EISA ELECTION OBSERVER MISSION REPORT

SOUTH AFRICA

REPUBLIC OF SOUTH AFRICA NATIONAL AND PROVINCIAL ELECTIONS
8 MAY 2019

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8 MAY 2019
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EISA strives for excellence in the promotion of credible elections, participatory democracy, human rights culture, and the strengthening of governance institutions for the consolidation of democracy in Africa.

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ACRONYMS

ACDEG African Charter on Elections Democracy and Governance
ACDP African Christian Democratic Party
AIC African Independent Congress
ANC African National Congress
APC African People’s Convention
API Application Programming Interface
ASC African Security Congress
ASONET Africa Solidarity Network
ATM African Transformation Movement
AU African Union
AZAPO Azanian People’s Organisation
BLF Black First Land First
CBOs Community Based Organisations
CEO Chief Electoral Officer
CGE Commission for Gender Equality
COPE Congress of the People
CSOs Civil Society Organisations
DA Democratic Alliance
DDP Deepening Democracy Programme
DeafSA Deaf Federation of South Africa
DEFs Democracy Education Facilitators
DoP Declaration of Principles for International Election Observation
ECF SADC Electoral Commissions Forum for SADC countries
EFF Economic Freedom Fighters
EISA Electoral Institute for Sustainable Democracy in Africa
EMBs Election Management Bodies
EOM Election Observation Mission
FF/VF Freedom Front/Vryheidsfront
HSRC Human Sciences Research Council
ICASA Independent Communications Authority of South Africa
ID Independent Democrats
IEC Independent Electoral Commission
IEMSA Institute of Election Management Services in Africa
IEOM International Election Observation Mission
IFP Inkatha Freedom Party Freedom
KZN KwaZulu-Natal
MF Minority Front
MOCs Municipal Outreach Coordinators
MPDF Multi-Party Democracy Fund
NATJOINTS National Joint Operational and Intelligence Structure
NCPCPB Northern Cape Provincial Community Police Board
NGOs Non-Governmental Organisations
<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
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<tr>
<td>NFP</td>
<td>National Freedom Party</td>
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<tr>
<td>NNP</td>
<td>New National Party</td>
</tr>
<tr>
<td>NP</td>
<td>National Party</td>
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<td>NPE</td>
<td>National and Provincial Elections</td>
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<tr>
<td>NPO</td>
<td>Non-Profit Organisation</td>
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<td>PAC</td>
<td>Pan Africanist Congress of Azania</td>
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<td>PEB</td>
<td>Party Election Broadcasts</td>
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<td>PEMMO</td>
<td>Principles for Election Management, Monitoring and Observation</td>
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<td>PLWDs</td>
<td>Persons Living with Disabilities</td>
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<tr>
<td>PPFA</td>
<td>Political Parties Funding Act</td>
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<td>PPLC</td>
<td>Political Party Liaison Committee</td>
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<td>PFRPPA</td>
<td>Public Funding of Represented Political Parties Act</td>
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<td>PFRPPR</td>
<td>Public Funding of Represented Political Parties Regulations</td>
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<td>RECs</td>
<td>Regional Economic Communities</td>
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<tr>
<td>RPPF</td>
<td>Represented Political Parties Fund</td>
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<tr>
<td>SABC</td>
<td>South African Broadcasting Corporation</td>
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<tr>
<td>SACBC</td>
<td>Southern African Catholic Bishops Conference</td>
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<td>SACC</td>
<td>South African Council of Churches</td>
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<tr>
<td>SADC</td>
<td>Southern African Development Community</td>
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<tr>
<td>SADC PF</td>
<td>SADC Parliamentary Forum</td>
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<tr>
<td>SAHRC</td>
<td>South African Human Rights Commission</td>
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<tr>
<td>SANCB</td>
<td>South African National Council for the Blind</td>
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<tr>
<td>SANDF</td>
<td>South African National Defence Force</td>
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<tr>
<td>SANEF</td>
<td>South Africa National Editors Forum</td>
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<tr>
<td>SAPS</td>
<td>South African Police Services</td>
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<tr>
<td>SSA</td>
<td>State Security Agency</td>
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<tr>
<td>TIC</td>
<td>Temporary Identity Certificate</td>
</tr>
<tr>
<td>TRC</td>
<td>Truth and Reconciliation Commission</td>
</tr>
<tr>
<td>UBT</td>
<td>Universal Ballot Template</td>
</tr>
<tr>
<td>UCDP</td>
<td>United Christian Democratic Party</td>
</tr>
<tr>
<td>UDM</td>
<td>United Democratic Movement</td>
</tr>
<tr>
<td>VF+</td>
<td>Freedom Front Plus</td>
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ACKNOWLEDGEMENTS

The Electoral Institute for Sustainable Democracy in Africa (EISA) International Election Observation Mission (IEOM) to the National and Provincial Elections in South Africa would not have been possible without the assistance and support of several individuals and institutions.

The mission leader, His Excellency Dr Goodluck Jonathan, former President of the Republic of Nigeria, and his deputy, Mr Denis Kadima, EISA’s Executive Director, and the international observers who represented Civil Society Organisations (CSOs) and Election Management Bodies (EMBs) were drawn from 16 African countries, and representatives of Regional Economic Communities (RECs). This IEOM is the fifth to be deployed by EISA in South Africa since the 1999 elections.

The stakeholders provided invaluable information and the support necessary for the success of the mission. These are: the Independent Electoral Commission of South Africa (IEC) at the national and provincial levels, South African Police Services (SAPS); the African National Congress (ANC), Democratic Alliance (DA), Economic Freedom Front (EFF), GOOD party; South African Broadcasting Corporation (SABC) representatives and Civil Society Organisations.

The EISA IEOM met other International Observer Missions from the African Union (AU); Southern African Development Community (SADC); SADC Parliamentary Forum (SADC PF) and Electoral Commissions Forum for SADC countries (ECF SADC).

The mission would also like to thank the EISA Elections and Political Processes department and the technical team that supported the mission. The technical team comprised Olufunto Akinduro, Noxolo Gwala, Michael Nyarko, Magdalena Kieti, Tricia Hlongwa and Lenny Taabu.

The deployment of the EISA IEOM was made possible by the generous financial contribution of the German Foreign Office.
The Electoral Institute for Sustainable Democracy in Africa (EISA) deployed an international election observation mission (IEOM) to the 8 May 2019 National and Provincial Elections (NPE) in South Africa. The mission was led by His Excellency Dr Goodluck Jonathan, former President of the Republic of Nigeria. Mr Denis Kadima, EISA’s Executive Director, was the Deputy Mission Leader. The delegation comprised 37 international observers drawn from Civil Society Organisations (CSOs), Election Management Bodies (EMBs), and Regional Economic Communities (RECs) from 16 African countries. The mission was supported by a technical team comprising a coordinator, legal and media experts and a political analyst. The IEOM was in the country from 14 April 2019 to 20 May 2019. It was the fifth EISA IEOM deployed in South Africa since the 1999 elections.

The EISA IEOM’s assessment methodology is guided by its commitments as an endorser of the Declaration of Principles for International Election Observation (DoP) and its attendant code of conduct for international observers. The IEOM assessed the extent to which the legal framework and procedures in the 2019 electoral process complied with South Africa’s commitments and obligations set out in the following international instruments: the OAU/AU Declaration on the Principles Governing Democratic Elections; the African Charter on Democracy, Elections and Governance (ACDEG); the Principles for Election Management, Monitoring and Observation (PEMMO) and the national legal framework for elections in South Africa.

During their deployment, the observers monitored several activities to gather information on key pre-election issues and to gather the perspectives of stakeholders on the process. Before election day, the IEOM engaged with key electoral stakeholders, including the IEC, South African Police Service (SAPS), political parties, Civil Society Organisations (CSOs) and the South African Broadcasting Corporation (SABC). They also attended party campaigns and visited polling stations on election day and visited the tally centres after election day in all the nine provinces. On election day, 18 teams of observers visited 295 polling stations across the nine provinces of the country.
Summary of the findings:
The elections were guided by a strong constitutional and legal framework, which is in line with international and regional standards for democratic elections. The constitutional and legal framework also guarantees, to a large extent, civil liberties and establishes independent institutions necessary for the conduct of credible elections. It was observed that:

- The 2019 elections were arguably the most competitive in South Africa’s 25 years of democracy. The governing African National Congress (ANC) share of the votes declined since the 2014 and 2016 elections. The 2019 elections were conducted in a context marked by ongoing inquiry into state capture that indicted former President Jacob Zuma and his close associates; the leadership transition within the governing African National Congress (ANC); the national debate on the land question; a decline in economic growth and widespread dissatisfaction about service delivery; alleged political killings as well as xenophobic attacks mostly directed against African immigrants in some parts of the country; and flooding across parts of the KwaZulu-Natal (KZN) and Eastern Cape provinces. These key issues shaped the pre-election context and set the tone of the campaigns in the 2019 national and provincial elections in South Africa.
- Delimitation and demarcation processes were consultative and undertaken by the IEC and the independent Municipal Demarcation Board (MDB), which enhanced the transparency of the process.
- The voter registration process was inclusive and provided for the enfranchisement of citizens, both within and outside the borders of South Africa, including prisoners. Transparency in the process is enhanced through the checks and balances provided by the law. The IEOM commended the efforts of the IEC to comply with the Electoral Court’s ruling mandating the Commission to include the full addresses of registrants. As at 8 May, the IEC had captured addresses for over 85% of the names in the voters’ register.
- There was a debate on the need to review the current proportional representation system that has been in place since 1994 for national and provincial elections, to extend equal rights to all eligible independent candidates to stand for election at all levels.
- An enforceable code of conduct for political parties that all political
parties and candidates were expected to abide by was provided. Campaigns were largely peaceful, and parties upheld their commitment to the code of conduct.

- The country has a vibrant political culture where parties can register and operate without undue restrictions. Similarly, registration and regulation of civil society organisations is not restrictive and allows for broad participation of interested organisations.

- The IEC was accessible to all stakeholders, including the voters. Communication channels with the public were open with the IEC, providing a live feed in the form of an Application Programming Interface (API) publicly available in order to provide election data in real time to the media and other interested parties. The Commission was responsive to post-election complaints, undertaking an audit to verify claims of electoral fraud in regard to multiple voting.

- Although South Africa lacks a legislated gender affirmative action programme, the progressive measures by some political parties through the voluntary quota systems cumulatively led to an increase in the number of women in parliament, from 40% in 2014 to 46% in 2019. The IEC also took positive steps to include women in the electoral process. 73% of the recruited electoral staff were women. They also constituted 78.2% of the poll workers on election day. Political parties and independent citizen observer groups also took measures to include women, as 44.6% of the citizen observers and 59.7% of the party agents.

- Special voting and election day procedures were undertaken in accordance with the laid down procedures to a large extent, with few exceptions observed.

- The EISA IEOM noted the reports of multiple voting in some parts of the country as a result of the poor quality of ink administered to mark voters’ fingers and the possibility of receiving multiple receipts from the voter identification devices commonly referred to as the zip-zip machines. The IEOM observed that the indelible ink used during the process was easily removable; however, it did not witness any direct evidence of multiple voting. The IEOM also noted that there was no unusual increase in voter turnout in the 2019 elections. This would have been expected in a situation of widespread multiple voting. The outcome of the IEC’s audit confirmed the EISA IEOM’s observation.

- The peaceful pre-election context was truncated by violent service delivery protests and fears of xenophobic attacks. Despite ongoing
protests in some parts of the country, election day was generally peaceful and orderly. The post-election period saw protests around the controversies raised about the possibility of multiple voting in some parts of the country, but the context remained generally peaceful. The EISA IEOM commended the South Africa Police Service (SAPS) and other security agencies for their professional and swift response to security concerns as they arose. The EISA IEOM specifically appreciated the efforts of the SAPS to provide security for its observers in their selected areas of deployment before, during, and after the elections.

**The following concerns were however noted:**

- While the legal amendments before the elections contributed to the transparency and credibility of the voters’ roll and the electoral process as a whole, the amendment restricting the accreditation of persons who may conduct voter education to juristic persons is considered to be restrictive.
- While the Political Parties Funding Act (PPFA) provides a comprehensive framework for regulating both the public funding of represented political parties and private donations, it is silent on the investments of political parties and how income from such investment may be used. It also fails to regulate funding for internal party leadership campaigns and makes no provision on ceilings for political party campaign expenditure.
- While numerous voter education activities were undertaken by various stakeholders spearheaded by the IEC, there was limited participation by CSOs, some of whom cited lack of funds as reasons for their absence. The financial crisis at the SABC negatively impacted on the broadcaster’s voter education efforts.
- The number of unregistered eligible voters stood at 9.8 million despite the IEC’s registration drive to promote broad participation. The IEOM also noted the decrease in the registration and participation of youth in the elections. This was despite the numerous efforts put in towards securing their participation.
- The Electoral Court’s decision faulting the IEC’s failure to gazette the registration of the Black First Land First (BLF) political party, contrary to the provisions of the Electoral Act. Lack of gazettement denied interested parties an opportunity to appeal against the registration if they so desired.
• While the accreditation process for observation was easily accessible, simple and non-discriminatory, few citizen observers were present on election day. The EISA IEOM was concerned about the minimal presence of citizen observers’ nationwide.

The mission offers the following recommendations for improvement of future elections:

To the parliament and government of South Africa
• Timing of legal reforms: to reconsider the timing of legal reforms and enactment of laws within the electoral cycle to ensure that laws can be operationalised well ahead of elections.
• Review the PPFA to further level the playing field for all parties by expanding the scope of monitoring to include private funding for internal party election processes and the use of proceeds of political party investments.
• Quotas for youth, women and PWDs: consider legislation of quotas to ensure the increased participation of women, youth and persons living with disabilities (PWDs).

To the IEC
• Prevention of electoral fraud: to address the concerns of multiple voting, consider creating a harmonised digital voter register that is accessible via the zip-zip machines. This will make it possible to use the zip-zip machines to track and eliminate persons who have already cast their ballot and serve the purpose of a double check alongside the hard copy registers at every polling station.
• Management of voting points: put in place adequate mechanisms for the management of substations to ensure that the number of voters per voting point is more efficiently and easily managed. This will quicken the process and reduce voters’ waiting time and the length of the vote count. This may positively impact on voters’ experience at the voting station.
• Polling staff uniform: to ensure that polling officials are easily identifiable to the voters through their uniform. The Commission may consider having staff bibs which are distinct from those provided to other stakeholders like citizen observers and party agents.
• Voter education: commence voter education initiatives earlier in the process. Voter education should focus more on the details of the voting process and the procedures for application for special voting. This could decrease the number of invalid votes and improve voter turnout.

• Training of polling staff: improve the training and refresher training of electoral staff to address the concern raised about the non-standardised application of procedures by election staff.

Proposals for reforms: commission research to inform and contribute to the national debate on a new electoral system to address the question of the rights of independent candidates in national and provincial elections.

To the CSOs
• Voter education: enhance voter education to ensure that voters have the necessary information to understand the electoral process and their democratic rights and make informed decisions in exercising their right.

• Targeted voter education: review existing strategies for youth engagement and increase the youth-targeted voter and civic education programmes to increase their participation in the electoral process.

• Citizen observation: collectively lobby for donor support towards increasing citizen observation efforts. Unlike their international counterparts, citizen observers have the ability to monitor and observe elections throughout the electoral cycle. Their presence will contribute to a more transparent and credible process through the constant checks and recommendations.

To political parties
• Party agent training: enhance the training of party agents on their role as monitors.

• Voluntary quotas for youth, women and PWDs: all parties should consider adopting voluntary quotas to increase the representation of women, youth and persons living with disabilities (PWDs) in parliament.

In conclusion, the EISA IEOM observed that the 2019 elections were guided by a strong legal and institutional framework that guarantees the holding of democratic elections. Key players in the process such as the IEC, political
parties and security agencies conducted themselves in accordance with the laws and guidelines. Issues arising from the process were addressed in a professional and timely manner, thus enhancing the transparency and credibility of the process. The elections were conducted in a largely peaceful environment, with security concerns swiftly addressed to allow voters to exercise their rights freely without fear or violence.

Through these elections, South Africa complied with international and regional obligations on democratic elections, as set out in the different international instruments to which it is a party.
INTRODUCTION

The 2019 were the sixth national and provincial elections held in South Africa since the end of apartheid and adoption of the 1996 Constitution. The elections coincided with the country’s 25th anniversary of the first multi-party democratic elections in 1994.

EISA has a long-standing interest in supporting democratic consolidation in South Africa. Since its creation in 1996, EISA has primarily focused its efforts on supporting the work of the IEC, political parties and citizen observers and educators. In line with its commitment, EISA deployed an International Election Observation Mission (IEOM) to observe the 2019 National and Provincial Elections (NPE) in South Africa. The IEOM was in the country from 14 April 2019 to 20 May 2019.

The EISA IEOM to the 2019 elections is the fifth to be deployed by EISA in South Africa since the 1999 elections. The reports of previous EISA IEOMs are available on the EISA website https://www.eisa.org.za/epp-south-africa.php

This EISA IEOM builds on the findings of the previous IEOMs. It recalls some of the key recommendations made by the IEOM deployed to the 2016 municipal elections as follows:

- The IEC should consider a review of the number of days allocated for special voting and consider the possibility of conducting the process in one day.
- The IEC should improve the education and awareness of voters in terms of the requirements for applying for special voting.
- The IEC should undertake measures to enhance the training of voting staff on electoral procedures, particularly counting procedures.
- All parties should consider the introduction of quotas for the representation of women in political office.
- Law enforcement agencies should spare no effort in timeously arresting the instigators and executors of alleged political assassinations in order to discourage this undemocratic practice.
• Parliament should consider legal reforms governing party funding to include disclosure and regulation of private sources of party and campaign funding.

The EISA IEOM to the 2019 elections noted with approval that the recommendation on reforms to improve the regulatory framework for party and campaign finance was implemented albeit too late in the process for the new law to come into force before the 2019 elections. The EISA IEOM also noted that steps were taken to investigate and address the political violence in KZN during the 2019 elections, although the different murder cases have not been fully resolved. The EISA IEOM noted that the challenges with voter education and level of awareness on special voting that were observed in 2016 persisted during the 2019 elections.

This report presents the findings, conclusions and recommendations of the EISA IEOM deployed to the 8 May 2019 national and provincial elections in South Africa. The report is structured along the phases of the electoral cycle, with the first chapter assessing the political context and the second chapter providing an assessment of the legal framework. The third, fourth and fifth chapters present an assessment of the pre-election, election day and the post-election contexts. The sixth chapter addresses cross-cutting issues and the final chapter presents the EISA IEOM’s conclusions and recommendations.
EISA’S APPROACH TO ELECTION OBSERVATION

Since its inception in July 1996, EISA has established itself as a leading institution and an influential player in the field of elections and democracy on the African continent. It envisions an African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment. The institute’s vision is executed through its work of striving for excellence in the promotion of credible elections, citizen participation and the strengthening of political institutions for sustainable democracy in Africa.

EISA seeks to realise effective and sustainable governance in Africa through strengthened electoral processes, good governance, human rights and democratic values. In this regard, EISA undertakes applied research, capacity building, technical support to continental and regional bodies on election observation, advocacy and other targeted interventions. Within this broad context EISA fields election observer missions to assess and document the context and the conduct of selected elections on the continent.

EISA deploys international observer missions as a contribution to the assessment and improvement of the transparency and integrity of electoral processes. In its assessment of elections EISA recognises that an election is a technical process with deep political implications, as opposed to a once-off event. It therefore adopts a holistic approach that enables it to cover the main aspects of the electoral process and the context within which the elections were conducted.

The EISA IEOM’s methodology was guided by its commitments as an endorser of the Declaration of Principles for International Election Observation (DOP). The IEOM assessed the extent to which the legal framework and procedures in the 2019 electoral process complied with South Africa’s commitments and obligations set out in the following international instruments: the OAU/AU Declaration on the Principles Governing Democratic Elections; the African Charter on Democracy, Elections and Governance; the Principles for Election Management, Monitoring and Observation (PEMNO), the Revised SADC Principles and Guidelines Governing Democratic Elections.
The observers engaged in several activities to gather information on key pre-election issues and to gather the perspectives of stakeholders on the process. Activities undertaken include: participation at the briefing conducted by the IEC for international observers; consultations with key electoral stakeholders, including the IEC, SAPS, political parties, CSOs and SABC; attendance at party campaigns; visits to polling stations on election day observation in all the nine provinces; and post-election assessment, which included observation of vote tallying and announcement of results.

On 1 May 2019, the mission released an arrival press statement to announce the mission’s arrival. The arrival of observers was preceded by the technical team of experts that had been in the country since 14 April 2019. Pre-deployment briefing and orientation sessions for the observers were conducted from 1–3 May 2019. They aimed at familiarising observers with the concept and methodology of the EISA IEOM, their responsibilities as observers and to familiarise them with the context of the elections through stakeholder briefings.¹ The mission leadership also held stakeholder consultations at the national level, where it met with the IEC, political parties, SABC, SAPS and the Institute of Election Management Services in Africa (IEMSA). The leadership also attended the final rallies of the three main parties, the ANC, DA and EFF.

To cover election day, EISA observers were deployed in 18 teams to all nine provinces of South Africa (see annex 2 for the IEOM deployment map). The observers were in their areas of deployment from 4 – 10 May 2019. They observed the last days of the electoral campaigns, pre-polling activities, special voting, and election day procedures and results aggregation. Observers also held stakeholder consultations within their areas of deployment to gain an understanding of their perspectives on the electoral process at the municipal and local levels.² On election day, 18 teams of observers visited 295 polling stations across the nine provinces of the country. The selection of polling stations was done by random sampling, a methodology that EISA piloted during the IEOM. A debriefing session was held on 9 May 2019, to provide a platform to compare notes and experience sharing among the observer teams.

