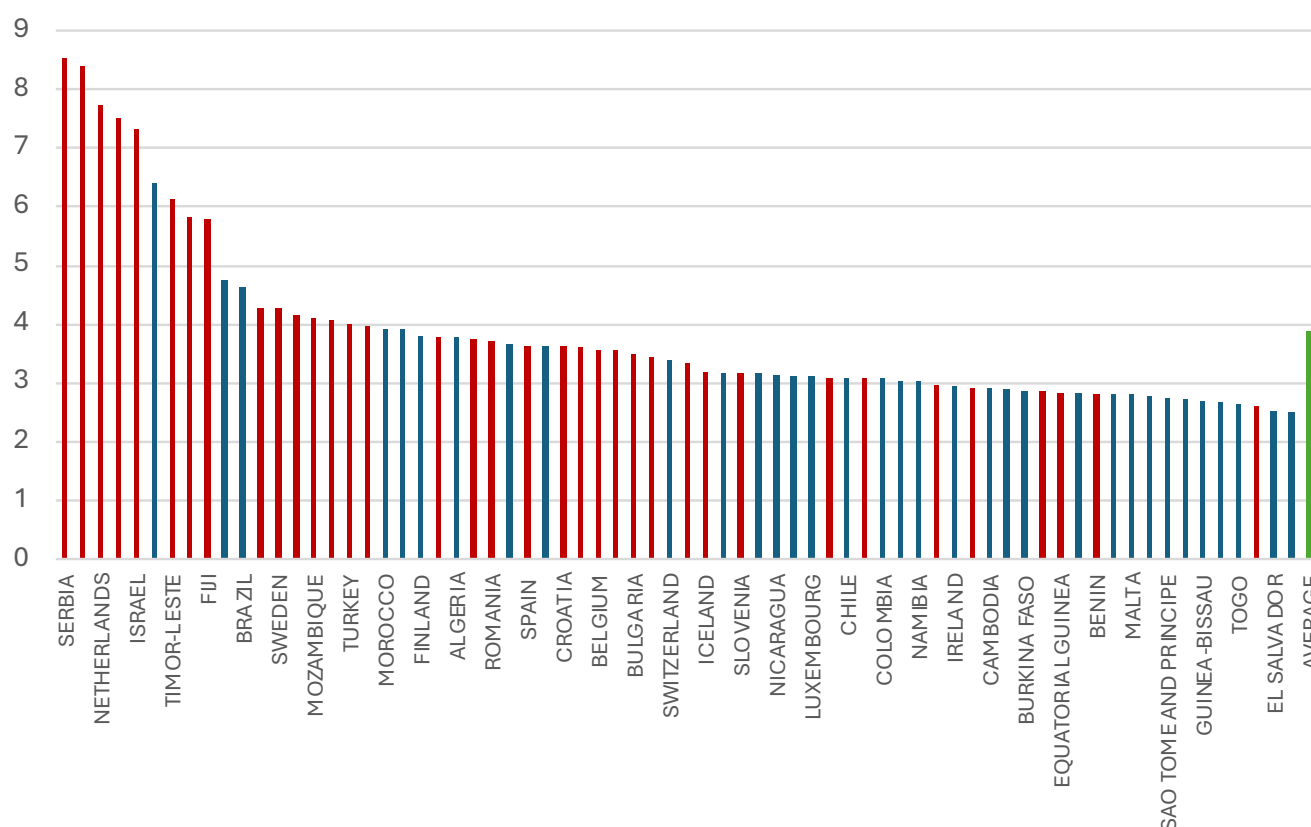
109 Taagepera, R., & Sikk, A. (2009). Parsimonious Model for Predicting Mean Cabinet Duration On the Basis of Electoral System. *Party Politics*, 16(2), 261-281.

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

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

most electoral systems have ways of limiting the fragmentation of party systems.¹¹² 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.

Figure 5: Seat Product Model and Electoral Thresholds



Note 1 Red indicates electoral systems with a legal threshold.

4.2.8 THE 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

¹¹² 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.

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 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.

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5. Public Participation

5. PUBLIC PARTICIPATION – PROCESS, CONTENT AND OUTCOMES

The Electoral Amendment Act¹¹³ 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 2 contains written inputs submitted online. Section 3 reports on community meetings, followed by section 4 with inputs from stakeholders, drawn from several sectors. Thereafter, section 5 presents a summarised version of conference proceedings. The focus is on salient issues that offer lessons. Lastly, section 6 concludes the chapter.

Notwithstanding some complaints about publicity given to the Panel’s work, the Panel is thankful for the significant number and diversity of views expressed in the many consultations held. It must be noted, though, that such consultations were not about trying to determine how many people believed in a particular view, but rather what the issues (positive and negative), and suggestions were being made about the electoral system. In this regard, it is simply not possible to aggregate the responses received either numerically or in the use of terms like “majority”, “many” or “few”. This is because a submission by an individual cannot be compared to a submission from an organisation representing hundreds of thousands, if not millions, of persons. These issues and suggestions were then considered and evaluated by the Panel in the finalisation of key principles and possible options to be considered by Parliament and other processes which may follow. The Panel was guided particularly by the way the court’s view participation exercises by Parliament, that “Parliament is not bound by the views or comments, but should demonstrate a preparedness to be guided by the public involvement process.”¹¹⁴.

Overall, then, in this chapter, the Panel has tried to document all views and suggestions about the electoral system which emerged during the consultative processes, without trying to claim how many people supported a particular view, and care was placed on not elevating one view over another or on trying to evaluate every view.

5.1 PROCESS AND FORMAT

5.1.1 PROCESS

The public consultation process entailed multiple phases over roughly eight months from 26 August 2024 to 10 April 2025. The initial invitation to the 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

¹¹³ Act No. 1 of 2023. Passed on 13 April 2023 and commenced on 19 June 2023

¹¹⁴ Corruption Watch (RF) NPC v Speaker of the National Assembly and Others [2025] ZACC 15

November 2024 to April 2025. The sessions were physical and virtual¹¹⁵.

- Civil Society Formations: advocacy and community-based organisations;
- Political Actors: Political Parties and Independents;
- Academics and Researchers;
- Youth Formations;
- Business and Organised Labour;
- Former Presidents' Foundations;
- South African Expatriates; and
- 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 two months. Overall, consultations were held in 18 communities¹¹⁶ made up of urban and rural participants. Seven of the nine provinces had two visits, one¹¹⁷ had three and the other, one visit.¹¹⁸

The events were organised through 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, the idea was to secure public facilities free of charge. Events were hosted at community halls, municipal offices, precincts of provincial legislatures and tribal offices.

5.1.2 FORMAT OF DISCUSSIONS

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; and

¹¹⁵ The submissions made to the Panel are available on the following website: www...

¹¹⁶ 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.

¹¹⁷ KwaZulu-Natal: the population is spread widely over a large landscape.

¹¹⁸ Gauteng: the province is fully urbanized, and Johannesburg, where the event was held, is easily accessible from any part of the province.

- Introduce and explain the guiding principles the Panel adopted to evaluate electoral system options. These principles¹¹⁹ 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 issues as the basic premise:

- Category of electoral system they preferred: 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 with which most people are not widely familiar.

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.

¹¹⁹ These are: inclusivity, fairness, accountability, simplicity, electoral manageability, transparency and stable and efficient government.

5.2 WRITTEN SUBMISSIONS

Over two months, 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 overall number around 360. Inputs were diverse and all-encompassing. Not all addressed the question at hand. Very few commented on voting and various electoral administrative matters, while others took the opportunity to remark on the state of South African politics. Whilst 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. These will be consolidated into a separate attachment.

The summary below is structured into three parts, as follows:

- Electoral Reform Consultation Panel: reception and perceptions
- Electoral System: experience and commentary
- Recommendations

5.2.1 ELECTORAL REFORM CONSULTATION PANEL: RECEPTION AND PERCEPTIONS

The 360 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. A few complained that whatever recommendations the Panel made would be ignored by political parties, making the final decision. In addition, concern was expressed around 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 did, however, publicise all ERCP updates, mostly after the events.

5.2.2 ELECTORAL SYSTEM: CURRENT AND PREVIOUS

The recent changes to the electoral system attracted competing views. Some reflected on the poor performance of independents, and some viewed their contribution in the last election as simply adding to the fragmentation of the party system, thus creating confusion.

Conversely, other submissions attributed the poor performance of independents to the unfairness of the system, including 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.

Many 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 an MMP system with single-member constituencies. Dissatisfaction with how the current electoral system creates a weak relationship between voters and representatives was also expressed. 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. Arguments were also found that all government leaders, across the levels of government - i.e. mayor, premier and president – should be elected directly by voters.

The pre-2024 electoral system also found some support with the view that it was ideal for enabling minority voices and that 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.

Many proposals for improvements to the existing electoral system were received. These 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 disadvantages.

Additional issues covered in the submissions included:

- Eliminating constituency-based elections;
- Addressing the fact that there were too many parties of different sizes.
- Reduction of constituencies to the level of a metro or district municipality
- A different vote-counting formula that does not discard votes for independents
- The need for 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
- More representatives at the constituency level rather than national.

5.3 COMMUNITY MEETINGS

Attendants at community meetings received the Panel positively. Some participants expressed appreciation that the Panel had come all the way to seek their views. Remarks were given that previous electoral reviews had not embarked on such expansive public consultations, let alone going down to communities to listen to residents. The timing of this review also appears to have coincided with a great deal of eagerness, on the part of ordinary people, to express their views on the electoral system. It also

helped that the consultations started eight months after the May 2024 national elections, which were conducted under a slightly different electoral system. The change triggered a lot of controversy, if not discomfort, which residents were still willing to share with the Panel.

Participants generally understood what information the Panel sought from them. A substantial number of participants, however, decided to use the opportunity to either complain about the Independent Electoral Commission (IEC) or offer advice on how the Commission can improve both its electoral management and the level of voter turnout, especially amongst the youth. Views on voting were also triggered by a widely publicised conference on e-voting hosted by the IEC during the course of public consultations. The bulk of inputs in almost all community sessions were, however, on experiences and views of the electoral system.

Although welcoming of the Panel, some participants were nonetheless unsure of what would become of their views, whether Parliament would consider them. There was a concern, therefore, that the recommendations of this Panel would also be ignored.

Audiences tended to be mixed. Generally, the audiences were made up of 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.

5.3.1 COMMENTS AND PROPOSALS

Below, the report contains general comments and proposals made by participants. These are drawn from individual reports and reflections compiled on each of the 18 community sessions. The various reports are based on the notes taken by three research assistants. Two researchers attended community consultations in seven provinces, and the other two provinces had one researcher taking notes. Those who were not physically present joined the sessions online.

At least two members attended physically each community meeting, with other members of the Panel attending the community meetings online.

5.3.1.1 GENERAL COMMENTS

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

Voter-public representative relationship – unresponsive and indifferent

This was expressed frequently by participants who spoke. The feeling was seen as a lack of influence over how public representatives perform their duties and are unable to hold them accountable, including

a sense of powerlessness, which has culminated in popular frustration.

Some indicated that the electoral system is too “party-centric”, with parties enjoying exclusive power to decide and advancing their own 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 inimical to them, depicting a forlorn state of the relationship between the electorate and their representatives (MPs/MPLs).

Lack of trust in political parties

A lack of trust in political parties was also expressed. Communities mentioned they are fed up with poor governance and incompetence within the ranks of government, that there are elected representatives who are arrogant and out of touch, who either do not know what oversight and accountability mean or deliberately ignore them.

Participants pointed to several instances of a lack of services and infrastructure as a sign of neglect and indifference.

Party lists and selection criteria

The closed party list was seen as a challenge, with party leaders getting to choose who they send to Parliament. In doing so, they appear to apply a selection criterion that does not necessarily consider merit or integrity. At the end, the public becomes saddled with representatives that are either incompetent or unethical.

What makes matters worse is that voters do not know who to approach to enquire about things in their communities.

Number of political parties

Many 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.

Composition of Parliament/legislatures

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

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. Some participants disagreed, saying their poor performance was the result of hurdles placed on their way – i.e. massive constituencies, and an unfair counting formula that favours political parties.

Preferred Electoral System: Mixed

The primary motivation behind the proposal is to strengthen the influence of voters, specifically to shift the balance of power away from parties to the electorate. Public views did not always express clear preferences for either single or smaller multi-member constituencies, but they wanted to make representatives more accountable to voters. This accountability to the voters would, in turn, encourage public representatives to perform their duties diligently to secure re-election.

Open List voting

Some participants liked the idea of introducing open list voting to enhance their influence in selecting individual representatives and as reassurance that public representatives are suitable. 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.

Threshold

The sheer number of political parties, especially small ones, was a common complaint. Some participants proposed a threshold, although this point was often contentious. There was mention of electoral thresholds of 2% and 3%, although such a cap was usually not cited. The emphasis was on managing fragmentation by reducing the number of very small parties.

5.4 SECTORAL ENGAGEMENTS

5.4.1 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 key issues covered in 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. Whilst such matters are not entirely relevant for our purpose here, some were nonetheless noted and will be collated into a separate attachment.

5.4.1.1.CURRENT ELECTORAL SYSTEM: VIEWS

Most political parties and independent candidates, both in their written and oral submissions, suggested ways in which the current electoral system could be changed. Themes emerging from written submissions from political parties can broadly be categorised as follows:

Accountability and the relationship between voters and representatives

A lack of accountability and a weak relationship between voters and representatives were often cited as a core concern.

Inclusivity and representation

Political parties and independent candidate groups commonly agreed on the importance of inclusivity in the choice of electoral system. Most submissions emphasised the need for proportionality, and the majority of reform proposals included a national compensatory list to ensure overall proportionality of the electoral system.

Fragmentation, thresholds and coalitions

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

Equal opportunities for independent candidates

Supporters of independent candidates raised several concerns over how independent 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; that independent candidates felt that they bore the burden of having to explain the electoral system; that they needed more votes than political parties to secure a seat with independents only able to contest 200, out of the seats 400 Parliamentary seats; that the size of constituencies is cumbersome for independents to canvass; that there was unfairness related to the filling of vacancies in Parliament where a party fills-in the vacancy.

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 by voters. Other submissions suggested reforms to election management. Those proposals, however, extend beyond the mandate of the Panel.

5.4.1.2 ELECTORAL SYSTEM: PREFERENCES

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

Public discourse often understands the debate as being 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 systems” are understood by some to mean the majoritarian FPTP system, while others understand this to include any system with constituencies. Erroneously, some then refer to mixed systems as any system with both constituencies and a party-list element. An electoral system which uses multi-member constituencies (including our current system) is, however, still a PR system. In correct electoral system terms, a mixed system refers to those systems which combine elements of the FPTP system (single-member constituencies) and PR.

Of the 17 submissions from political parties and independent candidate groups, most suggested a PR system. One party expressed support for PR broadly conceived 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” in a broader sense, which could be understood in terms of an FPTP system. Four parties did not specify a system preference.

5.4.1.3 PROPOSALS FOR REFORM

Some of the proposals included:

- a) Ratio of seats: Most submissions did not express explicit proposals for the ratio between constituency and compensatory seats.
- b) Constituency size: Among proponents of a PR system with smaller constituencies, demarcation of constituencies should follow municipal district and metro boundaries. Whilst there was a preference for fixed (geographic) boundaries, there was also recognition that population size fluctuates over time, which may necessitate a re-drawing 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. Others argued that demarcation creates an administrative and a financial burden: constituency boundaries would have to be constantly redrawn to cater for population changes
- c) The need to ensure 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 be easily prone to electing vulnerable groups to public office.

- d) Recognising the need to improve accountability and effective representation: constituencies are made of diverse and multiple interest groups, which, in turn, makes consensus or unanimity on any single issue impossible. The experience of local government is cited to refute the assertion that constituency election fosters accountability of public representatives. Ward councillors, the argument goes, are notorious for a lack of accountability. There is 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 the political party. Both these entities – i.e. Parliament and parties – must have a mechanism that fosters accountability of MPs to their constituencies. Lastly, it is noted that, 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 for election in constituencies.
- e) Thresholds in Mixed and PR electoral systems: Only some parties and participants who chose one of the two specifically addressed themselves to thresholds. They were almost unanimous in identifying challenges to a threshold being imposed and pointed out that there is a natural one – i.e. 0.25% - already in place.

5.4.2 RESEARCHERS, CSOS AND ACTIVISTS

Some of the issues and proposals included:

- a) Views on Independents: A significant focus of attention was given to the issue of independents, with the current electoral system not seen as an improvement, with one saying it was not configured in a way that enabled independents to succeed. Independents were seen to encounter the following hurdles: Competing against a party, instead of another candidate; Contested only half of the seat; If an independent won more than one seat, they could only assume one and would have to forfeit the other.
- b) Other views on the current system: Flaws noted included: (i) Lack of accountability: government leaders are not held responsible for their actions; (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; (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 feels that their vote does 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;
- c) Participants suggested a variety of electoral systems with proposals including both broad preferences and detailed proposals expressed in technical terms. Proposals broadly fall into four categories: (i) PR systems ranging from a return to the 2019 system, to proposals to reduce the size of multi-member constituencies (blue); (ii) Mixed-Member Proportional systems, including

- a proposal for a two-round system in single-member constituencies (yellow); (iii) “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, other proposals expressed support for the broad concept without defining the nature of constituencies; (iv) A limited number expressed support for entirely constituency-based systems without compensation or party-lists (red);
- d) A few of the proposals were to strengthen the constituency element of the electoral system while maintaining a PR component to ensure proportionality of the system. Whilst these recognised that the proportional representation system promotes qualities, such as diversity and inclusiveness, changing electoral systems involves trade-offs.;
 - e) The question of a threshold was mentioned less frequently by this group of stakeholders. Two submissions came out clearly in favour of imposing thresholds. One was not specific on the threshold, and the other proposed 1%. The purpose, it was noted, is to maximise prospects of stability. Whilst 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 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 into a coalition, and the largest party should be allowed to elect the president and premier.
 - f) 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 should be supported by at least 10% of public representatives in Parliament and legislature; (ii) Extending the coalition formation period to between 30 and 60 days; and (iii) Formalising coalition agreements and making them public.

