

**FEASIBILITY OF A SINGLE ELECTION(S) IN SOUTH AFRICA: A DISCUSSION  
PAPER**

## **1. INTRODUCTION**

In June 2020, the Constitutional Court (ConCourt) made an unexpected ruling which declared the South African Electoral Act unconstitutional in its application which restricts participation in National and Provincial elections to political parties only. In his ruling on 6 June 2020, Justice Madlanga (of the Constitutional Court) said “the Electoral Act was unconstitutional to the extent that it required that citizens be elected to the National Assembly and Provincial Legislatures only through membership of political parties”. This judgment presents Parliament with less than two years to consider amending the Electoral Act to make provisions allowing individuals to contest National and Provincial elections. Individuals or adult citizens can now contest elections without necessarily aligning themselves to a particular political party as independent candidates, contrary to what the current electoral system provides for.

The Court had taken a human-rights-based approach in interpreting S19 (3)(b). In this regard, the Court gave primacy to the Bill of Rights in defining the scope and extent of the political rights protected. According to the ConCourt, Parliament was entitled to decide the design of the electoral system, this system had to give primacy to the Bill of Rights and generally result in proportionality. It is worth noting that the ConCourt did not pronounce per se on how Parliament should rectify the unconstitutionality of the Act, nor on a preferred model, expressly leaving this to Parliament to determine. Parliament is therefore expected to carry out the scope of this work and follow due processes in amending the electoral system, and twenty four months is a very short amount of time to accomplish all of these processes (legislative or parliamentary, constituency demarcation, preparatory processes for elections including registration and other logistics, just to mention a few). With the above context, analysis on the feasibility of an alternative electoral system in South Africa has become a critical area for investigation.

## **2. BACKGROUND**

The ConCourt ruling on the Electoral Act has reinvigorated debates around the reforms in the current electoral system. These debates are not new and can be traced

as far as early in the 2000s. Since the ConCourt ruling, there has been some growing interest to draw from past research, such as, the Dr Frederick Van Zyl Task Team Report (2003). This report was completed on the basis that previous elections were administered by interim legislation and permanent legislation was required in time for the next election in 2004. As a result, the Task Team was given a mandate to probe whether the interim legislation, which prescribed voting for political parties, that is proportional representation should be made permanent or revised.

Furthermore, the Electoral Commission of South Africa (IEC) stated that the ConCourt judgment on the Electoral Act will have huge repercussions for the entire electoral system and its modalities (IEC, June 2020). This will have to take into account the need for the training/retraining of officials, different ballot papers to be used (additional ballot papers), issues relating to voter literacy, issues relating to representativity, that is, municipal or Proportional Representation (PR) party lists vs constituency based electoral system, the issue of new constituency (district) and demarcations offices and reconfigurations in line with the new District Model, new information and communications technology, logistics and budgetary issues.

Nonetheless, it has been extensively speculated in the media that a “mixed” electoral system is possible with certain seats allocated through constituencies (direct election of political office bearers) and the others through PR, as it has been the case in local government elections. Also, Reilly’s (1998) proposal was for a mixed member proportional (MMP) system using Single-member constituency (SMCs), which is in favour of (50% list seats: 50% constituency seats). However, the PR party lists system has continued up to this day despite recommendations by the Dr Frederick Van Zyl Task Team Report (2003), which recommended that the electoral system be changed to a mixed one (mixed electoral system) providing for direct election of constituency representatives and for a political party.

### **3. PROBLEM STATEMENT**

Having considered the South African experience with the present PR list system over a period covering two general elections, some scholars argue for electoral reform (Faure & Venter, 2003; Reilly, 1998). An argument presented is that while the present

electoral system was probably an optimal choice for South Africa's transition to democracy, the timing of electoral reform has now become an important consideration (Ferree, 2018). The challenges associated with the PR list system, such as, massive expenditures by Government and disruption of normal public life due to frequent elections are some of the justifications being used for electoral reform in countries like South Africa and India (Debroy & Desai, 2017; Mottiar, 2005; Barkan, 1998). The argument on a need for electoral reform in South Africa has now been intensified by the ConCourt ruling on the Electoral Act in June 2020 that has already been alluded to.

However, it remains unclear which approach the South African Parliament will take in addressing the current challenges regarding the current electoral system, but some overhaul or redesign of the electoral system has now become a reality. It appears that the next twenty-four months will be critical for key stakeholders in government, in particular, local government to finally extend debates and work towards finding a workable solution to the current electoral system in this country. The Municipal Demarcation Board (MDB) as one of the key role players in local government, is expected to work alongside key partners and propose options that may be considered by parliament in assisting it to get to a solution on this matter. In this regard, international benchmarking on existing and diverse models of electoral systems and practices could be key in unlocking viable and workable solutions to these problems and challenges.

