

NUMBER 51



# UMRABULO



April 2021

LET'S TALK POLITICS



## ELECTORAL SYSTEMS AND REFORM



**UMRABULO** was a word used to inspire political discussion and debate on Robben Island. This concept was revived in 1996 when the ANC published the first edition of Umrabulo. Umrabulo's mission is to advance political education by encouraging debate and discussions at all levels of the movement.

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Umrabulo welcomes contributions from readers. Contributions may be in response to previous articles or may raise new issues. Contributions must be sent to the address below.

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## EDITORIAL COMMENT

By **JP Louw**

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 Jay Pee Louw

**T**HIS 51st edition of *Umrabulo Journal* themed **Electoral Systems and Reform** comes at an opportune moment in light of continued debates brought to the fore, largely by the June 2020 Constitutional Court decision on what is termed the New Nation Movement's case. In brief, the majority decision of the court found that aspects of the Electoral Act have shortfalls – particularly in terms of how it does not allow an individual to stand as a candidate in provincial and national elections.

Whilst looking at what this state of affairs implies in relation to South Africa's electoral systems, some historical account is also provided to contextualise the path travelled that brought us to where we are. Also explored are practicalities that comes into play for the Constitutional Court's directives to be brought to life.

Therefore, quite appropriately so, in **Genesis Behind ANC Support for Proportional Repre-**



**sentation, Justice Albie Sachs** invites us through a fascinating storytelling format, to the back-rooms of ANC's thinking, processes and dealings in the early 1990's concerning the electoral system for a democratic South Africa.

Provocatively, **Professor Steven Friedman's Changing Electoral System Talks Is Much Ado About Very Little** questions if

the Constitutional Court's judgement actually means that a new electoral system is essential. The introductory paragraph sets the scene in this respect – *"IF we all lived in textbooks, we could make democracy work for South Africa's people by changing the electoral system. Since we live in the real world, we need to look elsewhere for remedies"*.

**Lawson Naidoo's Prospects For An Accountability Based Electoral System** and **Daryl Swanepoel's The Unconstitutional To The Constitutional – A Refined South African Electoral Model** makes pointed proposals about what fixing could look like.

The next edition (52nd edition) of *Umrabulo Journal* is themed **Imperialism Today**.

Focal areas the edition seeks to cover includes:

- **The meaning of Joe Biden's election**
- **The relationship between China and Africa**
- **South African policy in Africa**
- **The Zimbabwean question.**

If you have an interest to contribute to the next edition of *Umrabulo Journal* based on this outline, please contact the editor **JP Louw** on [jprouw@thero.co.za](mailto:jprouw@thero.co.za). All articles are reviewed by the **Umrabulo Review Panel** and assessed by the **Umrabulo Editorial Committee** and **Umrabulo Collective** for publication.

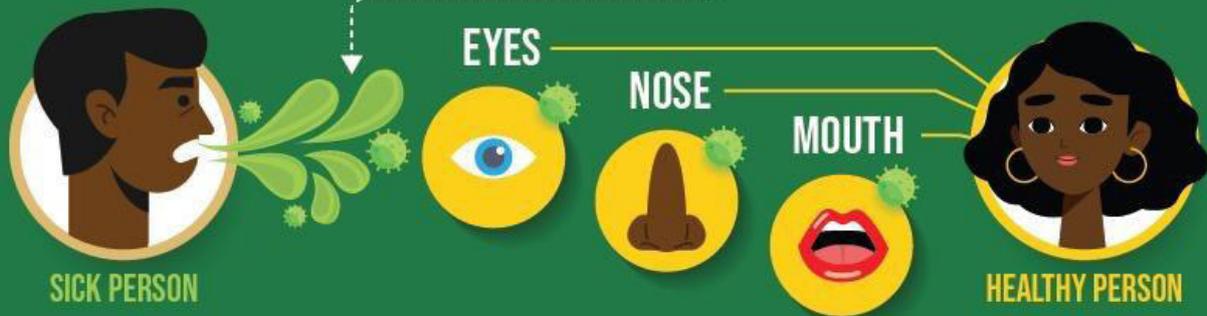
Articles must:

- Be responsive to the theme; and
- Be about 2 000 words long  
(AND NOT EXCEED 3 000 words).

# THERE'S ONLY ONE THING YOU NEED TO UNDERSTAND ABOUT HOW A COVID-19 CORONAVIRUS\* SPREADS

\*Coronaviruses are a large family of viruses which may cause respiratory infections ranging from the common cold to more severe diseases such as Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS).

The virus spreads when these droplets get into your:



So if you see someone who is visibly coughing / sneezing / sick, you can choose to:

1. Keep your distance.

2. Avoid crowds

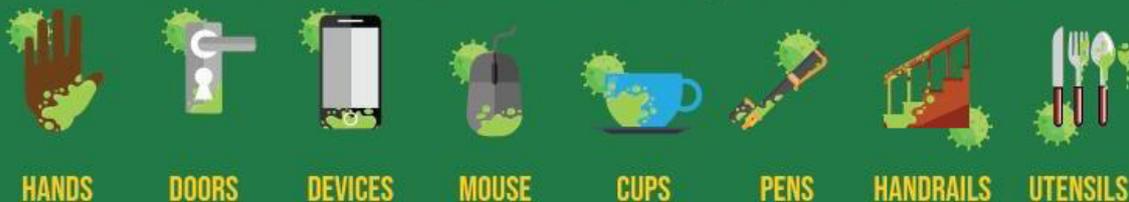


(0.5m to 2m will keep you safe from large droplets.)



(People who are infected can show no symptoms, but are still infectious.)

Sometimes a sick person's saliva can get on other things...



And if you touch any of these things by accident, and then touch your face, rub your eyes or your loved ones face, you might all fall sick.



StaySafe



UNITY, RENEWAL AND RECONSTRUCTION IN THE YEAR OF CHARLOTTE MAXEKE

# *The Genesis Behind ANC's Support For Proportional Representation*

## — A HISTORICAL ACCOUNT

- *Our concern was always about how to get the best constitutional system for our country. It was definitely not about how could we devise constitutional arrangements to maximise the chances of the ANC winning power at the first elections. On the contrary, in at least two respects we took decisions that we knew would reduce the possibilities of a massive ANC electoral victory.*

**Introductory Note:** I was invited by the Editor of *Umrabulo* to contribute to *Umrabulo Journal* written material I produced on ANC's thinking in the early 1990s concerning the electoral system for a democratic South Africa. This is an extract on the topic from a book I authored, entitled *Oliver Tambo's Dream* (African Voices, 2017), followed by some explanatory and supplementary thoughts.