5.4.3 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.¹²⁰ 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. Some attributed this 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.

It was felt that the electorate should be allowed some influence in the selection of candidates. This could 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.

¹²⁰ 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.

5.4.4 VOTERS ABROAD

South Africans abroad made both written submissions and oral inputs in a virtual session. They emphasised that 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 10th province, allocated one delegate to the NCOP.

5.4.5 BUSINESS AND LABOUR

Two sessions were held with the labour¹²¹ 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 elects their representatives. They also want to know the list of party candidates. In addition, they recommended a threshold to limit the number of parties in Parliament.

5.4.6 TRADITIONAL LEADERS (CONTRALESA)

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:

¹²¹ 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.

- 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.
- 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.

5.5 CONFERENCE PROCEEDINGS

There were 11 presentations made over the two 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 the view to provide lessons for South Africa. Below are summaries of key issues raised by the international panellists:¹²²

- Electoral reform
 - Panellists acknowledged that South Africa remains a divided society, and therefore, any new system devised shouldn't exacerbate conflict or favour dominant and homogeneous parties. Given the current concerns, the system should certainly promote accountability and ensure a stable government.
 - Incremental changes are advisable. If the current system does not work optimally, it is better to tweak the system rather than jettison it.

¹²² International guests included were: Jorgen Elklit, Professor Emeritus, Aarhus University, Denmark; Andrew Reynolds, Professor Emeritus, North Carolina University, USA; Alan Wall, Self-described election practitioner based in Australia; Khabele Matlosa, Strategic Institute for Research & Dialogue, Maseru, Lesotho; Fernando Casal Bertoa, University of Nottingham, USA; Axel Bayer, Representative – German Embassy in SA; Adhy Aman, International IDEA

- Noteworthy about the countries that follow a PR system in SADC is that they have gone through violent conflict.
- Mixed systems promote party fragmentation and raise the possibility of coalitions, and, by implication, instability, and so demand robust mechanisms to ensure stability.
- Some of the variations may be too complex for South Africa, but constituency sizes and the number of seats (whether single or multiple) impact on proportionality
- Need for trade-offs, in areas such as:
- Proportionality vs. Governability:
 - Higher proportionality enhances representation but may reduce governmental stability due to coalition complexities.
- Representation vs. Simplicity:
 - Systems like STV or MMP 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.
- Voter-public representative relationship
 - Recognised that this is best achieved with single-member constituencies; however, doing so comes with challenges, including the large demarcation exercise that would be required
- Centrality of citizens:
 - Meaningful electoral reform 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
- Number of parties contesting
 - South Africa could consider raising 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
- Preferred Electoral System: Mixed
 - In general, there should be smaller constituencies, with multiple seats,
 - In Germany, the current system of Personalised Proportional Representation is a variant of MMP, 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.

- Open and closed lists:
 - There are multiple variations of Open List PR: Pure, Flexible, and Protected lists
 - Many recent electoral reforms have been marked by a shift from closed to open list systems.
 - An open list and a ballot design that has the names of the candidates could be introduced.
 - Indonesia is a lesson on how contested electoral reforms can be, but the process did not unfold seamlessly
- Risks to consider.
 - OLPR may be less inclusive, especially in terms of 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. Here, party supporters are bribed to nominate a particular individual.
 - 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 spoiled ballots.
 - 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.
- Threshold:
 - Denmark and Germany use relatively high thresholds, and imposed thresholds could strengthen the current SA system without losing some of its best elements

Other General Comments arising in the Question and Answer sessions

- Political Parties and Racial Identity: There is a rise in parties formed along racial identities. This increases polarisation. This 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 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 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 option.
- 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.

5.6 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;
- Many voters distrust political parties: people feel that politicians do not prioritise their needs, but their own, 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, some of the issues that were raised were as follows:

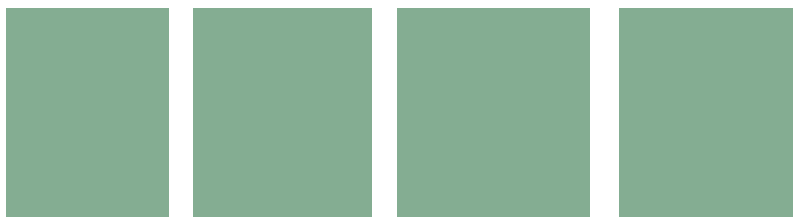
- Electoral System: a mixture of constituency-based and proportional representation models. Proposals on the division of seats and size of constituencies and PR vary
- Constituency Size and Number of Seats: The very few that specified the size of the constituency felt they should be relatively small
- Presidential/Premier Elections: direct elections for president and premiers could 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; and
- Threshold: A legal threshold to limit the number of small parties would minimise 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 were considered by the Panel in arriving at the options in Chapter 6 that they are recommending to Parliament for consideration.













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6. Electoral System Options

6. ELECTORAL SYSTEM OPTIONS

This chapter presents recommendations for the various options of the electoral system for consideration by Parliament. Overall, for national and provincial elections, three options are provided for each; however, in the case of the national options, one option has two variants. These recommendations, as per the mandating legislation, are based on research, advice from scholars, public consultations with communities throughout the country and on inputs from several sectors. Equally important, the recommendations are also guided by what Panellists, given their individual experiences, consider practicable. There is a wide variety of views on electoral systems, even amongst political scientists, and it is important to focus on evidence-based conclusions in a South African context when arriving at conclusions. To that end, and for ease of analysis of the options, models based on the 2024 election data are accessible at <https://www.dha.gov.za/index.php/about-us/ercp-report>. In this regard, too, it should be noted that the Panel analysed the many different quota systems and decided that the Droop system remains the preferred option.

Prior to dealing with the options, two aspects apply to all the options that need elucidation. They are, firstly, complementary measures to an electoral system in order to enhance accountability and responsiveness by elected representatives. The second is an overhang of seats, which occurs when a party gains more seats than it is proportionally entitled to. The third is to introduce key issues of demarcation which need to be considered in creating constituencies.

6.1 SUPPLEMENTARY MEASURES

It has been emphasised, not only in this report, but also in previous task teams and by electoral specialists, that the electoral system is not a panacea for all the shortcomings of elected representatives. In many instances, the problem is not limited to a particular electoral system itself, but rather applies across the board. Many of these challenges will result from the implementation of the electoral system, or the simple failure of performance of elected representatives, parties, legislatures and the Executive.

Complementary measures, which apply irrespective of the electoral system, are required to engender civic trust. In agreeing to any of the Options in this report, Parliament must also consider implementing these measures. Some of these measures are identified below; however, the list is not exclusive.

- To address the concerns of responsiveness of parties and elected representatives, voters can be served by better performance monitoring of constituency offices with oversight not arbitrarily provided by parties but by the Legislature Administration, with regular reporting and sanctions that can be imposed for non-performance. These will require clearly defined key performance areas in terms of the services available and utilised by members of the public, and the publication of such information at the local level. An arrangement like this may consolidate the monitoring of whole government services, inclusive of services provided by other spheres of government.
- In terms of the conduct and behaviour of elected representatives and their continued membership of a legislature, irrespective of the electoral system, more effective mechanisms must be in place.

The Constitution sets out the disqualifications to serve as elected representatives, but this list is by no means exclusive. An additional requirement is that elected representatives be “fit and proper persons” to serve in legislatures, which must be adjudicated by the appropriate judicial forum. The Electoral Act, in a sense, already creates the precedent in that parties and candidates can face various sanctions for transgression of the Code of Conduct, which is embodied in the Act, which includes disqualification. Political parties also face the sanction of de-registration as a political party, which means they lose all their seats in the legislature. It would then be for the Courts, applying objective standards to behaviour and conduct, that adjudicate, not the party or a parliamentary sub-committee. *This concept can be expanded on further. In this regard, the recent judgment of the High Court regarding the membership of MP Judge Hlophe on the Judicial Services Committee is instructive*

- To protect the integrity of electoral democracy from abuse of process, the arbitrary withdrawals and or amendments to published candidate lists post the election must be better regulated, and the regulatory framework must be enforced by relevant administrations.

6.1.1 OVERHANG

Overhang occurs when a party gains more constituency seats than its overall proportional entitlement of seats for a legislature. It would mostly apply to a party that has reasonable support in the majority of constituencies. As such, it is not necessarily confined to the largest party, although that is mostly the case.

There are a variety of reasons for overhang to occur in a South African electoral context. This is not a comprehensive list, but includes the following situations:

- The same party gained many constituency seats with the allocation of seats based on the method of largest remainders for seats not assigned during the first round of allocations. It follows that a larger number of constituencies improves the chances for this to occur.
- The same party gained many single-member constituency seats with a plurality outcome and thus has more constituency seats than its overall support justifies.
- A party has a dominant localised support base and gains most constituency seats in an area, such as a province or region, but not significant support in the rest of the country and thus has more constituency seats than its overall support justifies.

Since the Constitution limits the number of seats in the National Assembly to 400 seats and in Provincial legislatures to 80 seats, overhang may be resolved by one of the following methods:

- Amend the Constitution to provide for the allocation of the number of seats to exceed 400, with a view to retaining proportionality for represented parties. This is not a preferred option.
- Amend Schedule 3 of the Electoral Act to provide for a formula for determining the number of

seats of the National Assembly to be more than 350 but less than 400. This will require periodic amendment of the Electoral Act as the population increases or the number of registered voters increases, if that is the preferred criterion. It should be noted that overhang is not confined to one seat and could involve multiple seats, and this is not a very practical solution.

- The party with overhang seats retains those seats, and its votes are disregarded in a recalculation for the allocation of the remaining seats to other parties. This is illustrated in models N.4.3 and N.4.3A (300 single-member constituencies and 100 compensatory seats), which resulted in an overhang of 6 seats. The recalculation means one party losing two seats and four other parties losing one seat each, which they initially gained. It leaves the relevant constituencies without a representative. In a multi-member system, a constituency would not necessarily be without a representative, but when coalitions are involved, the loss of some seats could be an explosive matter.
- The party or parties with overhang seats forfeit them, and they then become the disadvantaged parties. It restores proportionality and keeps within the limit of 400 seats, but it becomes an equally explosive matter when coalitions are involved. That apart, in a single-member first tier, it would leave several constituencies, equal to the number of overhang seats, without a representative.
- In municipal elections, overhang seats are retained to avoid a ward not having a councillor. In those instances, it mostly favoured the largest party and has not been overly controversial since it did not involve coalitions.
- None of the above alternatives is attractive, and it is best to avoid systems that may lead to overhang. It is statistically possible, but a remote and largely theoretical possibility for overhang to occur if there is an equal number of constituency and compensatory seats.
- On this aspect, the Constitutional Court accepted the deleterious effect of overhang on the ability of the Electoral Commission to declare the election results. In the Independent Candidates Association¹²³ matter the court held that the applicant did not offer any solution to combat the risk of overhang or how it should be dealt with should the risk materialise. The Court stated that the risk of overhang will not always be an insurmountable obstacle. However, on the applicant's pleaded case, the Court concluded that Parliament's second stated objective of the 200/200 split, which is to avoid the risk of overhang, is achieved. The Court concluded that the 200/200 split passes the rationality test as it achieves proportional representation and avoids the risk of overhang, as intended.

6.1.2 DEMARCATION

A number of methods and processes can be used to demarcate (or delimit) electoral constituencies. Whilst the aim is usually to create districts with roughly equal numbers of people or registered voters, this is usually difficult to achieve. However, it should be noted that in a compensatory system (with

¹²³ Independent Candidate Association NPC v The President of the Republic of South Africa and Others (CCT 144/23) [2023] ZACC 41

PR seats accommodating disparities in numbers), gerrymandering is not such a critical challenge to overcome, but boundaries can still be manipulated to favour some (political and other) interests over others.

In many cases, existing administrative boundaries are used as the basis for demarcation, and such demarcation can be done by a range of different bodies, such as independent delimitation commissions, the courts or even political processes (such as legislatures approving boundaries). All of these have pros and cons and vary significantly in terms of financial costs and time taken to undertake such processes.

Some of the issues which need to be addressed in considering a demarcation system include:

- How to ensure that whilst boundaries may contain any number of electoral seats, they should be roughly equal in terms of the average voters/population per seat, with some reasonable deviation allowances being allowed for. For example, in the case of the ward delimitation in South Africa, wards within each municipality can vary by 15% in the number of voters per seat.
- Trying to ensure functionality in that the boundaries contain within them people who live, work, shop, etc.
- How to address the significant differences in population density across the country and even between contiguous administrative boundaries.
- How public consultation should occur, as such consultation is usually biased towards elites with specific interests rather than in empowering all voters and their interests.
- The regularity with which boundaries are drawn, given that elections occur every five years. It is suggested that boundaries should be finalised before each election period, given that the number of people living in an area and/or the number of voters changes relatively frequently.

Overall, in the systems being considered by Parliament, the following principles of demarcation need to be considered:

- Getting equality of voting strength across each constituency;
- Having an independent, impartial demarcation authority finalise boundaries;
- Ensuring transparency and empowering the public at large through the process of demarcation, and
- Non-discrimination.

Appendix 4 provides illustrative examples of some key variables (Area, Population, etc) of the different electoral options.

6.2 NATIONAL ELECTION OPTIONS

6.2.1 OPTION 1 (MODEL N.1.6 – 9 REGIONS 200:200)¹²⁴

6.2.1.1 DESCRIPTION: A TWO-TIER COMPENSATORY PROPORTIONAL SYSTEM:

The first tier has 200 seats comprised of nine multi-member regional constituencies – i.e. provinces. The regional constituencies are aligned to the existing provincial boundaries. The 200 seats are allocated to regions in proportion to the number of registered voters in each constituency (region).

A separate regional ballot paper is used, featuring political parties and independent candidates who only compete in their respective regions. A Droop quota and the largest remainders method are used for allocating regional seats. Independent candidates who gain a seat are duly elected, and the votes for all independent candidates are disregarded in subsequent compensatory calculations.

Each regional outcome will be proportional; however, the collective outcomes will deviate from overall proportionality due to varying turnout rates in regions and differences in the number of seats. Therefore, the second tier of 200 compensatory seats is allocated to ensure proportionality, in general. A separate compensatory ballot paper allows voters who supported an independent candidate on the regional ballot to endorse a party for the overall composition of the National Assembly. The allocation of compensatory seats is determined by calculating the overall proportional composition of the 400-member National Assembly, from which the regional outcomes are subtracted.

To determine the overall composition of the National Assembly, regional, compensatory, and out-of-country votes are aggregated; however, votes for independents are disregarded, as the seats they gained in the regional tier are reserved. A Droop quota is applied, allowing parties that meet the quota to qualify for seats. Once the parties that have made the quota is determined, a new quota is established based on the votes received by the qualifying parties. If a party is not eligible for compensatory seats but has secured a constituency seat, it will retain that seat; however, its votes will be disregarded for the compensatory calculation. Proportionality will be determined for 400 seats minus such seats and any gained by independent candidates. Seats that remain unallocated after the first round of allocations are distributed using the largest remainder method.

6.2.1.2 OUTCOME OF THE MODEL BASED ON 2024 ELECTION DATA

- Eleven parties gain regional seats, and 15 parties are represented.
- The two largest parties have 77 and 45 compensatory list seats.
- 97,52% of the votes cast lead to representation
- Inter-party proportionality is achieved for represented parties.

¹²⁴ The details of the models dealt with in this Chapter can be accessed at <https://www.dha.gov.za/index.php/about-us/ercp-report>

6.2.1.3 RISK ANALYSIS

- There is no practical risk of overhang.

6.2.1.4 EVALUATION OF THE OPTION RELATIVE TO THE GUIDING PRINCIPLES:

Inclusivity

- Regional representation guarantees geographic, linguistic, and cultural diversity.
- Regional ballots ensure that voters in all regions can also have some level of representation of their region in the National Assembly, i.e. membership of the National Assembly is not dominated by persons from regions with larger populations, and so voters from even the smallest regions can also elect their representatives to the National Assembly
- The large size of constituencies and number of seats promotes gender and minority representation. In the 2024 election, 44.5% of the representatives were women.
- A quota threshold in the compensatory tier serves as a natural test of the degree of voter support, enabling representation for small parties while preventing the proliferation of contestants in an election. A high degree of proportionality is achieved in the model with the votes of 97.52% of the electorate, resulting in representation.