¹ See Annex 4 for Observer briefing and orientation programme.
² Consulted stakeholders included the IEC, political parties, CSOs and SAPS.

The mission issued a statement on its preliminary findings and recommendations at a press conference held on 10 May 2019 at the IEC Results Centre (see annex 5 for preliminary statement). The short-term observers departed on 11 May 2019, while the technical team remained on the ground until 20 May 2019 to observe the announcements of results and follow the immediate post-election phase. This final report presents the mission’s overall assessment of the process.
Figure 1: Map of South Africa
1.1 HISTORICAL BACKGROUND AND POLITICAL CONTEXT

Nelson Mandela of the African National Congress (ANC) was elected president in the first democratic elections in South Africa held in 1994. The party emerged the winner with a 62.65% majority vote. Having inherited a deeply divided nation which was trying to grapple with the effects of many decades of apartheid, his approach to leadership was reconciliatory. Through his leadership, the Truth and Reconciliation Commission (TRC) was set up to investigate wrongs, especially those associated with apartheid. The TRC did not get the full support of the apartheid regime, which for most part failed to come forward to confess, and was rejected by the Inkatha Freedom Party (IFP).¹ This notwithstanding, the process led to some symbolic closure, especially for the victims. Mandela also negotiated for a new constitution, which was adopted in 1996. Although constitutionally allowed to run for a second term, he did not seek re-election in the 1999 elections.

Mandela was succeeded by Thabo Mbeki, who won the 1999 elections with 66.35% of the vote. His administration focused more on economic transformation as opposed to Mandela’s focus on national unity and reconciliation. He won a second term in 2004 with 69.69% of the vote, which remains the highest level of support for the ANC to date. The 2007 ANC elective conference highlighted internal fractures within the party when the incumbent stood against his former deputy president, Jacob Zuma, who was

¹ The IFP party played a key role in the negotiations leading to the transition from the apartheid regime to a democratic dispensation in South Africa.
removed from office in 2005 on corruption charges. Jacob Zuma won and emerged leader of the ruling party. This set the stage for the 2009 elections and the internal conflicts in the ANC that led to the party’s recall of President Mbeki, forcing his resignation nine months before the end of his second term, in September 2008. Mbeki was accused by the party of undermining its leader Jacob Zuma. Following Mbeki’s internal election defeat and his recall, a group of senior ANC cadres quit the governing party and formed the Congress of the People (COPE).

Jacob Zuma was ineligible for the position of interim president because he was not a member of the National Assembly. Mbeki was therefore succeeded by Deputy President Kgalema Motlanthe, who served as interim president until April 2009, when the national elections were held.

Although the ANC remains the dominant party in South Africa, it recorded a decline in its vote share since the 2009 elections. The ANC registered a 5.4% decline in its vote share in the 2009 elections which it won with 65.90% of the votes. Jacob Zuma became the fourth president of democratic South Africa. He was re-elected in 2014 in an election that saw the ANC’s support decline by 5.7% when it garnered 62.15% of the votes. Zuma’s nine-year tenure was characterised by maladministration, corruption, “state capture”, weakened institutions, high unemployment rates, increased state expenditure and public debt, low economic growth as well as an increasingly fractured governing party. His governance entrenched increased inequality and poverty. The release of the Public Protector’s report on the State of Capture in 2016 which indicted the president of widespread corruption and highlighted his improper relationship with the Gupta family that benefited widely from public tenders. His blatant disobedience of party advice revealed a president who was perceived as serving personal as opposed to party interests. His behaviour not only dented the image and legitimacy of his party but also decreased his popularity, triggering public protests. Like his predecessor, he was recalled by the ANC after being defeated in internal leadership elections by his deputy, Cyril Ramaphosa. He resigned on 14 February 2018, a year

before the end of his second term. He had an approval rating of 26% at the time of his resignation.\(^4\)

Zuma was replaced by Deputy President, Cyril Ramaphosa who became the fifth president of South Africa in the post-apartheid era. Ramaphosa was seen as the nation’s redeemer since he anchored his rule on a platform of renewal, revitalisation and progress. He represented optimism, hope and change which was aptly termed “Ramaphoria”. His leadership thus bolstered positivism and trust in the party and government, which had been eroded during Zuma’s administration.\(^5\) While there has been an economic turnaround under his rule, albeit slowly, corruption persists, with the inequality gap widened with high levels of poverty and unemployment. Ramaphosa is also faced with the challenge of factionalism and patronage within the ANC which have largely threatened implementation of his reform and transformation agenda. He successfully sought a full term in office in the 2019 elections.

**Electoral trends**

The democratic space in South Africa has continued to grow since the first democratic elections in 1994. Each subsequent election has witnessed an increase in participating political parties from 16 in 1999 to 48 in 2019, representing a 300% increase. This growth in numbers has however not reflected in the National Assembly, with only a few parties securing seats in parliament.\(^6\) As indicated above, the ANC has maintained a lead in all the elections, albeit with a declining margin of support since the 2004 elections when it recorded the highest percentage win at 69.69%. Other political parties that have consistently participated in all the elections since 1999 include the Inkatha Freedom Party (IFP), Freedom Front/Vryheidsfront (FF),\(^7\) Pan Africanist Congress of Azania (PAC), and African Christian Democratic Party (ACDP), with the United Democratic Movement (UDM), Minority Front

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4. ‘Malema now less popular than Zuma, Magashule at rock bottom-survey’- Daily Maverick

5. Greenstein, R. ‘The Zuma regime is dead. But its consequences will linger for a long time’ - *The Conversation* https://theconversation.com/the-zuma-regime-is-dead-but-its-consequences-will-linger-for-a-long-time-92066

6. An average of 12 political parties have secured parliamentary seats since 1994: 1994 (7); 1999 (13); 2004 (12); 2009 (13); 2014 (13) and 2019 (14)

7. The party was renamed Freedom Front Plus (FF+/VF+), after its merger with the Conservative Party (CP) and the Afrikaner Eenheidsbeweging (AEB) in 2003 and the Federal Alliance (FA) in 2007. It first contested as VF+ in the 2004 elections.
(MF), and Azanian People’s Organisation (AZAPO) contesting since 2004. The Democratic Alliance (DA) and the Economic Freedom Fighters (EFF), which made their debuts in 2004 and 2014 respectively, have since dominated the opposition. Indeed, while the National Party (NP)\(^8\) and IFP dominated the opposition in the early years of democracy, the position of the official opposition has been held by the Democratic Alliance (DA)\(^9\) since 2004.

Political parties in South Africa have had a mixed performance in elections, especially smaller ones, some of which broke away from larger parties.\(^{10}\) The majority of the parties have witnessed declining support and reduced parliamentary seats, like the IFP, COPE, PAC, ACDP, UDM, APC, AZAPO as well as the ANC; some have increased their support or maintained their parliamentary seats like the DA, EFF and the FF+/VF+; while others have failed to secure parliamentary seats all together.

The ANC’s dominance has been regularly challenged by the emergence of splinter parties such as the UDM, COPE and the EFF due to intra-party factions. Based on previous election results, the UDM and COPE received high support in their debut election, but it has been difficult for them to maintain or increase support in subsequent elections. On the contrary, the EFF has broken the trend of declining support of splinter parties and recorded a steady increase in support since their debut in the 2014 elections. In addition, the ANC has also faced major criticism in terms of its efforts to address growing dissatisfaction with poor service delivery and high levels of inequality, unemployment and poverty. However, the evident dissatisfaction with the ANC has not been strong enough to remove it from its position as the government of the people. The ability of the ANC to retain its position since 1994 has been largely attributed to the country’s political history, as it

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8 It was the governing party of South Africa from 1948 until 1994. Although the party was defeated in the 1994 elections, it formed the main opposition party, winning 82 seats. Following the defeat, the NP joined in the government of national unity formed by the ANC but left in June 1996. It rebranded to the New National Party (NNP) in 1998 and participated in the 1999 elections, where it won only 28 parliamentary seats. The NNP merged with the Democratic Party (DP) and the Federal Alliance (FA) in the year 2000 to form the Democratic Alliance (DA) party. The merger did not last for long, since the NNP left to form a coalition with the ANC. It officially disbanded in 2005.

9 The DA was formed in the year 2000 through the merger of the Democratic Party (DP), The New National Party (NNP) and Federal Alliance. Although the NNP withdrew from the alliance a year later, the two other parties remained united.

10 For instance, parties that broke away from the ANC include Congress of the People (COPE) and EFF; National Freedom Party (NFP) from Inkatha Freedom Party, and GOOD from DA.
has resulted in a voting populace that prioritises race, geography, ethnicity and history over a government’s performance.\textsuperscript{11}

\textbf{Table 1: Political party performance since 1994 elections\textsuperscript{12}}

<table>
<thead>
<tr>
<th>Political Party</th>
<th>Performance (%) Per Election Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>African National Congress (ANC)</td>
<td></td>
</tr>
<tr>
<td>National Party (NP)/ New National Party (NNP)\textsuperscript{1}.</td>
<td>20.4</td>
</tr>
<tr>
<td>Inkatha Freedom Party (IFP)</td>
<td>10.5</td>
</tr>
<tr>
<td>Freedom Front/ Vryheidsfront (FF-VF)/ Freedom Front Plus (VF+)</td>
<td>2.2</td>
</tr>
<tr>
<td>Democratic Party (DP)*</td>
<td>1.7</td>
</tr>
<tr>
<td>Pan Africanist Congress of Azania (PAC)</td>
<td>1.2</td>
</tr>
<tr>
<td>African Christian Democratic Party (ACDP)</td>
<td>0.5</td>
</tr>
<tr>
<td>United Democratic Movement (UDM)</td>
<td>-</td>
</tr>
<tr>
<td>United Christian Democratic Party (UCDP)</td>
<td>-</td>
</tr>
<tr>
<td>Minority Front (MF)</td>
<td>-</td>
</tr>
<tr>
<td>Azanian People’s Organisation (AZAPO)</td>
<td>-</td>
</tr>
<tr>
<td>Democratic Alliance (DA)</td>
<td>-</td>
</tr>
<tr>
<td>ALJAMA</td>
<td>-</td>
</tr>
<tr>
<td>Independent Democrats (ID)*\textsuperscript{3}</td>
<td>-</td>
</tr>
<tr>
<td>African People’s Convention (APC)</td>
<td>-</td>
</tr>
</tbody>
</table>

\textsuperscript{11} EISA IEOM report on the 2016 Municipal Elections in South Africa

\textsuperscript{12} The table features political parties which have participated and won seats in at least two elections.
1.2 POLITICAL AND ELECTORAL DEVELOPMENTS AHEAD OF THE 2019 NATIONAL AND PROVINCIAL ELECTIONS

The 2019 elections were the sixth consecutive democratic national elections to be held in South Africa since the transition to democracy in 1994. Since the country held its first elections by direct universal suffrage 25 years ago, the elections represented a critical milestone in the country’s democratic journey.

The elections were arguably the most competitive in South Africa’s history: 76 political parties contested at both the national and provincial levels. At the national level, 48 parties contested the election, representing a 40% increase in the number of parties on the national ballot. A total of 38 political parties contested at the provincial level, although the number varied by province. With 36 parties on the ballot, Gauteng Province had the highest number of parties contesting in the provincial elections. The increase in the number of parties suggested an increase in political competition.

The pre-election context was shaped by several factors: the outcome of the 2016 municipal elections; enquiries into cases of corruption and the debate on ‘State Capture’; the leadership transition within the governing ANC; violent service delivery protests; the land debate, political killings particularly in KwaZulu-Natal and xenophobic attacks targeting mostly African immigrants in some regions; increased power cuts (stage 4 load shedding) and flooding...
across parts of the KwaZulu-Natal (KZN) and Eastern Cape provinces. These issues set the tone of the campaigns and raised concerns about electoral security and operations.

The 2016 municipal elections were an important litmus test for all political parties in terms of what they could expect in the 2019 elections. As such, the municipal elections were keenly contested and resulted in smaller parties being seen as the ‘king makers’ when the ANC and DA’s performance resulted in hung metropolitan authorities with no outright winners. This resulted in the ANC and DA entering into coalition agreements with smaller parties. Overall, the ANC lost control of major metropolitan areas, especially in Gauteng where it won only the City of Ekurhuleni after it formed a coalition with the AIC, PAC, PA and IRASA. Meanwhile, the DA entered into coalitions, mainly with the EFF, ACDP and COPE, to gain control of Nelson Mandela Bay, the City of Johannesburg and the City of Tshwane.

The IEC also faced significant criticisms in terms of its capacity to conduct a credible election in the lead-up to the 2019 elections. The criticisms were particularly pronounced after the Tlokwe case whereby the Constitutional Court ruled that the by-elections conducted by the IEC in 2013 were not free and fair owing to failure to provide a voters’ roll with the physical addresses of voters. This court case resulted in the IEC scrambling to ensure that the 2019 elections would be conducted with a voters’ roll that contained the physical addresses of each voter in compliance with Section 16(3) of the Electoral Act based on the Constitutional Courts ruling. The IEC also entered the 2019 elections with lower levels of public trust following the resignation of its former Chairperson Pansy Tlkula in 2014 after the Electoral Court and the Public Protector found that she had flouted procurement regulations in securing the IEC’s head office lease agreement worth R320 million. The departure of Tlkula saw the IEC enter into the 2016 municipal elections with its reputation dented. Terry Tselane was appointed the acting Chairperson after Tlkula’s departure, and in 2015 Glen Mashinini was appointed as Chairperson by former President Jacob Zuma. The appointment of Glen

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Mashinini was met with criticisms from opposition parties as he had previously served as special advisor to former President Jacob Zuma. Thus, critics viewed his appointment as an attempt by the ruling party to extend the arm of state capture to the IEC. Three days before the elections, the IEC had to deal with the grievances of its operational staff after they embarked on a strike.\(^\text{15}\)

The ruling party battled with factionalism due to heightened competition as members vied for positions in government. The tensions were especially pronounced during the submission of the candidates list. In this regard, the ANC faced a number of disputes raised by its own members regarding their exclusion from the party list that was submitted to the IEC. The party also faced criticisms over some controversial candidates included on the list, who had been implicated in the ongoing state capture enquiry. Indeed, of the 52 objections to candidate lists (across 10 parties), the ANC topped with 29 objections. The IEC, however, upheld one of the 52 objections. The ANC maintained the submitted list and urged its members and supporters not to fight but support the party. Furthermore, Jacob Zuma also faced extreme pressure and resigned as president of the country on 14 February 2018 following widespread and unprecedented calls from civil society, opposition parties as well as a recall from the ANC, all demanding that he step down as president. This resulted in the ANC campaigning with Cyril Ramaphosa (ANC party leader at the time) as the face of its campaign. The resignation of Jacob Zuma was markedly seen as a new dawn in the fight against corruption and state capture. The resignation of Jacob Zuma also recalled parallels of factionalism, as Mbeki had also been recalled by the ANC shortly after defeat as party leader at the ANC’s 2007 elective conference.

The land debate dominated election campaign rhetoric following the decision made by the Joint Constitutional Review Committee (JRC) in 2018 that Section 25 of the Constitution could be altered. The decision therefore signalled a shift from whether land should be expropriated to how land should be expropriated. It also resulted in nationwide consultations by the government to hear the views of the citizens, especially as there was dissatisfaction with

the slow pace at which the ‘willing buyer, willing seller’ model had unfolded. The ANC held its Land Summit in May 2018 and the outcome was in favour of expropriating land without compensation. Land distribution has been viewed as a highly emotive issue, as it impacts not only on the dignity of those that were deprived of their land but also on the prospects for attaining much-needed economic growth in a country riddled with high levels of inequality and unemployment. The importance of the land debate as the country headed to the 2019 polls was also highly influenced by the impact of Mugabe’s failed expropriation of land without compensation in neighbouring Zimbabwe.16 There are those that have praised Zimbabwe for ensuring that land returned to its people no matter the consequences to economic and political stability and those that have argued for a more conservative stance to manage the backlash. Accordingly, political party manifestos also proposed land reform policies that were either in favour of or against land expropriation without compensation.17

The prevalence of political killings, xenophobic attacks, flooding and power cuts were viewed as cause for concern for electoral security and operations. Therefore, it was important for respective stakeholders to be well prepared in order to minimise those risks and ensure that the credibility and integrity of the elections would not be compromised.

Within this context, the EISA IEOM noted the commitment and engagement by the IEC in a manner that engendered confidence in the pre-election period. The EISA IEOM also appreciated the extent to which electoral stakeholders voiced their respective opinions in a manner that largely promoted a culture of political pluralism and tolerance as enshrined in the ACDEG.18

16 Lodge, T. 2018. ‘Thinking about SA land reform’ -Politics Web
https://www.politicsweb.co.za/opinion/thinking-about-sa-land-reform
18 See article 2(6) of ACDEG
The legal framework for an election sets the rules of the game and therefore serves as the basis for determining the indicators for a credible, inclusive and transparent election. The legal framework guarantees the rights and freedoms that set the context for competitive elections.

The 2019 national and provincial elections of South Africa were governed by the 1996 Constitution (as amended); Electoral Commission Act 51 of 1996, which sets up the Independent Electoral Commission and Electoral Court, the Electoral Act 73 of 1998 (as amended), which regulates the conduct of elections and related matters, and other legislation and regulations that have a bearing on the electoral process.

2.1 THE CONSTITUTION
The Constitution proclaims South Africa as a democratic state that is founded on key democratic norms such as: ‘universal adult suffrage, a national common voters’ roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness’ (section 1 of Constitution, 1996). The Constitution guarantees various civil liberties and human rights that are requisite for the electoral process. All citizens of 18 years and above have the right to vote and to contest elections. The
Constitution also specifically guarantees the right of citizens to free and fair elections and the right to form a political party and/or participate in political activities (section 19). The Constitution further guarantees the right to equality, dignity, right to life and security of person, right to privacy, freedom of conscience, freedom of movement, expression, assembly and association and the right of access to the courts for dispute settlement.

Chapter 9 of the Constitution establishes a number of state institutions charged with the responsibility of strengthening constitutional democracy in South Africa. These institutions include the Public Protector, South African Human Rights Commission, Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, Commission for Gender Equality, Auditor General and Independent Electoral Commission. The IEC has the mandate to conduct elections. The IEC is guaranteed functional and institutional autonomy and is subject only to the constitution and the law. The IEC is funded by budgetary allocations approved by the National Assembly and donations from other sources.

As stipulated in section 46 of the Constitution of South Africa, the electoral system is based on proportional representation with closed party lists. The electoral system is further assessed in section 2.3. of this report.

The South African Constitution enshrines the principle of separation of powers as an important element of the constitutional order.

The Constitution clearly defines the roles of the various arms of government: the executive is entrusted with executive functions, the legislature with the legislative mandative and oversight of the executive and the judiciary responsible for the administration of justice. The Constitution guarantees the independence of the judiciary. The judicial system of South Africa comprises the hierarchy of the Constitutional Court, Supreme Court of Appeal, High Court and Magistrate Courts.

South Africa has two houses of parliament: The National Assembly (NA), and the National Council of Provinces (NCOP). The NA is made up of 400 members who are elected through proportional representation based on lists supplied by political parties before the elections. The NCOP consists
of 90 members elected by their provinces, as each province delegates 10 representatives. Six of these are permanent members of the council, and four are special delegates. The 10 representatives sent by each province also reflect the support a political party enjoys in the province. The second chamber exists to ensure that the interests of each province are protected in the laws passed by the National Assembly. At the provincial government level, each province has its own provincial government. The provincial legislature has the power to pass laws in certain limited areas. The legislature has between 30 and 80 members depending on the province’s portion of the national voters’ roll. The premier – the head of government in the province – governs the province together with other “members of the executive council”, known as MECs.

2.2 ELECTORAL LAWS AND REGULATIONS
The electoral laws governing the elections in South Africa include the Electoral Act 73 of 1998, the Electoral Commission Act 51 of 1996, and the Represented Political Parties Funding Act (RPPFA) of 2009.

The Electoral Commission Act of 1996 (as amended) establishes and regulates the Electoral Commission of South Africa and Electoral Court. The Act regulates the following issues: the powers and functions of the IEC; appointment and term of office of members of the commission; staffing and accountability of the commission; party registration; composition, powers and functions of the Electoral Court; offences and penalties.

The Electoral Act 73 of 1998 (as amended), regulates the conduct of National Assembly, provincial assembly and municipal council elections and related matters. The Act regulates the following aspects of the electoral process: voter registration and maintenance of the voters’ roll; preparation for elections; party list and candidatures; special voting; elections day procedures including voting and counting; representation in the National Assembly and seats allocation; party agents and election observers; other administrative issues such as allocation of polling stations and production of election materials; and electoral offences and electoral justice. In line with the principles enshrined in PEMMO, the Electoral Act includes a Code of Electoral Conduct.

The Public Funding of Represented Political Parties Act, 103 of 1997 (PFRPPA), and the Public Funding of Represented Political Parties Regulations, 1998
(PFRPRP), establish the Represented Political Parties Fund (RPPF) into which monies allocated by parliament and private donations are received by the IEC for disbursement to the political parties represented in the national and/or provincial legislatures. Of the total amount received in the fund, 10% is allocated to the political parties on the basis of equity, while the remaining 90% is allocated on the basis of proportional representation of the parties in the national and provincial legislatures.