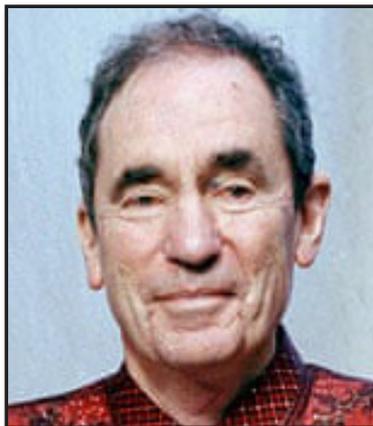
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By **JUSTICE ALBIE SACHS**

### **UWC Workshops On Critical Constitutional Issues**

When the ANC Constitutional Committee comprising Zola Skweyiya, Lehlohonolo Teddy Pekane, Jobs Jobodwana, Kader Asmal, Brigitte Mabandla and I returned from exile in 1990, we were joined by people like Pius Langa, Dullah Omar, Bulelani Ngcuka, Fink Haysom and Essa Moosa. At the request of ANC President Nelson Mandela, Arthur Chaskalson and George Bizos (who were Mandela's lawyers from the Rivonia Trial) attended and participated actively in our meetings.

Our Constitutional Committee had become pret-



ty strong in terms of brain power. We had the University of the Western Cape (UWC) as our base for organising a series of widely supported workshops on critical constitutional issues in advance of the negotiations. More than half of the members of the committee went on to find positions at the Community Law Centre at UWC.

UWC became the engine room of committed thought about our new Constitution. It was an active, engaged, scholarly life – not just waffle, slogans and fancy words.

How could we get a country with deep values that were really meaningful for the lives of the

people? Not just a territory with populations in it, divided into Bantustans and group areas and whites and Blacks and Coloureds and Indians. But a united and single country.

And how could we do so on the African continent when much of the world was influenced by racist ideas? By Afro-pessimism, believing that democracy was not for Africa and that Black people couldn't rule. That tribalism would take over and personal ambition would be inevitable. We had to prove and disprove and re-prove to peoples of our country, the continent and the world as well as ourselves that our beliefs were true. That democracy was for us.

A series of workshops was accordingly organised by UWC's Centre for Development Studies and the Community Law Centre, working closely with the ANC Constitutional Committee. All the ANC regions sent participants, and many progressive experts from different parts of the world joined us. Engaged South African scholars, thoughtful urban and rural activists, and activist lawyers pooled ideas in a spirit of lively, open debate. These workshops dealt with matters such as whether to have a Constitutional Court, the electoral system, the regions, social and economic rights and affirmative action. And the topic on which we had the greatest number of workshops was that of property and land redistribution.

The challenge of constitution-making was to go deep into ourselves. To create a set of institutions and values that honours all of those who believed, struggled and fought for the possibility of South Africa that is a free and democratic country. We had been very good at making the country ungovernable. Oh, we were smart at that. But governing – now that was another whole thing altogether.

How would we structure government? What strategies in particular should we adopt?

We were used to being the opposition – challenging, destroying. For some people, in fact, it was so much part and parcel of their psyches to oppose that they continued to do so even when we were making progress in building something new. Yet many of us were longing to heal, build and construct. To see and taste the fruits of the freedom for which we'd been fighting for so long.

There were things we knew nothing about.

Should we have a Constitutional Court? What kind of electoral system should we have? Should socioeconomic rights be enforceable as constitutional rights by judges? How to organise the regions?

We had to understand the implications of all these constitutional proposals. There were powerful moves to divide South Africa into little Cantons. The upmarket white Bishops court would be in one Canton and disadvantaged Black Langa would be in another, and they would each have self-government. How did affirmative action work in Malaysia, India and the United States?

Our concern was always about how to get the best constitutional system for our country. It was definitely not about how could we devise constitutional arrangements to maximise chances of the ANC winning power at the first elections. On the contrary, in at least two respects we took decisions that we knew would reduce the possibilities of a massive ANC electoral victory. Both related to matters that arouse lively debates today.

The first was to opt for a president chosen by Parliament and not by a direct vote. The second was largely to favour an electoral system based on Proportional Representation (PR) and not constituency representation. The issues of presidential power and of PR are both very much in the news today, so our thinking at the time is worth mentioning.

### **Deciding between a presidential or prime-ministerial system**

Already in Lusaka we were discussing whether we wanted a presidential system or a prime ministerial system. Should the head of the country be chosen directly by popular vote, as in the United States or in France, or indirectly by Parliament? At first we opted for a directly elected president. We knew that Nelson Mandela was enormously popular and that he would sweep to power as President carrying the ANC into office.

But the more we thought about it, the more concerned we became. We used to have a governor general in the old days – sent by the British, representing the king or the queen – who was called “the supreme chief of all natives”. Totally top down. Then we had had the traditional leaders

under apartheid who had sided with the regime and became dictatorial towards the people. Top down. Then, in our struggle, underground political and military work by its very nature had had to be top-down.

Now you put these three traditions together and you choose a president as head of state, you can say bye-bye to Parliament. We said, no – we wanted the President to be accountable to Parliament, not vice versa.

### **Finding the right electoral system**

Today many question the use of PR and argue that Members of Parliament should be chosen in constituencies where they would be directly accountable to the local electorate. We were used to secret ballots inside the ANC to elect the leadership and unions had similar. But we knew nothing about electoral systems for a whole country.

So we invited people from other countries and experts from inside South Africa. People from each of the ANC regions came to the workshop and we collaborated with other university bodies in a very free and open way. We didn't start off with any pre-determined view.

After many presentations, we divided into three different breakaway groups. We looked particularly at the Single Transferable Vote (STV), PR and directly elected constituency representation, which the whites had in South Africa. Each of the three groups came out with the same recommendation - to use PR with two important qualifications. The first was that the PR party lists would be organised on both a national and a regional basis, so as to give the regions control of half the MPs. The second was that pure PR would be used for the first elections only, where our intention was that Parliament would become a Constituent Assembly to draft a new Constitution. But the second round of elections would use a mixed system, like in Germany – where constituencies and PR are combined.

You might be surprised to know there is nothing in the Constitution today that prevents that from happening. The Constitution says the electoral process must in general result in PR. At the local government level, we have wards and we have PR. We don't have to change the Constitution to have directly elected MPs. The Van Zyl Slabbert Commission on Electoral Reform (2003), which was quite broad-based, came up with some very

interesting proposals for combining PR and directly elected MPs. They should be looked at on a cross-party basis.

The fact is that, in rejecting the notion of using single-member constituencies, the ANC knowingly forewent the possibilities of getting an 80 per cent majority in the first Parliament resulting in only 60 per cent of the vote. Not only would an 80 percent win have been disastrous for the project of building national cohesion through an inclusive constitution-making project. It would have been inherently undemocratic.

As our workshop had established, using a system of First Past the Post (FPTP) in single-member constituencies results in gross over-representation of the leading party. Thus, in the United Kingdom, a party that secures 45 per cent of the votes could end up with two thirds of the seats.