#### **4. RESEARCH QUESTIONS**

The main aim of this discussion paper is to investigate feasibility of a single election(s) in South Africa, the fundamental aspects such as 'What', 'Why' and 'How' of single/simultaneous elections should be explored. Unpacking the single elections system would be critical for understanding what exactly this entails, its workings and how is it going to be integrated. In short, clarity should be provided on what implications the single elections system would have on the current electoral system.

Since, the main aim of this discussion paper is to investigate feasibility of a single election(s) in South Africa. Thus, the above statement leads to the following research questions:

- i) What does the current South African law say about the two elections (National and Local)?
- ii) Why did South Africa choose the current electoral system where national and provincial elections are separate from the local government system?
- iii) What are the advantages and disadvantages of the current electoral system?
- iv) Should South Africa adopt a single electoral system for the three spheres of government? What would it mean for the current constitutional framework?
- v) What would be the advantages or benefits for overall state governance and democracy?
- vi) What would be the short comings (risks) of the single election in South Africa in terms logistics (financial and administrative)?
- vii) If a single election was to be adopted what legal reform would need to be effected?
- viii) What would be the implications/impact of single/synchronised elections for the Municipal Demarcation Board (MDB)?

## **5. RESEARCH OBJECTIVES**

It is apparent from the literature that there are diverse models of electoral systems and practices used by different countries of the world. The viewpoint of Kadima (2006) in relation to electoral systems, is that 'there is no perfect electoral system, because the same electoral system has different political consequences in different countries, in the sense that such systems do not function in a vacuum since they are affected by each country's specific political context, institutions, culture and actors'. As such, changing the current South African electoral arrangements to a single elections system may have important implications.

However, the challenge that remains is that it is not yet known what the implications of single elections system would be on the current electoral system. Several issues

for which clarity must be provided if a single elections system is adopted in South Africa include but are not limited to:

- How would the single elections system deal with more than six ballot boxes or more (National Assembly, Provincial Legislatures, Municipal elections, District Councils or constituencies, PR)?
- Will the current LG mixed member system remain unchanged?" Would it be more appropriate as we already have a 50:50 system with independent candidates at LG level?
- Would South Africa venture into a different local government system? For example, 54 spaces which represent all the current district municipalities and metros (aligned to District Development Model (DDM)), and how are these areas going to be delineated?
- What about the issues of illiteracy and issues of training of officials and staff on the new electoral system related to single elections?
- What the implications/impact of synchronised elections would be for the work of the MDB?

The issues listed above are some of those which have to be properly clarified through research so that proper decisions and recommendations can be considered by parliament in the next two years.

Against this background, it is envisaged that this discussion paper would generate useful information that may enable Parliament to follow legislative processes in amending the current electoral system, so as to choose an electoral system that is not clouded by a crisis (Faure & Venter, 2003). It is therefore hoped that the discussion paper would make meaningful contribution in this regard by:

- a) Determining what the current South African law says about the two elections (National and Local).
- b) Determining the rationale for South Africa to choose the current electoral system.
- c) Establishing the challenges of the current two way electoral system.
- d) Establishing the advantages and disadvantages of the current system.

- e) Determining what a single elections system would mean for the current constitutional framework.
- f) Establishing the advantages or benefits of single elections system for overall state governance and democracy.
- g) Identifying the short comings (risks) of the single elections system in South Africa in terms logistics (financial and administrative); and
- h) Determining legal reform that need to be effected if a single elections system is adopted in South Africa.
- i) Determining the implications/impact of synchronised elections for the MDB OR assessing the implications of harmonised elections for the MDB.

## **6. LITERATURE REVIEW**

### **6.1 The harmonisation of the local and national elections in South Africa (the current local system)**

A major challenge facing South Africa's leaders during the transition to democracy was the selection of an appropriate electoral system for a deeply divided and unequal society. The adopted electoral system would have to, among others, carefully balance the different preferences of political parties and the country's diverse citizenry. Ultimately, the negotiators at the Convention for a Democratic South Africa settled on a proportional representation system at the national and provincial level due to its fairness and simplicity (Lodge, 2003). An independent body to administer the elections, the IEC, was created through the IEC Act of 1993. In 1994, the members of the nine provincial legislatures and the National Assembly were duly elected through a system of proportional representation in terms of the 1993 interim Constitution.

According to section 46(d) of South Africa's 1996 Constitution, the National Assembly consists of not less than 350 and not more than 400 "women and men elected as members in terms of an electoral system that results, in general, in proportional representation." Proportional representation has thus been viewed as a constitutional requirement (see Lodge, 2003). The Electoral Act of 1998 (as amended by the Municipal Electoral Act of 2000) provided further elaboration on the electoral process but maintained the proportional representation electoral system for the provincial legislatures and the National Assembly (Lodge, 2003; Motlanthe, 2017).