The IEC allocates resources from the Funds to the various political parties that are represented in the National Assembly and/or the provincial legislatures based on the number of seats won in the respective structures (Political Party Funding Act 2018, 6 (1) - (3)). Payments to political parties are made quarterly (Political Party Funding Act 2018 7 (1)). This proportional allocation, however, must be tempered by the application of the “principle of equity”, which requires that all parties must be assured a minimum base amount above and beyond a proportional allocation. Equity in the Act is thus neither proportional nor equal, but manifests in the splitting of the allocation into proportional and equal components. The Regulations on Political Party Funding, 2017 (2-4), contained in Schedule 2 of the Act lays down the actual allocation process.

- Two thirds of the money available is allocated proportional to the total number of seats each party has in all the legislative bodies combined (Sect 2.2(a) and 3).
- One third is divided up between the legislative bodies in proportion to the number of seats in each legislature, and the money allocated to each legislative body is divided up equally between the parties in that legislative body (Sect 2.2(b) and 4).

Electoral laws are also supported by regulations concerning the submission of list of candidates, voter registration regulations, regulations on the accreditation of voters, regulations on the accreditation of voter education providers, regulations on party liaison committees, the regulations for the registration of political parties and regulations relating to activities permissible outside voting stations. These regulations contribute to strengthening the legal framework and guide the IEC in managing critical aspects of the electoral process. As an example, the regulations on the Party
Liaison Committee assist the IEC in strengthening its capacity to consult registered political parties on electoral matters in a professional and fair manner. The regulations outline the importance of inclusivity with regard to the sharing of information between registered parties and the IEC.

2.3 THE ELECTORAL SYSTEM
An electoral system is broadly a method by which votes are translated into legislative seats. The choice of system therefore determines the nature of representation and the format by which seats are allocated.

In terms of article 46 of the 1996 Constitution and schedule 1A of the Electoral Act, the 400 members of the National Assembly are elected for a tenure of five years, on the basis of a common national voters’ roll, using the list proportional representation system (article 46 of the Constitution and schedule 1A of the Electoral Act). The party lists are compiled in order of priority. Schedule 1A, 2 of the Electoral Act 1998 provides that for the National Assembly, half of the members are elected from a single national constituency from national lists submitted by the parties. The other half is elected from the nine provincial constituencies, from provincial lists submitted by the parties. Voters therefore do not vote for an individual candidate: they vote for party lists.

All persons of 18 years and above qualify to vote and to stand for election. However, persons who are elected as president, deputy president, ministers and deputy ministers, other government office bearers; permanent delegates of the national council of provinces, members of the provincial legislatures and municipal councils; unrehabilitated insolvents, persons declared by a court to be of unsound mind, and persons convicted for an offence of 12 months or more are not eligible to be members of the NA. Members of the NA are elected for a term of five years unless parliament is dissolved.

Seats are allocated to contesting political parties on the basis of proportional representation, i.e. according to the percentage votes received during the elections (with no minimum entry threshold).

The president is elected indirectly by the National Assembly after the national election to serve a term of five years, and he/she may be re-elected once.
The proportional representation system by its nature does not allow independent candidates to participate in the national and provincial legislature elections. In the lead-up to the 2019 elections observations about the current electoral system and the extent to which it guarantees the right to stand the right to vote were raised in the Constitutional Court decision in the case of My Vote Counts v Minister of Justice and Correctional Services (2018). Although the case was about the question of access to information on private funding of parties and independent candidates, the court noted as follows:

‘Finally, the section addresses the fundamental right every adult citizen has “to stand for public office and, if elected, to hold office”. Our Constitution does not itself limit the enjoyment of this right to local government elections. The right to stand for public office is tied up to the right to “vote in elections for any legislative body” that is constitutionally established. Meaning, every adult citizen may in terms of the Constitution stand as an independent candidate to be elected to municipalities, Provincial Legislatures or the National Assembly. The enjoyment of this right is not and has not been proscribed by the Constitution. It is just not facilitated by legislation. But that does not mean that the right is not available to be enjoyed by whoever might have lost confidence in political parties. It does, in my view, remain open to be exercised whenever so desired, regardless of whatever logistical constraints might exist.’

This court’s observation in this judgement opened public debate about the compliance of the list proportional representative system with article 46 (d) of the constitution and the overall principle of inclusivity to ensure that all adult citizens enjoy the right to stand equally whether in national, provincial or municipal elections.

The EISA IEOM noted that the proportional representation system has its own advantages and disadvantages. One key advantage is that the proportional representation system...
representation system ensures that all political interests, including those of smaller political parties, are represented in the legislature in proportion to the votes received during elections. Similarly, because candidates are chosen in accordance with the party lists, political parties are able to deliberately include less represented groups such as women, youth, persons with disabilities and other minorities in their party lists to ensure fair democratic inclusion. For instance, women’s representation in the National Assembly has increased in the democratic era from less than 2.7% to about 42%.

On the other hand, a limitation of the proportional representation system is the fact that voters do not directly elect their representatives, which limits the accountability of elected representatives to the electorate. Thus, since the political party leaders have the ultimate say in who represents the party in the legislature, voters have little say in deciding who their representatives are. The EISA IEOM also agrees with the court’s observation that the PR system limits the right to stand to individuals who are members of political parties, as opposed to extending that right to all eligible persons.

The EISA IEOM noted that the current PR system has over the past 25 years promoted the principle of equal representation of political parties that represent South Africa’s diversity. However, after 25 years, there is a need to explore whether the electoral system can be reviewed to ensure that it does not place undue restrictions on the right of all citizens to equally exercise their right to stand.

2.4 LEGAL REFORMS AHEAD OF THE NATIONAL AND PARLIAMENTARY ELECTIONS IN SOUTH AFRICA
There were two key legal reforms made ahead of the 2019 elections. These were the amendment of the Electoral Act and Electoral Commission Act through the Electoral Laws Amendment Act, 2019, and the enactment of the Political Parties Funding Act, 2018. The Electoral Laws Amendment Act, 2019, amends the Electoral Commission Act to provide inter alia for the electronic submission of party registration applications to the IEC; to expand the jurisdiction of the Electoral Court to include the adjudication of intra-party disputes; and to prohibit the unauthorised use or licensing of the logo and other emblems of the IEC.22

22 http://www.elections.org.za/content/Elections/Laws-and-Regulations-Constitution/
The amendments of the Electoral Act were largely focused on procedural issues that strengthen the IEC in its functions. The amendments focused on the voter registration process, voters’ roll, voting districts and voting procedures as follows:

- the voters’ roll to be used for the elections must be certified by the chief electoral officer;
- the chief electoral officer is required to notify the relevant parties if a candidate’s name appears on more than one party list and afford the parties the opportunity to substitute the name of that candidate or re-order the party lists;
- provides different voting procedures for voters whose addresses are yet to be captured on the voters’ roll;
- provides for the circumstances under which party agents may object to a voter whose name appears on the voters’ roll;
- limits the class of persons who may apply for accreditation for voter education to juristic persons;
- aligns the provision regarding the circumstances in which new ballot papers may be issued to voters with those that apply to local government elections; and
- prohibits the use of public funds for political campaigns, except funds provided to political parties under the Represented Political Parties Funding Act.

The Political Parties Funding Act (PPFA) was enacted as a replacement for the Represented Political Parties Funding Act to, among other things, regulate the public funding of political parties, prohibit certain donations to political parties and regulate the disclosure of donations to political parties. The PPFA was, however, not in force during the 2019 elections because it was passed too close to the elections and therefore the IEC did not have enough time to develop regulations to operationalise its provisions. The implications of the PPFA will be discussed further in section 2.6 of this report.

Some of the legal amendments were enacted in response to the Constitutional Court decision nullifying the by-election held in Tlokwe municipality on the basis that the voters’ roll did not include the addresses of the registered voters and ordered the IEC to make arrangements for inclusion of addresses in the
register ahead of the 2016 municipal election. The Court, however, granted the IEC an extension of the timelines for inclusion of addresses ahead of the 2019 elections.\textsuperscript{23} The Court, in its decision, noted that the IEC’s inability to capture the addresses of voters in the voters’ roll contravenes its rule of law obligations as set out in article 1c of the constitution. The amendments addressing disclosure of private donations to political parties were also made in compliance with the court’s decision in the case of My Vote Counts v Minister of Justice and Correctional Services (2018). Other reforms were made as part of broader initiatives to improve the electoral process.

The EISA IEOM is of the view that the reforms ahead of the 2019 contributed to the transparency and credibility of the voters’ roll and the electoral process as a whole, and consequently strengthened the public confidence in the process.

The EISA IEOM, however, noted that the amendment restricting the accreditation of persons who may conduct voter education to juristic persons is quite restrictive, as it eliminates the possibility of individuals or groups who have the necessary skill and expertise but who are not legally organised as juristic persons from being able to be accredited to engage in voter education.

\textbf{2.5 ELECTION MANAGEMENT: THE INDEPENDENT ELECTORAL COMMISSION}

The Constitution establishes the IEC as an independent body that is subject only to the constitution and the law, and no individual or institution may interfere with its functioning. The constitutional provisions are supplemented by the Electoral Commission Act of 1998, which provides further details on the functioning of the IEC.

\textbf{2.5.1 Composition of the Independent Electoral Commission (IEC)}

The IEC is composed of five commissioners, at least one of whom must be a judge. Commissioners are appointed for a seven-year term, which is renewable once. The appointment of commissioners is done through an open recruitment process that includes a screening process of nominees received from the public by a panel consisting of representatives of the South African Human Rights Commission, Gender Commission, Public Protector and the

\textsuperscript{23} http://www.saflii.org/za/cases/ZACC/2016/15.pdf
President of the Constitutional Court, who chairs the panel. The panel submits a list of at least eight candidates to a committee of the National Assembly, made up of representatives of all political parties and constituted for that purpose. Five of the candidates are subsequently nominated by the National Assembly through a majority resolution, which makes a recommendation to the president to appoint them as commissioners. The president, after making such appointments, designates a chairperson and vice chairperson from among the commissioners.

Commissioners may be removed only for stated misconduct, incapacity or incompetence after there has been a finding of that fact by a committee of the National Assembly upon the recommendation of the Electoral Court and subsequently approval of such removal by a resolution of a majority of the members of the National Assembly to that effect.

The National Assembly has oversight responsibility for the work of the IEC, and annual reports of the IEC are submitted in that regard. The day-to-day administration of the IEC is done by the Chief Electoral Officer (CEO), appointed by the Commission. The CEO, in consultation with the commissioners, appoints the electoral officers at the national, provincial and municipal levels.

2.5.2 Powers and functions of the IEC
In terms of the Constitution and the Electoral Commission Act of 1997, the IEC is mandated to perform the following functions, including managing elections at all levels; voter education; compiling and managing the voters’ roll; coordination of political parties; promoting the development of electoral expertise and technology in all spheres of government; undertaking and promoting research on electoral matters; recruiting and managing personnel for the conduct of elections; contributing to discourse on electoral reforms; and adjudicating disputes that may arise from the organisation, administration and conduct of elections, which are of an administrative nature.

The EISA IEOM noted that when the newly enacted PPFA comes into force, the IEC will also take on an additional responsibility of administering the Represented Political Party Fund (RPPF) and the Multi-Party Democracy
Fund (MPDF) and monitoring compliance with the Act. The EISA IEOM is of the view that this additional function may overburden the IEC with financial monitoring which could be taken on by other state institutions that already have capacity to undertake such.

2.5.3 Funding
The IEC is funded by budget allocations made by the National Assembly and other supplementary funds that it may receive from other sources. The Commission reports to the National Assembly at the end of each financial year on the receipt and expenditure of funds received from all sources. It is reported that the IEC’s budget for the 2019 elections is R300 million less than the amount of funding it received from the State for the 2014 elections. This may have impacted on the IEC’s planning and implementation of some of its activities.24

Despite the recent funding challenges, the EISA IEOM noted that the legal framework reasonably guarantees both the functional and institutional independence of the IEC.

2.6 POLITICAL PARTY AND CAMPAIGN FINANCE
The regulation of the funding of parties and campaigns is a crucial aspect of ensuring equality and levelling the playing field for elections by curtailing the influence of illicit funds and private funders in the process. Article 10 of the AU Charter on Combating Corruption mandates its Member States to proscribe the use of illegal and corrupt funds and to incorporate the principle of transparency into the funding of parties and campaigns.

Political parties in South Africa are allowed to raise funds from both private and public sources. Section 236 of the Constitution requires the state to provide funding to political parties represented in the national and provincial legislatures. Public funding of political parties for the 2019 national and provincial legislature elections was governed by the Public Funding of Represented Political Parties Act, 103 of 1997 (PFRPPA), and the Public Funding of Represented Political Parties Regulations, 1998 (PFRPPR). As discussed in the preceding section, even though the PPFA repeals these two

pieces of legislation, the PPFA was not in force during the 2019 elections, as the IEC was still in the process of developing regulations to operationalise its provisions. The IEC had proposed to roll out the operationalisation of the PPFA in phases, but the process was put on hold after it received over a thousand responses to its call for input on the published draft guidelines.

The EISA IEOM to the 2016 municipal elections offered a recommendation to parliament to “consider legal reforms governing party funding to include accountability of private sources of funding and consider establishing a regulatory framework for election campaign financing.” This weakness was particularly highlighted by the case of Bosasa (a company implicated for bribing government officials in the state capture inquiry) whereby it was reported that they gave President Ramaphosa an amount of R500 000 to fund his ANC presidential election campaign. Media also reported that Bosasa had paid Ramaphosa’s son over R2 million as a retainer fee following Ramaphosa’s election as ANC president.26 Another controversial private donation ahead of the 2019 elections was the R1 million received from prominent businessman and media tycoon Iqbal Survé in the Western Cape. The businessman was involved in an ongoing investigation of corruption by the Public Investment Cooperation (PIC). The ANC, on the eve of the election, issued a statement that the donation had been returned.27

This highlighted the negative impact of unregulated private sources of funds, as the PPFA could not be operationalised during the 2019 elections owing to its late enactment. The EISA IEOM to the 2019 elections therefore considered the late enactment of the PPFA as a missed opportunity for South Africa to effectively level the playing field for all political parties.

The PFRPPA provides for public funding of parties by establishing the Represented Political Parties Fund (RPPF), which is funded through allocations by parliament and administered by the IEC. Public funding is accessible only to the political parties that are represented in the National Assembly and/or provincial legislatures. The fund is allocated to parties on

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27 https://twitter.com/ANCWesternCape_/status/1125728258824310785/photo/1
the following basis: 10% is equitably allocated to the political parties, while the remaining 90% is allocated on the basis of proportional representation of the parties in the national and provincial legislatures.

In line with article V(g) of the AU Declaration on the Principles Governing Democratic Elections, the allocations to a party from the RPPF may be used for ‘any purposes compatible with its functioning as a political party in a modern democracy’, including public education, shaping public opinion, campaigning, etc. The law prohibits the use of public funds allocated to political parties for the salaries of persons representing the parties in the national or provincial legislatures or local authority, or anyone who already holds an office paid for by the state (national, provincial and local). The funds may also not be used either directly or indirectly to establish a business or acquire and/or maintain a financial interest in a business or immovable property, except immovable property that is to be used exclusively for the ordinary purposes of the political party.

In line with the principle of transparency, political parties are required to account for the funds they receive from the RPPF, by presenting audited accounts to the IEC in the two months following the end of every financial year. Failure to comply with these requirements amounts to a crime punishable by a fine or a term of imprisonment of up to two years. The accounting officer may also be liable to repay any money irregularly spent. The IEC may recover irregular expenditure through a civil suit or deductions against subsequent disbursement of the defaulting political party.

The amendments introduced by the Electoral Laws Amendment Act, 2019, guides against abuse of state resources by prohibiting political parties from using public funds for political campaigning, except the funds allocated through the RPPFA.

While the public funding and the freedom of political parties to receive funding from other sources promotes well-functioning political parties, various gaps in the legislative framework perpetuate certain limitations. The EISA IEOM noted these limitations:
i) The RPPFA regulates public funding only, and is silent on the private funding of parties;

ii) The legal framework only mandates the disclosure of how funds received from the RPPF, but no such requirement exists for private funding. This limits the legislation’s compliance with the principle of mandatory disclosure and transparency.

iii) Within the current framework, the law seems to exclude or at least does not contemplate the possibility of independent candidates benefiting from the public funding in the event of a review of the electoral system, as mentioned in the Constitutional Court pronouncement on the case of My Vote Count v Minister of Justice and Correctional Services, June 2018.

iv) The criteria for allocation of the RPPF remain to the advantage of bigger parties that benefit from both public funding and unregulated private funding.

v) There is no ceiling on private donations or campaign expenditure. Bigger political parties at the national and provincial levels therefore have an advantage of outspending other political parties without any check on their expenditure.

The mission noted that some of these challenges with the regulatory framework on party and campaign finance will be addressed when the PPFA comes into force. The PPFA sets up the RPPF and the MPDF. The RPPF is funded through allocations made by the parliament, while the MPDF is funded through private donations, except donations from organs of state, state-owned enterprises or foreign governments and their agencies. Contributors to the MPDF may request anonymity from the IEC. Similar to the old regulatory framework, only political parties with representation in the NA and/or provincial legislature are entitled to funding. Funds received under the Act may be used only for purposes compatible with the functioning of political parties in a democracy, as pertained under the old regime. The IEC is required to disburse one third of the funds equally among the represented parties and the remaining two thirds on the basis of proportional representation. Notably, this increases the percentage of funds to be shared equitably, which will in turn increase the amount of funding that smaller parties will be entitled to.
In addition to the regulation of public funding, the PPFA also provides a framework for private donations to political parties. Political parties may receive monetary and donations in kind of up to R15 million per person or entity directly from private sources except from organs of state, state owned enterprises and foreign governments and their agencies. Political parties may only accept donations of up to R5 million per person or entity from foreign persons and entities for the purpose training or skills development and policy development. Section 10 of the Act further prohibits the delivery of donations to a member of a political party other than for purposes of the political party, and such donations may only be received on behalf of the party and not in an individual capacity.

Both political parties which received and juristic persons or entities which make donations above R100,000 in a financial year are required to disclose such donations to the IEC. The IEC is also obliged to publish the donations disclosed on a quarterly basis, and members of the public may request such information from the IEC as and when required.

Political parties are required to submit to the IEC every year an audited statement of account for both the funds allocated under the Act and any donations or membership fees received. Failure to comply with the provisions of the act attracts various sanctions, including fines of up to R1 million or 30% of the income of the party concerned, suspension of payments to the political party and prison sentences of up to five years for individuals.

The mission noted that while the PPFA provides quite a comprehensive framework for regulating both public funding of represented political parties and private donations, there are still some concerns which are not covered by the Act. These include the Act’s silence on investment branches of political parties and how income from such investments may be used. The Act also fails to regulate funding for internal party leadership campaigns, which may have a significant impact on the general policy outlook and functioning of political parties. Notably, the Act makes no provision on ceilings for political party campaign finance expenditure, which like its predecessor will continue to enable bigger parties who have more money to spend to dominate political campaigns.
2.7. DISPUTE RESOLUTION AND ELECTORAL JUSTICE

In terms of the Electoral Commission Act of 1996 and the Electoral Act of 1998, the IEC is the primary entity responsible for the resolution of electoral disputes that are of an administrative nature. Judicial intervention in electoral disputes is entrusted to the Electoral Court, established under chapter 5 of the Electoral Commission Act. The Electoral Commission Act establishes the Electoral Court, which has equal status as the Supreme Court of Appeal and has the mandate to adjudicate on electoral disputes. The Electoral Court is obligated to adjudicate on electoral disputes expeditiously. It is composed of three judges of the Supreme Court of Appeal, one of whom must be the chairperson and two other South African citizens appointed by the president, on recommendation of the Judicial Service Commission.

The Electoral Court has jurisdiction to review the administrative decisions of the IEC and receive appeals against the decision of the IEC relating to the interpretation of any law or other matters for which an appeal is provided by law. Aggrieved parties must first seek leave of the chairperson of the Electoral Court before filing an appeal. Written submissions for an appeal must be submitted within three days after leave has been granted. The Court may determine the appeal summarily based on the written submissions. The Electoral Court is mandated to deal with all electoral disputes expeditiously.

The Electoral Court may also hear and determine disputes relating to membership, leadership and founding instruments of registered political parties and matters relating to the interpretation of any law referred to it by the IEC. The Electoral Court may investigate any allegation of misconduct, incapacity or incompetence of a member of the IEC and make any recommendation to a committee of the National Assembly. The Electoral Court is also mandated to make rules regarding infringements of the Code of Conduct of political parties and determine which courts have jurisdiction to hear complaints and disputes relating to infringement of the Code of Conduct and appeals relating to such hearings.

Generally, the legal framework regarding judicial resolution of election disputes guarantees access to redress for aggrieved parties concerning disagreements on election-related matters, thus guaranteeing the right to a fair hearing, which is fundamental to the conduct of fair elections. The
The EISA IEOM also commends South Africa as a country that upholds and respects the rule of law, as seen in the important role of the judiciary in ensuring that fundamental rights are respected, and state institutions comply with their rule of law obligations and uphold the democratic norms that are enshrined in the constitution.
3.1 Delimitation of Constituencies and Voting Districts

Periodic delimitation promotes the principle of equal representation. In the South African context, for the purposes of electoral management, the drawing of municipal boundaries is referred to as demarcation. It is the legal mandate of the Municipal Demarcation Board (MDB) guided by the Municipal Demarcation Act 27 of 1998.28

The drawing of electoral districts such as voting districts and wards is referred to as delimitation, guided by sections 60-63 of the Electoral Act.

Delimitation of voting districts is a core responsibility of the IEC. The Commission constantly reviews the voting district boundaries to account for factors such as urban growth, densification and accessibility to voting stations. Delimitation is conducted by the IEC’s Delimitation Directorate.29

The purpose of delimiting voting districts is to enhance efficiency of election administration for logistical planning and to minimise voter inconvenience and minimise the possibilities of multiple voting across districts. Municipal ward boundaries have political significance, while voting districts are delimited for administrative purposes.