### **Additional commentary**

At the workshop described above, the breakaway groups were guided by three broad principles. We wanted representation that best corresponded to the will of the people. We wanted Members of Parliament to be accountable to their voters. And the electoral system had to be easily manageable in a country in which a large section of the population had never had the opportunity to vote and in which many people were not literate.

After a number of presentations were made, the breakaway groups considered four major electoral systems. These being single-member; constituency-based representation for the **First Past the Post (FPTP)**; the **Single Transferable Vote (STV)**; **Proportional Representation (PR)**; and a **mixed system (PR plus constituencies)**. The air was filled with acronyms.

*First Past the Post (FPTP)*. I had lived part of my exile in England where you knew your local MP. You could write to your MP and go every Saturday morning to their office with your problems. In South Africa we were used to constituencies. But there were great problems with this system.

Firstly, it could produce severely skewed and undemocratic outcomes.

Secondly, delimitation of the constituency boundaries would be a nightmare. Parties

would fight over alleged gerrymandering rather than over policy. Our first democratic elections would have been mired in acrimony.

Thirdly, constituencies would replicate and entrench the spatial apartheid divisions of our country: Blacks would represent Blacks; Whites, Whites; Indians, Indians; Coloured people, Coloured people.

Fourthly, constituencies would favour strong, ambitious men. We wanted to ensure that women, who had contributed so much to the struggle, would be fully represented. We weren't short of typical MPs – charismatic crowd-pleasers with the gift of the gab. But we also wanted quiet and thoughtful people who could become great parliamentarians because of their values, knowledge and wisdom. And since the Cabinet would be drawn from Members of Parliament, we needed a place for people with expertise in relation to finance, health, education and so forth.

Finally, we were concerned about what Americans call the '*pork barrel factor*' – the development of a semi-corrupt relationship between ambitious party leaders who secure allegiance from MPs by offering or threatening to withhold economic investment in their constituencies.

**Single Transferrable Vote (STV).** A member of the Liberal Party in the UK persuaded us that the electoral system best guaranteed to reflect the democratically expressed will of the people was the STV. But it soon became clear that STV was a complicated system for any country and would have been quite impossible to explain and manage in the circumstances of South Africa. Apart from anything else, it required literacy for people to be able to read the names of each and every candidate and would effectively have disenfranchised millions of our people who had been hardest hit by Apartheid.

**Proportional Representation (PR).** What we immediately noticed about PR was its fluidity and adaptability to South African conditions. In particular, it would allow parties to have a mode of representation in Parliament that went beyond the locked-in, ghetto-like representation that the single-member constituency system would produce and would reflect the diversity of the nation.

It would fit in well with the ideal that '*the people shall govern*'. It would enable us to promote the development of a national vision that would take

account of our diversity, but not just be the sum of all our distinctive parts. It would encourage people to think outside of the parochial boxes into which apartheid had squeezed us, facilitating the development of the non-racial and non-sexist South Africa we wished to create. It would encourage political parties to seek support from all sectors of South African society and not only from predominant groups in any particular constituency.

Finally, it would be easy for voters to understand and make their choices. It was operationally easy for votes to be sorted and counted. All that the ballot papers would need would be pictures of leaders coupled with the party colours.

As it turned out, the rapporteurs for all three breakaway groups reported that they supported PR. At the same time, all were concerned about the lack of direct accountability of individual MPs to their electors. As a gesture in the direction of local accountability, all accepted that half the MPs should be elected from national party lists and the other half from provincial party lists. This would mean that, if we were to have nine provinces, the people in each province would be able to choose and hold to account their particular quota of MPs.

A key factor in our minds was that the first elections were for a body whose main function would be to serve as what we then called the Constituent Assembly (CA) that was to draft the Constitution. We wanted everybody to be in the CA – even the smallest groups. Political scientists warned us that if we had PR, we would need to have a threshold or minimum cut-off point of anything between two and ten per cent of the national vote. This would be to avoid a proliferation of small, single-interest parties which would lead to groupings that would make it very difficult to govern in the broad national interest. But we said no to a threshold. We didn't want anyone to say that this wasn't their Constitution; only an ANC one. And as things turned out, if we had gone for a two per cent threshold, the Democratic Party, the PAC, and the Freedom Front wouldn't have made it into the Constitutional Assembly.

Our understanding at the time was that our task was to ensure that a truly representative and all-embracing CA be elected to draft the country's new constitution. It would be up to the CA, then, to make the final decision on which electoral system to have. Our thinking at the workshop

was that something on the lines of the German system would be best. It would secure all the advantages of PR, while introducing strong elements of direct local accountability.

I later stepped down from the National Executive Committee and the Constitutional Committee of the ANC and withdrew from party politics because I wished to be considered for appointment to the Constitutional Court. As a result, I was not a member of the CA and cannot say why a mixed system along the lines of the one used in Germany was not chosen. It might have been that the first election had gone so well that a decision was taken not to tamper with the system that had produced it.

However, by stating that the electoral systems for the National Assembly and provincial legislatures should *“in general result in proportional representation”*, the CA expressly left open the possibility of having a mixed system. Whatever the motivation, we in fact ended up having a mixed system at the municipal level only. What is being debated now is how, broadly speaking, to ensure that, within the framework of the constitutional requirement to maintain PR in general, members of the national and provincial legislatures can be held more accountable to their electors. A very specific element of this wide question is how to

devise an electoral system that, in keeping with a determination by the Constitutional Court, would allow independents outside of any political party to stand for election at national and provincial level.

PS:- I featured in an amusing moment at the workshop. We had almost invariably found that proposals from mainstream American political scientists were unduly skewed towards securing some form or other of white minority veto. Still, we thought it would be courteous to accept an offer from the US Consulate to arrange for a number of distinguished American academics to phone in their proposals for an electoral system in South Africa.

Professor Donald Horowitz informed us of what he believed was the most important thing that we needed. He stated that *“Lawyers always say, ‘On the one hand you should do this, on the other hand you should do that.’ What you need in South Africa is a one-armed lawyer.”* In the days before Skype and Zoom, he couldn’t understand why he heard an eruption of loud laughter in the room.

The ANC already had a one-armed lawyer who had lost an arm to a bomb placed in his car by apartheid security agents. It was me.



# CHANGING ELECTORAL SYSTEM TALKS *is a* MUCH ADO ABOUT VERY LITTLE CHANGES

■ *“Since the country is not forced to choose a new electoral system, is there any reason why it should want to do this?...”*

*... there is a problem with this sort of reasoning – and much of what we hear about electoral systems. It is based on armchair logic which makes sweeping statements about how voters and politicians behave based on ‘common sense’, but never on a concrete analysis of how real people behave in the real political world.”*

By **PROFESSOR STEVEN FRIEDMAN**  
*University of Johannesburg*

 Steven Friedman



**I**F we all lived in textbooks, we could make democracy work for South Africa’s people by changing the electoral system. Since we live in the real world, we need to look elsewhere for remedies.