Fairness

- Votes in different regions, whilst as proportional as mathematically possible within a region, do not carry equal weight because of varying turnout rates. However, the compensatory tier equalises the worth of all votes, creating a strong correlation between votes and seats, resulting in a high level of proportionality. In the model based on 2024 election data, 97,52% of votes cast resulted in representation. This percentage applies to all the national options.

Accountability

- There are divergent views in the electoral domain regarding the relationship between an electoral system and accountability, both in terms of members of parliament holding the executive accountable and in their responding to the needs of voters. It is, however, accepted that an electoral system cannot guarantee accountability but can foster it. Essentially, the different views centre around the effectiveness of holding a political party collectively accountable or whether a closer relationship with individual representatives would better achieve accountability. In South Africa, there is a history of voters holding political parties collectively accountable for their performance. Support for parties has varied between a two-thirds majority and the need for a Government of National Unity, and provincial governments have changed on several occasions.
- Voters hold their representatives accountable, and they do so through regular, free, and fair elections, regardless of the system in place. They hold parties collectively accountable by

supporting their preferred party, or supporting an alternative party, or abstaining if they do not see a suitable alternative.

Simplicity

- The system is straightforward and easy for voters to use and find their party or independent candidate on the ballot. There is a relatively low number of spoiled ballots (1.31% in 2024) when compared to the international standard.

Electoral manageability

- **Under** the current system, which differs from option 1 only in respect of the introduction of a quota threshold in the option, seven national elections have been successfully managed, including the participation of independent candidates in the 2024 election.
- The number of participating parties increased substantially for the 2019 and 2024 elections, complicating the administration of ballot papers. In both cases, 34 parties did not gain representation, and their collective votes accounted for 0.88% and 1.82% of the votes cast, respectively.
- In 2024, only six of the thirty-four parties that contested the previous election without success participated again, and only one did so successfully. Thus, there were many one-off participants.
- Whilst it was possible to manage elections effectively thus far, objectively, it must be concluded that a review of participation requirements, including the quantum of deposits, may be warranted and that a quota threshold may consolidate smaller parties and may prevent frivolous participation.

Transparency

- **Regional** boundaries coincide with those of provinces and remain unaltered. Consequently, no issues concerning demarcation arise. The number of registered voters determines the number of seats, which could change for every election, and is based on a transparent process.
- The correlation between the percentage of votes a party receives and the number of allocated seats allows political parties and the public to follow outcomes.

Stable and Efficient Government

- In 1994, within a historical context, it was crucial to accommodate all parties that received at least some measure of support. Provision was made for up to five parties that did not meet the quota to be awarded a seat based on the largest remainder. Seats that had not been allocated were subsequently assigned based on the largest average of votes for seats already obtained, which established a very low threshold. An established democracy no longer requires the inclusion of parties that do not meet the minimum level of support to gain a single seat. The introduction of a quota threshold for compensatory seats and the largest remainder method for seat allocation

normalises the system and contributes to a more stable legislature.

- The outcome of elections will reflect the proportional support of parties, which generally allows for the establishment of majority or coalition governments.

6.2.1.5 *ADVANTAGES*

- The option, except for the introduction of a quota threshold, is similar to the current system, with which political parties, independent candidates and voters are familiar. There is a general understanding of how votes are counted and seats calculated to reflect overall proportional representation, except for how smaller parties gain a seat without meeting the quota for a seat. The inclusion of a quota threshold and the largest remainder method of seat allocation will make this aspect more straightforward.
- The system measures positively for inclusivity, fairness, simplicity, transparency, electoral manageability and a stable and efficient government. There are different views in the electoral environment on accountability. This option relies on voters exercising collective responsibility during regular elections. This has proved effective with a number of changes of the governing party in provincial elections since 1999, and results at a national level varying between a two-thirds majority and the need for a Government of National Unity.
- No major legal amendments or substantial additional costs will arise if the current system is slightly changed.
- No re-demarcation of constituency boundaries is required since they are based on stable provincial boundaries
- Advances equitable gender and minority representation.
- Fosters synergy between Parliament and Provincial Legislatures, as there are cohorts of representatives elected to serve the same area
- Enables the achievement of inter-party proportionality
- No risk of overhang

6.2.1.6 *DISADVANTAGES*

- Given the size of constituencies/regions and their larger number of representatives, there is no close geographic association between representatives and voters. Consequently, many voters cannot put a face to a representative or representatives, which has resulted in a feeling of alienation from the electoral process. This has resulted in criticism of the electoral system, which has perhaps been amplified by prevailing economic and socio-political circumstances in the country.
- The system of candidate nomination is largely controlled by the political party's internal processes.

It depends on intra-party nomination processes to allow members and supporters of the party to influence the choice and ranking of candidates.

6.2.1.7 LEGAL IMPLICATIONS

- Amendment of Schedule 1A of the Electoral Act

6.2.1.8 FINANCIAL IMPLICATIONS (2024 PRICES)

The budget estimates below are additional requirements to the baseline and based on 2024 expenses.

Ballot papers	
Additional counting staff	
Additional staff training	
Business applications	R5 400 000
Voter education	R24 100 000
Communication	R35 000 000
Warehouse staff cost	-
Temporary warehouse clerks	
Demarcation cost	-
Logistics Project Manager (Metros)	
Total cost	R64 500 000

6.2.1.9 REASON FOR RECOMMENDING THE OPTION

- The current system has produced outcomes that are generally a free and fair reflection of voter preferences. However, there are some anomalies in the current setup.
- The recommended system addresses these anomalies, which skew the inter-party proportionality of those represented in the National Assembly. These anomalies arise from the existing electoral system, potentially allowing up to five parties that receive fewer votes than the quota required for a seat to gain one. Additionally, it is mathematically possible for such parties to obtain a second seat when applying the highest average number of votes for previously allocated seats during the second round of allocations. A second anomaly is that parties that meet the quota and gain one seat invariably gain a second seat using the method of allocating the highest average number of votes per seat already allocated during the second round of allocations. Their votes are divided by one, resulting in an average that is larger than the quota, whereas for most parties with more seats, this average would mostly be less than the quota.
- The anomalies are eliminated by applying a quota threshold and designating the remaining seats after the first round of allocations based on electoral merit, that is, the largest remainder method. It ensures that inter-party representation in the National Assembly is proportional to the vote tallies of those represented.

6.2.2 OPTION 2A (MODEL N.3.2.4 – 41 CONSTITUENCIES 200:200)

- This option has two variants, 2A and 2 B. They are similar in most respects. The difference is the ratio of seat distribution between constituency and compensatory seats, which has some implications. The first variant, referred to as 2A, has a 200:200 seat distribution for constituency and compensatory seats, respectively. The second variant offers 300 constituency seats and 100 compensatory seats. Variants of the same option are presented below separately for clarity.

6.2.2.1 DESCRIPTION: A TWO-TIER COMPENSATORY SYSTEM RESULTING IN PROPORTIONALITY, IN GENERAL.

- The first tier comprises 41 multi-member constituencies, with 200 seats allocated among them in proportion to the number of registered voters in each constituency. The number of seats varies between 3 and 6 per constituency. Constituencies are based on municipal areas or their combinations, maintaining a voter deviation of no more than 15%. Provincial boundaries are respected, and the total number of seats in the constituencies within a province aligns with those applied to the regions (based on provincial boundaries) in Option 1. Each constituency uses a separate constituency ballot paper featuring political parties and independent candidates who compete within that constituency. A Droop quota and the largest remainder method are used to allocate constituency seats. Independent candidates who secure votes meeting the quota or qualify under the largest remainder method are duly elected.
- Each constituency's outcome will be proportional; however, the overall results may deviate from proportionality due to varying turnout rates and differences in the number of constituency seats. Therefore, the second tier of 200 compensatory seats is allocated to ensure overall proportionality. A separate compensatory ballot paper enables voters who supported an independent candidate on the constituency ballot to endorse a party for the overall composition of the National Assembly. The allocation of compensatory seats is determined by calculating the overall proportional composition of the 400-member National Assembly, from which the constituency seats are subtracted.
- To determine the overall composition of the National Assembly, constituency, compensatory, and out-of-country votes are aggregated; however, votes for independents are excluded from the compensatory calculation as the seats they gained in the constituency tier are reserved. A Droop quota is applied, allowing parties that meet the quota to qualify for seats. Thereafter, a new quota is established based on the votes received by the qualifying parties. If a party is not eligible for compensatory seats but has secured a constituency seat, it will retain that seat; however, its votes will be disregarded for the compensatory calculation. Proportionality will be determined for 400 seats minus such seats and any gained by an independent candidate. Seats that remain unallocated after the first round of allocations are distributed using the largest remainder method.

6.2.2.2 OUTCOME OF THE MODEL BASED ON 2024 ELECTION DATA

- In the model, based on 2024 election data, seven parties gained regional seats, and 15 parties are represented.
- The two largest parties have 77 and 45 compensatory list seats, respectively.
- 97,52% of the votes cast lead to representation.
- Inter-party proportionality is achieved for represented parties.
- A similar distribution of the total number of seats amongst parties applies as in option 1

6.2.2.3 RISK ANALYSIS

- There is no risk for overhang.

6.2.2.4 EVALUATION OF THE OPTION RELATIVE TO THE GUIDING PRINCIPLES

Inclusivity

- Multi-member constituencies are subdivisions of regions, and representation of geographic, linguistic, and cultural diversity is thus maintained.
- Careful planning is required to ensure fair gender representation in the smaller number of seats in constituencies (three to six) compared to those in regions. However, the 200 compensatory seats will provide an opportunity to ensure balanced representation.
- A quota threshold serves as a natural test of the degree of voter support, enabling representation for small parties and independents while preventing the proliferation of contestants in an election. A high degree of proportionality is achieved in the model based on 2024 election data, with the votes of 97.52% of the electorate, resulting in representation.

Fairness

- Votes in different regions, whilst as proportional as mathematically possible within a region, do not carry equal weight because of varying turnout rates. However, the compensatory tier equalises the worth of all votes, creating a strong correlation between votes, seats, and a high level of proportionality. In the model based on 2024 election data, 97,52% of votes cast resulted in representation. This percentage applies to all the national options.

Accountability

- The system aims for a closer link between voters and their representatives and is successful in that regard, whilst still relying on collective rather than individual accountability. Voters hold their representatives accountable, and they do so through regular, free, and fair elections, regardless

of the system in place. They hold parties collectively accountable by supporting the party of their preference, or supporting an alternative party, or abstaining from voting.

Simplicity

- There is no increase in the number of ballot papers voters will use compared to the current system. This makes it unlikely that the number of spoiled ballots will increase.
- The application of smaller multi-member constituencies and the introduction of a quota threshold will require intensive voter education.

Electoral manageability

- The system is basically the same as option one, except for the number of constituencies. A similar system (bar the quota threshold) has been implemented successfully in the past.
- The introduction of individual ballots for 41 smaller constituencies will mean more complexity in managing elections in terms of process, ballot paper production and system changes to business applications.
- The production of 41 unique constituency ballot papers will require additional printing time within the electoral timetable.
- The proposal of a quota threshold may contribute to minimising frivolous participation.

Transparency

- Constituency boundaries align with municipal boundaries, and some of these may change from time to time, resulting in demarcation requirements.
- The number of registered voters in a constituency determines the number of seats, which could change for every election, and is based on a transparent process.
- The correlation between the percentage of votes a party receives and the number of allocated seats allows political parties and the public to follow outcomes.
- The option is clear in its intentions, and the overall concept of representatively linked to smaller geographic areas is well understood by the electorate, given their experience of the local government electoral system of a combination of Ward and Proportional Representation

Stable and Efficient Government

- The outcome of elections will reflect the proportional support of parties, which generally allows for the establishment of majority or coalition governments. Regulating coalitions may also go a long way in eliminating unnecessary instability.

6.2.2.5 *ADVANTAGES*

- There is a closer association between voters and representatives, making it easier for voters to identify their public representatives
- Advances equitable gender and minority representation through the use of compensatory seats.
- Voters and parties are familiar with the basic system as it is similar to the current national system except for the introduction of a quota threshold.
- The use of existing municipal boundaries would mean that limited delimitation is required.
- The system scores positively for inclusivity, fairness, simplicity, transparency, electoral manageability and a stable and efficient government. There are different views in the electoral environment on accountability. However, smaller constituencies may create a clear nexus between constituency representatives and the electorate in the constituency.
- Inter-party proportionality is achieved for represented parties.
- There is no risk of the overhang.
- Given the number of participating parties in the current elections, it is not practical to introduce open lists where voters can express preferences for party candidates since it would result in multiple-page ballot papers. Should there be a consolidation and fewer participating parties in the future, this option offers the possibility, given the small number of seats per constituency, to revisit the possibility as the best way to resolve accountability issues.

6.2.2.6 *DISADVANTAGES*

- The increase in the number of constituencies may make it less easy to follow the result process.
- Changes in municipal boundaries will add to delimitation requirements. In addition, there may be challenges from stakeholders in combining some municipalities to meet the criteria to form a constituency.
- Raises the possibility of an even greater number of parties registering to contest, since it may encourage parties with local interests in constituencies to participate. This may pose challenges in terms of electoral manageability.

6.2.2.7 *LEGAL IMPLICATIONS*

- Amendment of Schedule 1A of the Electoral Act and associated provisions in the Act.
- Designation of a demarcation authority where municipalities are to be combined to form constituencies.

6.2.2.8 FINANCIAL IMPLICATIONS

- The budget estimates below are additional requirements to the baseline and based on 2024 expenses. The demarcation costs are a broad estimate.

Ballot papers	R60 000 000
Additional counting staff	R55 311 280
Additional staff training	R24 755 700
Business applications	R28 000 000
Voter education	R24 100 000
Communication	R 35 000 000
Warehouse staff cost	R7 657 020
Temporary warehouse clerks	R13 640 000
Warehousing	
Demarcation cost	R26 000 000
Logistics Project Manager (Metros)	
Total	R274 464 000

6.2.2.9 REASON FOR RECOMMENDING THE OPTION

- The option aims to foster a closer connection between voters and their representatives. Whether or not it enhances accountability should not distract from the fact that it would make representatives more clearly identifiable to voters

6.2.3 OPTION 2B (MODEL N.3.2.5 - 41 CONSTITUENCIES 300:100)

6.2.3.1 DESCRIPTION: A TWO-TIER COMPENSATORY PROPORTIONAL SYSTEM.

The first tier comprises 41 multi-member constituencies, with 300 seats allocated among them in proportion to the number of registered voters in each constituency. The number of seats varies between 4 and 10 per constituency. Constituencies are based on municipal areas or their combinations, maintaining a voter deviation of no more than 15%. Provincial boundaries are respected, and the total number of seats in the constituencies within a province aligns with those applied to the regions (based on provincial boundaries) in Option 1. Each constituency uses a separate constituency ballot paper featuring political parties and independent candidates who compete within that constituency. A Droop quota and the largest remainder method are used to allocate constituency seats. Independent candidates who secure votes meeting the quota or qualify under the largest remainder method are duly elected.

Each constituency's outcome will be proportional; however, the overall results may deviate from proportionality due to varying turnout rates and differences in the number of constituency seats. Therefore, the second tier of 100 compensatory seats is allocated to ensure overall proportionality.

A separate compensatory ballot paper enables voters who supported an independent candidate on the constituency ballot to endorse a party for the overall composition of the National Assembly. The allocation of compensatory seats is determined by calculating the overall proportional composition of the 400-member National Assembly, from which the constituency outcomes are subtracted.

To determine the overall composition of the National Assembly, constituency, compensatory, and out-of-country votes are aggregated; however, votes for independents are excluded, as the seats they gained in the constituency tier are reserved. A Droop quota is applied, allowing parties that meet the quota to qualify for seats. Thereafter, a new quota is established based on the votes received by the qualifying parties. If a party is not eligible for compensatory seats but has secured a constituency seat, it will retain that seat; however, its votes will be disregarded for the compensatory calculation. Proportionality will be determined for 400 seats minus such seats and any gained by an independent candidate. Seats that remain unallocated after the first round of allocations are distributed using the largest remainder method.

6.2.3.2 OUTCOME OF THE MODEL BASED ON 2024 ELECTION DATA

- Ten parties, one fewer than for option 1 but three more than for option 2 A, gain regional seats, and 15 parties are represented.
- The two largest parties have 26 and 21 compensatory list seats, respectively.
- 97,52% of the votes cast lead to representation
- Inter-party proportionality is achieved for represented parties.
- A similar distribution of the total number of seats amongst parties applies as in options 1 and 2A.

6.2.3.3 RISK ANALYSIS

- A Monte Carlo simulation indicates that there is a 2.5% risk of overhang. This is partly due to the possibility of a party gaining multiple seats based on the largest remainders method, even though its vote share would be less than its seat share. Essentially, there are insufficient compensatory seats available to mitigate the possibility of overhang.

Evaluation of the option relative to the guiding principles

Inclusivity

- Multi-member constituencies are subdivisions of regions, and representation of geographic, linguistic, and cultural diversity is thus maintained.
- It will require careful planning in constituencies with fewer seats (four to ten) to ensure fair gender representation. This is emphasised by the fact that only 100 compensatory seats are available for all parties collectively, providing an opportunity to ensure balanced representation.

- A quota threshold serves as a natural test of the degree of voter support, enabling representation for small parties while preventing the proliferation of contestants in an election. A high degree of proportionality is achieved in the model based on 2024 election data, with the votes of 97.52% of the electorate, resulting in representation.