To contest in provincial and national elections (which follow a five-year cycle), section 26 of the Electoral Act requires registered parties to submit a list of candidates (the party list). Voters complete two forms – one for the National Assembly and the other one for the provincial legislature. For the provincial legislatures and National Assembly, seats are allocated to each party in proportion to its respective share of the vote. In the 400-member National Assembly, this system affords representation to any party that can muster 0.25 per cent of the vote – one of the lowest thresholds in the world (Kadima, 2006). The 90-member National Council of Provinces is composed of 10 delegates (including the provincial premier) from each of the nine provinces (section 60 of the Constitution of South Africa). According to the Electoral Act, the proclamation for National Assembly elections is made by the President (section 17) while those for provincial legislatures are made by the President or Premier of the province (section 18). There is no constitutional stipulation for the provincial and national elections to be held simultaneously although this has been the case since 1994 (Ferree, 2018).

South Africa adopted a mixed member system at the local government level. Registered parties may submit a list of candidates for election as members of the council to proportionally represent the party in the council, nominate a ward candidate to represent the party in a ward or do both (section 13 of the Municipal Electoral Act of 2000). The legislation allows individuals to contest municipal elections as independent ward candidates (section 16 of the Municipal Electoral Act). Municipal elections follow a five-year cycle and are normally held two years after national and provincial elections.

Although there is a dearth of literature on the reasons for a mixed member system at the local government level, Ferree (2018) argues that this was prompted by the need to maintain the goals of proportional representation while also implementing some form of “constituency representation” at the ward level.

Given the fact that independent candidates are already a feature of the electoral system at the local government level, the recent ConCourt judgement’s focus is therefore on provincial and national governments. However, this judgement provides



an opportune moment to revisit and critically examine the legislation pertaining to all elections in South Africa (i.e. those at the local, provincial and national level). Instead of a piece-meal approach that focusses only on amending the Electoral Act as directed by the ConCourt, the overhaul of the electoral edifice should now be considered.

Calls for the reform of the electoral system are not new and have been made since the 1990s (Ferree, 2018). Two important reports in this regard are the Van Zyl Slabbert (2003) and the Motlanthe (2017) reports. However, both reports focus on the implementation of an electoral system that would make Members of Parliament more accountable on “a proportional representation and constituency system for national elections” (Motlanthe, 2017:526).

Calls have also been made regarding the benefits of holding local, provincial and national elections concurrently (the electoral system at local government level does not feature prominently in both the Van Zyl Slabbert and Motlanthe reports). Members of the Economic Freedom Fighters (EFF) in the Portfolio Committee on Home Affairs, in a recent debate on the recent ConCourt ruling, called for the harmonization of local, provincial and national elections as this would result in cost savings (PMG, 2020). This call is not new. In June 2011, Jacob Zuma, the then South African President, announced that the government was exploring the possibility of holding local, provincial and national elections concurrently. Harmonising the electoral system, it was argued, would result in a number of benefits such as that of having one financial year period for all the spheres of government. Other benefits included “one system of public service provision, a common five-year medium-term planning framework, as well as aligned human and budgeting frameworks” (Cameron, 2014:91).

The harmonisation of the electoral system holds some promise in terms cost savings, government performance and, to some extent, governance. However, this may come at the expense of deepening democracy. A major advantage of not having concurrent elections is that election results often differ between the local and national levels in South Africa. The Democratic Alliance, for example, tends to perform better at local, rather than national, elections and harmonisation is likely to weaken it (Cameron, 2014). This phenomenon has been noted in the international literature (for a Canadian example see Erikson and Filippov, 2001).

The proclamation of municipal elections is made by the Minister for Cooperative Governance and Traditional Affairs in terms of section 24(2) of the Municipal Structures Act, 1998 after consulting the IEC. National and provincial elections are held concurrently without any constitutional stipulation as pointed out earlier and it may therefore be unnecessary to include such a stipulation in the amended legislation if a decision is made to harmonise all elections in South Africa. However, such a stipulation in the legislation can only serve to clarify this issue and ensure a common understanding among the three spheres of government. It is important to note that the decision to harmonise elections will require thorough consultations which should include political parties and the country's citizens.

## **6.2 The feasibility of holding a single elections in South Africa**

The challenges and experiences in relation to the current electoral system, namely, the (PR) list system, have drawn much interest amongst scholars and politicians. In turn, this has made the single electoral system one of the interesting subjects on debates relating to alternative electoral systems that South Africa should consider moving forward. While noting the successes of South Africa's current electoral system, the argument here is that an mixed member proportional (MMP) system will make legislators more accountable to those who elected them to office (Faure & Venter, 2003). As a result, a clear understanding of the fundamental aspects of a single elections system to which the focus shall now be directed is very important.

a) **What do we mean by single/simultaneous elections?** *(Historical perspective and relevant constitutional & statutory provisions).*