A judgment by the Constitutional Court<sup>1</sup>, which ruled that independent candidates must be allowed to stand for provincial and national office and that the law must be changed within two years to allow this, has revived an old favourite of campaigners. It is now assumed by just about all political insiders that the court’s ruling means that the system must change and there is now a lively debate on what those changes should be. The Minister of Home Affairs has appointed an advisory committee

chaired by former minister Valli Moosa to look at this issue.

The only option which appears to not be under discussion is keeping the system as it is. First, it is assumed that to do this would ignore the court ruling – which, of course, must be respected if we are to preserve our constitutional democracy.

Second, we are told repeatedly that a new system is essential if our democracy is to work as it should. This article will argue that the court ruling does not mean that a new electoral system is essential – and that changing the system is unlikely to make elected representatives and leaders any more accountable to the people than they are now.

## Jumping to Conclusions

Contrary to the claims of the campaigners, the court ruling said nothing about changing the electoral system.

It found that the Electoral Act is unconstitutional 'to the extent that it requires that adult citizens may be elected to the National Assembly and Provincial Legislatures only through their membership of political parties'. It then gave Parliament two years to remedy this.<sup>2</sup> This obviously says nothing at all about electoral systems. Since the judgement, the impression has been created that it is impossible to allow independents to stand within the current system and that a new system is the only way to implement the judgement. But that is not true.

Since 1994, national and provincial elections have been contested by individuals who, in effect, turned themselves into parties. An early example was the KISS party whose founder seemed to be its only member<sup>3</sup>. Bradford Wood, who had appeared in a TV series, contested an election as The Organisation Party.<sup>4</sup> There are other examples.

The only reason they formed parties may have been because the rules said that they must – it was the only way they could get onto the ballot paper. If that rule was scrapped, they could run as independents and the judgement would be implemented.

The usual objection to this is that the ballot paper would resemble a phone directory as hundreds of independents registered to stand. But, as the examples mentioned here show, an individual who wants to stand under the current rules simply has to invent a party and get a few friends to sign up for the party list. Since is that easy, why were there not hundreds of these one-person parties on the ballot?

The reason is that it is not easy to contest a national or provincial election. For a start, you need to find R200,000 to contest a national election and R45,000 for each province – very few people are prepared to shell out that amount of money simply to see their names on a ballot paper. Small parties (independents in all but name) have never done well in provincial or national elections. In the last election, parties who failed to win enough support to keep their deposit forfeited R16,7m to the public coffers.<sup>5</sup> This is a further reason why independents will not flock to



contest since they are unlikely to get much of a return on their investment.

As long as the rules which currently apply to parties also apply to independents, it is hard to see the ballot paper expanding by much. And the import of the judgement is surely that they should ne included on the same terms. The judgement could, therefore, be implemented by keeping the system unchanged except that individuals who wanted to stand would no longer have to form make-believe parties.

## Dubious Benefits

Since the country is not forced to choose a new electoral system, is there any reason why it should want to do this?

The 'common sense' claim is that we must change the system to ensure that elected representatives are more accountable to the people. At present, we are told, they are only accountable to the party leaders and structures which decide where they will be placed on the list. The cure is to make them directly accountable to voters by ensuring that they can vote for a person, not a party. Despite this, few if any of the voices in the debate are arguing that we should move to a first-past-the-post system in which the country is divided into constituencies and the candidate who wins most votes in each is elected. This would not be possible unless the constitution is changed – it says that elections must 'result, in general, in proportional representation'.<sup>6</sup> Instead, they advocate a 'mixed system' in which there will be both constituency and proportional representation. This is meant to offer us the advantages of direct election of candidates as well as proportionality.

All of this sounds sensible but there is a problem with this sort of reasoning – and much of

what we hear about electoral systems. It is based on armchair logic which makes sweeping statements about how voters and politicians behave based on 'common sense', but never on a concrete analysis of how real people behave in the real political world. Once we look at real world politics, we see both that moving away from proportional representation does not necessarily make representatives more accountable and that the mixed system which offers us the best of both worlds does not exist anywhere.

To take the second point first because it is less important.

To say that a system must provide for direct election and reward parties in proportion to their share of the vote sounds good in theory, but in practice all mixed systems stress one at the expense of the other. To illustrate, the Electoral Task Team chaired by the late Frederick van Zyl Slabbert proposed that the present system for electing members of the National Assembly be replaced by 69 multi-member constituencies and 100 members chosen by proportional representation.<sup>7</sup> A quick calculation shows that this means that each constituency would comprise around 380 000 voters. Since each constituency would have around four members, each representative will serve around 90 000 people. Clearly this is not going to come close to offering the close contact between representative and voters which direct election is meant to offer.

So, if we want that closeness, we have to increase the number of constituencies. But that means that there will be fewer members elected by each constituency and the result will be less proportional. If only a quarter of members are elected proportionally, it might make up for some of the distortion, but not all of it. So, choosing a mixed system does not free us from choosing between being fair to parties and direct election of people.

This is important because most people who advocate a mixed system seem to feel that this means that they don't have to choose between direct election and being fair to parties. But, in reality, choices have to be made – either it is more important to ensure that each party wins the number of seats to which its vote entitles it or to create a direct relationship between voters and elected representatives. It could be argued that a system which allows small parties to win seats is superior because more voters feel that

there is a party which speaks for them.

This brings us to the second point – the claim that changing to a system in which voters can vote for candidates as well as parties would make representatives more accountable to voters. Unfortunately, this 'common sense' view does not describe reality.

Direct election does not necessarily mean more accountable government.

South Africans should not need to look to international examples to see that this is so – we have one in our own back yard. Local government is elected using a mixed system but it is not more accountable than the other two spheres. In fact, voters tend to believe that this sphere is the least accountable,<sup>8</sup> which is why it is the constant target of protest.<sup>9</sup> It is one of the marvels of our political debate that we still continually hear that more direct election always makes government more accountable when we have living proof that this is not true in the places where we live.

In Brazil, a proportional system which allows voters to choose candidates as well as parties enables corruption because candidates need money to win election and they get it by making deals with the wealthy. They are accountable to the rich and not to the people who voted.<sup>10</sup> In the United States of America direct election within parties as well as in elections at all levels of the system produced an extremely unaccountable system.<sup>11</sup>

Nor is it necessarily true that direct election means that representatives are no longer dependant on their party leadership to gain election. In Australia, parties issue 'how-to-vote' cards to supporters telling them who to vote for and in which order and voters usually comply. In Italy, parties issue similar 'advice' which is almost always obeyed.<sup>12</sup> These examples are particularly relevant to this country because it is the power of party leaderships here which often ensures that ward councillors are far more accountable to those leaders than to voters.

### **The Wrong Cure**

These examples do not mean a system in which voters choose candidates as well as parties is less accountable and more prone to the influence of big money than our current system.