29  This is undertaken with the assistance of an electronic mapping system, the Geographical Information System (GIS).
While the MDB does not play an active role in the national and provincial elections, municipal boundary demarcation has a bearing on the elections, because the voters’ roll is municipality-based. For the IEC to take into account municipal boundaries in its determination of voting district boundaries for voter registration and setting up of voting stations, for the national and provincial elections, the MDB must complete the municipal boundary delimitation process well ahead of elections. The last boundary demarcation was undertaken in 2015 for the 2016 municipal elections. Ahead of the 2019 elections, the MDB resolved that no major re-determination of municipal boundaries needed to be undertaken before the 2019 elections, except for the correction of technical misalignment of municipal boundaries.\(^\text{30}\)

The mission, however, noted longstanding concerns from the Vuwani community, in Limpopo, arising from the conduct of the municipal demarcation process in 2015. While it did not materialise, there were fears that the residents would disrupt the voter registration process as well as the 2019 elections.\(^\text{31}\) This stemmed from their dissatisfaction with the 2015 MBD exercise that saw the region being taken away from the jurisdiction of the Makhado Local Municipality and placed in the newly created Collins Chabane Local Municipality. They blamed the MDB for not consulting them and for causing divisions among their community. While the community lost the bid, which is due for an appeal following the 2021 local elections, it is important to ensure that more consensus is built during future processes to avoid threats to the electoral process as was the case in Vuwani.

A voting district in South Africa is serviced by one voting station. Voter registration is conducted per voting district and voters are registered in the voting districts where they reside. The districts are determined based on geographical size and the number of eligible voters. Urban voting districts contain approximately 3,000 voters located within a radius of 7.5 km of the voting station. Rural voting districts accommodate approximately 1,200 voters located within a radius of some 10 km of the voting station.

\(^\text{30}\) This involved minor adjustments to align municipal boundaries to either cadastral boundaries, natural or man-made features (e.g. farm boundaries, rivers, roads). It was aimed at improving the quality of boundaries by providing clearly defined boundaries. http://www.demarcation.org.za/site/wp-content/uploads/2017/05/Circular-1-2017.pdf

\(^\text{31}\) In 2016, only around 1600 people participated in the elections in Vuwani despite over 40000 voters being registered. The community held a soccer tournament on voting day.
Section 62 of the Electoral Act mandates the IEC to undertake an open and consultative process in determining the boundaries of voting districts. The IEC is required to consult the Party Liaison Committees, giving them an opportunity to comment on the proposed boundaries and location of voting districts. The Act further requires the IEC to make copies of the map of each voting district available for public inspection.

Ahead of the 2019 elections, a revision of the voting station network was conducted. This resulted in the establishment of 22,924 voting districts – up from 22,263 districts in 2014. This marked a 2.97% increase compared to 2014. While the number of voting districts increased, there was a decrease in the number of temporary voting stations as well as mobile stations. Temporary stations decreased by 29.16% from 1,495 in 2014 to 1,059 in 2019. Similarly, mobile stations were down from 32 in 2014 to 28 in 2019. The review, just like in the previous years, took into consideration the number and spread of registered voters and ensured that all voters would be accommodated in manageable numbers. In its consultations with political parties, the EISA IEOM did not receive any comments of dissatisfaction about the 2019 voting district review process.

<table>
<thead>
<tr>
<th>Election Year</th>
<th>No. of Voting Stations</th>
<th>Percentage (%) Increase/Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>10,000</td>
<td>46.5</td>
</tr>
<tr>
<td>1999</td>
<td>14,650</td>
<td>15.8</td>
</tr>
<tr>
<td>2004</td>
<td>16,966</td>
<td>16.27</td>
</tr>
<tr>
<td>2009</td>
<td>19,726</td>
<td>12.86</td>
</tr>
<tr>
<td>2014</td>
<td>22,263</td>
<td>2.97</td>
</tr>
<tr>
<td>2019</td>
<td>22,924</td>
<td>–</td>
</tr>
</tbody>
</table>

Source: IEC Observer Briefing Pack

The IEC is responsible for the allocation of seats in the National Assembly and provincial legislatures, in accordance with a formula that takes into account the available scientifically based data in respect of voters and representation
by interested parties. The IEC allocates 200 seats for the national constituency and distributes 200 seats among the provincial constituencies based on the proportion of voters registered in each province for a particular election. Tables 3 and 4 illustrate the national and provincial legislatures seat allocation.

Table 3: National Assembly seat allocation by constituency 1999–2019

<table>
<thead>
<tr>
<th>Constituency</th>
<th>1999</th>
<th>2004</th>
<th>2009</th>
<th>2014</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>National</td>
<td>200</td>
<td>200</td>
<td>200</td>
<td>200</td>
<td>200</td>
</tr>
<tr>
<td>Eastern Cape</td>
<td>27</td>
<td>28</td>
<td>26</td>
<td>26</td>
<td>25</td>
</tr>
<tr>
<td>Free State</td>
<td>14</td>
<td>13</td>
<td>12</td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>Gauteng</td>
<td>46</td>
<td>45</td>
<td>47</td>
<td>48</td>
<td>48</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>38</td>
<td>37</td>
<td>39</td>
<td>40</td>
<td>41</td>
</tr>
<tr>
<td>Limpopo</td>
<td>20</td>
<td>21</td>
<td>19</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>14</td>
<td>14</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>North-West</td>
<td>17</td>
<td>17</td>
<td>14</td>
<td>13</td>
<td>13</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>4</td>
<td>4</td>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Western Cape</td>
<td>20</td>
<td>21</td>
<td>23</td>
<td>23</td>
<td>23</td>
</tr>
<tr>
<td>Total</td>
<td>400</td>
<td>400</td>
<td>400</td>
<td>400</td>
<td>400</td>
</tr>
</tbody>
</table>


Table 4: Allocation of seats for provincial legislatures 1999–2019

<table>
<thead>
<tr>
<th>Legislature</th>
<th>1999-2014</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>63</td>
<td>63</td>
</tr>
<tr>
<td>Free State</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Gauteng</td>
<td>73</td>
<td>73</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>Limpopo</td>
<td>49</td>
<td>49</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>North-West</td>
<td>33</td>
<td>30</td>
</tr>
<tr>
<td>Western Cape</td>
<td>42</td>
<td>42</td>
</tr>
<tr>
<td>Total</td>
<td>430</td>
<td>427</td>
</tr>
</tbody>
</table>

From the information received, the EISA IEOM noted that the changes in the seat allocation per province sufficiently reflect the voting population size of the provinces. While the number of seats allocated to each provincial legislature by the IEC did not change between 1999 and 2009, there was a slight decrease in the number of seats in North-West Province, from 33 in 2014 to 30 in 2019. The most populous province, KwaZulu-Natal, has the maximum number of seats the IEC may allocate, in terms of the Constitution, and the more lightly populated provinces, the Northern Cape, the Free State and Mpumalanga, the minimum number.

The EISA IEOM noted that, in line with international standards, delimitation and demarcation processes were undertaken by independent institutions – the IEC and MDB – with effective interagency cooperation. The IEOM also commended the open consultative processes undertaken by these institutions (with the exception of the complaint in Vuwani). The IEOM also noted that the IEC’s making the maps available for inspection further enhanced the transparency of the process.

3.2 VOTER REGISTRATION AND VOTERS’ ROLL
Voter registration is guided by section 5 of the Electoral Act (No. 73 of 1998). The IEC is responsible for compiling and maintaining the national common voters’ roll. The right to vote is guaranteed to South African citizens from age 18. This right is extended to citizens in the country and in the diaspora.32 The constitution also extends voting rights to prisoners.33 To register, citizens need to be at least 16 years old (but can vote only from the age of 18); and be included in the national civil registry as proven by possession of a green bar-coded ID book / smartcard / valid Temporary Identity Certificate (TIC). Registration for diaspora voting takes place at designated South African embassies, high commissions or consulates general. In addition to the above documents one is also required to produce a valid South African passport or temporary passport.

32 Voters outside South Africa only vote in the national elections.
33 Section 24B of the Electoral Act, provides that for the National Assembly or provincial legislatures, prisoners whose names appear on the voters’ roll for another voting district, are deemed for that election day to have been registered by their names having been entered on the voters’ roll for the voting district in which they are in prison.
Voter registration in South Africa is continuous. However, it closes briefly during elections, from the proclamation of the election date until the time the electoral process is deemed to be completed. For the 2019 elections, registration was temporarily closed on 26 February 2019 when the proclamation of the date for the elections was made. The roll also receives monthly updates from the National Population Register (NPR) to remove deceased voters. Removals are further occasioned by deregistration.

Ahead of elections, the IEC conducted national voter registration weekend drives to boost registration for the 2019 elections on 10-11 March 2018 and 26-27 January 2019. The registration drives saw a total of 1,194,314 new voters added to the voters’ roll. This brought the total registered voters for the 2019 elections to 26,736,820, representing 74.6% of the voting-age population. This also marked an increase of 5.48% from 25,388,082 registered voters in 2014. Of the total registered voters, 14,706,808 (55.52%) were female and 12,030,012 (44.48%) male. Concerns were, however, raised regarding approximately 9.8 million eligible voters who had not registered to vote in the 2019 elections, of which approximately 6 million were under 30 years of age.

Table 5: Total registered voters per age and gender

<table>
<thead>
<tr>
<th>Age (years)</th>
<th>Female</th>
<th>Male</th>
<th>Total</th>
<th>Women %</th>
<th>Male %</th>
</tr>
</thead>
<tbody>
<tr>
<td>18-19</td>
<td>194,310</td>
<td>155,646</td>
<td>349,956</td>
<td>55.52</td>
<td>44.48</td>
</tr>
<tr>
<td>20-29</td>
<td>2,884,191</td>
<td>2,434,888</td>
<td>5,319,079</td>
<td>54.22</td>
<td>45.78</td>
</tr>
<tr>
<td>30-39</td>
<td>3,532,579</td>
<td>3,147,158</td>
<td>6,679,737</td>
<td>52.89</td>
<td>47.11</td>
</tr>
<tr>
<td>40-49</td>
<td>2,873,855</td>
<td>2,594,868</td>
<td>5,468,723</td>
<td>52.55</td>
<td>47.45</td>
</tr>
<tr>
<td>50-59</td>
<td>2,352,758</td>
<td>1,865,228</td>
<td>4,217,986</td>
<td>55.78</td>
<td>44.22</td>
</tr>
<tr>
<td>60-69</td>
<td>1,573,858</td>
<td>1,152,765</td>
<td>2,726,623</td>
<td>57.72</td>
<td>42.28</td>
</tr>
<tr>
<td>70-79</td>
<td>829,506</td>
<td>498,486</td>
<td>1,327,992</td>
<td>62.46</td>
<td>37.54</td>
</tr>
<tr>
<td>80+</td>
<td>465,742</td>
<td>180,965</td>
<td>646,707</td>
<td>72.02</td>
<td>27.99</td>
</tr>
<tr>
<td>Total</td>
<td>14,706,799</td>
<td>12,030,004</td>
<td>26,736,803</td>
<td>55.00</td>
<td>44.99</td>
</tr>
</tbody>
</table>

Source: IEC https://www.elections.org.za/content/Voters-Roll/Registration-statistics/

34 The voters’ roll closes for an election on the day that the date of the election is proclaimed (published in the Government Gazette).
35 IEC www.elections.org.za/content/About-Us/News/Over-700-000-new-voters-added-to-the-voters-roll-ahead-of-elections/
Table 6: Registered voters per province

<table>
<thead>
<tr>
<th>Province</th>
<th>Female</th>
<th>Male</th>
<th>Total</th>
<th>Women %</th>
<th>Male %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>1,916,652</td>
<td>1,444,073</td>
<td>3,360,725</td>
<td>57.031</td>
<td>42.97</td>
</tr>
<tr>
<td>Free State</td>
<td>806,084</td>
<td>655,475</td>
<td>1,461,559</td>
<td>55.15</td>
<td>44.85</td>
</tr>
<tr>
<td>Gauteng</td>
<td>3,306,769</td>
<td>3,073,097</td>
<td>6,379,866</td>
<td>51.83</td>
<td>48.17</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>3,114,564</td>
<td>2,407,387</td>
<td>5,521,951</td>
<td>56.40</td>
<td>43.60</td>
</tr>
<tr>
<td>Limpopo</td>
<td>1,547,920</td>
<td>1,059,001</td>
<td>2,606,921</td>
<td>59.38</td>
<td>40.62</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>1,065,952</td>
<td>884,858</td>
<td>1,950,810</td>
<td>54.64</td>
<td>45.36</td>
</tr>
<tr>
<td>North West</td>
<td>896,288</td>
<td>805,237</td>
<td>1,701,525</td>
<td>52.68</td>
<td>47.32</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>335,925</td>
<td>290,234</td>
<td>626,159</td>
<td>53.65</td>
<td>46.35</td>
</tr>
<tr>
<td>Western Cape</td>
<td>1,716,645</td>
<td>1,410,642</td>
<td>3,127,287</td>
<td>54.89</td>
<td>45.11</td>
</tr>
<tr>
<td>Total</td>
<td>14,706,799</td>
<td>12,030,004</td>
<td>26,736,803</td>
<td>55.00</td>
<td>44.99</td>
</tr>
</tbody>
</table>

Source: IEC https://www.polls.org.za/content/Voters-Roll/Registration-statistics/

A voter registration drive for diaspora voters was conducted on the weekend of 1-4 April 2019 in 108 countries, at over 120 missions. This registration drive captured 1,408 South African living abroad. The Electoral Commission received 30,532 applications to vote outside the country between 26 February 2019 and 13 March 2019, of which 29,334 were approved. This marked an increase of 9.80% up from 26,716 registered diaspora voters in 2014.36 This relative increase was indicative of the continued interest of South Africans living abroad to participate in the public affairs of their country.

Registration was undertaken at facilities of the Department of Correctional Services countrywide on 22-23 January 2019. This resulted in just over 13,400 registrations for the 2019 elections. All sentenced or awaiting trial prisoners who qualify to register and vote in terms of the Constitution and electoral laws were able to register for the 2019 elections.37

36 Individuals intending to vote abroad are required to be registered and submit a VEC10 notification within the period specified on the election's timetable (which is usually 15 days from the date on which the election is proclaimed).

37 According to the Dept of Correctional Services there were 162,875 prisoners on the 31 March 2019 (http://www.dcs.gov.za/?page_id=4601). Of these, 115,147 inmates were awaiting trial and 47,728 had been sentenced (detailed figures of how many of these prisoners were eligible to vote are not available).
Consistent with the election timetable and in line with the principles of transparency, the voters’ roll was made available for public inspection from 1 to 8 March 2019. Fifteen objections to the voters’ roll were considered and sustained. The voters’ roll was certified and published on 18 March 2019. It was made available electronically to all political parties. At the request of political parties, hard copies were also made available.

The EISA IEOM commended the IEC’s efforts to make the voters’ register more accessible by introducing an online facility for the checking and amending of voters’ addresses and transfer of registration between wards. The facility was introduced in October 2017, and the IEC reported that by January 2019 the system had been used by more than 125,000 registered voters. Legal reforms, through the Election Laws Amendment Act, will allow for future electronic use in elections, including allowing eligible voters to register online.\textsuperscript{38}

The 2019 voter registration process was affected by the ruling of the 2016 Constitutional Court in the Tlokwe case, mandating the IEC to capture the physical address of all voters, in compliance with its rule of law obligations. The IEC was thus compelled to include verified addresses on the voters’ roll by June 2016. The period was extended to 30 November 2019 following an appeal by the IEC ahead of the 2019 elections.\textsuperscript{39} The IEC intensified its efforts and had captured the physical addresses of over 85% of the registered voters ahead of the 2019 elections. It also put procedures in place to further capture addresses on election day.

\textsuperscript{38} The Act was assented to in January 2019, and the systems to enable this are therefore expected to be in place for future elections.

\textsuperscript{39} The case originated from a dispute regarding the registration process in Tlokwe local municipality. Unsuccessful candidates challenged the elections outcome on claims that the voters’ roll was incorrect. http://www.saflii.org/za/cases/ZACC/2016/15media.pdf
An inclusive and credible voters’ register is critical for the legitimacy and the credibility of elections. In its assessment of the legal framework governing voter registration in South Africa, the EISA IEOM noted that it guarantees the right to vote to eligible citizens within and outside the borders of South Africa, including prisoners. The procedures for voter registration also grant this right and effectively uphold the principles of transparency and inclusiveness. The introduction of an electronic system for checking and updating registration status also contributes to the inclusiveness of the process. It accords an opportunity for voters regardless of their location to ensure their registration is up to date. The existence of a credible national civil registry and the monthly update of the voters’ register contribute to the credibility of the process, because this ensures that only names of eligible voters are maintained in the register. Opening up the voters’ roll for inspection, challenges and corrections as well as making it available to political parties and any other individuals upon request also enhances transparency in the process.

The EISA IEOM was, however, concerned about the high numbers of unregistered eligible voters despite the registration process promoting and providing for broad participation. The lack of registration, despite the provided opportunities, could be indicative of apathy and disinterest in the electoral process by segments of voters.

3.3 POLITICAL PARTY REGISTRATION AND CANDIDATE NOMINATION

As principal players in the electoral process, political parties are indispensable to democracy. It is therefore of paramount importance to ensure that they are granted fair and equal opportunity to participate in the electoral process. The registration and regulation of political parties sets the basis for their operations.

Registration and regulation of parties is guided by sections 15-17 of the Electoral Act and the Code of Conduct for Parties. The IEC is responsible for the registration of political parties in South Africa, and the registration process is stipulated in section 15 of the Electoral Commission Act.
Procedures for registration include submission of application to the IEC to register a party’s willingness to contest an election. The registration process is flexible to allow political parties to contest either at the national or municipal levels. Supporting documentation for party registration includes:

- the political party’s constitution, which must contain, among other things, the executive structure and functions of office bearers, the decision-making process, minimum requirements for membership and internal disciplinary procedures.
- a deed of foundation, which must contain the names, identity numbers and signatures of 500 voters in the case of national registration and 100 voters in the case of municipal registration.
- a fee of R500 for national-level registration and R200 for municipal-level registration; and
- proof of publication of the party’s intention to register at a national level (Government Gazette) or municipal level (a local newspaper circulating in the area of the municipality).

Following registration, the Commission issues the party with a registration certificate and publishes the prescribed particulars of such registration in the Gazette. The Commission may prohibit the registration of a political party for various reasons. Party registration remains valid for parties that are represented at national or provincial level. Parties that are not represented at any level are expected to renew their registration annually. This provision contributes to the institutionalisation of political parties. There are also provisions allowing for a political party to change its existing registered name, abbreviated name or distinguishing mark/symbol. As at January 2019, there were 417 unique political parties registered with the IEC, of which 285 were registered to contest national elections and 300 to contest municipal elections.

40 Section 16 of the Electoral Act, 1998 (amended), stipulates that the CEO of the IEC may prohibit registration of a party if the proposed name, abbreviated name, distinguishing mark of symbol mentioned in the application resembles those of another registered party to such an extent that it may deceive or confuse voters. A party may also fail to be registered if its name etc. portrays the propagation or incitement of violence or hatred or which may cause serious offence to any section of the population on the grounds of race, gender, sex, ethnic origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture or language.

41 The Electoral Commission Act 1996, 15(6); and Regulations 2004, 10 provide that parties that are not represented in a legislative body must renew their registration before 31 December every year.
Registration by a political party does not automatically qualify it to contest in the various elections. As per the legal framework, political parties that contested the elections were required to be registered and to submit the following: candidate lists in a fixed order of preference, each candidate’s acceptance of nomination, declaration by each candidate of acceptance of the code of conduct, as well as an election deposit of R200,000 for the National Assembly election and R45000 per provincial legislature within prescribed timelines. The cut-off date for political parties’ submission of candidate lists was 13 March 2019. Submission of nomination was either by hand delivery or electronically through the Online Candidate Nomination System (OCNS). The lists and accompanying documents were open for inspection from 29 March – 1 April 2019. Following public inspection, 53 sets of objections were raised. 52 of these were dismissed by IEC and only one involving a candidate who had flouted a qualification requirement was sustained.

For the 2019 elections, a record 76 political parties were registered to participate in the elections, with 48 contesting at the national level. This marked a 65.52% increase compared to 2014, when 29 parties contested at the national level. However, as indicated in table 8, the growth of political parties does not automatically guarantee them seats in the national legislature. This trend has been observed in the past, where parliamentary representation of parties has been limited despite party proliferation. For the 2019 national elections, only 14 out the 48 parties secured seats in the National Assembly. For the provincial legislature, a total of 38 parties were registered to contest across the nine provinces, as indicated in table 8.