Faure and Venter (2003), highlight that South Africa is a parliamentary democracy, with parliamentary institutions at both the national and provincial levels. At the national level, it has a bicameral parliament (two branches), consisting of the National Council of the Provinces (NCOP), and the National Assembly. Parliament selects the head of state and government, the president, who then selects the cabinet. Parliament can dismiss the president and/or cabinet through a vote of no confidence, although this has not happened in the post-apartheid period. South Africa also has nine provincial parliaments, which select provincial premiers, who select provincial cabinets, called

executive councils. Provincial Legislatures can dismiss the Premiers and Premiers can dismiss MECs through no-confidence votes. Municipalities form the third and most local spheres of government in South Africa. In the beginning of 1998, the Municipal Demarcation Act (No. 27 of 1998) and the Local Government Municipal Structures Act (No. 117 of 1998) reformed the existing municipal map and established the structure, responsibilities, and electoral systems of municipal governments.

Elections for the National Assembly and the provincial legislatures have occurred concurrently every five years since 1994 (Faure & Venter, 2003). Voters cast two ballots: one for the National Assembly and one for their provincial legislature. Concurrent elections, while the practice, are not constitutionally mandated. Election terms for the National Assembly are five years, but presidents can call for early elections if the National Assembly is dissolved prior to that five year period (Constitution of the Republic of South Africa, 1996, chap. 4 Sections 49 and 50). Like the national and provincial electoral list PR systems, the half of PR list of South African municipal elections should enable a large number of parties to win seats. The first municipal elections under the new rules occurred in 2000, with subsequent elections in 2006, 2011, and 2016. The elections for councils occur every five years (Ferree (2018). Ferree (2018) highlights that voters cast two ballots in metro or local elections: one for a ward councillor and one for a municipal-level closed party list. Independent candidates can run in ward races, but not for PR seats. Voters in local municipalities thus cast three ballots: one for ward representative, one in the PR race for the local municipality, and one in the PR race for the district council. In contrast, voters in metro municipalities cast only a ward vote and metro PR vote (Electoral Commission, 2016).

“Now, coming back to the scope and definition of the term “Simultaneous Elections”, ideally simultaneous elections should imply that elections to all the three spheres of constitutional institutions take place in a synchronized and co-ordinated fashion. What this effectively means is that a voter casts his/her vote for electing members for all spheres of the Government **on a single day**” (Debroy & Desai, 2017:4). In the context of this paper, the term “Simultaneous Elections” or single elections system therefore implies that the elections cycle in South Africa shall be synchronized together. “In such a scenario, a voter would normally cast his/her vote for electing members of the

national, provincial and municipal electoral list PR systems **on a single day and at the same time**" (Debroy & Desai, 2017:4).

b) **Why Single/Simultaneous Elections?** (*Articulating the imperatives of holding simultaneous elections in the country*).

South Africa has witnessed frequent elections since 1994. Such a situation is seen to adversely impact all the key stakeholders, that is, all the three spheres of government (National, Provincial and Municipal governments), government employees/officials on election duty, general electors/voters, as well as political parties and candidates. Furthermore, what emerges from the literature is that there are various reasons why single elections are favoured. For South Africa, reasons could also include those from the African National Congress (ANC) and others as captured by scholars like Cameron (2014:91) who refer to such advantages as one financial year period for the three spheres of government, one system of public service provision, and a common five-year medium-term planning framework. The explanation on why single elections are favoured is given in the following paragraphs:

i) *Complexity:*

- The single electoral system is not necessarily more complex than the current list PR system (Faure & Venter, 2003, Debroy & Desai, 2017). The argument is that it is the simplest system, as all voters have to do is to put an unequivocal mark next to the name of the candidate of their choice on the ballot paper (Faure & Venter, 2003).
- The system is said to be "easy to use even in countries where the rates of illiteracy are the highest" (Kadima, 2006:36).

ii) *Accountability:*

- The single elections system is perceived to address voter accountability, which is the most serious shortcoming in the present electoral system. As such, the system is seen to increase accountability for all representatives elected into office from constituencies (Faure & Venter, 2003).

- The choice of candidates is not done by virtue of their loyalty to the party, but by virtue of personal attributes like good leadership qualities (Faure & Venter, 2003).
- With the single elections system, the MP is perceived to be a formal representative through which constituencies gain access to governmental structures (Faure & Venter, 2003).
- In the case of Lok Sabha in India, simultaneous elections are seen to save government a lot of money (tax payer's money) (Debroy & Desai, 2017). However, this argument is debatable because there has never been data gathered on the tangible costs related to holding of single elections. So, saving costs for government may mean different things to different people.

iii) *Fairness, Inclusiveness and Representativeness:*

- The single elections are perceived to ensure accessibility of representation to minorities (Faure & Venter, 2003).
- With the constituency-based Member of Parliament (MP), the argument here is that the candidates are seen to receive mandate of their constituency at election times (Faure & Venter, 2003).
- As Kadima (2006) states, the single elections are perceived to offer a high level of representative accountability, since this system maintain a link between an elected representative and his/her constituency.

c) **Likely criticism of single elections idea and counter arguments**  
*(Arguments against simultaneous elections and their counter-assessments)*

The debate for holding a single/simultaneous elections has not gone entirely uncontested. As a result, the critics of single/simultaneous elections have identified many weaknesses in the system.