What it does mean is that the claim that we can ensure a more accountable democracy if we change the election system peddles an illusion. In some countries, systems not that much different to the one we have now ensure accountable government, in some they don't. There are countries in which direct election does offer more accountability – we have just seen that there are others in which it does not. The obvious conclusion is that it isn't the electoral system which decides whether we have accountable government but a host of other factors.

A while ago, a political scientist who studied electoral systems in Africa found that proportional representation and direct election systems produced roughly the same results.<sup>13</sup> In all the countries he studied, the geographic vote was crucial. People in particular areas tended to vote overwhelmingly for particular parties. This meant that whatever system was used, the results looked much the same.

South Africa is similar to the countries he studied. While party politics has become more fluid, party loyalties are still strong. This explains why, after a quarter century of proportional representation, our politics resembles that of constituency systems in the textbooks. It has only two

or three main parties and changing the electoral system will not change this.

Far more important, it will not change the realities which create dissatisfaction with the current system. Accountability is a huge problem here – although, contrary to what we are often told, it is far more of a problem in townships and shack settlements than suburbs. The problem is not that politicians are accountable to no one. It is that they are more accountable to those in society who wield power and make themselves heard which excludes many who were disadvantaged by apartheid.

The reasons for this have nothing to do with the electoral system. They are, rather, a product of the reality that democracy has changed less in this country than it should have. Among the reasons are poverty and inequality, the fact that the suburbs have more power than the townships and that, despite changes, where people live still largely shapes how they vote. If we want a stronger democracy and a fairer society, we need to begin tackling these problems. But changing the electoral system will not change them. All it is likely to do is distract attention from what we really need to do.

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# PROSPECTS FOR AN ACCOUNTABILITY BASED ELECTORAL SYSTEMS

- *“There is clearly a tension between the imperative to have a fair and inclusive electoral system and having an electoral system which facilitates accountability. The Van Zyl Slabbert Report majority view proposed that ‘a preoccupation with accountability should not jeopardise the values of fairness, inclusivity and simplicity’. But the converse is also true.”*

By **LAWSON NAIDOO**

*Executive Secretary of the Council for the Advancement of the South African Constitution*

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IT was called a game-changer. Victory for democracy and peoples’ power, heralding an era of ethical governance. The end for impunity and state capture, weakening the power of party bosses. These were some of the epithets that greeted the judgment of the Constitutional Court in the New Nation Movement’s case that was delivered in June 2020.



The judgment declared aspects of the Electoral Act unconstitutional to the extent that they do not make provision for individual candidates to contest elections to national and provincial legislatures. Parliament was directed to amend the Electoral Act to correct this deficiency. It is somewhat ironic that political parties currently represented in Parliament have the responsibility to craft legislation to enable individual candidates to challenge them (i.e., political parties).

This was undoubtedly a landmark judgment

which has the potential to deepen democracy in South Africa if we take the opportunity to move beyond the confines of the judgment and overhaul the electoral system. But it is not as straightforward as might appear on the surface. For there to be substantive electoral reform there are other issues that must be resolved to determine the kind of electoral system needed

to address the democratic challenges that we face in South Africa. The judgment is a step towards reform - a step that is long overdue.

The van Zyl Slabbert Task Team submitted its report to Cabinet in 2002 and it is only now that we are picking up its cudgels and beginning to engage in a national discourse about the kind of electoral system that may be appropriate for South Africa today.

The New Nation Movement case comprised two separate concurring judgments delivered

by Justices Mbuyiseni Madlanga and Chris Jafta and a dissenting judgment from Johan Froneman. The majority declared that certain parts of the Electoral Act of 1998 undermined the political right of ‘every adult citizen ... to stand for public office’ as enshrined in section 19 (3)(b) of the Constitution as well as the right to freedom of association in section 18. They determined that section 18 includes an implied right not to join an association – so to be compelled to join or form a political party to contest elections was found to be unconstitutional. Justice Johan Froneman adopted a contextual and purposive approach in interpreting s.19 rights - arguing that political parties play a central role in our democracy, and that individual political rights can be exercised without changing the electoral system. He was of the view that Parliament could amend the electoral laws to provide for individual candidates, as it had done at a local level, but this is not something that is constitutionally prescribed.

The majority found that elections limiting participation to party lists should have ended after the 1999 elections. Parliament failed to do so, despite the report prepared by the Van Zyl Slabbert Task Team. That report was not referred for consideration by Parliament and public, and Cabinet endorsed the minority opinion which preferred the continued use of the existing system that was in place since 1994 - the closed party list and proportional representation (PR) system. It should be borne in mind that there was no electoral register in 1994, and it would have been impossible to develop one in time. So, a simple PR system made perfect sense, but the Interim Constitution approved this for only the first two elections, whereafter a review of the electoral system was mandated.

The Constitutional Court has given Parliament twenty-four months to amend the Electoral Act, a deadline that will expire in June 2022. There has been some concern that the time is insufficient, but I would remind readers that a whole new Constitution was debated and finalised in the same timeframe between 1994 – 1996! There is no reason why Parliament cannot make the necessary amendments to the Electoral Act in two years. The court was firm in its view that the new electoral system needs to be in place for the 2024 national and provincial elections.

In March 2021 the Minister of Home Affairs, Aaron Motsoaledi, appointed a Ministerial Advisory

Committee comprised of experts and chaired by Valli Moosa to consider option for electoral reform. Although belated, this is a welcome development. The issue of electoral reform is far too important to be left solely in the hands of politicians, although they will ultimately make the decision. The Committee is canvassing opinions from interested stakeholders, and it is expected that its recommendations will be submitted to the Portfolio Committee on Home Affairs in the National Assembly.

In its submissions as *amicus curiae* in the New Nation Movement case, CASAC argued that Parliament is best placed to determine the most appropriate electoral system for the country - noting that Parliament is constitutionally obliged to facilitate public participation - as this is primarily a political rather than a legal judgment. Justice Madlanga confirmed this in stating, “*a lot was said about which electoral system is better, which system better affords the electorate accountability, etc. That is territory this judgment will not venture into. The pros and cons of this or the other system are best left to Parliament.*”

In other words, the judgment does not mean that we will have a Westminster-style constituency system, nor does it mean we will have a directly elected President, Premier or Mayor. In developing a new electoral system Parliament will be constrained by some existing constitutional measures. Firstly, the Constitution provides that the President is elected by members of the National Assembly at its first sitting after a general election, or whenever a vacancy occurs. Secondly, that any electoral system must “result, in general, in proportional representation”. A ‘first-past-the-post’ constituency model will not be compatible with this constitutional provision.

Our existing constitutional framework clearly favours a broad proportional representation model because it produces a more inclusive outcome in which all votes matter, and thereby promotes national unity and reconciliation. This is seen in the current National Assembly which comprises 17 political parties, the smallest being Al-Jama which garnered just over 31,000 votes. Thirdly, the Constitution limits the size of the National Assembly to between 350 and 400 members. Any deviation from these prescripts will require constitutional amendments. But if we are to overhaul the electoral system, these constitutional constraints should not be an insurmountable barrier and may be reviewed. This

is a ‘once-in-many-lifetimes’ opening to craft a mechanism for choosing our representatives in a manner that strengthens our democratic culture.