In line with the legal provisions, parties which failed to secure any seats in the National Assembly or provincial legislature forfeited their deposit to the National Revenue Fund. The parties at the national and provincial levels which did not secure seats at the respective legislatures earned the government R16.7 million in revenue as indicated in table 7 below. This

42 Section 27 of the Electoral Act, 1998 (as amended).
43 Political parties were given 15 days, from 26 February– 13 March to submit their candidate lists.
44 The OCNS was launched ahead of the 2016 Municipal Elections to speed up and simplify the process of submitting candidate nomination lists for elections by allowing parties to capture their own information and then submit it electronically via the internet by the deadline.
45 Section 106 of the Electoral Act.
amount marked a slightly over 100% increase compared to the 2014 elections, where parties that did not secure legislative seats earned the government R8.28 million.⁴⁶

Table 7: Forfeited deposits by political parties in the 2019 elections

<table>
<thead>
<tr>
<th>National/provincial election</th>
<th>Number of parties that failed to win a seat</th>
<th>Total deposits forfeited (Rands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Assembly</td>
<td>34</td>
<td>6,800,000</td>
</tr>
<tr>
<td>Eastern Cape</td>
<td>20</td>
<td>900,000</td>
</tr>
<tr>
<td>Free State</td>
<td>24</td>
<td>1,080,000</td>
</tr>
<tr>
<td>Gauteng</td>
<td>30</td>
<td>1,350,000</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>23</td>
<td>1,035,000</td>
</tr>
<tr>
<td>Limpopo</td>
<td>30</td>
<td>1,350,000</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>24</td>
<td>1,080,000</td>
</tr>
<tr>
<td>North West</td>
<td>25</td>
<td>1,125,000</td>
</tr>
<tr>
<td>Western Cape</td>
<td>27</td>
<td>1,215,000</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>17</td>
<td>765,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>6,700,000</td>
</tr>
</tbody>
</table>


For the 2019 elections, there were 14,936 candidates nominated on party lists. Of these, 6,768 were nominated for provincial elections to contest for 430 seats in the provincial legislatures, while 8,168 were nominated for national elections to contest for 400 seats in the national legislature.

A total of 2,089 candidates were nominated for the National Assembly elections, while 6,562 candidates were nominated for the provincial legislatures. This makes 8,651 nominations, compared to 9,130 for the 2009 national and provincial elections.

Table 8: Parties contesting in national and provincial elections

<table>
<thead>
<tr>
<th>Election year</th>
<th>Parties contesting</th>
<th>Parties which won representation in the National Assembly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>16</td>
<td>13</td>
</tr>
<tr>
<td>2004</td>
<td>21</td>
<td>12</td>
</tr>
<tr>
<td>2009</td>
<td>27</td>
<td>13</td>
</tr>
<tr>
<td>2014</td>
<td>29</td>
<td>13</td>
</tr>
<tr>
<td>2019</td>
<td>48</td>
<td>14</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Province</th>
<th>2019</th>
<th>2014</th>
<th>% increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>26</td>
<td>18</td>
<td>44.44</td>
</tr>
<tr>
<td>Free State</td>
<td>28</td>
<td>16</td>
<td>75</td>
</tr>
<tr>
<td>Gauteng</td>
<td>36</td>
<td>22</td>
<td>63.64</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>31</td>
<td>18</td>
<td>72.22</td>
</tr>
<tr>
<td>Limpopo</td>
<td>34</td>
<td>20</td>
<td>70</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>28</td>
<td>16</td>
<td>75</td>
</tr>
<tr>
<td>North West</td>
<td>29</td>
<td>16</td>
<td>81.25</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>21</td>
<td>16</td>
<td>31.25</td>
</tr>
<tr>
<td>Western Cape</td>
<td>34</td>
<td>24</td>
<td>41.67</td>
</tr>
</tbody>
</table>

Source: IEC website

The legal framework provides for an enforceable code of conduct for political parties that all political parties and candidates are expected to abide by. Contravention of the code or commitment of other offences, as stipulated in the Electoral Act, attracts a fine or a jail term. All political parties contesting the national elections signed the code of conduct on 20 March 2019. By signing, they pledged their commitment to free and fair elections and upholding the Code of Conduct. Similar signing ceremonies took place at provincial level.

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47 Any complaints relating to transgressions against the code can be lodged with the Electoral Court and carry a number of consequences, including a warning, a fine, a reduction in the number of votes received and disqualification from participating in the election.
The EISA IEOM observed that the procedures and fees for the registration of political parties as set out in the Act and regulations are not restrictive and sufficiently guarantee the right to stand and the freedom of association and expression. The IEOM commended the IEC for taking steps to make the party registration and nomination list submission process easily accessible through its OCNS. The mission further noted that the IEC maintained the registration costs for candidate nomination applied during the 2014 elections. By maintaining the same amount, the Commission increased accessibility of the process to more political parties.

The mission noted that the code of conduct promotes conditions conducive to free and fair elections. It sets out acceptable and prohibited behaviours by parties during the electoral period, especially the campaigns, which are backed up by sanctions.

The Mission observed that South Africa is a multi-party democratic state with a vibrant political culture where parties can register and operate without undue restrictions. To enhance transparency, each step in the party registration and nomination process was open to objections and dispute resolution before finalisation.

The EISA IEOM, however, noted the Electoral Court decision faulting the IEC for its failure to Gazette the registration of the political party known as Black First Land First (BLF) to enable interested parties to appeal against the registration if they desired, contrary to the provisions of the Electoral Act.

3.4 CIVIC AND VOTER EDUCATION
Voter education is a function of the IEC.48 The Electoral Commission is also responsible for the accreditation of persons providing voter education.49 The Commission conducts civic democracy education (CDE), which includes voter education on an ongoing basis. For the 2019 NPE, the Commission conducted voter education through several drives. Their internal capacity for the drives was boosted through recruitment and engagement of temporary staff at

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49 Electoral Act, 1998, Chapter 6(5).
the ward and municipal levels. The Commission deployed 282 municipal outreach coordinators (MOC) in the field from 1 November 2018 to 31 May 2019.\textsuperscript{50} 1,608 democracy education facilitators (DEFs) were deployed at ward level in provinces from January to April 2019\textsuperscript{51}; and a team of 61 DEFs drawn from disability sector were introduced to focus on PLWDs in each province. Efforts by these groups, among others, resulted in 74,000 face-to-face events, reaching at least 20 million people per event.

The Commission collaborated with other organisations, including CSOs and the media, in the provision of voter education. The programmes sought to disseminate information throughout the entire electoral cycle. Issues covered included voter registration, election timetable, type of election, voting procedures as well as the official dates and times of election. The main communication channels used for voter education included face-to-face events; traditional media (audio, visual and print); and social media platforms (Twitter and Facebook).

The EISA IEOM noted the IEC’s efforts to tailor CDE efforts to the needs of various categories of voters, such as learners, youth and persons with disability. For first-time voters, the IEC partnered with Media24 to promote its matric results portal. Media24 sent 650,000 emails and 300,000 SMS messages to encourage matriculants to register during the voter registration drives. The IEC also partnered with the public broadcaster, the SABC, for voter education. In particular, the broadcaster ran the programme “One Day Leader”, a reality show which looked at youth leadership and the role youth play in development. It engaged identified youth in debates on issues that affect their lives, media and democracy as well as the role of voting. However, the EISA IEOM noted that the financial crisis at the SABC affected their capacity to carry out broader civic and voter education programmes, which were noted to be limited compared to previous general elections.

The IEC, in collaboration with the Department of Basic Education, implemented the School Democracy Week in April 2019, to promote active participation among learners. The IEC also partnered with South African National Council for the Blind (SANCB), Blind SA and the Deaf Federation

\textsuperscript{50} One MOC per local municipality and four per metropolitan municipality.
\textsuperscript{51} One DEF was assigned three wards.
of South Africa (DeafSA) to provide specialised education programmes for PLWDS. It also trained and recruited accredited sign language interpreters. The IEC used the Xse\textsuperscript{52} campaign to increase voter registration among the youth, especially first-time voters. The campaign aimed at promoting registration as well as voting on election day. The portal had 4.6 million views and a reach of over 2.7 million.

The EISA IEOM noted the various voter education efforts by the different stakeholders spearheaded by the IEC. However, it noted the limited participation by CSOs, some of which cited lack of funds for their limited or lack of participation. Furthermore, the IEOM noted the decrease in registration and participation of youth in the elections, despite the numerous efforts towards securing their participation.

The effectiveness of voter education efforts can be evaluated through the voter turnout and the number of spoilt ballots. There were 235,472 spoilt ballots, representing 1.33\% of the total votes cast at the national level. Some provinces such as KZN recorded an increase in the number of spoilt ballots, while provinces like Northern Cape recorded a reduction in spoilt ballots.\textsuperscript{53} Voter turnout decreased compared to 2014 and was the lowest ever recorded in the history of the country at 65.99\%, down from 73.48\% in 2014.

### 3.5 ELECTION CAMPAIGNS

Campaigns are guided by the Electoral Act 1998 and Code of Conduct for parties. The EISA IEOM noted that amendments introduced into the Electoral Commission Act by the Electoral Laws Amendment Act, 2019, provided additional safeguards against the abuse of state resources, particularly by incumbents, to gain undue advantage. In accordance with the Electoral Act, 1998, the IEC administers a code of conduct for political parties and candidates participating in elections.\textsuperscript{54} The code of conduct mandates parties and candidates to: speak out against political violence and threats against other parties, the Electoral Commission, members of the public and the media; let the authorities know about planned marches or rallies; communicate

\textsuperscript{52} It is a multiculturally understood colloquial South African term that can be used in many situations, especially when one wants to be heard.

\textsuperscript{53} The numbers in brackets represent a percentage of the total votes cast.

\textsuperscript{54} Schedule 2 (Section 99).
with other political parties about planned political events; recognise the authority of the Electoral Commission; work with the Electoral Commission structures and allow them to perform their duties; work with the police in their investigation of election crime and violence; and accept the result of the election or challenge the result in court.

Campaigns for the 2019 elections opened from the proclamation date of the elections until 24 hours prior to the commencement of voting.

The EISA IEOM observed the final week of party campaigns across the nine provinces, and EISA observers attended 14 campaign events across four provinces. The EISA IEOM noted that parties conducted their campaigns freely in a context that was largely free of fear and intimidation. There were reports of isolated incidents of violence in KwaZulu-Natal Province, where there were politically motivated killings. The EISA IEOM noted the efforts by the SAPS to arrest the perpetrators of the crime. It was further noted that all participating parties were granted free and equitable media coverage in the public broadcaster as provided for in the law.

The key issues that featured during the campaigns and political debates included land reforms, corruption, unemployment and weak economic growth. While the ruling party tried to convince voters that its new leadership under Cyril Ramaphosa was committed to eliminating corruption and reviving the economy, opposition parties like the DA led by Mmusi Maimane and the EFF's Julius Malema took advantage of public frustrations emanating from the endemic corruption and declining economy in the hope of drawing more votes. Parties were divided on the land issue, with some in support of radical reforms like repossession without compensation, while the moderates advocated for compensation. Campaigns took the form of door-to-door campaigns, mass rallies as well as media advertisements and political debates.

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The EISA IEOM observed that political parties commendably conducted largely peaceful campaigns and upheld their commitment to the code of conduct that was signed on 20 March 2019. The media and security personnel were present in all observed campaigns. Their role and presence were reported to be professional, which further contributed to the peacefulness of the process. The peaceful pre-election environment provided an atmosphere for South Africans to freely express their support for their chosen political parties. EISA observers did not directly observe the use of public resources for campaigns by the incumbent parties at national or provincial levels.

3.6 PREPAREDNESS OF THE EMB
In accordance with Sections 18 and 20 of the Electoral Act, the IEC published the election calendar following proclamation of the election date on 26 February 2019. The election calendar was endorsed by the political parties through the Political Parties Liaison Committee (PPLC). The IEOM noted that the IEC delivered the process in line with the election calendar.

Procurement of election materials was done in a timely manner. The IEC procured 63.8m ballot papers for both national and provincial elections. The design of the ballot paper was reviewed following recommendations from commissioned research by the Human Sciences Research Council, aimed at improving its legibility and to accentuate distinguishing features between and among political parties on the ballot. These changes included a re-ordering of the sequence of party identifiers on the ballot paper with the new sequence being full party name; photograph of party leader; party’s abbreviation and the party logo. Parties with similar colours and abbreviations were also separated on the ballot paper to avoid confusion by the voter. The EISA IEOM commended the IEC for taking steps to learn through evidence-based research and its open consultation with political parties to achieve the redesigned ballot, which seemed easier to understand for voters to make more informed choices.

The Commission recruited and trained 189,000 election staff. The training was undertaken at both the national and provincial levels. Other stakeholders, including SAPS and party agents, were also trained.
The EISA IEOM noted the accessibility and transparency of the IEC. The Commission engaged in regular briefings with stakeholders, including political parties and CSOs. It also provided briefings to citizen and international observers. The IEC had open communication channels with the public. An important development was the provision, by the Commission, of a live feed in the form of an API publicly available in order to provide election data in real time to the media and other interested parties. The source data included real-time voter and voting station information, as well as election results data.

Consulted stakeholders, including political parties, lauded the IEC for its transparency, open communication, and engagement with stakeholders. They expressed their confidence in the IEC’s effective management of the process in the days before the elections.

The preparations of the IEC were impacted by the floods that affected parts of KZN and Eastern Cape. The IEC also made specific efforts to ensure that eligible voters who were affected by the floods had an opportunity to vote by setting up temporary voting stations in the affected areas.
4.1 SPECIAL VOTING
The legal framework allows for special voting for voters in the diaspora as well as voters within the country who are unable to cast their votes in their registered districts on election day. Voters in the second category are required to apply for and cast a special vote either during a home visit inside or outside their voting district of registration, or at a voting station serving the voting district in which they are registered to vote.

Applications for special voting within South Africa were received by the IEC between 4 and 18 April 2019. The IEC granted 774,094 applications for special votes, of which 452,418 (58.4%) were for home visits and 321,676 (41.6%) were to be cast at voting stations. South Africans living abroad cast their votes on 27 April 2019, while special voting took place on 5 and 6 May 2019 within the country. A total of 19,882 votes were cast by South Africans living abroad, representing a 97.78% voter turnout.

EISA observers observed special voting on 6 and 7 May 2019; they covered 62 voting stations and 35 home visits across all nine provinces. Observers

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56 Section 33 of the Electoral Act.
57 These were the physically infirm, disabled and pregnant registered voters.
58 These included election officials and security service personnel involved in the election; and registered voters unable to vote in the voting district in which they are registered to vote on Election Day owing to various reasons.
59 There were 29,334 voters registered for diaspora voting.
reported that the process was well organised in line with set guidelines. Observers also noted that there was limited voter awareness of the required procedures for special voting, as a number of voters turned up to vote without prior application for special voting. In other instances, IEC staff returned from home visits without recording any votes because the voters lacked the required identity documents and, in some cases, applications had been made by proxy.

Observers present at voting stations noted that the stations were laid out in an appropriate manner. In the case of home visits, observers expressed concern about the secrecy of the ballot and voter privacy, as there were many party agents that accompanied IEC officials during the visits – with as many as nine party agents in one home. Observers were limited during the home visits, as they were not granted access to some homes and had to observe from afar.

The EISA IEOM noted media reports that ballot boxes were found in the streets of Tzaneen, Limpopo. The IEC investigated the matter, which led to suspension of an IEC officer. An official was also arrested for non-compliance with the requirements for secrecy of the ballot during special voting. The EISA IEOM commended the IEC for its quick response to these incidents. The Commission’s swift response continues to serve as a deterrent for future non-compliance.

The EISA IEOM noted that the provision for special voting guarantees the right of equal participation to all eligible voters regardless of their location or situation. There is, however, a need for increased voter education to ensure effectiveness and efficiency of the process so that those who apply can vote and all those in need of special voting are granted the opportunity.

4.2 ELECTION DAY FINDINGS
EISA observers visited 295 voting stations across the nine provinces. The selection of polling stations was done by random sampling. Election day was largely peaceful across the country. However, the IEOM confirmed reports of service delivery protests in the following areas: Lokomazi, Secunda, Bushbuckridge and Vumani. The EISA IEOM noted the efforts by the IEC and the police to contain the challenges in a timely manner to ensure that the electoral process was not interrupted. However, the elections were postponed in Holpan due to the protests.
4.2.1 Opening
The EISA IEOM observed opening procedures at 21 voting stations. Observers were granted access to the opening procedures in all stations. 50% of the stations visited opened on time. Opening was delayed by 10-30 mins in the other 50% of the stations, with only one team reported a delay of over an hour. The reasons for the delayed opening were poor preparations by polling officials and the late arrival of polling materials.

4.2.2 Election personnel
EISA observers noted that the majority of the polling stations had the full complement of polling staff, 78.2% of whom were women. Identification of polling staff in voting stations with many substations was in some instances difficult, as some staff did not wear the bibs provided by the IEC. This was further compounded in a few polling stations where observers noted that citizen observers were wearing the IEC bibs, which resulted in them being mistaken for polling officials. Indeed, one citizen observer at St. Davids Marist, Inanda, took advantage of this and took over polling official staff duties like directing the crowds and handling voter IDs.

While the process was largely conducted in an orderly manner, application of polling procedures was not consistently followed. For instance, in one station in Ulundi, the presiding officer used only one ballot box for both elections, while the stipulated procedure was to use two separate ballot boxes. In some instances, polling staff appeared to be unaware of their duties and allowed assistance from non-IEC personnel. In one voting station, polling staff were observed receiving and following instructions from party agents. As indicated above, polling staff allowed citizen observers to take over their duties in some stations.

4.2.3 Polling stations and election materials
The review of the polling station network ahead of the elections took into consideration the number and spread of registered voters in order to accommodate voters in manageable numbers at the stations.

The majority of the polling stations visited were located in public facilities, which included schools, churches and community halls / civic centres and
show grounds. The EISA IEOM commended the IEC for providing mobile voting stations on election day for easier access for all voters.\textsuperscript{60}

EISA observers reported that the polling stations were clearly marked for easy identification and that the layout sufficiently guaranteed the secrecy of the vote. However, the EISA IEOM noted that election staff struggled to implement the setup of substations in a manner that reduced voters’ waiting time. It was observed that substations were mostly merged into one venue and all voters remained in the same queue regardless of their assigned substations, thus contributing to slow-moving queues.

It was further observed that 83.5\% of the stations visited were accessible to PLWDs, which enhanced the inclusivity of the process. In 16.5\% of stations visited, the ground was not level or flattened appropriately for wheelchair access, and in some cases polling stations were located upstairs.

Election materials were available in adequate quantity in over 90\% of the stations visited. There were, however, isolated reports of shortage of materials later in the day. In some of the areas visited in Port Elizabeth, the form24A for registering home addresses had run out by afternoon. EISA observers also noted that some voting points had to be relocated because of damage caused by heavy rains and strong winds in Port Elizabeth. The observers noted that the ‘zip-zip’ machine malfunctioned at a few voting stations, which required officials to resort to the hard copy of the voters’ register.

The revised design of the ballot papers was more user friendly and understandable across all levels of voter literacy.

4.2.4 Independent observers, monitors and security forces
The EISA IEOM gathered that 72 independent observer groups (including citizen and international observers) were accredited by the IEC to observe the elections. The observers were briefed both at the national and provincial levels. Diplomatic Missions were also accredited to observe the elections. EISA observers reported that observers and monitors were granted easy access to

\textsuperscript{60} Mobile voting stations were provided in some voting districts where the large geographical area or location of the voting population within the area was very widely spread out.
the voting stations and were able to observe the entire process without any interference or restrictions on election day.

SAPS officials were present in all voting stations visited. Their presence was considered as professional and discreet throughout the day. The EISA IEOM appreciated the efforts of SAPS to keep its observers safe in areas where there were public protests on election day.

The presence of party agents was noted in all the stations visited by EISA teams, which further contributed to the transparency of the process. While there was no restriction imposed on political parties to deploy their monitors, the ANC, the DA and the EFF had agents in 94.3%, 84.5% and 78.4% respectively of the voting stations visited. Female party agents constituted 59.73% of the party agents encountered by EISA observers. It was further observed that some party agents overstepped their mandate, as they interfered in the process by obstructing the work of IEC officials and, in some cases, guiding voters to the voting booths. There is therefore a need to enhance their training of party agents to ensure that they are aware of their roles.

The observers, however, noted the low number of citizen election observers, as 65 observers were encountered, 44.62% of them were women. The citizen election observer groups who were encountered in more than one voting station included the South African Council of Churches (SACC), Southern African Catholic Bishops Conference (SACBC), Democracy Development Program (DDP), AfriForum, and ASONET.

EISA is cognisant of the critical role that citizen observers play in promoting electoral security, transparency and integrity. Unlike their international counterparts, citizen observers are privileged to observe and follow the process throughout the entire electoral cycle. They are therefore in a better position to provide a comprehensive report which can inform and improve the process as well as lobby for democratic reforms in instances where gaps are identified. They are further better situated to foster accountability from the various players in the process and engage in policy advocacy beyond the election cycle. It is thus vital to improve and support their participation, not only on election day but throughout the electoral cycle, for an improved electoral process.
4.2.5 Voting procedures and secrecy of the ballot

The IEOM observed that the voters were largely familiar with the stipulated voting procedures and were able to go through the process in a limited time. It was observed that the average processing time per voter mostly ranged between 1-3 minutes in 66.2% of the stations visited. Assisted voters were also aware of their rights and were accorded the necessary assistance as prescribed by law.

The voting procedures allowed for privacy of voting from the polling staff and citizens. All unmarked ballots were stamped at the back, only after being issued to the voter with no other mark allowed. The procedures guaranteed the secrecy of the ballot by ensuring that the marked ballot was not visible to a third party. Further, the Election Regulations prohibited (and criminalised) visuals inside boundaries of a voting station, especially where the secrecy of a voter’s ballot may be compromised. All persons were thus disallowed from producing a photographic image of a marked ballot. The sealing of the ballots with disputed addresses with double colour-coded envelope system also offered protection of the secrecy of the vote.