Fairness

- Votes in different constituencies, whilst ensuring a constituency proportional outcome as best mathematically possible, do not carry equal weight because of varying turnout rates. However, the compensatory tier equalises the worth of all votes, providing that overhang does not occur, creating a strong correlation between votes, seats, and a high level of proportionality. In the model based on 2024 election data, 97,52% of votes cast resulted in representation. This percentage applies to all the national options.
- The constituency quotas that apply in this option are lower than those in Options 1 and 2A and thus offer a low quota for all contestants to gain a seat.

Accountability

- The system aims for a closer link between the largest possible number of representatives and voters, whilst still relying on collective rather than individual accountability. Voters hold their representatives accountable, and they do so through regular, free, and fair elections.

Simplicity

- There is no difference in the number of ballot papers used by voters compared to the current system. This makes it unlikely that the number of spoiled ballots will increase.
- The change in the size of the first-tier constituency and the introduction of a quota threshold will require **substantial voter education**.

Electoral manageability

- The system is basically the same as option one. Save for the quota threshold, a similar system has been implemented successfully in the past.
- The introduction of individual ballots for 41 smaller constituencies will mean more complexity in managing elections in terms of ballot paper production and management, and changes to business applications. The extensive ballot production period will require adjustments to the electoral time frame.
- The proposal of a quota threshold may contribute to minimising frivolous participation

Transparency

- Constituency boundaries align with municipal boundaries, and some of these may change from time to time, resulting in demarcation requirements.
- The number of registered voters in a constituency determines the number of seats, which could change for every election, and is based on a transparent process.
- The correlation between the percentage of votes a party receives and the number of allocated seats allows political parties and the public to follow outcomes.
- The overall concept of representatively linked to smaller geographic areas is well understood by the electorate, given their experience of the local government electoral system of a combination of Ward and Proportional Representation

Stable and Efficient Government

- Unless overhang occurs, the outcome of elections will reflect the proportional support of parties, which generally allows for the establishment of majority or coalition governments.
- Regulating coalitions may also go a long way in eliminating unnecessary instability

6.2.3.4 *ADVANTAGES*

- There is a closer association between voters and more representatives, making it easier for voters to identify their public representatives.
- Voters and parties are familiar with the basic system. The introduction of constituencies will not add any complications for voters.
- The use of existing municipal boundaries would mean that limited delimitation is required.
- The system measures positively for inclusivity, fairness, simplicity, and transparency. There are different views in the electoral environment on accountability. This option relies on voters exercising collective responsibility during regular elections. This has proved effective with a number of changes of the governing party in provincial elections since 1999, and results at a national level varying between a two-thirds majority and the need for a Government of National Unity.
- Inter-party proportionality is achieved for represented parties.

6.2.3.5 *DISADVANTAGES*

- The option presents the risk of overhang. Based on 2024 election data, the model shows a risk of 2,5% if 15 parties gain representation. That means that three of the next hundred elections, based on the electoral environment as it applied during the 2024 elections, could result in overhang, with the next election potentially being one of the three. The essential deficiency is that there are not

enough compensatory seats available to mitigate the potential for overhang.

- Larger parties have few compensatory seats with this option, and this limits their ability to ensure fair gender representation.
- The number of constituencies may make it less easy to follow the result process.
- Changes in municipal boundaries will add to delimitation requirements. In addition, there may be challenges from stakeholders in combining some municipalities to meet the criteria to form a constituency.
- Raises the possibility of an even greater number of parties registering to contest, since it may encourage parties with local interests in constituencies to participate. This may pose challenges in terms of electoral manageability and potentially also a stable government.

6.2.3.6 LEGAL IMPLICATIONS

- Amendment of Schedule 1A of the Electoral Act and associated provisions in the Act.
- Designation of a demarcation authority charged with the responsibility to (for purposes of combining municipalities to form constituencies).

6.2.3.7 FINANCIAL IMPLICATIONS

The budget estimates below are additional requirements to the baseline and are based on 2024 expenses. The demarcation costs are a broad estimate.

Ballot papers	R60 000 000
Additional counting staff	R55 311 280
Additional staff training	R24 755 700
Business applications	R28 000 000
Voter education	R24 100 000
Communication	R 35 000 000
Warehouse staff cost	R7 657 020
Temporary warehouse clerks	R13 640 000
Warehousing	
Demarcation cost	R26 000 000
Logistics Project Manager (Metros)	
Total cost	R274 464 000

6.2.3.8 REASON FOR RECOMMENDING THE OPTION

- The option aims to foster a closer geographic connection between voters and most representatives. Some political parties and responses during the public consultation process recommended this

option, and it is included so that its implications are clear.

6.2.4 OPTION 3 (MODEL N.4.2 – 200 SINGLE-MEMBER CONSTITUENCIES)

6.2.4.1 DESCRIPTION

Two-tier compensatory proportional system with single-member constituencies. The first tier consists of 200 single-member constituencies. Constituencies are based on combinations of municipal wards, maintaining a voter deviation of no more than 15%. Provincial boundaries are respected, and the total number of seats or constituencies within a province aligns with those applied to the regions (based on provincial boundaries) in Option 1. A computer-generated demarcation, for illustration purposes, permitting a 15% variation from the median, resulted in the following outcome:

- Three constituencies with a variation of more than 10% but less than 15%
- 20 constituencies with a variation of 5% or more but less than 10%
- 19 constituencies with a variation of more than 2% but less than 4%.
- 38 constituencies with a variation of more than 1% but less than 2%
- 120 constituencies with a variation of less than 1%

Each constituency uses a separate constituency ballot paper featuring political parties and independent candidates who compete within that constituency. The first-past-the-post principle determines results.

The aggregated constituency results will deviate from proportionality due to varying turnout rates and the plurality factor. Consequently, the second tier of 200 compensatory seats is allocated to ensure overall proportionality. A separate compensatory ballot paper allows voters who supported an independent candidate on the constituency ballot to endorse a party for the overall composition of the National Assembly. The allocation of compensatory seats is determined by calculating the overall proportional composition of the 400-member National Assembly, from which the constituency outcomes are subtracted.

To determine the overall composition of the National Assembly, votes from constituencies, compensatory votes, and votes cast by citizens residing outside the country are aggregated; however, votes for independent candidates are excluded, as the seats they secured in the constituency tier are reserved for them. A Droop quota is applied, enabling parties that meet this quota to qualify for seats. Once the parties that have made the quota are determined, a new quota is established based on the votes received by the qualifying parties. If a party is not eligible for compensatory seats but has secured a constituency seat, it will retain that seat; however, its votes will be disregarded for the compensatory calculation. Proportionality will be determined for 400 seats minus such seats and any gained by an independent candidate. Unallocated seats after the first round of allocations are distributed using the largest remainder method.

6.2.4.2 OUTCOME OF THE MODEL BASED ON 2024 ELECTION DATA

- Fifteen parties are represented, and 97.52% of votes lead to representation, while inter-party proportionality is achieved. Concerning the constituency outcomes, 84 constituencies (41.5%) resulted in the winning candidate receiving less than 50% of the votes (Plurality), with the smallest margin being just more than 23% of votes. Only four parties gain constituency seats, resulting in a significant disparity between the percentage of votes and the percentage of seats gained (up to 20%). Correspondingly, the number of compensatory list seats is reduced for those parties. Apart from the four referred parties, all other parties only gain compensatory list seats. A similar distribution of the total number of seats among parties applies as in options 1, 2A, and 2 B.

6.2.4.3 RISK ANALYSIS

- There is a high risk of the overhang from the outset due to a plurality factor of just over 40% in the model. This is based on a statistical delimitation of constituencies. However, a plurality rate of approximately 25% applied in the ward-based 2021 municipal elections. As the option is based on a combination of wards, a high risk of overhang is confirmed.

6.2.4.4 EVALUATION OF THE OPTION RELATIVE TO THE GUIDING PRINCIPLES

Inclusivity

- The use of single-member constituencies means that outcomes are likely to be male-dominated, as that has been the trend in municipal ward elections.
- Since it would be challenging to predict constituency outcomes, compiling a compensatory list to ensure balanced gender representation will be a difficult task.
- Single-member constituencies comprise combinations of wards, and the small size of constituencies makes it more challenging to ensure representation of geographic, linguistic, and cultural diversities.
- It will make it easier for independents to contest constituency seats due to the plurality factor. (In the 2021 municipal elections, 0,03% of independent candidates won a seat, and in 67% of those cases, it was plurality-based.)

Fairness

- Votes in different constituencies do not carry equal weight because of varying turnout rates, as well as the first-past-the-post principle, and thus the plurality factor. However, the compensatory tier equalises the worth of all votes, provided that overhang does not occur. There is a correlation between votes, seats, and a high level of proportionality. In the model based on 2024 election data, 97,52% of votes cast resulted in representation. This percentage applies to all the national options.

Accountability

- While a direct association between representatives and voters is achieved, there is no empirical evidence that it will promote a greater degree of accountability among representatives. Such has not been achieved in local government under similar arrangements. However, it will still be possible to hold a party collectively accountable with a general election.
- Constituency vacancies must be filled through a by-election. This will enable continuous assessment by voters of the performance of the incumbent representative and is the most significant outcome of this option.

Simplicity

- The system is straightforward for voters to find their party or independent candidate on the constituency ballot. Voters are familiar with the system based on its use at the local government level
- Constituency boundaries are not fixed and will have to be demarcated for every election to accommodate population migration. Moreover, they will be different from the boundaries in municipal elections and could entail a different voting station from one election to another for some voters, depending on the election involved, and this could be confusing to voters. Adjusting the voters' roll for different elections would be intractable and impair the maintenance of a quality voters' roll..

Electoral manageability

- The introduction of unique ballots for 200 smaller constituencies will mean more complexity in managing elections in terms of process and system changes, resulting in major adjustments to the electoral timeframe.
- It would be difficult to follow the results, particularly since there is bound to be a wide variance between constituency results and overall proportionality, and thus the number of list seats parties are entitled to. This phenomenon has also been presented in municipal elections and led to allegations of manipulation and fraud.
- The trend from different models is that smaller constituencies tend to favour larger parties in constituencies since their support is more widespread. In the model for this option, based on 2024 election data, only four parties gain constituency seats. This may lead to the same artificial distinction that presently exists in municipal elections between ward and list representatives.
- This option could affect overall electoral manageability, as having smaller constituencies may lead to a greater number of parties contesting on local issues.
- The proposal of a quota threshold may contribute to minimising frivolous participation on the compensatory ballot

- This system cannot be used for both national and provincial elections if they occur concurrently. Different numbers of seats apply to Provincial Legislatures than apply to the National Assembly, and that will result in differences in constituency boundaries. It may mean that some voters may have to cast a provincial vote at another voting station than they would for a national vote if both elections take place on the same day. Having them take place on different days will double the cost of elections.

Transparency

- The option is clear and well understood, given its use in the local government elections.
- Given that constituency boundaries could change in every election, there is a risk of manipulation to favour particular communities, parties, etc.
- Due to the plurality factor, there is bound to be a significant difference between the number of constituency seats a party wins and the number of compensatory seats it qualifies for. This can be mathematically explained, but it leads to confusion and questions of correctness, fairness, and fraud. This also happens in local elections.

Stable and Efficient Government

- The outcome of elections will reflect the proportional support of parties, which generally allows for the establishment of majority or coalition governments. The inclusion of a quota threshold and the largest remainder method of allocating compensatory seats will ensure that proportionality is attained if overhang does not occur.

6.2.4.5 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 for ward and PR seats.
- Presents theoretical prospects of improving accountability by representatives.
- By-elections foster evaluation of party performance in Parliament.
- Provides the best opportunity for independents to win a seat due to the plurality factor.

6.2.4.6 DISADVANTAGES

- There is a high risk of overhang. Based on the 2024 election results, the percentage of overhang is 97% if 15 entities gain representation
- Potential to reduce female representation, as single-member constituencies have historically tended to favour male candidates

- Requires frequent demarcation, which may just lead to disputes. Given the winner-takes-all scenario, this heightens the concern for gerrymandering and the creation of “safe seats”.
- Prone to attracting too many local parties to participate in elections, which may present challenges in terms of electoral manageability.
- It is likely that single-member constituency seats are only won by a few large parties, with smaller parties only represented through compensatory seats.
- Different constituency boundaries for national and provincial elections mean that it is not possible to have those elections concurrently if the system applies in both cases

6.2.4.7 LEGAL IMPLICATIONS

- Amendment of Schedule 1A of the Electoral Act and associated provisions in the Act.
- Establishment of a demarcation authority for demarcating single-member constituencies.
- Legal arrangements to cater for the overhang.

6.2.4.8 FINANCIAL IMPLICATIONS

The budget estimates below are additional requirements to the baseline and are based on 2024 expenses. The demarcation costs are a broad estimate.

Ballot papers	R216 303 442
Additional counting staff	R55 311 280
Additional staff training	R24 755 700
Business applications	R56 000 000
Voter education	R48 200 000
Communication	R 70 000 000
Warehouse staff cost	R7 657 020
Temporary warehouse clerks	R13 640 000
Warehousing	R313 500
Demarcation cost	R52 000 000
Logistics Project Manager (Metros)	R6 806 240
Total cost	R551 077 182

6.2.4.9 REASON FOR RECOMMENDING THE OPTION

- The option aims at a direct relationship between voters and representatives and was proposed by members of the public and some political parties. It is included as an option since an analysis of the option provides a realistic perspective of its implications and unsuitability.

6.3 PROVINCIAL ELECTION OPTIONS

6.3.1 OPTION 1 (MODEL P.1.5 – SINGLE-TIER, ONE CONSTITUENCY)

6.3.1.1 DESCRIPTION

A province is a single multi-member constituency. The number of seats allocated to a provincial constituency and, thus, the Legislature is based on population numbers, with a constitutional determination of between 30 and 80 seats.

The single ballot paper includes candidates from political parties and independents. A Droop quota is applied, allowing participants who meet the quota to qualify for seat allocation. Independent candidates receiving votes that meet the quota are elected, and the votes for all independent candidates are excluded before establishing a new quota for allocating the remaining seats. Any unallocated seats after the first round of allocations are assigned using the largest remainder method.

6.3.1.2 OUTCOME OF A MODEL BASED ON 2024 ELECTION DATA

Parties without sufficient support to meet the quota do not qualify for the allocation of a seat, resulting in a reduction in the number of represented parties. A comparison between the 2024 election results and the recommended model is as follows:

- Eastern Cape – one fewer party
- Free State – three fewer parties
- Gauteng – four fewer parties
- KZN - one fewer party
- Limpopo – three fewer parties
- Mpumalanga – one fewer party
- North West – two fewer parties
- Northern Cape – one fewer party
- Western Cape – four fewer parties

Inter-party proportionality is attained for represented parties.

6.3.1.3 RISK ANALYSIS

- There is no risk of the overhang in a single-tier electoral system.

6.3.1.4 EVALUATION OF THE OPTION RELATIVE TO THE GUIDING PRINCIPLES

Inclusivity

- Political parties and independent candidates compete on an equal footing
- A quota threshold serves as a natural test of the degree of voter support, enabling representation for small parties while preventing the proliferation of contestants in an election. A high degree of proportionality is achieved.
- The single-party candidate list enables fair gender representation.
- Emphasis on regional rather than localised interests

Fairness

- There is a direct link between the level of support for a party and the number of seats it is allocated. The single ballot minimises inconsequential votes and is best at ensuring overall proportional representation of different views.

Accountability

- There is no direct association between voters and representatives. However, representatives must be residents of and registered voters in the province, which provides a better opportunity for candidates to become known to voters.
- There is no empirical evidence to suggest that the association between voters and representatives determines the level of accountability by representatives..

Simplicity

- There are no changes from the voters' perspective in the current system. Without a compensatory tier, the process remains straightforward for both parties and voters to understand, enabling them to grasp the outcomes.

Electoral manageability

- Seven provincial elections have been successfully managed as a single-tier system, and in the absence of fundamental changes, it should be the case in future elections as well.

Transparency

- With fixed boundaries and a direct link between the level of support and the number of seats allocated, the election outcomes are fully transparent.

Stable and efficient government

- The introduction of a quota threshold eliminates parties that gain a single seat with the largest

remainder method, leaving them as kingmakers when coalitions need to be formed. This will promote a stable government.

- No demarcation of smaller constituencies is required, which also removes the concern of gerrymandering. It advances equitable gender and minority representation, as well as the deployment of subject experts to the legislature

6.3.1.5 ADVANTAGES

- It is an established system and in the public domain, and from political parties, there have been few calls for reform of the provincial electoral system
- Independent candidates compete on an equal footing with parties.

6.3.1.6 DISADVANTAGES

- The link between voters and elected representatives via arbitrary constituency offices is not as direct and clear as in single-member or smaller multi-member constituencies. The numerical and geographic size of the constituency also influences the level of direct association between the voter and the elected representatives.
- There are views that a closer association between voters and representatives should be fostered with the introduction of a two-tier compensatory system

6.3.1.7 LEGAL IMPLICATIONS

- Minor amendments of Schedule 1A and associated provisions in the Electoral Act.

6.3.1.8 FINANCIAL IMPLICATIONS

- The budget estimates below are additional requirements to the baseline and are based on 2024 expenses. The demarcation costs are a broad estimate.

