

South Africa: Executive Summary of 'An Electoral System for South Africa'

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The 1993 South African Constitution was an interim measure designed to guide the country from the old dispensation to a transformed society. In the electoral field, relevant parts of the Constitution, the Electoral Act and the Independent Electoral Commission Act were all of a similarly transitional nature and applied in the main only to the 1994 elections. They had served their purpose and needed to be rethought in order to deal with the electoral lacuna which existed after the 1994 elections.

In the end, the Constitution adopted in 1996 retained the electoral system which had been used in 1994 as a transitional arrangement for the first national and provincial elections to be held under the new Constitution. The 1999 elections were thus conducted according to the same system as had been used in 1994. At present there exist no prescripts for the next national and provincial elections, which may at the earliest be held in June 2002 and at the latest in September 2004.

Before 1994, all elections in South Africa, at all levels of government, were conducted in terms of wards or constituencies. Schedule 2 of the 1993 interim Constitution made provision for proportional representation for the national and provincial legislatures for the transitional period. (Special arrangements were made for local government.) The 1996 Constitution provided for the 1999 national and provincial elections and the Municipal Structures Act, 1998 laid down a permanent electoral system at municipal level, which was first applied in 2000. At this stage, either the transitional arrangements for national and provincial elections must be confirmed as permanent or a new electoral system must be incorporated into the Constitution.

It should be noted that the Constitution requires that there be universal adult suffrage, a national common voters' roll, regular elections, a multi-party system of democratic government and, in general, proportional representation. These requirements apply to all levels of government and stem from Constitutional Principle VIII which guided the drafting of the Constitution.

The first question to be asked is whether we need to change the present national and provincial system. The system meets the requirements of the Constitution; it is also simple and understood by the electorate. There is no compelling reason for change unless it is decided that present arrangements do not meet the requirements of the political process or of the electorate at large.

Alternative systems and options are dealt with in this discussion paper in an attempt to assist with a decision in this regard.

The current system

- **National level**

The country is presently divided into nine multi-member "constituencies" (provinces) and the numbers of representatives for each were proportionally determined in accordance with population figures. This system has been criticised on the grounds that, despite there being 200 provincial representatives in the National Assembly (and an additional 200 MPs elected on national lists), there is no direct and close link between MPs and the electorate. This disadvantage is inherent in our system of proportional representation.

- **Provincial level**

Each province is a single constituency for provincial elections and this results in the most complete proportionality possible in practice. The absence of a direct link between representatives and the electorate is the only possible point of criticism.

- **Municipal level**

The 1995 arrangement, with 60% of seats ward seats (equally divided between what were known as statutory and non-statutory areas) and the remaining 40% proportional, was transitional and had to be replaced with a system more compatible with proportionality and representivity. This was done with the enactment of the Municipal Structures Act, 1998, which introduced a single-member (ward), two-tier compensatory (list) proportional system.

The concept of proportionality

Since the Constitution requires that the electoral system in South Africa should result in proportional representation in general, it is necessary to define certain concepts.

- **Complete or overall proportionality**

This term means that the membership of a legislature will accurately reflect the proportions of the votes recorded for each participant in an election, that is, with the truest possible mathematical accuracy.

- **Proportionality in general**

This concept is more difficult to define and in the event of a dispute it will be up to the Constitutional Court to judge whether or not any new electoral system meets the requirements of the Constitution. A working assumption may be that proportional representation in general is attained when an electoral system provides for the achievement of overall or complete proportionality in respect of the political parties participating in an election, bar the deviation caused by the participation of independent candidates, if that is permitted.

Electoral systems at national level

A wide variety of electoral systems is in use internationally; those which appear most relevant, either as electoral systems in their own right or as components of an electoral system, are ranked in Figure 1 according to degree of proportionality attained. Alternatives to be considered

- **The existing electoral system.**

The current South African system uses nine very large constituencies (= provinces). Provincial representatives, who fill 50% (or 200) of the seats in the National Assembly, are elected proportionally in each province: the remaining 200 national (list) seats are used to restore overall proportionality. Votes are cast for political parties and not for individual candidates, thus eliminating the participation of independent candidates. In their absence, complete overall pro-portionality can be attained. It is sometimes seen as a drawback that constituencies (= provinces) are so large and have so many voters that there can be very little direct contact between representatives and the electorate, although this does not preclude political parties allocating geographical areas of responsibility to individual MPs subsequent to an election. The present system is simple and understood by voters but does not favour direct responsibility for or accountability to the electorate.