Voting was conducted mostly in line with stipulated procedures. As part of its efforts to comply with the Constitutional Court’s ruling, the IEC provided the ‘no-address list’ to capture details of voters whose addresses were not captured in the voters’ roll. Voters casting their ballots outside their registered districts were also provided with the necessary documentation, in line with Section 24A of the Electoral Act.61

The EISA IEOM noted that the Presiding Officers (POs) were willing to share information with the observers and monitors as well as concerned voters. The voting process was also open to objections by voters or party agents, which

61 Section 24A of the Electoral Act provides for voting outside the registered districts. It stipulates that a registered voter whose name does not appear on the certified segment of the voters’ roll for a voting district may be allowed to vote upon submission of identity documents, proof of registration as well as a sworn or solemnly affirmed statement declaring the following: (i) his or her full name, identity number and date of birth; (ii) his or her finger print; (iii) the address where he or she ordinarily resides; (iv) a declaration that he or she applied for registration as a voter before the date of publication of the proclamation proclaiming the election; (v) a request that his or her name should be included in the certified segment of the voters’ roll for that voting district for the purposes of the election for the National Assembly and also for the purposes of the election for the provincial legislature if he or she had so applied for registration in the province in which that voting district is situated.
enhanced its transparency. In particular, voters and agents were allowed to object to any decision made by the IEC officials with regard to: whether a voter was entitled to vote or given too many ballot papers; objections to the conduct of an electoral officer, agent or any other person at a voting station; and objections to an address provided by voter to provincial ballot. This further enhanced the transparency of the process.

The EISA IEOM learned about the reports of multiple voting in some parts of the country as a result of the poor quality of ink administered to mark voters and the possibility of receiving multiple receipts from the zip-zip machines. The EISA IEOM observed that the indelible ink used during the process was easily removable. However, EISA observer teams did not witness any direct evidence of multiple voting. The EISA IEOM also noted the actions taken by the IEC, to bring perpetrators of this violation to account and its commitment to investigate further. The mission noted the arrest of more than 20 people in connection with the alleged double voting.

The use of indelible ink, as provided for in the voting procedures, acted as an anti-fraud measure and was one of the tools used to prevent multiple voting. The quality of the ink therefore had the potential to compromise the integrity of the elections, since some voters were able to rub it off after its application and could vote multiple times if they so intended. The mission further observed that, while the provisions under Section 24A of the Electoral Act 1998 (as amended) granted an opportunity for all eligible voters to exercise their franchise, there is need to strengthen the voting system to prevent multiple voting. In its current form the system opens up the space for misuse and fraud, since the identification system using the ‘zip-zip’ is not centralised.62

4.2.6 Closing and counting
EISA observers were present at the closing and counting in 16 polling stations. They observed that the stations closed at the stipulated time. Queues were present in half of these stations, with the trend more prominent in stations

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62 The entire voters’ roll is electronically loaded on the E-Ziskan machines (zip-zip machine). On election day, the voter’s ID was to be scanned to determine if and where voters were registered. If confirmed, a slip would be produced which the voter would submit to the voter roll officer as proof of registration.
that had substations. Voters who were in the queue at closing time were allowed to cast their vote.

Counting took place at the voting stations, it was open to political monitoring and observers and party agents could follow the procedures without any interference or restrictions.

The mission, however, noted that the procedures were not uniformly applied across all the stations visited, which could indicate inadequate training assimilation by the electoral staff. Unused ballots were not stored and sealed properly in 68.8% of the visited voting stations. In 11% of the visited polling stations, the number of seals on the ballot boxes was incorrect. One team reported a lack of compliance with the counting procedures in Dihlabeng, Maluti Hoogland School. It was observed that the reconciliation of ballots was skipped, essential election materials were not sealed and packed properly, and the presiding officer had to be reminded by party agents to count the special votes. The EISA IEOM also noted that due to the high volume of voters per voting station and the merging of substations, the counting process was lengthy. Observers also noted a few discrepancies in the reconciled ballots. Where this occurred, a recount was ordered, and it was resolved.

Provisional results were announced at the voting station after counting. The result slips for each election (National and Provincial) were completed in duplicate and each signed by the party agents. Copies were displayed in the majority of the voting stations visited.
5.1 RESULTS AGGREGATION

As per the IEC procedures, the results aggregation process entailed the following: After counting the ballots, the results from each voting station are captured into the results system using a double-capture method. In this regard, the results are captured by two separate data capturers. After matching, the results are loaded into the system. They are thereafter subjected to an audit process in which the auditors verify their accuracy as they appear on the system compared to the results slip.63

The IEC established one national and nine provincial results centres. The various results centres provided continuous and live updates on the results to all stakeholders, which helped to increase trust in and credibility of the process. The IEC further introduced a mobile app that allowed users to obtain information regarding the elections, including live election results. It also created an Application Programming Interface (API) to provide election results data in real time.64

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63 The external audit firm is appointed by public tender ahead of each election and is tasked with conducting a thorough vetting of the results system to ensure its integrity.

64 The APIs provide data regarding elections for the interested parties’ own use, as well as dissemination to third parties (public) on their own platforms, including websites, mobile apps and social media. They enable the media and political parties to develop their own mobile apps using the IEC’s data in real time.
EISA observers were present at IEC municipal offices and provincial results operation centres on 9 May.65 They were granted unrestricted access to the visited centres. Only one team reported the presence of citizen observers, while party agents were present in all but one of the centres visited. The teams also reported inconsistencies in the application of aggregation procedures. One team reported that aggregated results were provided to party agents via a WhatsApp group to which observers and the media had no access. It was further reported that auditors identified inconsistencies and non-compliance with procedures, such as signing of result forms by presiding officers, with many of the results having to be recaptured before auditing.

Unrestricted access, to all accredited stakeholders, to the results system to view the captured results in real time and to the aggregation centres enhanced the transparency and integrity of the process. The mission commended the independent audit of the election results before release as a good practice to promote accuracy, credibility and transparency of the process.

5.2 ANNOUNCEMENT OF FINAL RESULTS
Section 57 of the Elections Act 1998 (as amended) provides a seven-day timeline after the voting day for determination and announcement of the results. It further provides that the announcement should not happen sooner than 21:00 of the second day after the voting day or before all objections to the results have been dealt with, other than an appeal to the Electoral Court.66 In line with this provision, the IEC announced the final results of the 2019 National and Provincial elections on 11 May 2019, three days after the elections, after dealing with the complaints by a group of 35 parties.

5.3 VOTER TURNOUT
The results recorded a lower voter turnout, as has been the trend in past elections. Voter turnout decreased by 5.27% from 73.48% of total registered voters in 2014 to 65.99% in 2019. It is, however, important to note that this decline is against a growing voter population, as indicated in the table 9 below.

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65 Buffalo City Metropolitan; Nelson Mandela Bay; Mbombela; Dihlabeng; eThekwini; and Frances Baard.
66 An objector or other party involved in the objection and who feels aggrieved by the decision of the Commission may appeal to the Electoral Court. The result of an election is not suspended pending the decision of the Electoral Court.
Whilst more people registered to vote in 2019, fewer people compared to 2014 voted. The total votes cast in 2014 were 18,654,771 compared to 17,671,616 in 2019. This effectively meant that there were 983,155 fewer people who voted in 2019, representing a 5.27% decrease. This indicates that more registered voters abstained from casting their votes for various reasons, which could point to lack of options in voter preference or dissatisfaction hence protest.

Table 9: Voter turnout against registered voters

<table>
<thead>
<tr>
<th>Year</th>
<th>Registered voters</th>
<th>Total votes cast</th>
<th>% voter turnout</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>18,172,751</td>
<td>16,228,462</td>
<td>89.30</td>
</tr>
<tr>
<td>2004</td>
<td>20,674,923</td>
<td>15,863,558</td>
<td>76.73</td>
</tr>
<tr>
<td>2009</td>
<td>23,181,987</td>
<td>17,919,966</td>
<td>77.30</td>
</tr>
<tr>
<td>2014</td>
<td>25,388,082</td>
<td>18,654,771</td>
<td>73.48</td>
</tr>
<tr>
<td>2019</td>
<td>26,779,025</td>
<td>17,671,616</td>
<td>65.99</td>
</tr>
</tbody>
</table>

Source: IEC

5.4 OVERVIEW OF ELECTION RESULTS

Overall, 14 political parties, out of the 48 participating parties, secured representation at the National Assembly. However, the three top parties, the ANC, DA and EFF, got the greatest share of the votes (over 80%) and seats (358 out of 400), as indicated in table 10 below. Three new political parties, the ATM, GOOD and Al-jama got two, two and one seats respectively. However, AGANG SA, which was previously represented in the National Assembly in 2014, lost its seat.

The ANC maintained its lead in both the national and provincial legislatures, to form its sixth successive government. The DA also maintained its position as the official opposition in the National Assembly, with 22.77% of the votes. It was followed by the EFF, IFP and VP Plus. The ANC, however, recorded a continued decline in its performance. Its voter support declined by 12.33% (19 fewer seats). It also maintained its lead in all provinces except the Western Cape, which has been a DA stronghold. Similarly, the DA vote

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67 There was no voters’ roll in the 1994 elections to effectively define the voter turnout.
68 AL-JAMA participated in the previous elections, but managed to get seats in the National Assembly for the first time only in 2019.
support declined by 11.50% (5 fewer seats). While it maintained its lead in Western Cape, the DA, however, ceded its official opposition role to the EFF in Mpumalanga and to the IFP in KZN, maintaining only four provinces.69

Table 10: 2019 election results

<table>
<thead>
<tr>
<th>Political Party</th>
<th>Votes</th>
<th>% Support</th>
<th>Seats</th>
<th>Gain/Loss Compared To 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANC</td>
<td>10,026,475</td>
<td>57.5</td>
<td>230</td>
<td>(-19)</td>
</tr>
<tr>
<td>DA</td>
<td>3,621,188</td>
<td>20.77</td>
<td>84</td>
<td>(-5)</td>
</tr>
<tr>
<td>EFF</td>
<td>1,881,521</td>
<td>10.79</td>
<td>44</td>
<td>(+19)</td>
</tr>
<tr>
<td>IFP</td>
<td>588,839</td>
<td>3.38</td>
<td>14</td>
<td>(+4)</td>
</tr>
<tr>
<td>VF Plus</td>
<td>414,864</td>
<td>2.38</td>
<td>10</td>
<td>(+6)</td>
</tr>
<tr>
<td>ACDP</td>
<td>146,262</td>
<td>0.84</td>
<td>4</td>
<td>(+1)</td>
</tr>
<tr>
<td>UDM</td>
<td>78,030</td>
<td>0.45</td>
<td>2</td>
<td>(-2)</td>
</tr>
<tr>
<td>ATM</td>
<td>76,830</td>
<td>0.44</td>
<td>2</td>
<td>New party</td>
</tr>
<tr>
<td>GOOD</td>
<td>70,408</td>
<td>0.4</td>
<td>2</td>
<td>New party</td>
</tr>
<tr>
<td>NFP</td>
<td>61,220</td>
<td>0.35</td>
<td>2</td>
<td>(-4)</td>
</tr>
<tr>
<td>AIC</td>
<td>48,107</td>
<td>0.28</td>
<td>2</td>
<td>(-1)</td>
</tr>
<tr>
<td>COPE</td>
<td>47,461</td>
<td>0.27</td>
<td>2</td>
<td>(-1)</td>
</tr>
<tr>
<td>PAC</td>
<td>32,677</td>
<td>0.19</td>
<td>1</td>
<td>No change</td>
</tr>
<tr>
<td>ALJAMA</td>
<td>31,468</td>
<td>0.18</td>
<td>1</td>
<td>No seat in 2014</td>
</tr>
</tbody>
</table>

Source: compiled with information from the IEC website

5.5 COMPLAINTS AND APPEALS
Before the announcement of the results, a group of 35 ‘smaller parties’ lodged complaints about fraud and irregularities in the voting process.70 The concerns, in particular, were that there were instances of multiple voting attributed to poor quality of the indelible ink, which could easily rub off. It was also reported that the voter identification process, using

69 These are Eastern Cape, Free State, Gauteng and Northern Cape.
70 These included the African Transformation Movement (ATM), African People’s Convention (APC), African Content Movement (ACM), EcoForum, Women Forward, Black First Land First (BLF), Socialist Revolutionary Workers Party (SWRP), Better Residents Association (BRA), National Freedom Party (NFP), Forum for Service Delivery (F4SD), International Revelation Congress (IRC) and others.
the ‘zip-zip’ scanners, opened the possibility of multiple voting due to its inability to identify and exclude individuals who had voted in other polling stations. There were allegations that some individuals were able to obtain the identification receipt multiple times, which could allow them to vote, at least in the national election as per section 24A. They therefore called for a rerun of the elections.

In response to the allegations, the IEC launched an audit aimed at assessing the extent of double voting. This entailed an audit of results and votes cast in a sample of voting stations to ascertain if double voting occurred. Furthermore, it ordered investigations into the effectiveness of the indelible ink marker pens which were supplied for the elections. The report of the audit, which was released on 16 May 2019, revealed negligible risks of double voting.

These results mirrored EISA’s observations as stated in its preliminary statement, which it maintains in this final report. ‘The IEOM noted the allegations of multiple voting in some areas of the country and also observed that the indelible ink used during the process was easily removable, although it did not have direct evidence of multiple voting. The Mission further indicated it did not observe deliberate/systematic efforts on the part of IEC to manipulate the elections.

It highlighted that in comparison to the voter turnout recorded in 2014 (73.48%), it appeared that there was no unusual increase in voter turnout in the 2019 elections which was 65.99%. This would have been expected in a situation of widespread multiple voting.’

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71 See footnote 72.
72 The audit was to cover a statistically representative sample of voting stations as well as all voting stations where complaints or allegations of double voting had been received. The audit would involve the capture of information showing the ID numbers of voters who cast votes at each voting station from the zip-zip scanners and completed VEC 4 forms. The data would thereafter be cross-referenced and compared to identify any instances of multiple voting.
73 According to IEC, the analysis compared the occurrence of Section 24A votes in a voting district to the mean number of Section 24A votes in the ward. If the Section 24A votes in a voting district were significantly higher than instances of Section 24A votes in the ward this would be flagged as an indicator of potential deviation from the voting process. The Commission was satisfied that the use of Section 24A voting was consistent with previous elections and showed a significant deviation from the pattern in only a tiny number of voting stations in the sample (13 out of 1020 or 1.27 percent). Even in these isolated instances, the Commission is satisfied that the trend compares favourably with previous voting patterns in voting stations with low registration levels.
74 The Mission observed that some individuals were able to rub off the ink hours after voting.
6.1 ROLE OF CIVIL SOCIETY

Active civil participation is one of the cornerstones of democracy, with civil society organisations playing a great role in strengthening the quality of democracy. In the context of elections, they play a significant role in supporting the electoral process. This support ranges from civic and voter education, citizen representation, holding the government to account on electoral issues, lobbying for electoral reforms, and election monitoring.

The primary legislation governing the registration and regulation of civil societies in South Africa is the Non-profit Organisations Act 71 of 1997 (NPO Act). The Act repealed the Fundraising Act of 1978. According to section 1 of the Act, non-governmental organisations (NGOs) and community-based organisations (CBOs) are collectively known as non-profit organisations (NPOs). In some instance, NPOs are also referred to as CSOs (civil society organisations).

The mission noted that the legal requirements for the registration and regulation of NPOs provides non-discriminative, simple and accessible registration procedures. There are no barriers to the formation and registration of NPOs, thus guaranteeing freedom of association and the right to participate in public affairs as envisioned in the constitution. The
Act promotes co-operation between the state and civil society, where the rights of each group are respected. It provides that every organ of state must determine and coordinate the implementation of its policies and measures in a manner designed to promote, support and enhance the capacity of NPOs to perform their functions.

Civil society has played a significant role in South Africa since the colonial period. According to Moyo, the struggle against apartheid was not won only through liberation movements; mass movements such as the United Democratic Front (UDF) and other black consciousness groups played a major role in dismantling apartheid.

In the run-up to, during and after the 2019 elections, CSOs continued to support the electoral process. Their participation in 2019 was however observed to be limited compared to previous elections. Notable CSO programmes include: Deepening Democracy Programme (DDP) conflict management and election observation programme. In particular, the DPP established and trained the violence monitoring cohort and deployed election observers. Observation was conducted through institutional collaboration between the DDP Programme, Activate! and Independent Lawyers, Ngidi and Company. The three institutions deployed 100, 200 and 200 observers respectively, across KwaZulu-Natal Province. The IEC implemented a programme on election conflict prevention. The programme engaged civil society groups, particularly women and youth, in mediation processes. The IEC reported that two months prior to the elections, the project had trained over 1,200 individuals from within the Commission, SAPS, CSOs, and political parties (through the PPLC). The project further established an advisory support structure for provincial coordinators.

In terms of election observation, the IEC accredited 72 observer organisations, including 11 international observer bodies. EISA observers, however, noted the low number of citizen observers on election day. Some consulted CSOs attributed the limited participation in citizen observation to lack of funds. The same reasons were given for the minimal engagement of CSOs in voter education.

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6.2 ROLE OF THE MEDIA

The media plays a vital role in elections, with the majority of citizens around the world relying on the various media sources for political information. In the electoral context, the media is invaluable as it is the main source of voter education and medium for campaigns and information sharing by the various parties, including the election management body, government, political parties and candidates as well as the electorate. Freedom of expression and of the media are thus important and integral to a democratic society.

The regulatory framework governing the media (both print and broadcast) in South Africa includes the Constitution, 1996; Electoral Act, 1998; the Electronic Communications Act, 2005; the Broadcasting Act, 1999; the Independent Communications Authority of South Africa (ICASA) Act, 2000; the Electoral Code of Conduct; the Press Code of Ethics and Conduct for South African Print and Online Media (Press Code); and the guiding principles of the Community Radio Election Guidelines. Section 19 of the Constitution, under the bill of rights, provides for freedom of press and other media and freedom to receive or impart information or ideas. Section 32 provides for the right of access to information. This is given effect to through the Promotion of Access to Information (PAIA) Act, 2000.

The mission noted that South Africa has a highly developed and diversified public and private mass media. The SABC is the public broadcaster in the country and the only source of news and commentary for the majority of its citizens. Since its establishment in 1936, the broadcaster has been instrumental in providing electoral coverage and voter education programs. In May 2017, the media house reported to the parliamentary committee on communications that it was faced with a financial crisis and had lost R1.1 billion in the previous financial year. The crisis was reported to have resulted from repeated censorship allegations and general malpractice prompting protests from

The SABC Chief Operating Officer, Hlaudi Motsoeneng, reportedly ordered working members not to cover protests over the 2016 local elections. He further set a mandate to air only positive news about the then country’s president, Jacob Zuma. Motsoeneng was fired after an internal disciplinary hearing found him guilty of misconduct, breaching his employment contract and driving the public broadcaster into disarray. The crisis was further deepened by the resignation of four directors in 2018. Since four other directors had left earlier in the year, this left the board without the quorum required to make decisions. The 12-member board requires nine members to form a quorum.

civil society groups. The censorship compromised the independence of the media at the time. The broadcaster, whose funding is partly commercial and partly state-funded, sought R6.8bn from the government to stay afloat. It was, however, offered an interim relief, with the government offering to help raise R3.2bn from commercial banks. The crisis at SABC negatively impacted on the elections, particularly with regard to voter education and election day reporting, which was observed to be limited compared to the previous elections.

In line with its mandate, ICASA regulated the allocation of Party Election Broadcasts (PEB) slots to all participating political parties and further provided for their sequencing in the media (TV and radio). Each of the participating political parties was allowed 50 seconds broadcast of PEBs, as provided for in the Regulations on Party Election Broadcasts, Political Advertisements and the Equitable treatment of Political Parties by Broadcasting Service Licensees.

The EISA IEOM noted that the media provided for political debates and analysis as well as balanced campaign coverage both at the national and provincial levels. These added value to public information, accorded an opportunity for the parties to sell their manifestos and for the citizens their right to receive information.

It was observed that in line with international standards, the regulatory framework governing the media not only provides for the protection of the media but also obliges them to respect the right of others while implementing their mandate. The framework also provides for complaints and remedial measures against any breach of laws and agreed upon codes of conduct. In this regard, it was observed that the media had maintained professionalism and impartiality in their coverage of the elections.

This was undertaken in a favourable environment where their rights were largely respected.\textsuperscript{78}

\textbf{6.3 GENDER AND MINORITY RIGHTS}

Race and ethnicity have a significant influence on South Africa’s history, politics, society and economy. Indeed, the country has experienced a long and painful history of racial and ethnic divisions. Racial segregation was introduced in the colonial era and continued during the apartheid regime, with the apartheid government introducing legislation based on racial segregation.\textsuperscript{79} The Population Registration Act of 1950, for instance, segregated the nation into three categories: white, black, Indians and coloured people (people of mixed race). Racial hierarchy privileged the white population over the others, including granting them voting rights and access to more skilled jobs and ownership of productive land.

The modern South Africa has, however, embraced racial and ethnic diversity, as it is referred to as ‘the rainbow nation’.\textsuperscript{80} This is anchored in the Constitution, which provides for equal human, political and social rights to all individuals regardless of their race, ethnicity or language. The country is also party to international and regional instruments that protect human

\textsuperscript{78} On 6 June 2019, the Johannesburg High Court found the EFF leader, Malema, and his party, the EFF, guilty of breaching the Electoral Code of Conduct. This followed the publication of Karima Brown’s mobile number on Twitter by Malema. Ms Brown, a veteran journalist, accused Malema of causing party supporters to abuse and threaten her after he posted her mobile number on Twitter. This stemmed from a WhatsApp message sent erroneously by Ms Brown to the EFF’s WhatsApp group (meant for her colleagues at the eNCA). The message which was in response to an invitation by the EFF to a ‘Breakfast with the Elderly’ read “Keep an eye out for this. Who are these elders? Are they all male and how are they chosen?” The incident received criticism from various groups, including the South Africa National Editors Forum (SANEF), which demanded an apology from the EFF. Malema and the party were issued with a formal warning under Section 96 (2) of the Electoral Act and ordered to pay Brown’s legal costs. Through a press statement, the EFF welcomed the court judgment, noting that it would comply.