CASAC has long argued that Parliament needs to engage with the report of the Van Zyl Slabbert Task Team. And not because we agree with its majority view or even minority one. But that we need to have a public debate on the kind of electoral system that can enhance our democracy. Parliament’s own High-Level Panel chaired by former President Kgalema Motlanthe, also urged Parliament to review and amend the Electoral Act to provide for some a constituency system. Parliament regrettably failed to do so.

Any electoral system must embrace the values of fairness, inclusion, simplicity and accountability. The idea of fairness, combined with the constitutional requirement for general proportionality, militates against pure constituency-based systems, as they do not provide equal value to all votes that are cast. Those votes that went to a losing candidate would simply be ignored in such a system. Inclusivity similarly constricts desirable scope, as most constituency systems are explicitly exclusive of smaller parties, especially those not geographically concentrated.

The issue of simplicity implies we should be cautious about excessive restructuring of how votes are allocated and counted in electoral systems, especially in more complex systems like STV (single, transferrable vote) and ranked choice voting. These would require a higher degree of voter education to enable voters to cast votes meaningfully.

There is clearly a tension between the imperative to have a fair and inclusive electoral system and having an electoral system which facilitates accountability. The Van Zyl Slabbert Report majority view proposed that “*a preoccupation with accountability should not jeopardise the values of fairness, inclusivity and simplicity*”. But the converse is also true.

This was an issue that was expounded in a paper commissioned by CASAC in 2015 in which Prof Steven Friedman looked at the issue of accountability and electoral reform, and whether reform of the electoral system would automatically enhance accountability. His conclusion was that electoral reform may be necessary, but it is not a sufficient tool to ensure accountability. Friedman argued that we need to engage at a deeper

level towards changing the existing political culture. These relate, *inter alia*, to internal party matters including the constitutions of political parties aligning with constitutional imperatives and ensuring that there is sufficient internal party democracy. This is important especially in the context of parties being recipients of large sums of public funds allocated to them by Parliament in terms of the Constitution – this is now encompassed in the Political Party Funding Act, 2018. To justify public funding, parties should submit to a level of regulation by the state.

Let us now look at the three types of electoral systems, and how they impact on these values.

**Constituency systems** are often advanced as the best way of holding MPs accountable. Certainly, the “*Westminster*” model helps to build a direct link between the constituent and her representative. The voter knows exactly who their MP is and can extract accountability from this representative at the ballot box. However, it cannot be seen as a panacea to problems of accountability as outcomes are often dependent on issues external to the electoral system. For instance, the relationship between the parties and representatives and the parties and the electorate modify behaviour. MPs in the UK House of Commons are often very strictly whipped and will vote against the preferences of their constituency if party allegiances demand.

Similarly, the partisan identification of the electorate changes how MPs are able to act and how much power they hold vis-à-vis the party they form part of. If an MP is elected in a constituency with strong partisan allegiance to their party, the odds of them rebelling against their party declines, as winning re-election as an independent is unlikely. Strong partisan identification also allows parties to “*parachute*” party elites into safe constituencies, which harms the constituent-representative bond. Constituency systems, especially those requiring only vote pluralities (first-past-the-post), are harmful to inclusivity and reduce the number of effective parties in the legislature and may make the votes of some voters subjectively “*more important*” in individual elections where swing constituencies are key.

On the other end of the spectrum, **proportional representation (PR) systems** vest almost exclusive power in the political party, not the elected representative. This negates accountability for individual MPs as accountability is effectively

delegated to the entire party structure rather than to the MP. South Africa's closed list system is possibly the most generous to political parties and to party bosses, as they are effectively at liberty to bring MPs in and out of Parliament as they please. We saw a recent example of this in the Kwa-Zulu Natal Legislature where the former eThekweni Mayor, Zanele Gumede, who is facing charges of corruption and fraud, was elected as a member of the Provincial Legislature as a result of the ANC changing its electoral list for that Legislature, and was able to parachute her in ahead of other candidates who had previously been on that list. This demonstrates the power of political parties that can manipulate electoral lists and deploy people as they see fit.

The current system has not successfully built much of a rapport between MPs and the electorate, despite the informal 'constituency system' that exists and funded, at least in part, from the fiscus. One might be tempted to conclude then, that PR systems are ineffective in achieving accountability. Again, however, there are externalities that can modify the behaviour of this system. For instance, a system like South Africa's (with no 'threshold' and pure PR) lowers the cost of entering opposition or forming party splits, which allows for increased internal accountability in parties. So, the threat of a defection or a split may in fact enhance accountability to some extent. It also allows voters wishing to punish the incumbent to coordinate votes fairly easily, as any anti-incumbent vote counts (in constituency systems, this form of tactical voting is much harder). PR is also a very inclusive and fair method of apportioning representation, given it is the most accurate way of representing an electorate's preferences.

The natural conclusion may be: why not have both systems?

Before dealing with this it is also worth stating that globally, where there have been moves recently towards reform of the electoral system, it has been to move away from constituency systems towards proportionality because it is seen as producing fairer electoral outcomes. We would be bucking this trend by moving away from a pure PR system towards some form of a constituency system or hybrid model.

*Mixed member or hybrid systems* are increasingly in vogue and seem to deliver a "best of both worlds" outcome: the constituency system can

allow for the direct MP-constituent relationship, whereas the PR system allows for proportionality and gives balance and representation to smaller opposition parties. The key question in this regard is whether we opt for a Mixed-Member system as proposed by the van Zyl Slabbert Report (i.e., where the compensatory PR list makes up for imbalances in the constituency system) through the allocation of the seats from a closed party list or a Parallel List system (where there is a separate PR system to the constituency system). In our current context the Mixed-Member compensatory system is the most congruent with the Constitutional imperative to deliver general proportionality.

Slabbert proposed 69 multi-member constituencies, each electing between 3 and 7 MPs depending on the size of the voter base. This would permit individual candidates to contest elections in these constituencies which would elect 300 members of the National Assembly with an additional 100 members elected from a party list system. Given that the demarcation of constituencies is a drawn out, complex and inevitably controversial subject, using existing municipal boundaries may provide a ready-made solution. However, the large size of each of these constituencies may only create an illusion of bringing representatives closer to the electorate. We currently have a multi-member system if we consider that each of the provinces is a constituency in the National Assembly. Would increasing the number of constituencies from 9 to 69 really create a closer nexus with the electorate?

The existing local government election system delivers a mixed system with a 50/50 split between ward counsellors and PR counsellors. It has allowed independent candidates to stand for office, albeit with limited success in competing with established political parties. The local government system also makes it clear that the design of the electoral system does not ensure accountability or inclusivity: these values have not been realised in the mixed system, and some might claim that local government has been less accountable and inclusive than the national and provincial levels. This underlines the need to change South African political culture in search of greater accountability, and not to see the electoral system as a quick fix.