- First, the political parties have questioned its operational feasibility/do-ability given the existing constitutional and statutory provisions with regards to tenure of various Assemblies and Parliament (Debroy & Desai, 2017).
- Second, other critics have 'criticized the idea of single elections as being politically motivated. The argument here is that "single elections would lead to

larger national parties winning both National and Provincial elections thereby marginalizing regional parties which often represent the interests of local social and economic groups". In this way, the single elections would fail to deepen social cohesion and democracy (Debroy and Desai, 2017:17).

- iii) Third, the argument that "the single elections ensures greater accountability because of the link between the elected representative and the constituency is debatable for many reasons" (Kadima, 2006:40).
- iv) Finally, the single elections are perceived to 'create room for manipulation of the demarcation of electoral boundaries for electoral gain'. Thus, Kadima (2006:45) argues that the processes of single elections are "open to political manipulation in order to give an advantage to a political party or a candidate".

It is worth noting that some of the pertinent issues that have been raised under the "Research Objectives" section (on p.5), still remain unresolved or unclear, because there is no information provided on how single elections would address them. Such issues entail but are not limited to:

- How would the single elections system deal with more than six ballot boxes or more (National Assembly, Provincial Legislatures, Municipal elections, District Councils or constituencies, PR?)
- How would the seats of LG be determined?
- Whether the current LG mixed member system would remain unchanged or not?"
- Whether South Africa would venture into a different local government system or not? For example, 54 spaces which represent all the current district municipalities and metros (aligned to District Development Model (DDM)).
- How the issues of illiteracy and issues of training of officials and staff on the new electoral system related to single elections would be dealt?
- How single elections system would be sustained over the longer time?

*a) Logistics and resource requirement (operational feasibility) to implement simultaneous elections*

The holding of single/simultaneous elections may lead to:

- i) Resources optimisation considering the increased scope of elections. Such resources may include:
  - Officials for supervision and conduct of elections;
  - Security personnel to ensure safe, secure, free and fair elections;
  - Supply of electronic voting machines including and storage of elections related materials, e.g. inks, paper for electoral rolls, digital cameras;
- ii) Transportation requirements of IEC officials and security personnel;
- iii) Transportation and storage requirements are in-turn driven by the assessment of above resources.

In light of the above listed issues, it appears that holding a single elections may lead to resource optimisation particularly personnel, election materials and number of voting stations to be set up.

### **6.3 What would the single election do for overall state of governance and democracy if adopted in South Africa?**

In terms of the literature studied, the lessons drawn from a variety of electoral systems used by other countries in the world show that there is no perfect electoral system. Furthermore, as Kadima (2006) mentions, the same electoral system has different political consequences in different countries, because such systems do not function in a vacuum since they are affected by each country's specific political context, institutions, culture and actors. However, changing the current South African electoral arrangements to a single electoral system may have important implications. Therefore, it is hoped that the questions below will assist in providing solutions that describe the overall state of governance and democracy should the single election be adopted in South Africa.

#### **a) What would it mean for the current constitutional framework should South Africa adopt the single elections?**

- i) *Adoption of a single electoral system would lead to the introduction of the principle of partial geographic representation*

The single electoral system will introduce the principle of partial geographic representation that would bring some changes to conditions under which the current

South African electoral system operates. Thus, the proposed single electoral system should be seen as the dual First-Past-The-Post (FPTP) and PR list system (followed in Germany and a number of other countries), which is a proportional system of representation with a geographic element. It is not a parallel electoral system since the one category of the system (the list component) compensates fully for any disproportionality yielded by the outcome of the geographical or constituency category. The outcome of the electoral arrangements that are proposed will comply fully with section 46(1)(d) of the 1996 South African constitution which requires an electoral system which “in general, results in proportional representation” (Faure & Venter, 2003).

According to Faure and Venter (2003), the South African electorate will be even better served by introducing an element of geographical representation into the present electoral system. This implies that each voter will have two ballots, one for a candidate in a constituency and one for the closed ordered national party lists. Both votes are cast on the same day on the same ballot and voters are allowed to split their votes, because they may vote for one party’s candidate in their constituency and another party for the PR lists. In this manner, candidates should be allowed to run in both parts of the election. After an election, the constituency results are declared immediately and the parties know at the outset how many constituency seats have been captured. Thereafter, the results of the list PR vote are used to determine overall proportionality, and to function in a compensatory manner correcting the disproportionality in outcome of the 200 constituency results (Faure & Venter, 2003).