\textsuperscript{79} The legislation included the Group Areas Act of 1950, which determined where one could live according to race; the Prohibition of Mixed Marriages Act of 1949, which disallowed marriages between persons of different races; the Reservation of Separate Amenities Act of 1953, which legalised the racial segregation of public services, premises and other amenities, with blacks provided inferior services to those of other groups; and the Bantu Education Act of 1953, which legalised the racial separation of education, with a separate system of education for black South Africans.

\textsuperscript{80} It was named the Rainbow Nation by Archbishop Desmond Tutu during the transition to democracy in 1994 as a way of uniting the many different people of different colours, races and tribes in the country.
rights and promote equality. Specifically, section 9 of the Constitution guarantees the principle of equality before the law and the right to equal protection and benefit of the law. It guarantees equal treatment for all South Africans and prohibits unfair discrimination on the basis of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. The state is obligated to enact national legislation to promote the achievement of equality and prevent or prohibit unfair discrimination.

Within political parties, promotion of the participation of women, youth and PLWDs remains a voluntary issue, as parties are not mandated by law. The inclusion of these groups on party lists is thus left to the goodwill of party leaders.

At an estimated population of 29,545,500, women constitute 51.18% of the total population in South Africa. They also represented 42.7% and 35.2% of the members in the National Assembly and the National Council of Provinces respectively in the 26th parliament. This ranked South Africa 10th in the world for women representation. Women comprised 55% of registered voters for the 2019 elections. This number significantly exceeded the gender demographics of the populations, indicating their interest in participating in the electoral process. However, their participation as candidates was not commensurate with their percentage population, as they constituted only 40% of the total candidates for the 2019 elections.

The Mission noted the IEC’s positive steps to include women in the electoral process. It observed that of the 189,000 election staff recruited for the elections, 73% were women. Women also constituted 78.2% of the election staff on election day. The Mission further observed that women comprised 44.6% of

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81 These include the Convention on the Elimination of Discrimination Against Women (CEDAW), Convention on the Political Rights of Women; African Charter on Human and Peoples Rights; African Union Charter on Democracy, Elections and Governance; SADC Declaration for the Prevention and Eradication of Violence Against Women and Children; SADC protocol on gender and development; SADC Principles and Guidelines Governing Democratic Elections as well as the SADC Principles for Election Management, Monitoring and Observation (SADC-PEMMO).


83 It was the fifth Parliament of South Africa to convene since the introduction of non-racial government in South Africa in 1994.

84 https://data.ipu.org/content/south-africa?chamber_id=13312
the citizen observers and 59.7% of the party agents at the polling stations visited by EISA teams.

An analysis of the submitted party lists demonstrated that political parties had a considerable number of women in the party lists. However, few of them had women in top five (5) and 25 positions. It was commendable to note that two of the main parties, the ANC and EFF, had voluntary quota systems in their nomination process, which propelled them to almost achieving gender party, at 50% and 49% respectively in the overall list.

Table 11: Quotas and positioning of women in the party lists 2019

<table>
<thead>
<tr>
<th>Party</th>
<th>Quotas</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Policy</strong></td>
<td><strong>Women in top 5</strong></td>
</tr>
<tr>
<td>AGANG</td>
<td>No voluntary quota does not support legislated quota, but led by a strong feminist</td>
</tr>
<tr>
<td>EFF</td>
<td>Voluntary ‘zebra stripe’ system in place, not implemented in top five or 25 of 2019 candidate list; does not support a legislated quota</td>
</tr>
<tr>
<td>ANC</td>
<td>Voluntary ‘zebra stripe’ system in place, not implemented in top five or top 25 in the 2019 candidate list; does not support a voluntary quota</td>
</tr>
<tr>
<td>IFP</td>
<td>No voluntary quota, does not support a legislated quota</td>
</tr>
<tr>
<td>DA</td>
<td>No voluntary quota, does not support a legislated quota</td>
</tr>
<tr>
<td>COPE</td>
<td>No voluntary quota, does not support a legislated quota</td>
</tr>
<tr>
<td>NFP</td>
<td>No voluntary quota, does not support a legislated quota</td>
</tr>
</tbody>
</table>
The majority of the party manifestos committed to gender equality through various means. The three main political parties (ANC, DA and EFF) committed to enhance gender equality through: advocacy to combat gender-based violence; gender mainstreaming in all aspects of governance; economic empowerment of women; address issues facing sex workers and advocacy for rights and protections of LGBTI+ communities.

Although South Africa lacks legislated gender affirmative action, the progressive measures by some major political parties through the quota systems cumulatively led to an increase in the number of women in parliament. Following the 2019 NPE, women in parliament increased by 4% to 44%. The ANC’s commitment to gender equality over the years saw the country make history through the attainment of gender parity in the new government, with half of the 28 cabinet members being women.

The National Youth Commission Act, 1996, defines a youth as a person between the ages of 14 and 35 years. At 37,628,662, persons below the age of 35 comprise 65.19% of the total population of South Africa, which is 57,725,600. Those between the ages of 15-34 are 20,585,145 and comprise 35.66% of the total population. These numbers are, however, not reflected in the voters’ roll. The EISA mission noted the reduction in registration rates among the youth for the 2019 elections. It is estimated that only 19% of eligible voters aged between 18-19 years are registered, while only 54.5% of the estimated eligible voters aged between 20-29 years are registered. Furthermore, the number of registered youth in the 18-19 age bracket dropped by 47.2%, from 646,313 in 2014 to 341,236 in 2019. The number of registered voters in the 20-29 age bracket also registered a 4% drop from 5,759,236 in 2014 to 5,299,297 in 2019.
Indeed, compared to the voter registration statistics in 2014, when the 20-29 age bracket formed the second highest group of voters at 22.68%, in 2019, this age bracket represented only 19.89% of the total registered voters in 2019.

The declining youth numbers notwithstanding, the mission noted commendable efforts by the IEC to promote their political participation. There were special registration drives on university campuses; a majority (59%) of the staff recruited for the elections were below the age of 35 and 20% were under 25 years old; and the IEC elections 2019 communications campaign also focused on encouraging participation by young and first-time voters. Following the elections, the number of young parliamentarians doubled, from 23 (6%) in 2014 to 48 (12%) in 2019. This was an impressive performance in view of the decreased numbers of youth participation in the process.

<table>
<thead>
<tr>
<th>Table 12: Age and gender breakdown of registered voters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age (years)</td>
</tr>
<tr>
<td>18-19</td>
</tr>
<tr>
<td>20-29</td>
</tr>
<tr>
<td>30-39</td>
</tr>
<tr>
<td>40-49</td>
</tr>
<tr>
<td>50-59</td>
</tr>
<tr>
<td>60-69</td>
</tr>
<tr>
<td>70-79</td>
</tr>
<tr>
<td>80+</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

Source: IEC https://www.elections.org.za/content/Voters-Roll/Registration-statistics/

In partnership with the South African National Council for the Blind (SANCB), the IEC developed the Universal Ballot Template (UBT) to aid voters with visual impairments to have an independent and secret vote during elections. The IEC also provided guidelines for assisting these voters. The EISA IEOM welcomed the special voting arrangements allowing for the inclusion of persons outside their districts, voters living with disability and infirm voters through home visits as a good practice.
The alarming decline of youth voters needs urgent attention through, among other things, intensified voter education as well as addressing their plight through job creation etc.

The PR system has been praised as being the most favourable to women getting elected as opposed to other electoral systems, especially first-past-the-post. This is because deliberate measures can be taken before an election to guarantee the political representation of women. In this regard, political parties can play a critical role in determining and ensuring that women are represented through the numbers and placement in the party lists. While women representation remains high, compared to other countries in the world, despite the lack of legal obligations on parties, it would be useful to consider legislated quotas. This would ensure 50/50 gender parity in political representation, in line with the SADC principles, and the Maputo Protocol.

6.4 SECURITY

Security institutions play an important role in the electoral process by maintaining a peaceful election environment. The South African Police Service is responsible for election security, a duty derived from their Constitutional mandate. The SAPS, in coordination with the South African National Defence Force (SANDF) and the State Security Agency (SSA), managed the elections security plan through the Joint Operational and Intelligence Structures (JOINTS). JOINTS had structures at National, Provincial, District/Cluster and Local levels, which worked in coordination to create and maintain conditions for a peaceful electoral environment.

As part of the security plan ahead of the elections, the National JOINTS (NATJOINTS) undertook a Crime Threat Analysis to assess and determine the extent of crime in the country. The analysis also sought to identify problem areas which may require security reinforcements. In line with this, threats to the elections were identified and actions taken to prevent any negative impact on the elections. For instance, security concerns regarding political killings and service delivery protests were noted in KZN and North West respectively.

85 Section 205 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996). It provides for the objectives of policing by South African Police Service (SAPS) as to: Prevent, combat and investigate crime; Maintain public order; Protect and secure the inhabitants of the Republic and their property; and Uphold and enforce the law.
There were also xenophobic attacks in Durban, which the SAPS regarded as isolated incidents. The concerns were addressed by multi-disciplinary teams which were established and dispatched to the respective areas.

In its consultation with SAPS, the EISA IEOM gathered that the SAPS trained and deployed 51,000 police officers and had a presence at each of the 22,924 voting stations. EISA observers reported the provision of security during special voting, both at voting stations and at home visits. On election day, the presence of security personnel at all visited voting stations as well as in the results centres was reported. Their presence was described as discreet and professional. Security was also provided during the transportation as well as storage of election materials, especially the sensitive ones.

The mission observed that the pre-election, election day and post-election periods were generally peaceful and calm. Security officers undertook their duties in a professional manner and there were no reported incidents of police overstepping their mandate. The EISA IEOM specifically appreciated the efforts of the SAPS to provide security for its observers in their selected areas of deployment before, during, and after the elections.
7.1 CONCLUSION

The mission observed that the 2019 elections were conducted within a strong legal and institutional framework that guarantees democratic elections. The legal framework governing elections in South Africa is largely in line with sub-regional, continental and international benchmarks for elections. Through these elections, South Africa met its obligations to democratic elections, set out in the different international instruments to which it is party.

The key players in the process conducted themselves in accordance with stipulated laws and guidelines. Issues arising from the process were addressed in a professional and timely manner. This enhanced the transparency and credibility of the process.

The elections were conducted in a largely peaceful environment. Security concerns before, during and after the election day were swiftly addressed. This not only ensured participation in the process, but also contributed to the credibility of the process.

7.2 RECOMMENDATIONS

Based on its findings, the EISA IEOM offers the following recommendations:

IEC/Parliament

1. **Timing of legal reforms**: reconsider the timing of legal reforms and enactment of laws within the electoral cycle to ensure that laws can
be operationalised well ahead of elections. In good electoral practice amendments to the electoral legal framework should be made at least six months prior to the date of the election. The PPFA, which would have provided additional safeguards into party and campaign financing, was enacted a few months into the elections, leaving limited time for its operationalisation. It is therefore recommendable to enact electoral laws in a timely manner which allows for their operationalisation and assessment, if possible, before an election.

2. Prevention of electoral fraud: to address the concerns of possible multiple voting, consider creating a harmonised digital voter register to ensure that the zip-zip machines can be used to track persons who have already cast their ballot and serve the purpose of a double check alongside the hard copy registers.

3. Management of voting points: put in place adequate mechanisms for the management of substations to ensure that the number of voters per voting point is easily manageable. It is important to provide for well-defined and demarcated substations to ensure that the voters can cast their votes without having to wait in queues for long periods, thus avoiding inconvenience. This will quicken the process and reduce voters’ waiting time and the length of the vote count. It will ultimately positively impact on participation.

4. Polling staff uniform: to ensure that polling officials are easily identifiable to the voters through their uniform. The Commission can consider having staff bibs which are distinctly different from those provided to other stakeholders like citizen observers and party agents.

5. Civic and voter education: enhance education on the voting process as well as the procedures for application for special voting. This will boost number of valid votes and voter turnout. Re-evaluate the strategies used to educate the youth or dig deeper into the reasons for their lack of participation, to inform future CDE strategies. Close attention should be paid to provinces like KZN, where there was an increase in spoilt ballots.
6. **Quota for youth, women and PWDs**: to consider legislation of quotas to ensure increased representation of women, youth and PWDs.

7. **Training of polling staff**: to ensure standardised training of electoral staff to ensure uniformity in implementation of electoral procedures. Election staff should also receive regular training and refreshers.

**MDB**

8. **Municipal boundary delimitation**: improve the Board’s effort to consult all communities of interest during municipal boundary delimitation process to avoid threats to the electoral process, such as was issued by the Vumani community.

**CSOs**

9. **Voter education**: enhance voter education to ensure that the voters have the necessary information to understand the electoral process and their democratic rights as well as to make informed decisions in exercising their right.

10. **Targeted voter education**: to increase voter and civic education programmes targeting the youth to increase their participation and registration as voters. Strategies for youth engagement can also be reviewed for increased impact.

11. **Citizen observation**: to lobby for support towards increasing their participation in election observation. Unlike their international counterparts, citizen observers can monitor and observe elections throughout the electoral cycle. Their presence with therefore contribute to an improved process through the constant checks and recommendations.

**Political parties**

12. **Party agent training**: to enhance the training of party agents on their role as monitors to ensure that they effectively play their roles, leading to an improved electoral process.
ANNEXURES

ANNEXURE 1

EISA IEOM group photo
## ANNEXURE 2

### IEOM DEPLOYMENT PLAN

<table>
<thead>
<tr>
<th>Team no.</th>
<th>Team members</th>
<th>Areas of Deployment (AoDs)</th>
<th>Metro/District Municipality and accommodation</th>
</tr>
</thead>
</table>
| Team 1a (leadership) | H.E. Former President of Nigeria, Dr. Goodluck Jonathan  
Mr Denis Kadima | Gauteng-central Joburg-Alex, Soweto | City of JHB |
| Team 1b (technical team) | Magdalena Kieti  
Olufunto Akinduro | Gauteng-Ekurhuleni | City of JHB – Hilton Hotel |
| Team 1c (staff team) | Lenny Taabu  
Noxolo Gwala  
Siphesihle Ndamase | Gauteng-Central JHB-Alex, Soweto | City of JHB – Hilton Hotel |
| Team 2       | Abigail Matsvayi (ZESN-Zimbabwe)  
Wasarme Saidhashi, Somalia | Gauteng – Cover the Vaal triangle Vereeniging, Vanderbijlpark and Sasolburg (Emerald) | Sedibeng district |
| Team 3       | The Hon. Osman Ali (Min. of Internal Affairs – Somalia)  
Game Dibeela (Botswana) | Gauteng – Cover Westrand (Randfontein) | West Rand district (Krugersdorp) – Merafong, Mogale city and Rand west (Randfontein) |
| Team 4       | Tiro Gabriel Seletso (IEC, Botswana)  
Antonetta Hamandashe (EISA - Zimbabwe) | Gauteng – Cover Pretoria | City of Tshwane (Pretoria) |
| Team 5       | Bodunrin Adebo (NDI-Nigerian)  
Doris Lintsi (IEC-Lesotho) | Eastern Cape cover Port Elizabeth (Fly) | Nelson Mandela Bay |
<table>
<thead>
<tr>
<th>Team 6</th>
<th>Laetitia Ntagazwa (Tanzania)</th>
<th>Eastern Cape cover East London and King Williamstown (Fly)</th>
<th>Buffalo City</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hamoosa Halubala (ICGLR-Zambian)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 7</td>
<td>Hussein Mohsen (consultant, Egypt)</td>
<td>KwaZulu-Natal cover Ulundi and Vryheid (Fly)</td>
<td>Ulundi Municipality</td>
</tr>
<tr>
<td></td>
<td>Susan Mwape (Common Cause-Zambian)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 8</td>
<td>Francis Oke (ECOWAS-Beninois)</td>
<td>KwaZulu-Natal cover Durban (Fly)</td>
<td>eThekwini Metropolitan Municipality</td>
</tr>
<tr>
<td></td>
<td>Mukenyi Badibanga (EISA-Somalia)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 9</td>
<td>Deus Kibamba (TIB-Tanzanian)</td>
<td>Mpumalanga cover Secunda (Road)</td>
<td>Gert Sibande District Municipality</td>
</tr>
<tr>
<td></td>
<td>Akwu Ogbadu (PLAC-Nigerian)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 10</td>
<td>Crispy Kaheru (CCEDU-Ugandan)</td>
<td>Mpumalanga cover Mbombela (Road)</td>
<td>Enhlanzeni District Municipality</td>
</tr>
<tr>
<td></td>
<td>Andreas Rakell (Democracy institute-Namibian)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 11</td>
<td>Karina Dulobo (EISA-Mozambican)</td>
<td>Limpopo cover Polokwane (Road)</td>
<td>Polokwane-Capricorn district</td>
</tr>
<tr>
<td></td>
<td>Tawanda Chiminhi (ERC, Zimbabwe)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 12</td>
<td>Anne Kathurima (ELOG-Kenya)</td>
<td>Limpopo cover Musina (Road)</td>
<td>Musina-Vhembe district</td>
</tr>
<tr>
<td></td>
<td>Peter Natana (Oslo Centre-South Sudanese)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 13</td>
<td>Esther Yusuf (CDD-Nigerian)</td>
<td>Western Cape cover Khayelitsha Cape town (Fly)</td>
<td>Cape Town</td>
</tr>
<tr>
<td>--------</td>
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<td>-----------------------------------------------</td>
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</tr>
<tr>
<td></td>
<td>Leonard Ngeleja (EAC-Tanzanian)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 14</td>
<td>Kudakwashe Bandama (consultant)</td>
<td>Free State (Road)</td>
<td>Bloemfontein</td>
</tr>
<tr>
<td></td>
<td>Rhoda Osei-Afful (CDD-Ghanaian)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 15</td>
<td>Henry Muguzi (ACFIM-Ugandan)</td>
<td>Free State cover Bethlehem and Harrismith (Road)</td>
<td>Bethlehem and cover Harrismith as well</td>
</tr>
<tr>
<td></td>
<td>Delma Commissario (ADS-Mozambican)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 16</td>
<td>Fatimata Traore (Pivot Group-Malian)</td>
<td>Northern Cape cover Kimberley (Fly)</td>
<td>Kimberley</td>
</tr>
<tr>
<td></td>
<td>Judith Mujinga (SYMOCEL, DRC)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 17</td>
<td>Ndapwa Alweendo, (Democracy Institute Namibia)</td>
<td>North West-cover Potchefstroom</td>
<td>Potchefstroom</td>
</tr>
<tr>
<td></td>
<td>Wilbroad Kangala (Caritas-Zambian)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Team 18</td>
<td>Eric Dagadu (YNHRD-Ghanaian)</td>
<td>North West-cover Rustenburg (Road)</td>
<td>Rustenburg</td>
</tr>
<tr>
<td></td>
<td>Asha Mzee (Zanzibari)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
It is a great pleasure for me to lead the EISA election observation mission to the 2019 national and provincial elections in South Africa. These elections which come in the 25th year of South Africa’s democratic journey are of great importance as they provide another opportunity for South Africans to exercise their right to vote and thus support the country’s democratic consolidation. The EISA IEOM seeks to contribute to the integrity of the electoral process through its findings and recommendations.

– Dr Goodluck Jonathan, Former President of Nigeria, Leader of the EISA IEOM

ARRIVAL STATEMENT OF THE EISA ELECTION OBSERVATION MISSION TO THE 2019 NATIONAL AND PROVINCIAL ELECTIONS IN SOUTH AFRICA

1 MAY 2019

The Electoral Institute for Sustainable Democracy in Africa (EISA) announces the arrival of its international election observation mission (IEOM) in the Republic of South Africa to observe the 8 May 2019 national and provincial elections. The EISA IEOM is in South Africa at the invitation of the Independent Electoral Commission (IEC) of South Africa, to conduct an independent assessment of the electoral process and contribute to its integrity through its findings and recommendations.

The EISA IEOM is led by His Excellency Dr Goodluck Jonathan, former President of the Republic of Nigeria, and Mr Denis Kadima, EISA’s Executive Director, as the Deputy Mission Leader. The IEOM comprises 37 international observers drawn from Civil Society Organisations (CSOs), Election Management Bodies (EMBs), and Regional Economic Communities (RECs) from 16 African countries. This IEOM is the 5th to be deployed by EISA in South Africa since the 1999 elections.
The EISA IEOM’s assessment methodology is guided by its commitments as an endorser of the Declaration of Principles for International Election Observation (DOP). The IEOM will assess the extent to which the legal framework and procedures in the 2019 electoral process comply with South Africa’s commitments and obligations set out in the following international instruments: the OAU/AU Declaration on the Principles Governing Democratic Elections; the African Charter on Democracy, Elections and Governance; the Principles for Election Management, Monitoring and Observation (PEMMO) and the Revised SADC Principles and Guidelines Governing Democratic Elections.

EISA observers will be deployed in 18 teams to all the nine provinces of South Africa to observe the last days of the electoral campaigns, pre-polling activities, special voting, and election day and post-polling activities. On 10 May 2019, the EISA IEOM will issue a statement on its preliminary findings and recommendations on the electoral process. The short-term observers will remain in the country until 11 May 2019 while the technical team will be on the ground until 20 May 2019.

These elections are the sixth to be conducted since the end of Apartheid and the adoption of the 1996 Constitution. They coincide with the 25th anniversary since the country held its first elections by direct universal suffrage, marking a critical milestone in the country’s democratic journey. A peaceful and successful election will therefore further cement the democratic gains made by the country over the past generation. EISA is pleased to be part of this historic moment in South Africa.