In conclusion, the judgment opens the door to craft a new electoral dispensation; it is not a panacea for boosting accountability and ensur-

ing clean governance. Key among the answers we must find is how we strengthen the institutional law-making and oversight capacity of legislatures, and how we ensure that those we elect, be they from parties or individuals, are held accountable between elections.

The choice comes down between a multi-member constituency model and a single member constituency. Within the latter the choice is between a plurality (winner is the one with most votes) or majoritarian (requiring 50%+1) first-past-the-post model.

The majoritarian model would require a ranking STV system or a run-off between the top two candidates and is therefore more complex. The plurality model is simpler but undermines the proportional nature of the outcome. Either of these would be complemented by a PR list, and here the choice is between a compensatory list or a separate PR vote. The compensatory list would allocate votes according to the party whose candidate one voted for in the constituency so there would be one ballot paper with independent candidates votes not reflected in the PR list. The separate PR vote allows voters to make independent choices of candidate and party.

The foundational constitutional value of responsiveness has proved most elusive. As Van Zyl Slabbert pointed out in his report, "...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." That is a responsibility that ultimately rests with us, the citizens of South Africa.

Finally, when applying our minds to amending the electoral system, we should note that South Africans have a declining relationship with elections. Less than half of the voting age population voted in last year's elections, and voter turn-out and has been declining steadily since 2009. Clearly South Africans decreasingly see elections as a means to express their views, interests and preferences. We have instead exercised the rights to assembly, demonstration, picket and petition. It is particularly poignant to note that of the 9 million South Africans who failed to register for the 2019 national elections, 6 million were aged between 18 and 29. The opportunity now exists for reform of the electoral system to begin to turn that around and promote greater participation in elections, especially by young voters.



If you want the cooperation of humans around you, you must make them feel they are **important** – and you do that by being **genuine and humble**.

— Nelson Mandela —

# From The **UNCONSTITUTIONAL** To The **THE CONSTITUTIONAL** - A REFINED SOUTH AFRICAN ELECTORAL MODEL

- *“Accountability is strengthened when representatives are closer to the electorate. Knowing one’s representative and thereby having greater access to him/her, strengthens the voter/representative nexus.”*

By **DARYL SWANEPOEL**  
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**T**HE Constitutional Court, in June 2020, declared the current Electoral Act unconstitutional since it does not allow for independent candidates to stand for election to national and provincial legislatures. It gave Parliament two years to remedy the defect.



- be simple for the Independent Electoral Commission (IEC) to implement and for voters to understand; and
- promote gender parity, demographic and geographic inclusiveness, and representativity and improved accountability to the voter.

To this end, the Inclusive Society Institute designed a proposed new electoral system that would respond to the Court’s ruling, but which would also remedy shortcomings under the existing pure proportional model.

It needed to:

- accommodate independent candidates;
- reflect, in general, proportionality;
- require no, or minimal, amendments to the constitution;

In essence, the institute needed to decide between:

- A winner takes all, single-seat constituency approach;
- Simplistic proportional representation (PR); and
- A hybrid model that accommodated constituencies, with a compensatory proportional list allowing for overall proportionality to be established.

The single-seat constituency approach was re-

jected as it would not make it possible for the outcome to reflect proportionality. It would also not accommodate sufficient diversity.

The simplistic PR model would, in turn, be impractical. Imagine the length of a ballot paper should, say 100 independent candidates, wish to stand nationally in addition to the 48 existing political parties. It would also not advance geographic representation and will do little to improve representativity and accountability to the voters.

Thus, the model proposed is a 400-seat National Assembly of which 300 are allocated to multi-member constituencies (MMCs) each comprised of three to seven members. MMCs will be supplemented by a proportional list of 100 seats, which will be used to ensure overall proportionality in terms of the total number of votes cast for parties.

### Structure

There will be two components to the establishment of the legislature. The first would be representatives elected via 66 MMCs. The second component will comprise representatives elected via the compensatory PR list.

It's necessary to have at least three members per MMC to promote diversity within each MMC. But too large a number would be counterproductive in terms of promoting geographic representativity, or for bringing representatives closer to the electorate. Accountability is strengthened when representatives are closer to the electorate. Knowing one's representative and thereby having greater access to him/her, strengthens the voter/representative nexus. Thus, the maximum number of seats per MMC, is suggested as seven.

MMCs will be demarcated along current district and metropolitan municipal lines. Where the number of voters within a district is too few to warrant at least three representatives, two or more districts can be added together. Where the number of voters within a metropolitan council are too many, MMCs can be allocated along sub-council or metropolitan regional lines.

Each vote cast should carry equal weight. Therefore, in determining the borders of the MMCs, the total number of registered voters will be divided by 300 (the number of MMC seats), which

results in a quota per seat.

### Ballot papers, candidates and seat allocation

There will be one ballot paper in each MMC, comprising the names of the parties, followed by the names of the independent candidates. This is a departure from previously proposed hybrid models, which have suggested two ballot papers – one for the MMC candidates and one for the PR list. In this model the combined number of votes cast for party candidates, across all MMCs, determine its proportional share of the 400 seats in Parliament.

The voter will cast a single vote for either the party or the independent candidate. Seats in the MMC will be allocated proportionally, based on the number of votes received for each party or independent candidate. Parties will be permitted to nominate a number of candidates equal to the quota size of each MMC plus one. Prior to the election the parties and the IEC will publicize the names of all candidates so that the electorate will know the incumbents prior to exercising their votes.

Should an independent candidate receive enough votes to be elected, he or she will qualify. Party candidates are allocated in order of their appearance on the list for the party in the particular MMC.

Gender parity is promoted by requiring parties to alternate their candidates based on gender, that is man followed by woman, or vice versa, on the ballot paper. This will, however, be difficult to engineer amongst independent candidates, since they represents only themselves.

If independent candidates obtain more votes than required for election, the surplus votes are discarded, in that a single individual cannot be more than a single individual. Thus, only parties will compete for seats on the compensatory PR lists. As already alluded to, the aggregate number of votes received by a party will determine its proportional share of the 400 parliamentary seats. This implies that parties receive an additional proportion of the excess votes forfeited by the independents. Parties could, therefore, be marginally advantaged. This is warranted, in that absolute proportionality is not possible with the introduction of independent candidates.

Furthermore, it does not come at the expense of the independents, in that it does not diminish the legitimate claim that any one independent candidate may have, that is, him- or herself represented in Parliament. Also, alternative remedies are available. Should the independent candidates wish to lay claim to the additional votes cast over and above that required to secure a single seat in the legislature, they could arrange themselves as a group, in reality a party, and register at the IEC as such.