*ii) Adoption of a single election would reduce the overall size of parliament*

The constitution prescribes that the National Assembly shall have no fewer than 350 and no more than 400 members. The idea that the overall size of parliament should be reduced is strongly supported. Should a future decision in this regard be taken, the proposal for the composition of the National Assembly can simply be adapted accordingly to effect a 50:50 ratio between list PR seats and Single-member constituency seats (Faure & Venter, 2003).



*iii) Adoption of a single election would pose no threat to the existing strength of parties*

In general, the proposals for changes to the electoral system will give each party currently represented in parliament the same number of seats, including the small parties (Faure & Venter, 2003).

*iv) Adoption of a single election would accommodate first and second class representatives*

The introduction of two categories of MPs will not necessarily lead to so-called first- and second-class representatives. It is not generally acknowledged that this has been the case in the German experience. Such a differentiation is the best possible trade-off between the requirements of proportionality and accountability that can be accomplished (Faure & Venter, 2003).

*v) Adoption of a single election would make voters' roll and voting inside and outside of constituencies possible*

A proper voters' roll for each constituency will have to be administered. A national voters' roll must be compiled on the basis of these rolls. As proposed previously, voters will have two ballots. Voters outside of their constituencies will only be allowed to vote for the PR party lists, while voters who vote in their constituencies will be allowed to cast both their ballots (Faure & Venter, 2003).

*vi) Adoption of a single election would encourage and retain the average size of constituencies*

The number of voters per geographical constituency will be approximately 100,000, i.e. 20 million voters represented by 200 constituency seats, which is not out of the ordinary in democracies. In large democracies such as the US and India the representative: voter ratio is less favourable. Arguments which suggest that this is too 'impersonal' a ratio are unfounded since even a 1:10,000 ratio cannot be 'personal' in any realistic or meaningful way (Faure & Venter, 2003).

*vii) Adoption of a single election would address the effects of strategic vote splitting*

The strategic splitting of votes as provided for in the proposal is an extremely effective method of reconciling national and local issues. The present system also allows for a differentiation in the double ballot, but candidates on this system's provincial lists are

often just as 'far removed' from local matters as those candidates on the national party lists. In the proposal, voters could vote for a candidate on the basis of his/her knowledge and undertakings for the constituency, while still participating in a nation-wide 'opinion poll' to determine how many overall seats each party should have in the National Assembly. No pure majoritarian or pure PR list electoral system can accomplish such a trade-off. The past two general elections have also amply demonstrated that voters understand the double ballot system of voting, and in this sense our voting procedure is not more complicated than that of the present system, yet it will yield much better results (Faure & Venter, 2003).

**b) What would be the advantages or benefits for overall state governance and democracy?**

The advantages or benefits that South Africa may attain from the introduction of a single elections may broadly be categorised into the following:

*i) A single electoral system would allow a free mandate*

A single elections would introduce a free mandate for members of the National Assembly elected from constituencies (Faure & Venter, 2003). A free mandate is viewed to be more democratic and more compatible with the general tone of a free and open society, because the party mandate is not in line with the rights (freedom of belief and opinion) guaranteed by Chapter 2 of the constitution. If a free mandate is introduced, it will loosen the grip of party bosses on the conscience of representatives and it could lead to a more realistic articulation of issues and opinions in constituencies by candidates/representatives. Preferably all members of the National Assembly should have a free mandate to vote according to their conscience, but a case can be made that members elected on the PR list category (the 'party ticket') should be prohibited from 'crossing the floor' in the National Assembly. As a minimum, it is therefore proposed that National Assembly members elected from constituencies should have a free mandate, i.e. that they can resign their party but still retain their seats in the National Assembly. Unlike members elected under the 'party ticket', who are subject to stricter party caucus control, these constituency MPs should also be allowed to vote on sensitive moral issues (e.g. euthanasia, abortion, etc.) according to their conscience (Faure & Venter, 2003).

*ii) A single electoral system would introduce internal party democracy*

Section 42(3) of the constitution states that: "The National Assembly is elected to represent the people to ensure government by the people under the Constitution." Present electoral arrangements, however, do not place any obligation on political parties to select candidates for their lists by way of democratic procedures. Practices for doing this differ from party to party, and in some instances party leaderships have more discretion in this regard than others. A single elections would ensure that parties should be required to conform to internal democratic practices. This will strengthen the bond between ordinary party members and candidates. Democracy certainly entails that people should select their representatives and leaders competitively in order to restrain, control, empower and influence them. Should South Africa adopt a single elections, then section 19(1) of the Constitution is to be amended to foster internal party democracy by requiring in section 19(1) that the internal organisation and nomination procedure of candidates of political parties must conform to democratic principles (Faure & Venter, 2003).