Ballot papers	
Additional counting staff	
Additional staff training	
Business applications	included in the national
Voter education	R24 100 000
Communication	R35 000 000
Warehouse staff cost	
Temporary warehouse clerks	
Demarcation cost	
Logistics Project Manager (Metros)	
Total cost	R59 100 000

6.3.1.9 REASON FOR RECOMMENDING THE OPTION

- It is the retention of the current system which few members of the public or parties have questioned. The introduction of a quota threshold ensures inter-party proportionality amongst represented parties, which, with the current system, has some anomalies.

6.3.2 OPTION 2 (MODEL P. 2.2.1 – MMC 50:50)

6.3.2.1 DESCRIPTION

A two-tier compensatory proportional system.

The first tier consists of multi-member constituencies, with half the seats for the provincial legislature allocated among them in proportion to the number of registered voters in each constituency. These constituencies are based on municipal areas or their combinations, maintaining a voter deviation of no more than 15%. The boundaries of the constituencies align with those outlined in options 1 and 2 for national elections, creating geographic symmetry among the different elections.

Each constituency uses a separate constituency ballot paper featuring political parties and independent candidates who compete within that constituency. A Droop quota and the largest remainder method are used to allocate constituency seats. Independent candidates who secure votes meeting the quota or qualify under the largest remainder method are duly elected. Seats that remain unallocated after the first round of allocations are assigned using the largest remainder method.

Each constituency's outcome will be proportional; however, the overall results may deviate from proportionality due to varying turnout rates and differences in the number of seats. Therefore, half of the total number of seats in a legislature are compensatory seats, allocated to ensure overall proportionality. A separate compensatory ballot paper enables voters who support an independent candidate on the constituency ballot to endorse a party for the overall composition of the Provincial Legislature. The allocation of compensatory seats is determined by calculating the overall proportional composition of the Provincial Legislature, from which the constituency outcomes are subtracted.

To determine the overall composition of the Legislature, votes from constituencies and compensatory ballots are aggregated; however, votes for independent candidates are excluded since the seats they secured in the constituency tier are reserved. A Droop quota is applied, allowing parties that meet this quota to qualify for seats. Thereafter, a new quota is established based on the votes received by the qualifying parties. If a party is not eligible for compensatory seats but has secured a constituency seat, it will retain that seat; however, its votes will be disregarded for the compensatory calculation. Proportionality will be determined for the total number of seats in the legislature minus such seats and any gained by an independent candidate. Unallocated seats after the first round of allocations are distributed using the largest remainder method.

6.3.2.2 *OUTCOME OF A MODEL BASED ON 2024 ELECTION DATA*

- Parties receive the same number of seats, in all provinces, as they did in the single-tier system in option 1.

6.3.2.3 *RISK ANALYSIS*

- There is no risk of overhang in any of the provincial outcomes.

6.3.2.4 *EVALUATION OF THE OPTION RELATIVE TO THE GUIDING PRINCIPLES*

Inclusivity

- There is a closer association between voters and representatives.
- Ensuring gender representation should be possible with the compensatory allocations.

Fairness

- There is a direct link between the level of support for a party and the number of seats it is allocated.
- Votes in different constituencies do not carry equal weight because of varying turnout rates. However, the compensatory tier equalises the worth of all votes, and there is a correlation between votes, seats, and a high level of proportionality

Accountability

- While there is a closer link between voters and representatives, there is no empirical evidence to suggest that it would promote a higher degree of accountability among representatives. However, representatives would be better known to voters
- Collective accountability applies to this option.

Simplicity

- The system requires two ballots, so four ballots will be necessary when the election coincides with a national election. Extensive voter education will be required. The electoral timeline will have to be adjusted to provide for the printing and management of ballot papers.

Electoral manageability

- The management of elections will be negatively affected by the introduction of a fourth ballot, which will delay the voting and counting process. It will result in longer queues or the establishment of more voting stations at a substantial cost.

Transparency

- The voting and counting process will mirror that of national elections, with which voters and parties are familiar.

Stable and efficient government

- The introduction of a quota threshold eliminates parties that gain a single seat with the largest remainder method, leaving them as kingmakers when coalitions need to be formed. This will promote a stable government.

6.3.2.5 *ADVANTAGES*

- Elected representatives are more likely now to be identified and associated with specific geographic areas. This will allow the elected representatives of these constituencies to be closer to their constituents and provide personal constituency services. Given the powers and functions (including concurrent), these members of Provincial Legislatures will be in the best position to respond to citizen issues and concerns. These include functions such as Health (hospitals, clinics, health outreach,); Education (schools, SGBs, School Civic & Democracy; enrolment, Teacher employment and class sizes, etc.); Transport (taxis and urban transport, road safety), Social Development, (Child welfare and NGOs); Sport, Culture, Arts (local sports, libraries). Police oversight and local law enforcement.
- It aligns the electoral systems at the national and provincial levels, which are two-tier compensatory systems.

6.3.2.6 *DISADVANTAGES*

- While the option permits a closer association between voters and representatives, the advantage must be weighed against the complications which a fourth ballot brings.

6.3.2.7 *LEGAL IMPLICATIONS*

- Amendment of Schedule 1A of the Electoral Act and associated provisions in the Act.
- Designation of a demarcation authority

6.3.2.8 *FINANCIAL IMPLICATIONS*

- The budget estimates below are additional requirements to the baseline and are based on 2024 expenses. The demarcation costs are a broad estimate.

Ballot papers	R112 000 000
Additional counting staff	R55 311 280
Additional staff training	R24 755 700
Business applications	R 28 000 000
Voter education	R48 200 000
Communication	R105 000 000
Warehouse staff cost	R7 657 020
Temporary warehouse clerks	R13 640 000
Demarcation cost	R 26 000 000
Logistics Project Manager (Metros)	
Total cost	R 420 564 000

6.3.2.9 REASON FOR RECOMMENDING THE OPTION

- It aligns the national and provincial electoral systems.
- There is a closer association between voters and representatives, but this must be weighed against the implications that a fourth ballot brings.

6.3.3 OPTION 3 (MODEL P.2.2.3 -SINGLE-MEMBER CONSTITUENCIES 50:50)

6.3.3.1 DESCRIPTION

Two-tier compensatory proportional system.

The first tier comprises single-member constituencies for half of the legislature's members. Constituencies are based on combinations of municipal wards, maintaining a voter deviation of no more than 15%. Each constituency uses a separate constituency ballot paper featuring political parties and independent candidates who compete exclusively within that constituency. The first-past-the-post principle determines results.

The aggregated constituency results will deviate from proportionality due to varying turnout rates and the plurality factor. Consequently, half the number of seats is utilised as compensatory seats to ensure overall proportionality. A separate compensatory ballot paper allows voters who supported an independent candidate on the constituency ballot to endorse a party for the overall composition of the provincial legislature. The allocation of compensatory seats is determined by calculating the overall proportional composition of the legislature, from which the constituency outcomes are subtracted.

To determine the overall composition of the legislature, votes from constituencies and compensatory votes are aggregated; however, votes for independent candidates are excluded since the seats they secured in the constituency tier are reserved. A Droop quota is applied, enabling parties that meet this quota to qualify for seats. Thereafter, a new quota is established based on the votes received by the qualifying parties. If a party is not eligible for compensatory seats but has secured a constituency

seat, it will retain that seat. However, its votes will be disregarded for the compensatory calculation. Proportionality will be determined for all the seats minus such retained seats and any gained by an independent candidate. Any unallocated seats after the first round of allocations are distributed using the largest remainder method.

6.3.3.2 OUTCOME OF THE MODEL BASED ON 2024 ELECTION DATA

The total number of seats gained by parties corresponds with those in options 1 and 2. However, few parties gained constituency seats. Details are as follows:

Province	Represented Parties	Parties with Constituency Seats
Eastern Cape	7	2
Free State	3	2
Gauteng	7	2
KwaZulu-Natal	5	4
Mpumalanga	5	3
Northern Cape	4	2
Limpopo	3	1
North West	4	2
Western Cape	5	2

6.3.3.3 RISK ANALYSIS

The risk of overhang is high from the outset in seven provinces. When the number of represented parties in the option in a legislature is taken as a scenario benchmark, then the risk of overhang is as follows:

Province	Risk
Eastern Cape	63,8%
Free State	0,9%
Gauteng	64,4%
KwaZulu-Natal	32,9%
Mpumalanga	25,9%
Northern Cape	10,4%
Limpopo	0,7%
North West	27,9%
Western Cape	28,6%

6.3.3.4 *EVALUATION OF THE OPTION RELATIVE TO THE GUIDING PRINCIPLES*

Inclusivity

- It would be difficult to predict single-member constituency outcomes and thus to aim for fair gender and minority representation. The number of available compensatory seats for larger parties may not be enough to adequately address the matter.
- In local elections, there is a distinct difference between the status of a ward and a list councillor, albeit that there is no legal basis for the distinction. With a few parties gaining constituency seats in this option, the same phenomenon may present itself.

Fairness

- Fairness will depend on how the issue of overhang is resolved. If seats are expanded, a constitutional amendment will be required to deal with the outcomes in Gauteng and KwaZulu-Natal.

Simplicity

- The system requires two ballots, and therefore four ballots if the election coincides with a national election. With adequate voter education, it should not pose problems, but it would significantly increase the time needed for voting and counting.

Accountability

- While there is a direct link between voters and representatives, there is no empirical evidence to suggest that it would promote a higher degree of accountability among representatives.

Electoral manageability

- The management of elections will be negatively affected by the introduction of a fourth ballot, which will delay the voting and counting process. It will result in longer queues or the establishment of more voting stations at a substantial cost.

Transparency

- The voting and counting process will mirror that of municipal elections, with which voters and parties are familiar.

Stable and efficient government

- The introduction of a quota threshold in the compensatory tier eliminates parties that gain a single seat with the largest remainder method, leaving them as kingmakers when coalitions need to be formed. This will promote a stable government.

6.3.3.5 *ADVANTAGES*

- There is a direct association between voters and representatives. Although there is no empirical evidence that it fosters accountability among representatives, it nevertheless puts a face to a representative, so to speak.

6.3.3.6 DISADVANTAGES

- While the option permits a direct association between voters and representatives, it does not offer an advantage that outweighs the complications which a fourth ballot brings. Moreover, there have been few calls by the public or political parties for this system at the provincial level.
- The high probability of overhang renders the option an impractical option

6.3.3.7 LEGAL IMPLICATIONS

- Amendment of Schedule 1A of the Electoral Act and associated provisions in the Act.
- Establishment of a demarcation authority

6.3.3.8 FINANCIAL IMPLICATIONS

The budget estimates bellow are additional requirements to the baseline and based on 2024 expenses. The demarcation costs are a broad estimate.

Ballot papers	R120 000 000
Additional counting staff	R55 311 280
Additional staff training	R24 755 700
Business applications	R 28 000 000
Voter education	R48 200 000
Communication	R105 000 000
Warehouse staff cost	R7 657 020
Temporary warehouse clerks	R13 640 000
Demarcation cost	R 26 000 000
Logistics Project Manager (Metros)	-
Total cost	R 428 564 000

6.3.3.9 REASON FOR RECOMMENDING THE OPTION

- Some public representations implied support for the option since there is a direct association between voters and representatives, but this must be weighed against the implications that a fourth ballot brings, as well as the high risk of overhang. It is not a preferred option.

6.4 CONCLUSION

The Panel recommends that these options be submitted to the National Assembly for their further consideration.

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
Combined local governments			
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
Local government with city subdivisions			
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 levelling 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 Åland)	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
National			
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)	
Multi-tier systems			District magnitude of lower tier
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 6: Average District Magnitude Across Proportional Representation Systems

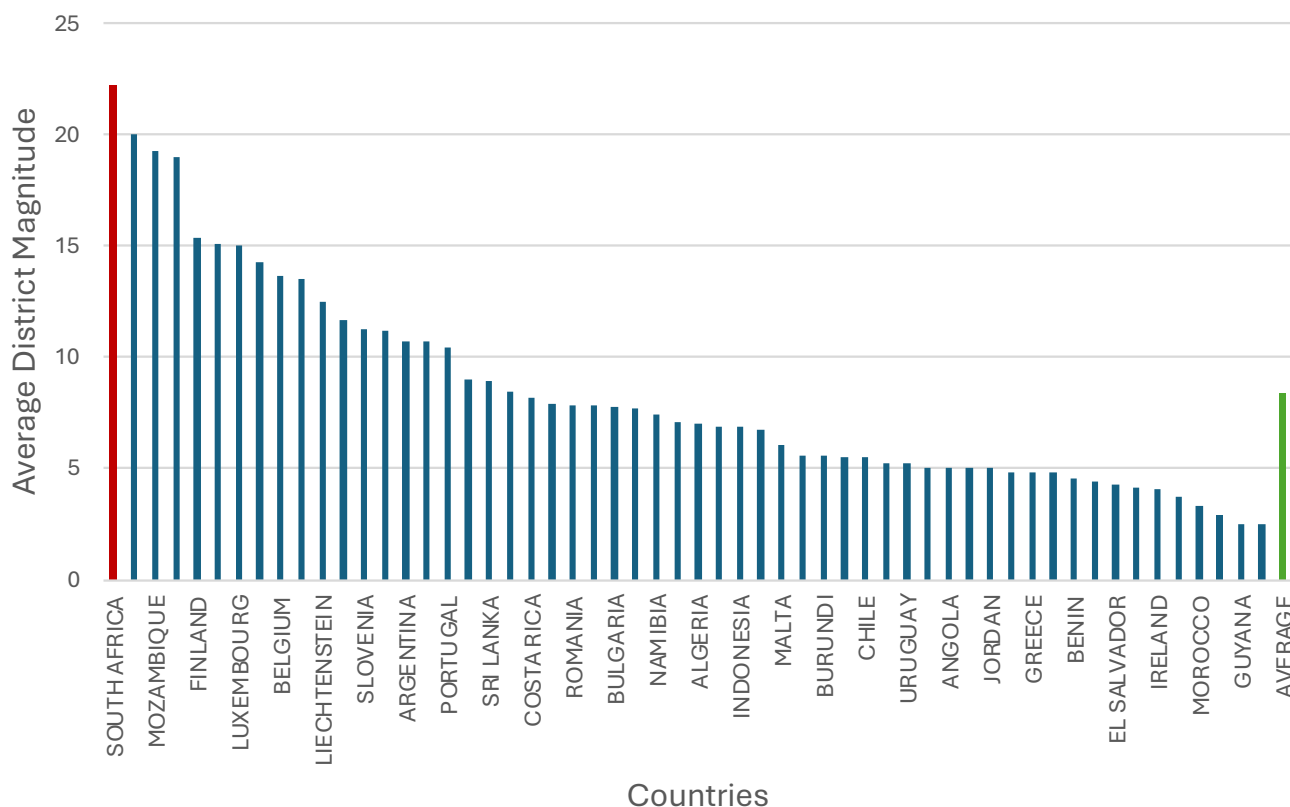


Figure 7: Size of Constituencies in Proportional Representation Systems by Number of Registered Voters