Consideration was given to the open list system, that is where voters select their specific candidate of choice, and the individual candidates (party or independent) who then receive the most votes qualify. However, it is felt that this option best be left until later, when voters have become more accustomed to the new system.

In the first instance, the closed list system would ensure procedural simplicity. In the second instance, whereas gender parity could be promoted by requiring parties to alternate their candidates based on gender, that is man followed by woman, or woman followed by man, on the ballot paper. Under an open list system the outcome cannot be engineered in that the outcome is wholly dependent on the voting patterns of the electorate. And thirdly, it is about practicalities. Under an open list system, the names of all candidates – party and independents – will have to be printed on the ballot. In a seven-seat MMC, competed by say the same number of parties as in 2019 (48) and 5 independents, this would require up to 341 names on the ballot paper. It would require a booklet, and at this juncture will be too complex to administer or for the electorate to understand.

No threshold for a party to qualify to take up seats in the legislature is being proposed. This is because in the MMC a “natural” threshold is at play. In a 7-seat MMC, a party or a candidate with more than 7.15% of the vote is guaranteed a seat. In the 3-seat constituencies the natural threshold guaranteeing a seat is 16.67%. The idea is that a small party (or independent candidate) cannot lose the last seat in the MMC to a big party winning all votes other than what the small party (independent candidate) wins, as long as the votes for the small party ( $v$ ) is more than what the big party wins, divided by five (the divisor for the three seats). So, the small party’s vote share ( $v$ ) must be bigger than  $(100 - v)/5$  (which is  $100/6$  or 16,666%). The actual thresh-

olds might in some cases actually be lower than the percentages prearranged, depending on the actual vote distribution among parties and independent candidates. Nonetheless, the values mentioned will guarantee a seat. Therefore, if independent candidates obtain more votes than required for election, the surplus of votes is discarded, in that a single (independent) individual cannot be more than a single individual.

This is justified, in that the Constitutional Court must have foreseen that absolute proportionality is not possible with the introduction of independent candidates, and thus a higher reliance would by necessity have to be placed on the notion of general proportionality.

### **How parties/independent candidates get ballot paper access**

In this regard it is proposed that parties already in Parliament automatically qualify with no further requirements.

For new parties, whilst consideration was given to a monetary fee and/or a certain number of seconding voters, the notion of a monetary fee should be rejected, in that the system should not be weighted in favour of the well-resourced. Instead, a certain number of seconding voters is proposed. For example, votes in the previous election divided by 400, for automatic access to register candidates in all MMCs (with specific candidate lists for each MMC) and to have access to a share of the proportional seats. The figure as it stands now, would be 43 591.

In MMCs, a local party should have access to register for running candidates in a particular MMC, if it has seconding voters equal to 1% of the registered voters in the MMC. Based on current registered voter numbers, in a three-seat MMC the number of signatures might be around 2 500 to 3 000 signatures, and in a seven-seat MMC the number will be between 5 000 and 6 000 signatures.

For individual candidates, the same rules apply as for new parties at the MMC level, given that independent candidates can only stand within a single MMC.

The requirement for independent candidates and new parties to obtain seconding voters will inevitably require additional procedures and resources for the IEC to administer. They will have

to, for example, check that seconding voters are legitimate, registered in the MMC, and that they have personally agreed to the secondment. Nevertheless, the seconding route is preferred over a financial fee for the reason mentioned. The IEC is well-acquainted with the procedures, albeit currently at much lower intensity.

### Threshold to qualify for representation in Parliament

As already mentioned, for tier one, no formal threshold is proposed, as is the current position. The same applies for tier two, where no formal threshold is proposed, in that the low number of seats in the MMCs (three to seven) provide for a high natural threshold at the MMC level.

### Ancillary matters

A number of further technical issues were also considered:

- *What happens if a vacancy arises and the names on the MMC lists (and indeed compensatory PR lists) are exhausted?*

It is proposed that the IEC, in such instance, allow parties to supplement their lists. The solution for filling vacant independent candidate seats is, however, somewhat more complex. The seat could either remain vacant, or some other mechanism and/or system of by-election will have to be considered.

- *Can a candidate stand in both an MMC and on the compensatory PR list?*

It is argued that this is a matter for parties themselves to determine. Of course, independent candidates can only compete in the MMC, where they register for participation.

- *What about progressively advancing racial, ethnic, sexual orientation, etc, representation through the ballot?*

This matter is an overly complex one and no precedence exists. It may also be too prescriptive. It is a matter best left for parties to decide. That said, in that independent candidates can stand for election, it opens the door for any orientation to make him/herself available to represent a specific cause in the legislature.

- *Should voter registration be compulsory and what role can the Department of Home Affairs play therein?*

The issue is flagged without making a rec-

ommendation thereon. It does however recognise that some 30% of potential voters remain outside of the electoral system and a concerted effort is required to motivate them to participate in future elections.

In the age of digitisation, there could be some synergy between the Department of Home Affairs and the IEC, where Home Affairs automatically funnels data to the IEC for inclusion into the IEC's voter register.

- *Can a candidate stand at both national and provincial level?*

Party candidates, yes. Individual parties will however set their own internal rules as to how they wish to approach the matter. Although, whilst they can stand for election at both the national and provincial level, if elected to both positions, they will have to choose in which level they wish to serve. They can only take up one seat.

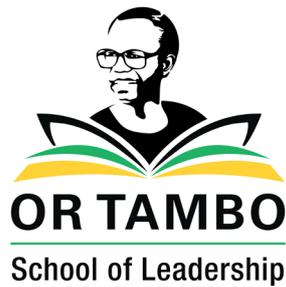
Independent candidates, no. An independent candidate will have to select whether he or she wishes to run for a seat at either provincial or national level. This is because no person may receive two salaries from the state, and it will not be in the voters best interest since he/she will not be able to devote sufficient attention to both positions.

### Conclusion

The modelling exercise undertaken by the institute found that the proposed system does not negatively (or positively) impact any party. It shows that the existing power ratios between parties would be maintained. It also shows the geographic spread of seats, continue to reflect the strongholds of the individual parties.

The model being proposed by the institute therefore not only gives effect to the constitutional requirement of accommodating individual candidates, but it also goes some way to address clear voter desires to be able to hold their representatives more accountable. It also does so in a way that the benefits attached to a PR system are not diminished in any way. The system is fair, simple, and it serves the voter.

*This article is an extract of the institute's recently published report on a proposed new electoral system for SA. The report can be accessed at <https://drive.google.com/file/d/1EeTtWcxS4rONnXK2WufHTfArsaoDwkyR/view>*



*“We must also commend the work of the OR Tambo School of Leadership, which has used the opportunities provided by communications technology to maintain a programme of cadre development and political debate even during the pandemic.*

*Our great challenge now is to strengthen processes of induction and political education at branch level to ensure that we have members who are able to take up the task of driving social change.*”

**President Cyril Matamela Rampahosa**  
(ANC NEC Meeting Political Overview, 07 December 2020)

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