- **Single-member "first-past-the-post" constituencies and an equal number of national (list) representatives.**

Half of the MPs (both party and possibly independent candidates) are elected with the first ballot in single-member constituencies on the basis of members achieving a relative majority of votes cast ("first-past-the-post"). This obviously leads to disproportionality. The situation is then redressed by allocating representatives to parties from fixed lists of national candidates in such a way that each party has overall as many representatives as allowed by its percentage of the total vote in respect of the second ballot paper, which contains only the details of political parties. This would normally result in proportionality in general, but not in overall proportionality, which can be attained only if no independents are elected and votes are not split. This system is used in Germany and (since 2000) in municipal elections in South Africa. If this system were to be used in South Africa, each constituency MP would represent approximately 115 000 voters in a 400-member national assembly as at present. The ideal number of voters per constituency is arguably around 50 000 and, under this system, that would require 460 constituency and 460 national proportional representatives, that is, 920 MPs, which does not correspond with the Constitutional limit of 400. There would also be difficulties in demarcating the boundaries of single-member constituencies since it would not be possible to honour municipal and district council boundaries. It should be noted that if voters were to split their votes, the result might not be proportional in general. A variation on this system would use not two ballot papers but a single one, permitting votes only for parties and not for individual candidates (except perhaps independents), thus eliminating the possibility of vote-splitting. In this case either independent candidates would not be allowed to participate in the election at all or else the votes cast for independents would be disregarded in the allocation of compensatory national representatives.

- **Multi-member constituencies.**

Multi-member constituencies involve more than one member being elected for each constituency. MPs for each constituency are elected proportionally, which means that the degree of proportionality attained at constituency level requires only approximately 33% of seats to be reserved for the restoration of proportionality. This system is used in Denmark. Were this system to be applied in South Africa in a 400-seat national assembly, each of the 264 constituency MPs would represent approximately 87 100 voters. In order to bring about the preferable situation of 50 000 voters per constituency representative, the National Assembly would have to consist of 460 constituency representatives and 152 national (list) representatives, making a total of 612 members (which exceeds the Constitutional limit of 400).

The variation on multi-member constituencies with votes cast for **candidates** plus national (list) representatives uses a ballot paper with details both of the political parties and of the candidates for each party (see Annexure C). Independent candidates may also be elected. This might be too complex a system at present for South Africa, given our high illiteracy rate.

The variation on multi-member constituencies with votes cast for parties plus national (list) representatives could use a ballot paper similar to those used in 1994 and 1999 but, instead of each province having a list of candidates, each constituency would have its own list of candidates. This might theoretically bring about a closer link between MPs and the electorate. Given the simplicity of the system, the electorate would also probably be able to understand it and follow its functioning quite easily. From the point of view of demarcation, this system should be preferred, since it could honour district council and

metro boundaries. Annexure D consists of maps which illustrate a possible demarcation of constituencies under this system.

It is suggested that, at national level, either the present system be retained or it be replaced by multi-member constituencies, which would provide a number of constituency MPs with a further number being allocated to parties from national lists in such a way as to restore overall proportionality.

Electoral systems at provincial level

The system presently in use at provincial level differs only in a technical sense from the system at national level, insofar as each province consists of a single constituency while nationally the country is divided into nine constituencies. In practice, however, no difference is really perceptible.

The alternative systems discussed for national elections are equally applicable to provincial elections. While it is not obligatory that precisely the same system be implemented at provincial level as is decided on for national elections, this would surely be desirable.

Electoral systems at municipal level

The Municipal Structures Act, 1998 introduced a single-member, two-tier compensatory proportional system which finalised the electoral system at this level of government.

General conclusions

For practical reasons, membership of the National Assembly should not be decreased if a change is to be made in the electoral system at national level.

At the end of the day the choice of an electoral system remains a political decision.

The underlying intention of this document is to highlight those electoral systems which permit consistent, fair and even-handed application and where any possible advantage or difference occurs at random and not in a predetermined or predictable way.