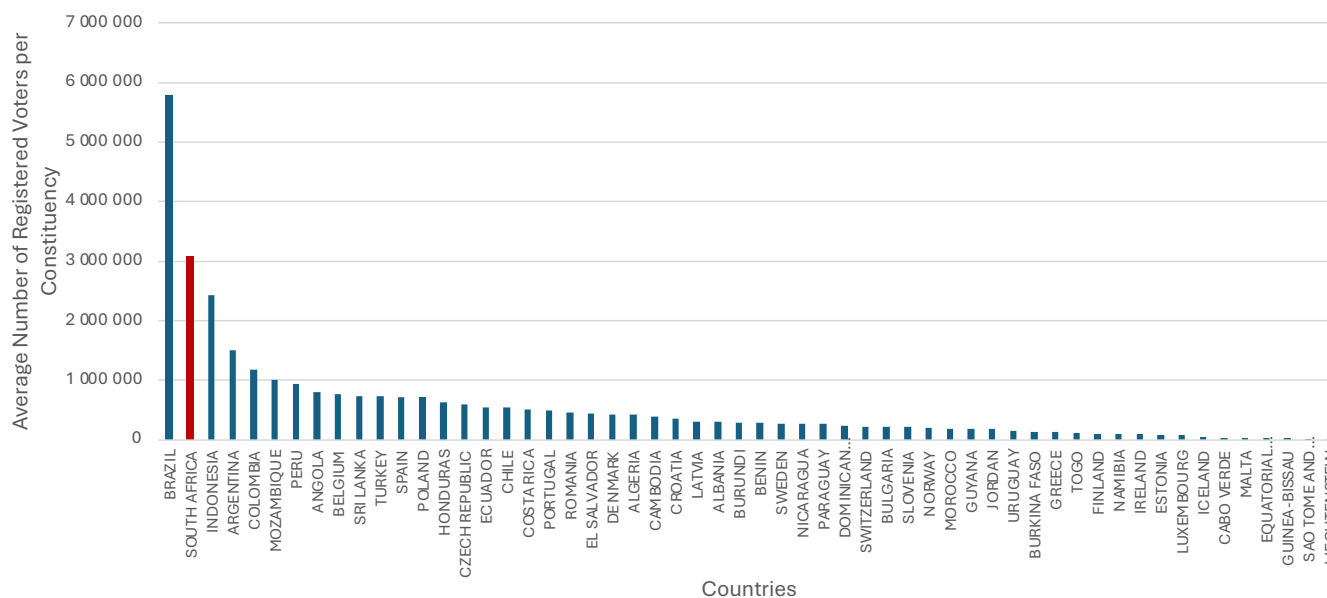
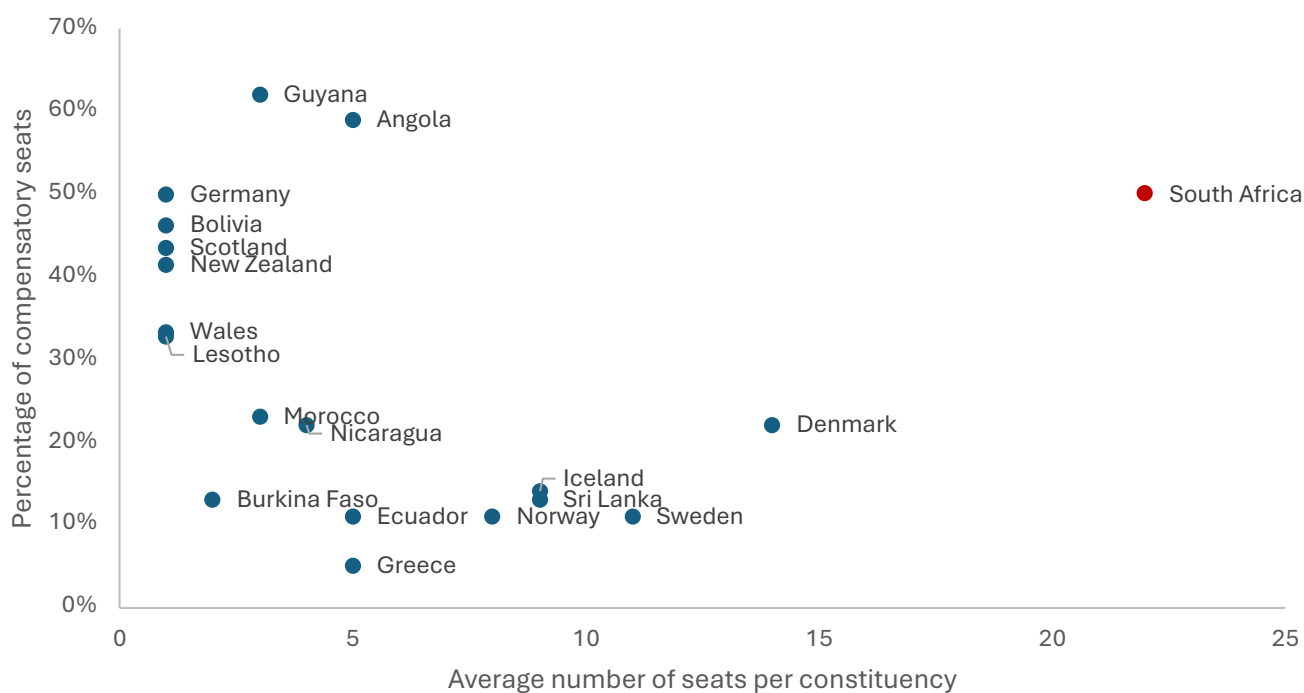


Figure 8: Size of Constituencies and the Percentage of Seats Allocated for Compensation¹²⁵



¹²⁵ 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.

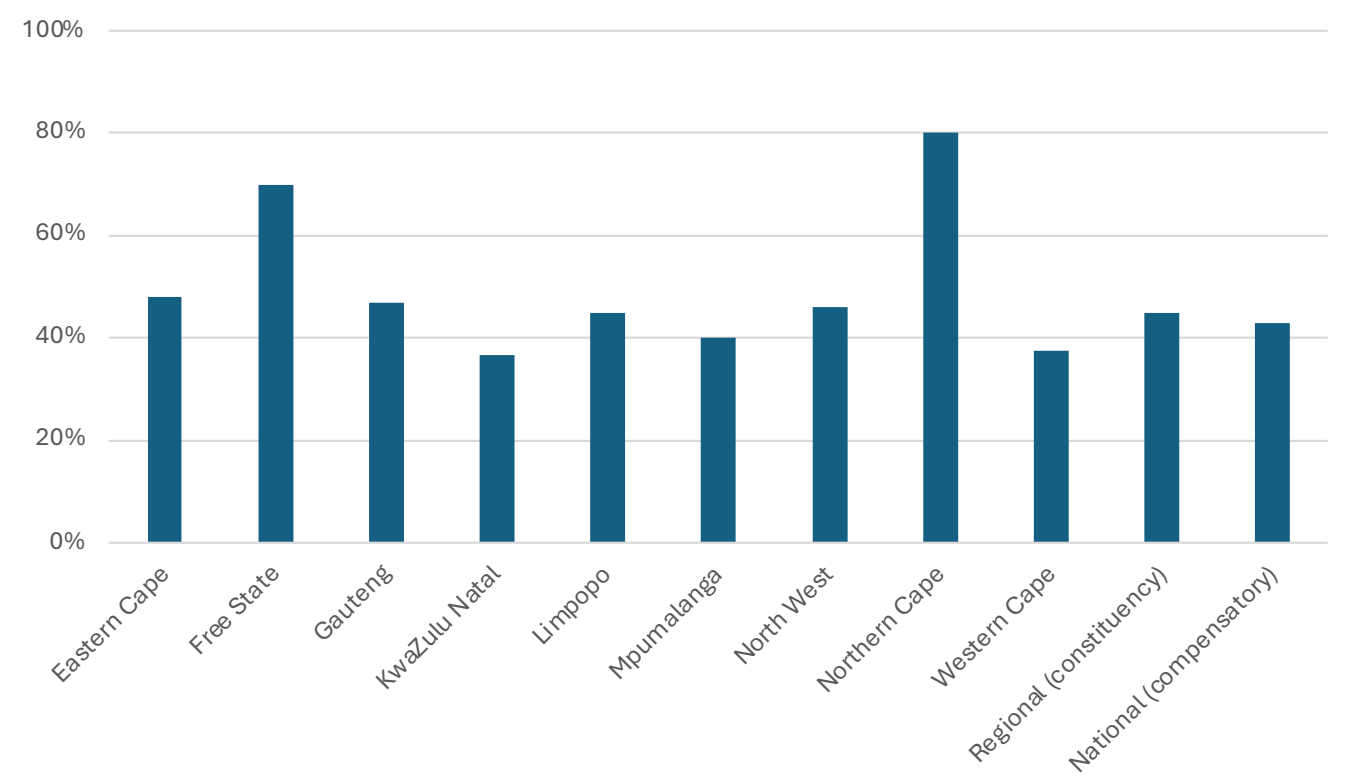
APPENDIX 2. GENDER REPRESENTATION

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 4). 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 9: Women’s Representation in the National Assembly Including Regional and National Lists

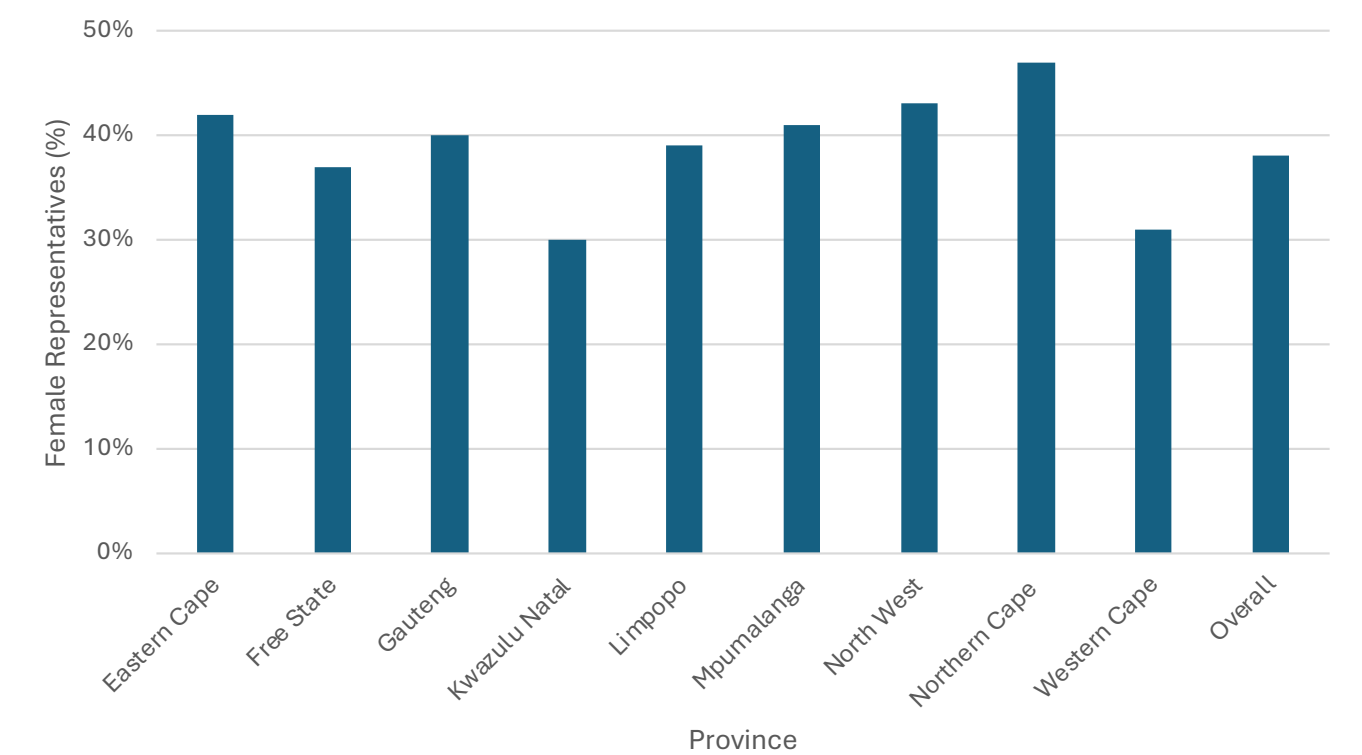


Women’s representation in provincial government has similarly increased since 1994, albeit at a slower pace than the National Assembly. Following the 2024 election, women occupy 38% of seats of all Provincial Legislature seats (Table 6). There is, however, wide variations between Provincial Legislatures with rates of female representation ranging from 47% in the Northern Cape Provincial Legislature to 30% in the KwaZulu Natal Provincial Legislature (Figure 9). Again, this is largely due to the significant decline in support for the major party in KwaZulu-Natal and Gauteng.

Table 2: 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 10: Female Representation in Provincial Legislatures (2024)



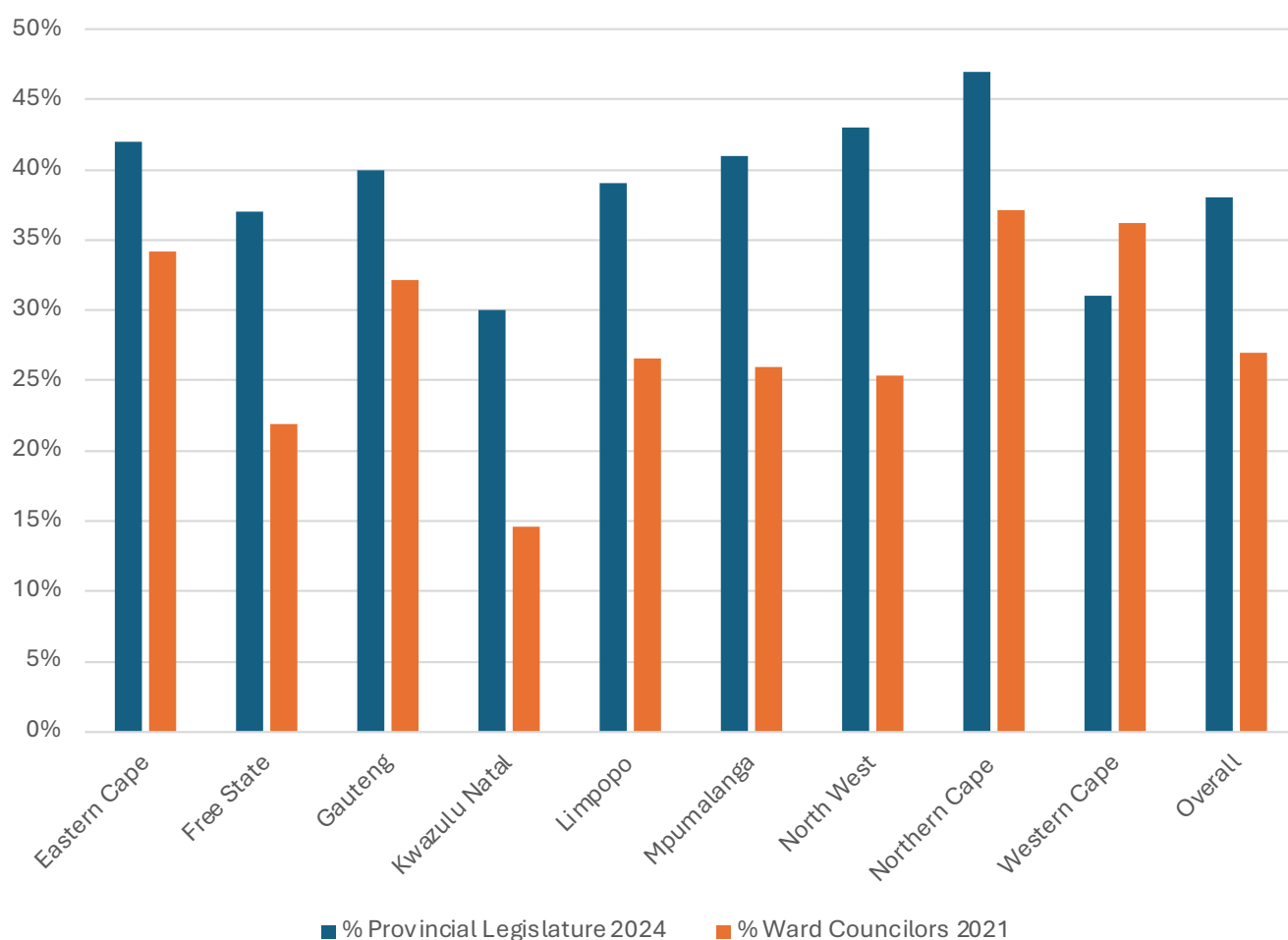
At the local government level, gender representation has similarly improved over the years, albeit with the 2021 election presenting a setback in the overall rate of women’s representation. As expected for mixed systems, single-member constituencies skew more male based on political parties’ candidate selection strategies, but the party list component helps correct gender parity (Table 3). 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 10).