It is envisaged that a single elections will ensure that parties should also be required to publicly account for the sources and use of their funds and assets. If not stated in the constitution, at a minimum, this should be a requirement in the Electoral Act. Of course this would be something new that is completely lacking in the current South African electoral system (Faure & Venter, 2003).

*iii) A single electoral system would introduce the principle of the right of recall*

To further strengthen accountability of constituency-based representatives the introduction of the right of recall of such representatives by the electorate in the constituency should be considered (Faure and Venter, 2003). To eliminate frivolous recall initiatives, the conditions for such a recall should be stringent. This is, however, not the place to make specific recommendations. Political parties can decide among themselves what the conditions of a recall initiative in a constituency should be (Faure and Venter, 2003). Conditions that could be considered are the number of signatures required to validate a recall initiative, the number of times in the term of MPs/parliament that such a recall can be undertaken, the grounds for a recall, appeals to the courts to check the validity of a recall, and so on (Cronin, 1989). If sound and reasonable procedures for recall can be introduced, the practice will have a

wholesome effect on the quality of representatives that are put up as constituency candidates, the service delivery in constituencies, and accountability in general.

**c) What would be the short comings (risks) of the single election in South Africa in terms of logistics (financial and administrative)?**

*i) Administration, cost and gerrymandering*

With the adoption of single electoral system, the geographic constituencies will have to be delimited or reapportioned from time to time. Unlike, in the previous political order, the constitution of South Africa required the delimitation of constituencies every ten years argue that single elections system could also lead to manipulation of borders in order to promote specific party interests or lobby groups (Faure & Venter, 2003).

According to Shankar IAS Academy (2019), it is perceived that the introduction of a single electoral system would further:

- Reduce enormous costs involved in separate elections.
- Reduce the burden on the manpower deployed.
- Help ruling parties focus on governance, instead of being constantly in election mode.
- Reduce the distractions from long-term planning and policy goals; and
- Boost voter turnout.

*ii) The short comings (risks) of a single elections*

Shankar IAS Academy (2019) listed the following as the risks or short comings of a single electoral system:

- Holding simultaneous elections is likely to affect the judgment of voters as the national and state issues are different.
- It will reduce the accountability of the government to the people as the elections will be held once in five years. But, repeated elections keep legislators on their toes and increases accountability.
- It may curtail or extend the tenure of State legislatures.
- It will, in all probability, benefit the dominant national party or the incumbent at the Centre while disadvantaging the smaller regional party.

- In a parliamentary democracy, the legitimacy of executive is responsible to the legislature would be undermined by taking away the legislature's power to bring down a minority regime by mandating a fixed tenure.

#### **6.4 What would be the implications/impact of synchronised elections for the work of the MDB**

In order to determine and solicit inputs from within the MDB pertaining to what the implications/impact of synchronised/harmonised elections would be for the work of the MDB, a brainstorming session for all the MDB Units was arranged by the Research Unit. To provoke thinking around the implications of harmonised elections for the MDB, possible scenarios or assumptions regarding the kind of changes that are likely to happen should the single elections be adopted in South Africa were proposed.

##### **6.4.1 Possible scenarios or assumptions made**

The following are possible scenarios or assumptions that were proposed:

- 6.4.1.1 The next local government elections will be postponed to take place at the same time as the coming National and Provincial elections.
- 6.4.1.2 The legislation, that is, the Municipal Demarcation Act (MDA) will be amended to allow the MDB to demarcate constituencies for Provincial and National elections.

The questions that emanated from the aforementioned assumptions were as follow:

- a) The **first question** was if the above two scenarios were to manifest themselves: *"How would the MDB and its work be affected?"* In other words:
  - i) How would single elections impact ward delimitation processes with reference to timelines, the risks and opportunities?
  - ii) What would be the impact of single elections on municipal boundary re-determinations with reference to timelines and risks and opportunities?
- b) The **second question** was *"What would be the impact of the introduction of demarcation of constituencies on the work of the MDB?"* This relates to the operations of the Board which are:
  - a) Financial resources;

- b) Human resources;
- c) Other infrastructure such as ICT;
- d) Communication and stakeholder management (Public awareness and education).

#### **6.4.2 Outcomes of the brainstorming session on implications of single election(s) for the MDB**

The discussion below outlines various issues that were raised during the brainstorming session regarding the *impact of the introduction of demarcation of constituencies for the MDB*:

##### **a) Financial resources**

- The demarcation of constituencies will be a new and additional responsibility or mandate of the MDB, therefore the MDB will definitely require additional funding from the national fiscus for it to be able to take up this responsibility.
- As such, the Board would be compelled to come up with a plan on how additional funding would be secured or made available for the demarcation of constituencies given the fact that the Board has always been allocated insufficient budget by the National Treasury (NT) in relation to the execution of its Constitutional mandate. This situation might become worse due to the fact that the NT has made it clear that the budget of the Board for the 2021/2022 Financial Year has been reduced

##### **b) Human resources (HR)**

- Currently, the Board has a low staff compliment compared to the nature of the work to be done. As such, there will definitely be a need not only for additional staff in the Research and Operations Division, but also new expertise, skills and knowledge about constituencies themselves and how to negotiate, resolve conflict and engage stakeholders.
- Due to the fact that the three main activities of the MDB, that is, municipal boundary re-determinations, wards delimitation and stakeholder management might take place simultaneously or one after the other, the MDB will need to improve on its project management skills.