The EISA IEOM Secretariat is located at the Hilton Hotel, Sandton. For further information, please contact: Ms Noxolo Gwala noxolo@eisa.org.za
1. Introduction
This statement presents the preliminary findings, conclusions and recommendations of the EISA international election observer mission (IEOM) deployed to the 8 May 2019 national and provincial elections in the Republic of South Africa. It reflects the mission’s observations as of the conclusion of the counting process at voting stations. Because the transmission and tallying of results is still underway, this statement does not cover the IEOM’s assessment of the election results management process. EISA will issue a final report covering the entire process about three months after the close of this mission.

2. Preliminary findings:

2.1. Political environment
The 2019 elections are the sixth consecutive democratic national elections held in South Africa since the transition to democracy in 1994. Since the country held its first elections by direct universal suffrage 25 years ago, these elections represent a critical milestone in the country’s democratic journey.

These elections are arguably the most competitive in South Africa’s history, 76 political parties contested the election at both the national and provincial levels. At the national level, 48 parties contested the election, representing a 40% increase in the number of parties on the national ballot, 38 political parties contested at the provincial level, although the number varied by province. With 36 parties on the ballot, Gauteng Province had the highest number of parties. The increase in the number of parties suggests that political competition is increasing.
The pre-election context was shaped by several factors: the outcome of the 2016 municipal elections; enquiries into cases of corruption and the debate on ‘State Capture’; the leadership transition within the governing African National Congress (ANC) violent service delivery protests; alleged political killings and xenophobic attacks in some regions; and the recent flooding across parts of the KwaZulu-Natal (KZN) and Eastern Cape provinces. These issues set the tone of the campaigns and raised concerns about electoral security and operations. Within this context, the EISA IEOM notes the commitment and engagement by the Independent Electoral Commission (IEC) in a manner that engendered confidence in the pre-election period.

2.2. Legal framework
The legal framework governing elections in South Africa is provided by the 1996 Constitution, the 1998 Electoral Act, the 1996 Electoral Commission Act, the Public Funding of Represented Political Parties Act, 1997 and other legislation which has bearing on the electoral process.

The Constitution recognises fundamental rights and freedoms that serve as the foundation for a democratic dispensation. It guarantees the right to life, equality, dignity, privacy, security of person, and the right of access to justice. It also provides for freedom of expression, assembly, association, conscience, and access to information. It further guarantees various civil liberties and human rights, including the right to vote and contest elections, the right to form or participate in the activities of a political party, and the right to free and fair elections. The Constitution also enshrines the doctrine of separation of powers. The South African Constitution provides for the establishment of an independent election management body (the Independent Electoral Commission)\(^\text{87}\) that is adequately resourced and staffed by qualified persons.

Ahead of the 2019 elections, several reforms strengthened the legal framework governing the elections. The Electoral Act (EA) and Electoral Commission Act (ECA) were amended through the Electoral Laws Amendment Act, 2019. The ECA was amended to allow for the electronic submission of party registration applications; expand the jurisdiction of the Electoral Court to include the

\(^{86}\) The Political Parties Funding Act, 2018, was enacted in January 2019, but is not yet in force.

\(^{87}\) The IEC is established as a Chapter Nine institution.
adjudication of intra-party disputes; and prohibit the unauthorised use or licensing of the logo and other emblems of the IEC.

Amendments to the EA addressed voter registration, the voters’ roll, voting districts and voting procedures. They require that the Chief Electoral Officer (CEO) must certify the voters’ roll to be used for the elections; notify the relevant parties if a candidate’s name appears on more than one party list, and give parties the opportunity to substitute the name of that candidate or re-order the party lists. The amendments also provide different voting procedures for voters without addresses on the voters’ roll; list circumstances under which party agents may object to a voter who’s name appears on the voters’ roll; limit the class of persons who may apply for accreditation for voter education to juristic persons; and align the provision regarding the circumstances in which new ballot papers may be issued to voters with those that apply to local government elections. While some of the reforms were made in response to constitutional court decisions,88 others are part of broader reforms to improve the electoral process.

The mission notes that the legal framework provides sufficient basis for the conduct of democratic elections and that the constitutional and legal framework complies with international and regional standards for the conduct of democratic elections. The mission further notes that the reforms contributed to the improved quality of the voters’ roll and to the IEC’s compliance with the rule of law in the electoral process, and consequently strengthened public confidence in the process.

However, the amendment restricting accreditation of persons who may conduct voter education to juristic persons is restrictive: it eliminates the possibility of individuals or groups who have the necessary skill and expertise but are not legally organised as juristic persons from being accredited to engage in voter education.

2.2.1. The electoral system
The electoral system in South Africa is a closed party list proportional representation system. In terms of the 1996 Constitution and national legislation, members of the National Assembly are elected based on a
common national voters’ roll. Seats are allocated to contesting political parties based on proportional representation, that is, according to the percentage of votes received during the elections (with no minimum entry threshold). The president is elected indirectly by parliament after the parliamentary election to serve a term of five years, after which he/she may be re-elected once. The National Assembly is made up of 400 members who are elected through proportional representation based on lists supplied by political parties before the elections. The party lists are compiled in order of priority. Members of the provincial legislatures are elected in the same manner.

The mission notes that the proportional representation system has its own advantages and disadvantages. As a main advantage, the proportional representation system makes it possible for all political interests, including those of smaller political parties, to be represented in the legislature in proportion to the votes received during elections. Similarly, because candidates are chosen in accordance with the party lists, the process enables political parties to deliberately include less represented groups such as women, youth, minorities, persons with disabilities and other marginalised groups in their party lists to ensure fair democratic inclusion. For instance, women’s representation in the National Assembly has increased in the democratic era from less than 2.7% in 1994 to about 42% currently. The EISA IEOM commends political parties that have taken deliberate steps to promote gender equity within their policies. Such deliberate policies must be encouraged as good practice across all parties.

On the other hand, the major weakness of the proportional representation system is that because voters do not directly elect their representatives, the accountability between voters and their political representatives is weak. Political party leaders, not voters, decide who represents the party in the legislature.

The mission further notes that while not expressly prohibited, the electoral system does not make room for independent candidates. This limits the principle of equal opportunity to vote and to stand for election. The mission notes that this omission is currently a subject of litigation before the Constitutional Court.89

89 New Nation Movement and Others Vs Electoral Commission and Others.
2.2.2. The election management body
The Constitution establishes the Independent Electoral Commission (IEC) and provides for its composition and mandate. The constitutional provisions are supplemented by the Electoral Commission Act of 1998, which provides further details on the functioning of the IEC. The constitution guarantees the functional, fiscal and institutional independence of the IEC. The IEOM notes that independence is further guaranteed through the reporting structure which mandates the IEC to report to parliament.

2.2.3. Party and campaign finance
The legal framework allows both private and public funding of political parties. Public funding of political parties is provided by the Represented Political Parties Fund (RPPF) established under the Public Funding of Represented Political Parties Act, 103 of 1997 (PFRPPA). The RPPF receives allocations from parliament and private donations, which are disbursed to political parties represented in the national and/or provincial legislatures by the IEC. 10% of RPPF is allocated to the political parties on the basis of equity, while the remaining 90% is allocated on the basis of proportional representation. The legal framework provides for the reporting of expenditure and imposes sanctions for non-reporting and irregular expenditure.

Since 1994, the private funding of political parties has been unregulated, a situation which has contributed to an uneven playing field for political competition in the country. The EISA IEOM welcomes the enactment of the Political Parties Funding Act, 2018, which regulates private contributions to political parties. The IEOM notes that this was one of its recommendations from previous election observation reports. However, the EISA IEOM also notes that due to the late enactment of the law, the IEC was unable to finalise the guidelines for operationalisation of the PPFA ahead of the 2019 elections.

2.2. Voter registration
The legal framework governing voter registration is inclusive and provides for the enfranchisement of citizens, both within and across the borders of South Africa. The IEC is responsible for compiling and maintaining the National

90 The EISA IEOM to the 2016 municipal elections made a recommendation on improvement of the framework for regulation of party and campaign finance in South Africa.
Common Voters’ Roll. While voter registration is continuous, eligible voters are required to register before proclamation of the election date.\textsuperscript{91}

Voter registration for the 2019 elections concluded on 26 February 2019, when the proclamation of the date for the 2019 elections was made. For the 2019 elections, voter registration weekends were on 10-11 March 2018 and 26-27 January 2019 inside South Africa. The registration drives saw a total of 1,194,314 new voters added to the voters’ roll. This brought the total registered voters for the 2019 elections to 26,736,820, representing 74.6\% of the voting-age population. The 2019 voter registration process was affected by the ruling of the Constitutional Court requiring the IEC to capture the physical address of all voters. in this regard, the IEC captured the physical addresses of over 85\% of the registered voters ahead of the 2019 elections.

Consistent with the election timetable and in line with the principles of transparency, the voters’ roll was made available for public inspection from 1 to 8 March 2019. Fifteen objections to the voters’ roll were considered and sustained. The voters’ roll was certified and published on 18 March 2019. It was made available electronically to all political parties. At the request of political parties, hard copies were also made available.

\textbf{2.3. Party campaigns}

The EISA IEOM observed the final week of party campaigns across the nine provinces, and observers attended 14 campaign events across four provinces.\textsuperscript{92} The IEOM noted that parties conducted their campaigns freely in a context that was largely free of fear and intimidation. There were reports of isolated incidents of violence in KwaZulu-Natal Province, where there were politically motivated killings. The IEOM notes the efforts by the SAPS to arrest the perpetrators of the crime.

The IEOM observed that political parties commendably conducted largely peaceful campaigns and upheld their commitment to the code of conduct that was signed on 20 March 2019. The peaceful pre-election environment provided an atmosphere for South Africans to freely express their support for their chosen political parties.

\textsuperscript{91} The voters’ roll closes for an election on the day that the date of the election is proclaimed (published in the Government Gazette).

\textsuperscript{92} Gauteng, Eastern Cape, KwaZulu-Natal and Free State Provinces.
2.4. Political parties and nomination of candidates

South Africa is a multi-party democratic state with a vibrant political culture where parties can register and operate without undue restrictions. A record 76 political parties were registered to participate in the elections.

To enhance transparency, each step in the party registration and nomination process was open to objections and dispute resolution before finalisation. Following public inspection of candidate lists, 53 sets of objections were raised. 52 of these were dismissed by the IEC and only one involving a candidate who had flouted a qualification requirement was sustained. The mission noted that the IEC maintained the registration costs for candidate nomination applied during the 2014 elections. These are R200 000 for the national elections and R45 000 per province.

The IEOM notes the Electoral Court decision faulting the IEC for its failure to Gazette the registration of the political party known as Black First Land First (BLF) to enable interested parties to appeal against the registration if they desire, contrary to the provisions of the Electoral Act.

The legal framework provides for an enforceable code of conduct for political parties that all political parties are expected to abide by. By signing, they pledged their commitment to free and fair elections and upholding the Code of Conduct. Similar signing ceremonies for parties contesting provincial elections were conducted.

2.5. Gender, youth and persons living with disabilities (PLWDs)

South Africa is party to international and regional instruments that protect human rights and promote equality.93 Section 9 of the Constitution guarantees the principle of equality before the law and the right to equal protection and benefit of the law. It guarantees equal treatment for all South Africans and prohibits unfair discrimination on the basis of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability,

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religion, conscience, belief, culture, language and birth. The state is obligated to enact national legislation to promote the achievement of equality and prevent or prohibit unfair discrimination. One such law is the Employment Equity Act which ensures that designated groups (black people, women and persons living with disabilities – PLWDs) have equal opportunities to gain employment. It stipulates that they must be equally represented in all job categories and levels of the workplace. Besides this law there are no other laws that expressly promote the political participation of women, youth and PLWDs. Further, political parties are not obligated to consider or promote participation of these groups in development of party lists. Their inclusion is thus left to the goodwill of party leaders.

Women constitute 42.7% and 35.2% of the members in the National Assembly and the National Council of Provinces respectively; this ranks South Africa as 10th in the world.\textsuperscript{94} The mission commends the IEC’s positive steps to include women. Of the 189,000 election staff recruited for the elections, 73% were women. While at 55% of the electorate, women constitute the majority of the registered voters for the 2019 elections, however, their participation as candidates is not commensurate with this percentage, as they constitute only 40% of the total candidates for the 2019 elections.

Furthermore, the mission noted commendable efforts by the IEC to promote youth participation. There were special registration drives on university campuses; a majority (59%) of the staff recruited for the elections were below the age of 35 and 20% were under 25 years old; and the IEC elections 2019 communications campaign also focused on encouraging participation by young and first-time voters. The IEOM however noted the reduction in registration rates among the youth for the 2019 elections. The number of registered youths in the 18-19 age bracket dropped by 47.2% (from 646,313 in 2014 to 341,236 in 2019). The number of registered voters in the 20-29 age bracket also registered a 4% drop from 5,759,236 in 2014 to 5,299,297 in 2019. Indeed, compared to the voter registration statistics in 2014, when the 20-29 age bracket formed the second highest group of voters at 22.68%, in 2019, this age bracket represents only 19.89% of the total registered voters.

\textsuperscript{94} https://data.ipu.org/content/south-africa?chamber_id=13312
In partnership with the South African National Council for the Blind (SANCB), the IEC developed the Universal Ballot Template (UBT) to aid voters with visual impairments to have an independent and secret vote during elections. The IEC also provided guidelines for assisting these voters. The EISA IEOM welcomes the special voting arrangements allowing for the inclusion of persons outside their districts, disabled and infirm voters through home visits as a good practice.

2.6. Role of security
Security institutions play important roles in the electoral process by maintaining a peaceful election environment. The South African Police Service (SAPS) is responsible for supporting the safety and security of the elections.

Through the National Joint Operational and Intelligence Structure (NATJOINTS), the SAPS undertook a Crime Threat Analysis to assess and determine the extent of crime in the country and identify problem areas which may require security reinforcements. Security concerns regarding political killings and service delivery protests were noted in KZN and North West respectively. There were also recent xenophobic attacks in Durban, but these were regarded as isolated incidents. A multi-disciplinary team was established and dispatched to KZN to address the security concerns.

In its consultation with SAPS, the IEOM gathered that the SAPS trained and deployed 51,000 police officers to each of the 22,924 voting stations. The EISA IEOM observes that the pre-election period was generally peaceful and calm.

The EISA IEOM specifically appreciates the efforts of the SAPS to provide security for its observers in their selected areas of deployment.

2.7. Preparedness of the Independent Electoral Commission
The IEOM notes that the IEC delivered on the election calendar. The IEC recruited and trained 189,000 election staff. The IEOM commends the efforts of the IEC to address concerns that were raised about the design of the ballot. Their rearrangement of the parties on the ballot for the 2019 elections made it possible for voters to make more informed choices. The IEC also made specific efforts to ensure that eligible voters who were affected by the floods
in parts of KZN and Eastern Cape had an opportunity to vote by setting up temporary voting stations in the affected areas.

Consulted stakeholders, including political parties, lauded the IEC for its transparency, open communication, and engagement with stakeholders. They expressed their confidence in the IEC’s effective management of the process.

The mission took note of concerns reported in the media regarding lost ballot boxes in Limpopo during the special voting on 6 May 2019. EISA IEOM commends the swift action taken by the IEC to address the issue.

2.8. Special voting
The legal framework allows for special voting for two categories of citizens: diaspora voters and voters within the country who are unable to cast their votes in their registered districts on election day.\(^\text{95}\) The IEOM notes that this provision guarantees the right of equal participation to all eligible voters regardless of their location or situation.

For the 2019 elections, the IEC approved 29,334 applications out of a total 30,532 applications for diaspora voting, marking a 10% increase from 2014. This relative increase is indicative of the continued interest of South Africans living abroad to participate in public affairs. Diaspora voters cast their votes for the national legislature on 27 April 2019. The IEC granted 774,094 applications for special votes, of which 58.4% were through home visits and 41.6% were cast at voting stations.

EISA observers witnessed the special voting on 6 and 7 May 2019 at 62 voting stations and 35 home visits across all nine provinces. All teams reported that the process was well organised in line with set guidelines. Observers also noted that there was limited voter awareness of the required procedures for special voting, as a number of voters turned up to vote without prior application for special voting.

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\(^{95}\) These include the physically infirm, disabled and pregnant; election officials and security service personnel involved in the election; registered voters unable to vote in the voting district in which they are registered to vote on Election Day owing to their intended absence.
Observers present at voting stations noted that the stations were laid out in an appropriate manner. In the case of home visits, observers expressed concern about voter privacy, as there were many party agents that accompanied IEC officials during the visits with as many as nine party agents in one home. In some cases of home visits, the EISA observers were not allowed access to the homes and therefore their observations were limited.

The IEOM notes media reports that ballot boxes were found in the streets of Tzaneen, Limpopo. The IEC investigated the matter, which led to suspension of an IEC officer. An official was also arrested for non-compliance with the requirements for secrecy of the ballot during special voting. The IEOM commends the IEC for its quick response to these incidents.

3. Election day findings
The EISA observers visited 295 voting stations across the nine provinces. Election day was largely peaceful across the country. However, the IEOM notes confirmed reports of service delivery protests in the following areas: Lokomazi, Secunda, Bushbuckridge and Vumani. The mission notes the efforts by the IEC and the police to contain these challenges in a timely manner to ensure that the electoral process was not interrupted. However, the elections were postponed in Holpan due to the protests.

Opening procedures were observed in 21 voting stations. The observers reported that 50% of the stations they visited opened on time. For the other half of the stations that opened late, the average delay was between 10 to 30 minutes. Only one team reported a delay of over an hour. The reasons for the delayed opening were poor preparations by polling officials and the late arrival of polling materials.

In half of the voting stations visited, queues were present at closing time. The trend was prominent in stations that had substations. All voters in the queue at closing time were allowed to vote. Voting was conducted mostly in line with stipulated procedures. The IEC provided the ‘no-address list’ to capture details of voters whose addresses were not registered.

Election materials were available in adequate quantity in over 90% of the stations visited. There were however isolated reports of shortage of materials
later in the day. In some of the areas visited in Port Elizabeth, the form 24A for registering home addresses had run out by afternoon. EISA observers also noted that some voting points had to be relocated because of damage caused by heavy rains and strong winds in Port Elizabeth.

EISA observers reported that over 80% of the stations visited were accessible to PLWDs, which enhanced the inclusivity of the process. On average, over 50% of the polling staff in all voting stations visited were women.

The presence of party agents was noted in all the stations visited, which further assured the transparency of the process. EISA observers reported that the stations were laid out in a manner that guaranteed secrecy of the ballot. The IEOM noted that election staff struggled to implement the setup of substations in a manner that reduced voters’ waiting time. It was observed that substations were mostly merged into one venue and all voters remained in the same queue regardless of their assigned substations, thus contributing to slow-moving queues.

The observers noted that the zip-zip machine malfunctioned at a few voting stations, which required officials to resort to the hard copy of the voters’ register. Observers were present at the closing and counting in 16 polling stations. They observed that the stations closed at the stipulated time and voters who were in the queue cast their vote.

All voting stations visited followed closing and counting procedures. Reconciliation procedures were largely practised, although the procedures were not uniformly applied across the stations visited. Observers also noted a few discrepancies. Where this occurred, a recount was ordered. One team reported a lack of compliance with the counting procedures in Dihlabeng, Maluti Hoogland School. It was observed that there was no reconciliation of ballots, essential election materials were not sealed and packed properly, and the presiding officer had to be reminded by party agents to count the special votes. The IEOM also noted that due to the high volume of voters per voting station and the merging of substations, the counting process was lengthy.

EISA observers were also present at IEC municipal offices and provincial results operation centres on 9 May. The IEOM considers the independent
auditing of the election results before release as a good practice to be emulated in order to promote the credibility and transparency of the process. The IEOM will comment more broadly on the results management process in its final report.

The IEOM notes the allegations of multiple voting in some areas of the country. The IEOM observed that the indelible ink used during the process was easily removable. However, it does not have direct evidence of multiple voting. It is important to mention that in comparison to the voter turnout recorded in 2014 (73.48%), it seems that there is so far, no unusual increase in voter turnout in the 2019 elections. This would have been expected in a situation of widespread multiple voting. The IEOM notes the actions taken by the IEC so far, to bring perpetrators of this violation to account and its commitment to investigate further.

4. Recommendations
Based on its findings, the EISA IEOM offers the following preliminary recommendations that will be expanded in its final report:

- Reconsider the timing of legal reforms and the enactment of laws within the electoral cycle to ensure that laws can be operationalised well ahead of elections.
- To address the concerns of multiple voting, consider creating a harmonised digital voter register to ensure that the zip-zip machines can be used to track persons who have already cast their ballot and serve the purpose of a double check alongside the hard copy registers.
- Put in place adequate mechanisms for the management of substations to ensure that the number of voters per voting point is easily manageable. This will quicken the process and reduce voters’ waiting time and the length of the vote count.
- Raise citizen awareness on the procedures for application for special voting.

5. Preliminary conclusion
Overall, the 2019 elections were conducted within a strong legal and institutional framework that guarantees democratic elections. The key players
in the process conducted themselves in accordance with stipulated laws and guidelines. South Africa, through these elections, met its obligations to democratic elections, set out in the different international instruments to which it is party.

The EISA IEOM notes the recent allegations of electoral fraud by some political parties. The EISA IEOM has not observed an unusual increase in voter turnout in comparison to previous elections. Such an increase would have been expected in the case of widespread multiple voting.

We call on the aggrieved parties to freely express their dissatisfaction within the confines of the law. We call on South Africans to maintain their trust in the judiciary. The EISA IEOM wishes to further encourage political leaders to be measured and well informed in their pronouncements, to avoid misleading or inciting the public. Political parties should also work with the IEC to determine the extent of the alleged multiple voting and its overall impact on the process.

The EISA IEOM commends South Africa for its continued commitment to democracy and the conduct of a peaceful electoral process. The Mission encourages the country to maintain the good practices that have been identified in this report.