Table 3: 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 11: 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 and that among PR systems, rates of gender representation are instead determined by a range of other factors separate from the electoral system (Figure 12). 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 13). 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 12: Women's Representation and the Size of Multi-Member Districts

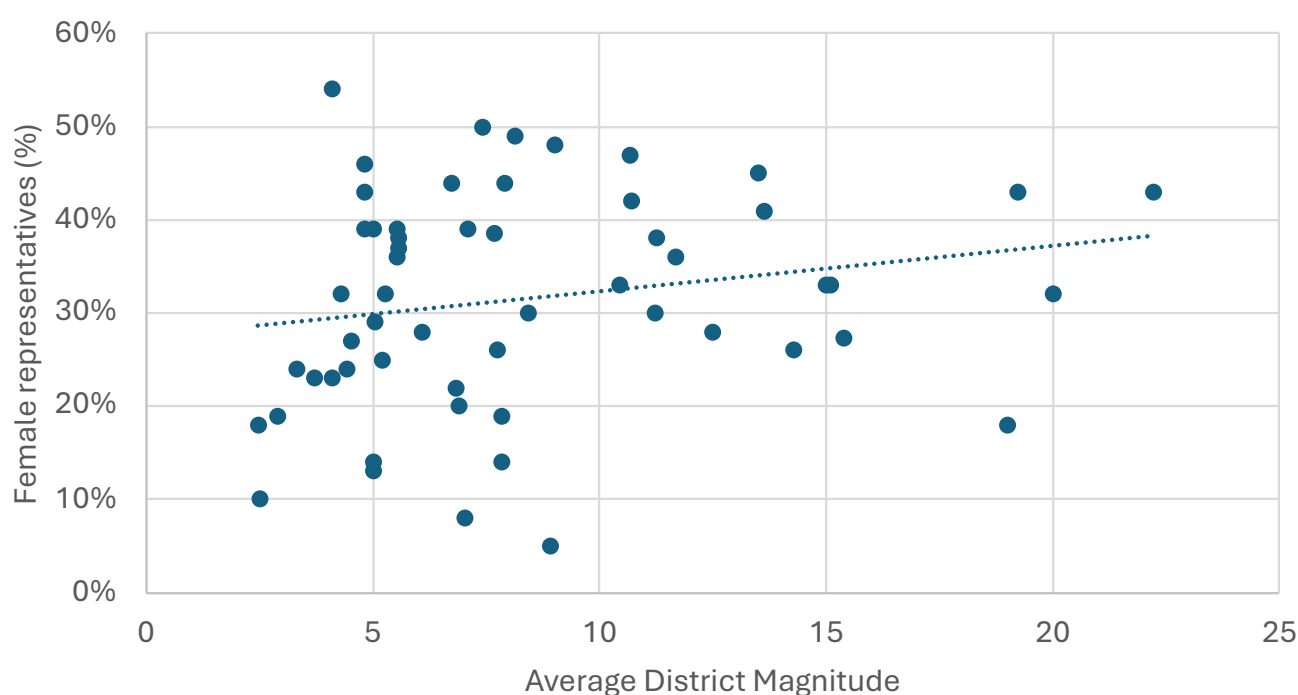
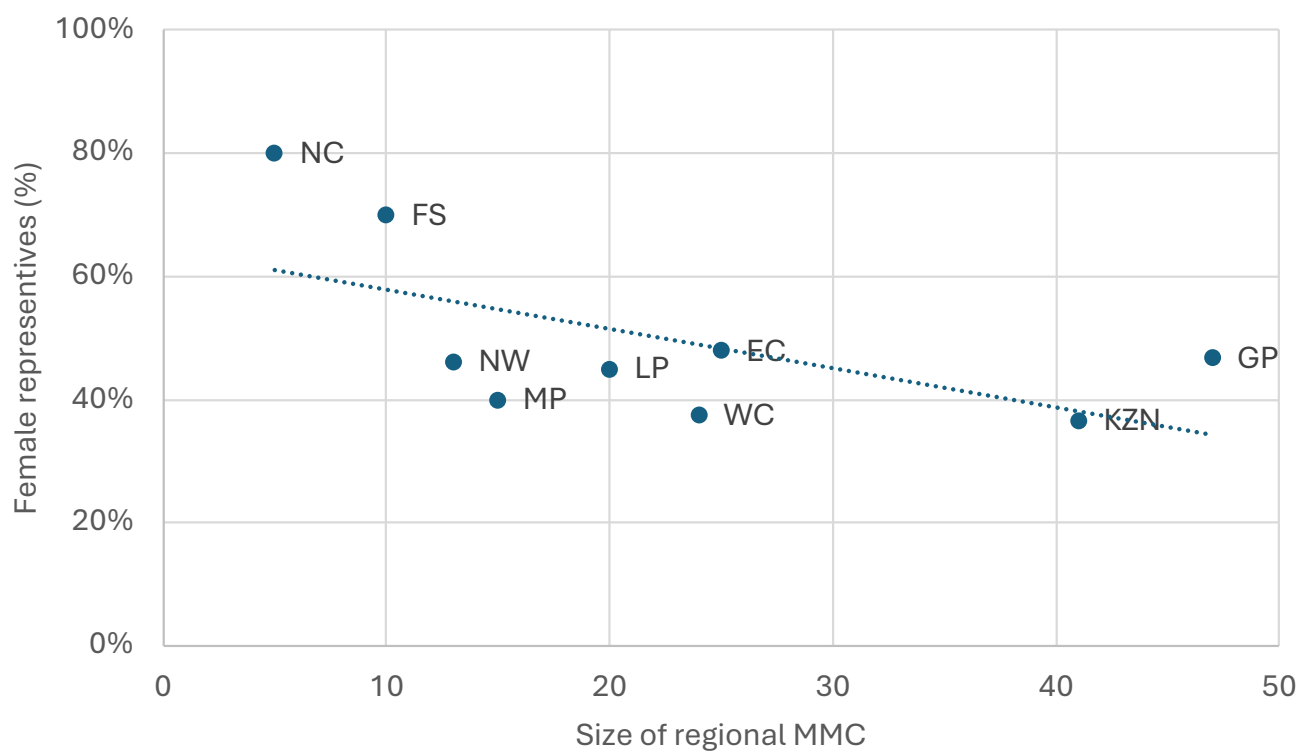


Figure 13: Women's Representation in Relation to the Size of Regional Constituencies



APPENDIX 3. 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 4: Changes to Electoral Systems Since the Third Wave of Democracy

	From		
	Plurality	Mixed	PR
To			
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 5: 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 6: Electoral Reforms in Two-Tier PR Systems

Case	Before	After
Poland presents one of the 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 a greater proportional representation 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 the lower tier) while simultaneously reducing the size of the compensatory tier from 13 to 9, as fewer 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.¹²⁶ 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

¹²⁶ 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

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.¹²⁷

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.¹²⁸ 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.¹²⁹ Electoral reforms in Europe have responded to this trend based on public demand for a greater say in choosing their representatives.

Internationally, electoral reforms have tended to converge on the middle ground, with party-centred systems becoming somewhat more candidate-centred, while candidate-centred systems have become more party-centred.¹³⁰ 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.

127 John Carey. (2008). *Legislative Voting and Accountability*. Cambridge: Cambridge University Press.

128 Alan Renwick & Jean-Benoit Pilet. 2016. *Faces on the Ballot: The Personalization of Electoral Systems in Europe*. Oxford: Oxford University Press.

129 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)

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

APPENDIX 4. DEMARCATION

In the electoral systems recommended for consideration by the ERCP, the following principles of demarcation need to be considered:

- Getting equality of voting strength across each constituency;
- Having an independent, impartial boundary authority finalise boundaries;
- Ensuring transparency and empowering the public at large through the process of demarcation, and
- Non-discrimination.

It should be noted that the process of drawing electoral district boundaries is costly, time-consuming and labour-intensive.

In the following electoral options, the Panel's **estimates** of possible outcomes of demarcation are provided for: the provinces (Provinces), 41 Constituencies and 200 single-member districts. The intention here is to show how these options compare through providing data on the geographic size, Population and Population per MP, registered voters (2024) and area covered.

OPTION 1: THE MODIFIED EXISTING SITUATION

The first option relies least on demarcation processes as the Multi-Member Constituencies are based on existing provincial boundaries, which boundaries have only been changed once since 1996. The following table provides some statistics for each of these provinces, and two very interesting observations are that whilst the norms (voters per seat) are roughly equal across provinces, there are major discrepancies when one looks at the voting age population (>17years of age) per seat and the overall population per seat:

Prov	Registered Voters in Completed VDs	Population 2022	Population >17 yrs old	MPs based on the norm	Pop per MP	Registered voters per seat	Area per MP
EC	3438924	7230204	2117826	25	289208	137557	6758
FS	1456927	5153564	1312192	10	515356	145692	13808
GP	6540567	17150169	3771188	47	364897	139161	265
KZN	5738249	8184007	2484864	41	199609	139957	2214
LIM	2779657	6572720	2079270	20	328636	138982	6287
MP	2025070	5143326	1460198	15	342888	135004	5098
NC	656826	1355948	377331	5	271189	131365	74576
NW	1768576	3804546	1077030	13	292657	136044	8067
WC	3317072	7433022	1666840	24	309709	138211	5394

OPTION 2: THE 41 MMC MODEL

The second set of options requires the demarcation of MMCs, and the favoured option is to have 41 MMCs. Two examples were considered: one having 200 seats and the other 300 seats across the 41 constituencies.

The following table shows how these constituencies could be arranged using either combinations of local municipalities or, in the case of larger Category A municipalities, constituencies would need to be demarcated within these metropolitan areas.

Province	Municipalities	#	Area	2022 Pop	Reg Pop 24
EC	NMA	1	1959	1190496	601715
EC	BUF, EC122, EC123, EC124, EC126	2	14217	1428241	658716
EC	EC101, EC102, EC104, EC105, EC106, EC108, EC109, EC129, EC131, EC139, EC145	3	103116	1190693	524552
EC	EC121, EC135, EC136, EC137, EC138, EC141, EC142, EC156, EC157	4	32695	1645558	840974
EC	EC153, EC154, EC155, EC441, EC442, EC443, EC444	5	16973	1775216	813363
FS	MAN, FS161, FS162, FS163, FS181, FS182, FS183, FS185, FS191, FS192, FS196	6	85416	1498293	764169
FS	FS184, FS193, FS194, FS195, FS201, FS203, FS204, FS205	7	44406	1466118	692758
GP	GT421, GT422, GT423, GT481, GT484, GT485	8	8260	2189153	906815
GP	EKU - Region1	9	987	2033345	835495
GP	EKU - Region2	10	987	2033345	831485
GP	JHB - Region 1	11	548	1601087	830011
GP	JHB - Region 2	12	548	1601087	831483
GP	JHB - Region3	13	548	1601087	687287
GP	TSH -Region1	14	3148	2020157	812088
GP	TSH -Region2	15	3148	2020157	807314
KZN	ETH - Region 1	16	850	1413300	573693
KZN	ETH - Region2	17	850	1413300	706023
KZN	ETH - Region3	18	850	1413300	710107
KZN	KZN212, KZN213, KZN214, KZN216, KZN433, KZN435	19	9920	1075698	534325
KZN	KZN224, KZN225, KZN226, KZN227, KZN434, KZN436	20	9723	1240384	561322
KZN	KZN221, KZN222, KZN223, KZN235, KZN237, KZN238, KZN245	21	19011	1188063	534415
KZN	KZN284, KZN285, KZN286, KZN291, KZN292, KZN293, KZN294	22	8948	1232261	585032
KZN	KZN241, KZN242, KZN244, KZN252, KZN253, KZN254, KZN261	23	14961	1291362	511399
KZN	KZN262, KZN263, KZN265, KZN266, KZN271, KZN272	24	20814	1236872	575372
KZN	KZN275, KZN276, KZN281, KZN282,	25	7401	919367	446561
MP	MP311, MP312, MP313, MP314, MP315, MP316	26	16758	1588970	672823
MP	MP301, MP302, MP303, MP304, MP305, MP306, MP307	27	31840	1283459	510627

Province	Municipalities	#	Area	2022 Pop	Reg Pop 24
MP	MP321, MP324, MP325, MP326	28	27875	2270897	841620
NC	All municipalities in the Northern Cape	29	372881	1355948	656826
LIM	LIM361, LIM362, LIM366, LIM367, LIM368, LIM471, LIM472, LIM473	30	52736	1523707	688891
LIM	LIM354, LIM355, LIM476	31	14248	1703823	683771
LIM	LIM332, LIM343, LIM344, LIM351, LIM353	32	25348	1658658	710137
LIM	LIM331, LIM333, LIM334, LIM335, LIM341, LIM345	33	33418	1686532	696858
NW	NW371, NW372, NW373	34	8641	1304001	636739
NW	NW374, NW375, NW384, NW385, NW393, NW396, NW403, NW404, NW405	35	45287	1510709	707907
NW	NW381, NW382, NW383, NW392, NW394, NW397	36	50951	989836	423930
WC	CPT - Region 1	37	814	1590948	705821
WC	CPT - Region2	38	814	1590948	701089
WC	CPT - Region3	39	814	1590948	693495
WC	WC011, WC012, WC013, WC014, WC015, WC022, WC023, WC024, WC025, WC031, WC032	40	53012	1538109	713240
WC	WC026, WC033, WC034, WC041, WC042, WC043, WC044, WC045, WC047, WC048, WC051, WC052, WC053	41	74004	1122067	503427

The following table then compares the two options (200 and 300 seats) in terms of the registered voters per seat, the population being served by each seat and the geographic area per seat. As may be expected, having more seats in each constituency does mean a reduction in voters, population, and area per seat; the figures remain very large. For example, in the 200-seat model, the voters per seat range from 120000 to just over 150000, whilst in the 300-seat model, the voters per seat range from 85000 to just over 105000 per seat.

Province	#	200 Seats Allocation				300-seat allocation			
		# Seats	Voters per seat	Pop per seat	Area per seat	# Seats	Voters per seat	Pop per seat	Area per seat
EC	1	4	150429	297624	490	6	100286	198416	326
EC	2	5	131743	285648	2843	7	94102	204034	2031
EC	3	4	131138	297673	25779	6	87425	198449	17186
EC	4	6	140162	274260	5449	9	93442	182840	3633
EC	5	6	135561	295869	2829	9	90374	197246	1886
FS	6	5	152834	299659	17083	8	95521	187287	10677
FS	7	5	138552	293224	8881	8	86595	183265	5551
GP	8	6	151136	364859	1377	10	90682	218915	826
GP	9	6	139249	338891	165	9	92833	225927	110
GP	10	6	138581	338891	165	9	92387	225927	110
GP	11	6	138335	266848	91	9	92223	177899	61
GP	12	6	138581	266848	91	9	92387	177899	61

Province	#	200 Seats Allocation				300-seat allocation			
		# Seats	Voters per seat	Pop per seat	Area per seat	# Seats	Voters per seat	Pop per seat	Area per seat
GP	13	5	137457	320217	110	7	98184	228727	78
GP	14	6	135348	336693	525	9	90232	224462	350
GP	15	6	134552	336693	525	9	89702	224462	350
KZN	16	4	143423	353325	213	6	95616	235550	142
KZN	17	5	141205	282660	170	8	88253	176663	106
KZN	18	5	142021	282660	170	8	88763	176663	106
KZN	19	4	133581	268925	2480	6	89054	179283	1653
KZN	20	4	140331	310096	2431	6	93554	206731	1620
KZN	21	4	133604	297016	4753	6	89069	198011	3169
KZN	22	4	146258	308065	2237	6	97505	205377	1491
KZN	23	4	127850	322841	3740	5	102280	258272	2992
KZN	24	4	143843	309218	5204	6	95895	206145	3469
KZN	25	3	148854	306456	2467	5	89312	183873	1480
MP	26	5	134565	317794	3352	7	96118	226996	2394
MP	27	4	127657	320865	7960	6	85105	213910	5307
MP	28	6	140270	378483	4646	9	93513	252322	3097
NC	29	5	131365	271190	74576	7	93832	193707	53269
LIM	30	5	137778	304741	10547	7	98413	217672	7534
LIM	31	5	136754	340765	2850	7	97682	243403	2035
LIM	32	5	142027	331732	5070	8	88767	207332	3168
LIM	33	5	139372	337306	6684	8	87107	210817	4177
NW	34	5	127348	260800	1728	7	90963	186286	1234
NW	35	5	141581	302142	9057	8	88488	188839	5661
NW	36	3	141310	329945	16984	4	105983	247459	12738
WC	37	5	141164	318190	163	8	88228	198869	102
WC	38	5	140218	318190	163	8	87636	198869	102
WC	39	5	138699	318190	163	7	99071	227278	116
WC	40	5	142648	307622	10602	8	89155	192264	6626
WC	41	4	125857	280517	18501	5	100685	224413	14801

OPTION 3: THE 200 SINGLE-MEMBER CONSTITUENCY OPTION

There are a number of ways in which single-seat constituencies could be drawn. One would be that each constituency is drawn de novo with the main objective of getting equality in the number of voters/people per constituency. This is unlikely to be considered without at least the acceptance that such boundaries should respect existing administrative boundaries. The question then becomes one of which administrative boundaries should be used:

- (i) Wards, although these change regularly,
- (ii) Local (Category B) and Metropolitan (Category A) boundaries, although the 213 such municipalities range from Laingsburg where voter strength is 0,04 of a seat, whereas Johannesburg is around 16,87 seats; and
- (iii) Category C and A municipalities: Here, single-seat constituencies would need to be determined within each of the 52 Category A/C municipalities. The first thing would be to determine how many seats are within each area, and then to decide how, within each of these areas, the single seats would be determined. The following table shows for each Category B or A Municipality the number of seats they would have (including fractions).