- The Board would still be faced with a challenge regarding how the structure of the constituencies would be. Currently, there is no clarity on whether South Africa would venture into a different Local Government System or not. For example, whether constituencies would resemble the 54 spaces which represent all the current 44 District Municipalities and 8 Metros (aligned to District Development Model (DDM)) or not.
- Therefore, in terms of mitigation strategy for human resources requirements, the MDB might have to rely on consultants to work on the demarcation of constituencies. In this regard, the proposal is that additional people would be required to:
  - i) Do research on the policy work around the constituencies and develop systems, that is, policies, procedures and processes for the MDB.
  - ii) Conduct investigations on the ground and gain consensus on the constituency-based process with various stakeholders.
  - iii) Strengthen the MDB's Legal Unit such that it becomes fully functional especially for the handling of objections pertaining to the established constituencies.

**c) Other infrastructure such as ICT**

- Due to the (possibly) limited time available for all the work (in relation to single election(s)) to be completed, the MDB will need to invest intensively on technological mechanisms that will drastically improve efficiencies within the organisation. This is not only for automation of operational systems and processes, but communication, stakeholder engagement and public participation processes.
- The MDB would need to look at enhancing its ICT infrastructure to ensure more stability and access. In this regard, the IT Unit of the MDB may assist in outlining what are some of the enhancements required to ensure greater stability of the MDB's ICT environment.
- The GIS infrastructure would also need to be enhanced. For example, there would be a need to obtain up-to-date datasets and reliable spatial data that will allow for more accurate analysis of different areas in the country. The

MDB may also require to obtain technologies for primary spatial data capturing, such as, GPS, land survey equipment, etc., in order to ensure greater independence in the use of GIS technology.

**d) Communication and stakeholder management/Public awareness and education).**

- Constituencies are perceived to be more political than municipal and ward boundaries to an extent that the normal ways of stakeholder and public communication and engagement may not work. Therefore, the MDB would need to enhance its public education and awareness processes so as to gain the confidence of the public, but mainly political players.
- There will definitely be a need not only for staff, but also new expertise, skills and knowledge about constituencies themselves and how to negotiate, resolve conflict and engage stakeholders as already alluded to (in (b) under HR).
- Enhancement of communication and stakeholder management would be very critical, because constituencies will need to be built on consensus more than just technical considerations. Therefore, consensus building systems and processes will need to be put in place. Furthermore, more time will need to be allowed for consensus building systems and processes, because they have the potential to make or break elections. As a result, the MDB will have to put more emphasis on aspects of communication, negotiation, stakeholder management, public education and awareness processes.

## **7. Conclusion and Way forward**

An attempt has been made to provide the analysis on the feasibility of the case for holding a single/simultaneous elections in South Africa. The analysis kick-started with the exploration of the experiences pertaining to challenges and/or benefits associated with the current South African electoral system. Efforts have been made to define the scope of single elections by firstly providing the definition of this concept as well as the arguments or justification for holding a single elections. Furthermore, the benefits and likely criticism of the idea of single/simultaneous elections as well as possible ways of



its effective implementation were elaborated. Over and above, it has become apparent from this paper as Kadima (2006) highlighted, that there is no perfect electoral system since each electoral system is affected by each country's specific political context, institutions, culture and actors. So, it is worth noting that changing the current South African electoral arrangements to a single elections system should it be adopted, may have impact on overall state governance and democracy, and perhaps on other legislation guiding elections.

Nevertheless, the view held by the Staff Writer is that "South Africa has to change how its elections work..." due to "a June Constitutional judgement which found that the country's Electoral Act is unconstitutional as it does not provide for adult citizens to be elected to the National and Provincial Legislatures as independent candidates" (Staff Writer, 2020). This discussion paper therefore serves as one of the sources of information that presents South Africa with a unique opportunity to choose an electoral system that is not clouded by a crisis as this was once highlighted by Faure and Venter (2003). Again, the paper has also provided some hints on what the implications of harmonised election(s) would be on the work of the MDB by addressing the MDB's financial, HR, ICT and communication and stakeholder management requirements should it happen. The feasible solutions, such as, a range of fundamental aspects including logistics and resource requirement to implement a single/simultaneous elections in any country such as South Africa have been argued in this paper. It will be incumbent upon the politicians, citizens and concerned stakeholders to seriously consider whether a single/simultaneous elections is a viable and practical option for South Africa to adopt or not.

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