Municipality	Area (sq Kms)	2022 Total	MPs based on norm	Pop per MP	Area per MP
BUF - Buffalo City	2730,1	975255	3,1	318024,9	890,3
CPT - City of Cape Town	2444,8	4772846	15,2	314988,9	161,3
EC101 - Dr. Beyers Naude	28652,8	101001	0,3	343471,7	97438,9
EC102 - Blue Crane Route	11068,4	49883	0,1	372900,8	82742,3
EC104 - Makana	4375,6	97815	0,3	305726,2	13676,1
EC105 - Ndlambe	1840,6	87797	0,3	344133,4	7214,6
EC106 - Sundays River Valley	5993,5	53256	0,2	282921,1	31840,1
EC108 - Kouga	2669,8	107014	0,5	232040,3	5789,0
EC109 - Kou-Kamma	3642,0	36487	0,2	235387,4	23495,5
EC121 - Mbhashe	3288,4	240020	0,9	263446,5	3609,3
EC122 - Mnquma	3151,2	232993	0,9	260382,9	3521,7
EC123 - Great Kei	1724,9	35990	0,1	254145,5	12180,2
EC124 - Amahlathi	4512,8	115703	0,4	305595,4	11919,2
EC126 - Ngqushwa	2098,1	68300	0,3	252611,7	7759,9
EC129 - Raymond Mhlaba	6358,0	178594	0,6	296515,9	10556,1
EC131 - Inxuba Yethemba	11662,5	77578	0,2	347466,4	52235,7
EC135 - Intsika Yethu	2873,6	128101	0,6	227720,0	5108,3
EC136 - Emalahleni	3466,3	128873	0,5	286032,6	7693,5
EC137 - Dr. A.B. Xuma	2483,8	132799	0,5	248426,2	4646,5
EC138 - Sakhisizwe	2335,5	63981	0,2	280618,3	10243,4
EC139 - Enoch Mgijima	13584,2	297055	0,9	337399,8	15429,2
EC141 - Elundini	5019,1	141762	0,5	303985,2	10762,7

Municipality	Area (sq Kms)	2022 Total	MPs based on norm	Pop per MP	Area per MP
EC142 - Senqu	7329,3	147073	0,5	316337,8	15764,5
EC145 - Walter Sisulu	13268,5	104213	0,3	384811,8	48994,6
EC153 - Ngquza Hill	2476,8	354573	1,1	331648,7	2316,7
EC154 - Port St Johns	1291,2	179325	0,6	277814,6	2000,3
EC155 - Nyandeni	2474,0	304856	1,0	295356,0	2396,9
EC156 - Mhlontlo	2885,1	186391	0,7	259344,7	4014,4
EC157 - King Sabata Dalindyebo	3013,6	476558	1,7	275446,1	1741,8
EC441 - Matatiele	4352,2	225562	0,7	304497,7	5875,3
EC442 - Umzimvubu	2577,8	214477	0,8	266108,6	3198,3
EC443 - Winnie Madikizela-Mandela	2416,7	350000	1,0	337324,9	2329,2
EC444 - Ntabankulu	1384,4	146423	0,5	274356,8	2593,9
EKU - Ekurhuleni	1975,2	4066691	12,0	338167,3	164,2
ETH - eThekweni	2551,4	4239901	14,4	295367,1	177,7
FS161 - Letsemeng	9828,4	43101	0,1	301549,0	68762,4
FS162 - Kopanong	15644,8	51832	0,2	282390,7	85235,9
FS163 - Mohokare	8775,8	36968	0,1	277161,8	65795,2
FS181 - Masilonyana	6750,0	63800	0,2	287100,8	30375,0
FS182 - Tokologo	9325,6	29455	0,1	291935,1	92428,4
FS183 - Tswelopele	6523,9	56896	0,2	299936,5	34391,8
FS184 - Matjhabeng	5606,6	439034	1,4	305617,3	3902,8
FS185 - Nala	4128,7	90561	0,3	316422,2	14425,7
FS191 - Setsoto	5514,9	127918	0,4	310691,5	13394,9
FS192 - Dihlabeng	4879,8	130434	0,5	242956,1	9089,5
FS193 - Nketoana	5611,0	66488	0,2	303023,5	25572,3
FS194 - Maluti a Phofung	4337,6	398459	1,3	308112,2	3354,1
FS195 - Phumelela	8183,2	52224	0,2	296203,2	46413,3
FS196 - Mantsopa	4290,5	55897	0,2	266477,0	20454,0
FS201 - Moqhaka	7924,3	155410	0,6	276213,0	14084,1
FS203 - Ngwathe	7054,8	134962	0,5	283603,9	14824,7
FS204 - Metsimaholo	1717,0	158391	0,6	257480,8	2791,2
FS205 - Mafube	3971,3	61150	0,2	279983,9	18182,9
GT421 - Emfuleni	965,9	945650	2,6	363740,6	371,5
GT422 - Midvaal	1722,4	112254	0,5	247892,6	3803,7
GT423 - Lesedi	1484,3	132783	0,4	352804,5	3943,9
GT481 - Mogale City	1342,1	438217	1,4	309121,9	946,7
GT484 - Merafong City	1630,5	225476	0,7	323538,5	2339,6
GT485 - Rand West City	1114,7	334773	1,0	335344,8	1116,6
JHB - City of Johannesburg	1644,9	4803262	16,9	283474,9	97,1
KZN212 - uMdoni	993,5	156443	0,6	279698,6	1776,2
KZN213 - uMzumbhe	1234,6	139045	0,6	238719,2	2119,6

Municipality	Area (sq Kms)	2022 Total	MPs based on norm	Pop per MP	Area per MP
KZN214 - uMuziwabantu	1089,5	115780	0,3	331630,0	3120,5
KZN216 - Ray Nkonyeni	1487,1	362134	1,3	270474,4	1110,7
KZN221 - uMshwathi	1827,8	118478	0,4	279168,9	4306,9
KZN222 - uMngeni	1556,2	105069	0,4	251241,9	3721,3
KZN223 - Mpofana	1801,9	33382	0,1	259847,2	14026,1
KZN224 - iMpendle	1597,2	36648	0,1	280978,2	12245,6
KZN225 - Msunduzi	729,5	817725	2,6	319454,5	285,0
KZN226 - Mkhambathini	872,9	61660	0,2	255804,9	3621,5
KZN227 - Richmond	1231,3	62754	0,3	247710,7	4860,2
KZN235 - Okhahlamba	3970,9	143132	0,5	311569,2	8643,8
KZN237 - iNkosi Langalibalele	3398,7	230924	0,7	309335,1	4552,7
KZN238 - Alfred Duma	3793,4	415036	1,2	336966,4	3079,8
KZN241 - eNdumeni	1610,2	100085	0,2	416900,7	6707,2
KZN242 - Nqutu	1962,2	201133	0,6	333162,8	3250,3
KZN244 - uMsinga	2372,2	206001	0,7	313928,1	3615,1
KZN245 - uMvoti	2662,2	142042	0,4	318021,0	5960,4
KZN252 - Newcastle	1855,2	507710	1,4	368307,0	1345,8
KZN253 - eMadlangeni	3539,2	36948	0,1	314811,7	30155,5
KZN254 - Dannhauser	1678,7	142750	0,4	370793,6	4360,6
KZN261 - eDumbe	1942,7	96735	0,3	313637,3	6298,7
KZN262 - uPhongolo	3110,0	151541	0,5	311718,0	6397,2
KZN263 - AbaQulusi	4313,6	247263	0,7	332843,2	5806,6
KZN265 - Nongoma	2182,1	225278	0,7	307607,2	2979,5
KZN266 - Ulundi	3250,2	221977	0,7	311375,1	4559,2
KZN271 - uMhlabuyalingana	4516,1	191660	0,7	284312,7	6699,3
KZN272 - Jozini	3442,1	199153	0,8	248206,4	4290,0
KZN275 - Mtubatuba	1738,7	215869	0,8	284008,4	2287,6
KZN276 - Big Five Hlabisa	3128,7	131755	0,4	311088,0	7387,2
KZN281 - uMfolozi	1287,0	159668	0,6	288768,1	2327,7
KZN282 - uMhlathuze	1246,7	412075	1,5	277496,0	839,6
KZN284 - uMlalazi	2213,9	241416	0,8	300938,8	2759,7
KZN285 - Mthonjaneni	1637,6	99289	0,3	293103,9	4834,2
KZN286 - Nkandla	1827,5	108896	0,4	243341,9	4083,9
KZN291 - Mandeni	545,5	180939	0,6	314359,3	947,7
KZN292 - KwaDukuza	735,0	324912	1,1	295887,2	669,3
KZN293 - Ndwedwe	1092,9	165826	0,6	287612,1	1895,5
KZN294 - Maphumulo	895,9	110983	0,4	290719,3	2346,8
KZN433 - Greater Kokstad	2679,8	81676	0,3	238831,2	7836,0
KZN434 - uBuhlebezwe	1638,8	133032	0,4	307462,5	3787,7
KZN435 - uMzimkhulu	2435,4	220620	0,7	323078,7	3566,5

Municipality	Area (sq Kms)	2022 Total	MPs based on norm	Pop per MP	Area per MP
KZN436 - Dr. Nkosazana Dlamini Zuma	3653,2	128565	0,4	297490,6	8453,2
LIM331 - Greater Giyani	4171,4	316841	1,0	322523,7	4246,2
LIM332 - Greater Letaba	1890,8	261038	0,9	304641,1	2206,7
LIM333 - Greater Tzaneen	2896,5	478254	1,4	338242,2	2048,5
LIM334 - Ba-Phalaborwa	7461,3	188603	0,6	322182,7	12745,8
LIM335 - Maruleng	3590,1	128137	0,4	301564,4	8449,2
LIM341 - Musina	10300,0	130899	0,4	366380,8	28829,3
LIM343 - Thulamela	2686,2	575929	1,8	324668,4	1514,3
LIM344 - Makhado	7610,9	502452	1,4	359880,3	5451,3
LIM345 - Collins Chabane	4998,5	443798	1,3	351307,8	3956,8
LIM351 - Blouberg	9508,1	192109	0,6	299804,5	14838,4
LIM353 - Molemole	3651,9	127130	0,5	279253,2	8021,8
LIM354 - Polokwane	5071,2	843459	2,5	333143,1	2003,0
LIM355 - Lepele-Nkumpi	3473,4	284404	0,8	338507,7	4134,1
LIM361 - Thabazimbi	11189,7	65047	0,4	185395,5	31892,7
LIM362 - Lephalale	13785,7	125198	0,5	249956,7	27523,1
LIM366 - Bela-Bela	3406,1	64306	0,2	265629,5	14069,5
LIM367 - Mogalakwena	6163,7	378198	1,1	349991,3	5704,0
LIM368 - Modimolle-Mookgophong	10366,4	130113	0,4	329799,1	26275,9
LIM471 - Ephraim Mogale	2011,2	132468	0,5	291537,7	4426,3
LIM472 - Elias Motsoaledi	3713,2	288049	0,9	307237,4	3960,6
LIM473 - Makhuduthamaga	2099,5	340328	1,0	337347,7	2081,2
LIM476 - Fetakgomo Tubatse	5703,3	575960	1,6	369023,7	3654,1
MAN - Mangaung	9753,8	811431	3,1	262129,5	3150,9
MP301 - Chief Albert Luthuli	5559,2	247664	0,7	349301,8	7840,6
MP302 - Msukaligwa	6015,5	199314	0,5	377032,7	11379,2
MP303 - Mkhondo	4882,0	255411	0,5	466526,0	8917,3
MP304 - Dr Pixley Ka Isaka Seme	5227,1	115304	0,3	398982,9	18087,0
MP305 - Lekwa	4585,1	119669	0,4	312774,8	11983,8
MP306 - Dipaleseng	2616,5	35980	0,2	227065,3	16512,3
MP307 - Govan Mbeki	2954,6	310117	1,1	290237,3	2765,2
MP311 - Victor Khanye	1567,7	106149	0,3	399364,9	5898,3
MP312 - Emalahleni	2677,5	434522	1,5	295552,6	1821,2
MP313 - Steve Tshwete	3976,3	242031	0,8	289630,6	4758,3
MP314 - Emakhazeni	4735,4	50165	0,2	255983,5	24164,1
MP315 - Thembisile Hani	2384,3	431248	1,2	371179,9	2052,2
MP316 - Dr JS Moroka	1416,4	324855	0,9	351449,5	1532,4
MP321 - Thaba Chweu	5718,9	109223	0,4	282473,8	14790,2
MP324 - Nkomazi	4764,2	591928	1,3	448276,6	3608,0
MP325 - Bushbuckridge	10247,4	750821	1,9	391504,6	5343,4

Municipality	Area (sq Kms)	2022 Total	MPs based on norm	Pop per MP	Area per MP
MP326 - City of Mbombela	7144,4	818925	2,4	334721,3	2920,1
NC061 - RICHTERSVELD	9607,4	24235	0,1	445191,7	176486,6
NC062 - NAMA KHOI	17988,2	67089	0,2	309394,1	82956,3
NC064 - KAMIESBERG	14209,9	15130	0,1	272411,5	255845,7
NC065 - HANTAM	38677,2	22281	0,1	218984,4	380131,2
NC066 - KAROO HOOGLAND	30392,5	11691	0,1	220999,2	574520,3
NC067 - KHâI-MA	15958,7	8510	0,1	141937,5	266174,1
NC071 - UBUNTU	20388,9	15836	0,1	218837,7	281754,4
NC072 - UMSOBOMVU	6818,4	29555	0,1	255018,1	58833,3
NC073 - EMTHANJENI	13472,1	46587	0,2	271553,5	78528,0
NC074 - KAREEBERG	17701,7	10961	0,1	193578,3	312622,5
NC075 - RENOSTERBERG	5527,0	10843	0,1	211012,1	107560,0
NC076 - THEMBELIHLE	8022,9	22542	0,1	324445,6	115473,1
NC077 - SIYATHEMBA	14724,5	27102	0,1	292019,8	158654,4
NC078 - SIYANCUMA	16752,5	53165	0,1	370278,1	116675,8
NC082 - KAI !GARIB	26357,4	85104	0,2	348425,1	107910,0
NC084 - !KHEIS	11107,2	21954	0,1	290689,4	147068,8
NC085 - TSANTSABANE	18332,3	30969	0,1	219326,2	129831,5
NC086 - KGATELOPELE	2477,9	19854	0,1	288301,8	35981,3
NC087 - Dawid Kruiper	44246,9	125744	0,4	284174,8	99995,6
NC091 - Sol Plaatje	3145,3	270078	1,0	277724,2	3234,4
NC092 - Dikgatlong	7314,5	56967	0,2	341050,1	43790,7
NC093 - Magareng	1541,6	26816	0,1	310283,0	17837,9
NC094 - Phokwane	833,9	80481	0,2	331033,1	3429,8
NC451 - Joe Morolong	20171,4	125420	0,4	321858,6	51764,9
NC452 - GA-SEGONYANA	4491,5	117454	0,4	292151,0	11172,0
NC453 - GAMAGARA	2619,4	29580	0,2	155539,5	13773,2
NMA - Nelson Mandela Bay	1958,9	1190496	4,3	274257,1	451,3
NW371 - Moretele	1481,7	219120	0,7	305943,4	2068,8
NW372 - Madibeng	3736,0	522566	1,7	306920,6	2194,3
NW373 - Rustenburg	3423,1	562315	2,2	258577,6	1574,1
NW374 - Kgetlengrivier	3973,0	54759	0,2	323389,7	23463,2
NW375 - Moses Kotane	5718,9	265668	0,9	284849,4	6131,8
NW381 - Ratlou	4883,5	128766	0,4	358456,3	13594,6
NW382 - Tswaing	5966,1	128672	0,4	344403,3	15968,8
NW383 - Mafikeng	3698,3	354504	1,0	352951,8	3682,1
NW384 - Ditsobotla	6464,7	164176	0,5	303875,1	11965,5
NW385 - Ramotshere Moiloa	7192,6	161605	0,5	308589,3	13734,5
NW392 - Naledi	6941,0	63755	0,2	255407,6	27806,1
NW393 - Mamusa	3614,7	70483	0,2	323400,1	16585,6

Municipality	Area (sq Kms)	2022 Total	MPs based on norm	Pop per MP	Area per MP
NW394 - Greater Taung	5635,3	202009	0,7	305277,2	8516,1
NW396 - Lekwa-Teemane	3681,1	59815	0,2	329078,3	20251,9
NW397 - Kagisano-Molopo	23826,5	112130	0,4	273702,3	58159,0
NW403 - Matlosana	3561,4	431231	1,4	313374,7	2588,0
NW404 - Maquassi Hills	4642,9	90302	0,3	317308,8	16314,6
NW405 - JB Marks	6437,5	212670	0,9	241522,3	7310,9
TSH - City of Tshwane	6297,7	4040315	11,7	346146,5	539,5
WC011 - Matzikama	12981,2	69043	0,2	286108,9	53793,2
WC012 - Cederberg	8007,4	55108	0,2	269642,8	39180,0
WC013 - Bergrivier	4407,0	70276	0,2	326656,3	20484,5
WC014 - Saldanha Bay	2015,3	154635	0,5	309552,2	4034,4
WC015 - Swartland	3707,3	148331	0,4	378363,4	9456,6
WC022 - Witzenberg	10752,6	103765	0,4	285312,3	29565,3
WC023 - Drakenstein	1537,6	276800	1,0	277638,0	1542,3
WC024 - Stellenbosch	831,0	175411	0,7	241114,5	1142,2
WC025 - Breede Valley	3833,5	212682	0,6	366504,6	6606,1
WC026 - Langeberg	4517,7	94045	0,3	283553,3	13621,2
WC031 - Theewaterskloof	3267,6	139563	0,5	310071,7	7259,8
WC032 - Overstrand	1671,0	132495	0,5	279304,7	3522,5
WC033 - Cape Agulhas	3466,6	40274	0,2	252018,6	21692,4
WC034 - Swellendam	3835,1	47114	0,2	299279,0	24361,2
WC041 - Kannaland	4758,0	31986	0,1	290040,4	43144,6
WC042 - Hessequa	5733,5	71918	0,3	280924,2	22395,9
WC043 - Mossel Bay	2010,8	140075	0,5	263613,4	3784,2
WC044 - George	5191,0	294929	0,8	352351,0	6201,6
WC045 - Oudtshoorn	3537,0	138257	0,4	357361,9	9142,4
WC047 - Bitou	991,8	65240	0,2	275488,6	4188,3
WC048 - Knysna	1108,8	96055	0,3	291726,7	3367,4
WC051 - Laingsburg	8784,4	11366	0,0	314981,3	243438,6
WC052 - Prince Albert	8152,8	17836	0,1	294018,0	134395,4
WC053 - Beaufort West	21916,3	72972	0,2	367693,9	110432,8

NOTES

[illegible]

NOTES

This image shows a full page of white paper with horizontal dotted lines. The lines are evenly spaced and run across the width of the page, providing a guide for handwriting practice. There are no margins, text, or other markings on the page.

NOTES

This image shows a full page of white paper with horizontal dotted lines. The lines are evenly spaced and run across the entire width of the page, providing a guide for handwriting or typing. There are no margins, text, or other markings on the page.

