KENYA HUMAN RIGHTS
COMMISSION

# OBSERVATION OF THE 2014 SOUTH AFRICAN NATIONAL AND PROVINCIAL ELECTIONS

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# 1.0 Introduction

South Africa held its elections on 7th May 2014 which coincided with the 20th Anniversary of the advent of democracy in the country in 1994. The National and provincial elections are held every five years where South Africans aged 18 and over and who have registered as voters are entitled to vote. The 5th South Africa democratic elections were governed by **the Constitution, Electoral Act, 73 of 1998, Electoral Commission Act, 51 of 1996, Public Funding of Represented Political Parties Act, 103 of 1997, Independent Broadcasting Authority Act, 153 of 1993**. The **Constitution**[1] provides for the rights to vote as well as participate as a contestant, and freedom to make political choices, the use of the constitution to ascertain the qualifications of candidates and the assurance of the citizens of a free and fair elections is not then a noble objective in South Africa but a right and must be enforced by all means.

The body responsible for the managing and administering elections in South Africa is the **Independent Electoral Commission[2] (IEC)** which was established in 1993 with an objective of strengthening constitutional democracy through the delivery of free and fair elections.
The electoral commission ensures that before every election, its personnel are adequately trained on all aspects of the electoral process so as to demonstrate high levels of professionalism, competence and understanding of their roles and responsibilities when conducting the elections.

South Africa uses a proportional representation voting system based on political party lists at the national and provincial levels. A registered political party receives a share of seats in Parliament in direct proportion to the number of votes cast for it in the election. Voters don't vote for individuals, but for a political party, which decides on members to fill the seats it has won. Seat allocation although not clearly defined in the constitution, seats in the National Assembly are allocated by means of a two-stage procedure that combines two methods of PR. In the first stage, the seats in each province are apportioned according to the largest remainder method. In each province a quota of votes per seat is calculated by dividing the total number of votes cast in the province by the number of provincial seats, plus one. The result plus one, disregarding fractions, becomes the required number of votes for a seat in the provincial legislature. To determine how many seats each party will receive in the region, its

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[1] The Constitution includes chapters on the Bill of Rights, co-operative government, parliament, the President and National Executive, provinces, local government, courts and justice, state institutions (including the Electoral Commission), public administration, security services, traditional leaders, finance and more general topics. See
http://www.elections.org.za/content/Elections/Laws-and-Regulations-Electoral-Commission/
[2] http://www.elections.org.za/content/about-us/what-we-do/

total number of votes is divided by the quota of votes per seat. This will produce a whole number, which is the number of seats initially allocated to the party, and a surplus or remainder.

Once this calculation is performed for all parties, the sum or aggregate number of allocated seats is obtained. If this total is smaller than the number of regional seats, unallocated seats are awarded to the parties according to the descending order of their remainders. The seat distributions from all provinces are aggregated at the national level to obtain the number of regional list seats allocated to each party.

Recently, South Africa reviewed and amended the below mentioned electoral laws that were implemented during the 7th May general elections. **Act No. 18 of 2013 Electoral Amendment Act** provided an opportunity for South Africans living in the diaspora to vote provided they held a valid South African ID or passport and registered as voters. This was carried out as collaboration between IEC, and the Department of International Relations and Cooperation (DIRCO).

For the first time prisoners were able to vote through an amendment of The Act 73 of 2003, amended by the Electoral Laws Amendment Act 34 of 2003 is the main amendment on the prisoners' right to vote. It accommodated only those prisoners who were awaiting trial and prisoners given the option of paying a fine a chance to vote as opposed to earlier instances when all prisoners could not vote.

Further amendments to The **Public Funding of Represented Political Parties Act 103 of 1997** provide that the funds allocated to the political participation must be announced by the electoral commission at the beginning of every financial year.

The IEC recognises observers as people who keep an eye on voting procedures, the counting of votes, and the determination and declaration of results. It prepared a checklist on their website so as to provide any willing person(s) who wanted to take part in the election as observer(s) with a chance to participate.

## 2.0 Methodology

The Kenya Human Rights Commission (KHRC) upon invitation from the South Africa Independent Electoral Commission (IEC) sent 2 representatives as observers from 4th to 11th May, 2014 to observe South Africa's National and Provincial Elections. The observation exercise entailed collecting information based on an Electoral governance assessment framework developed by KHRC to collect information on the pre-polling, polling and post-polling stages of an election. The framework identifies these stages to entail the following key processes (though not exclusively exhaustive):

| PRE-POLLING STAGE | POLLING STAGE | POST-POLLING STAGE |
|---|---|---|
| 1) Civic and voter education | 1) Opening of polling | 1) Ballot counting and verification |
| 2) Distribution of electoral boundaries | 2) Verification of the integrity of polling material | 2) Tally announcement and results transmission |
| 3) Registration of voters | 3) Voter identification | 3) Vote tabulation |
| 4) Political formations and nominations (parties, coalitions or independent candidacy) | 4) Ballot casting | 4) Dispute resolution |
| 5) Campaigns | 5) Closure of polling | 5) Transition and handover |

In the pre-polling stage, KHRC undertook initial visits to South Africa from 10th to 14th August, 2013 and held strategic partnership meetings with 6 organizations/institutions namely: the Electoral Institute for Sustainable Development in Africa (EISA), South African Human Rights Commission (SAHRC), Women's Legal Centre (WLC), Disabled People South Africa (DPSA), the Commission on Gender Equality (CGE), and the Coalition for African Lesbians (CAL) and the Independent Electoral Commission of South Africa (IEC).

With regard to the polling phase, KHRC's observers visited the IEC results operation centre in Pretoria and met with the Chief election officer and other election observers both international and domestic as well as observed the infrastructural preparation of IEC national tallying centre. Further the observers were also able to monitor the general electoral environment before the polling day. On Election Day the observers visited 10 voting stations[3] in Gauteng province distributed across Sandton, Alexandria, Soweto and Pretoria. In the polling stations the observers were able to collect information on the opening, voting and closing procedures.

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[3] Women for Peace, Alexandria New Library, Emadlangeni Residence, Mzamo Primary School, Lake view Primary School, Sandton fire station, Tswane South College, Hill View High School,

In the post-polling stage, KHRC observers visited 1 polling station and observed vote counting procedures and the transmission of the result. After the counting procedures, KHRC observers' visited the national tallying centre located at IEC results operation centre in Pretoria) hall to observe the tabulation of votes. With regards to other post polling procedures such as dispute resolution and transition and handover, KHRC closely monitored authoritative online media as well collected information from other election observer groups that observed the South Africa Elections.

## 3.0 Observation Findings

## 3.1 Pre-polling stage

During the pre-polling stage KHRC observers collected information on the boundaries delimitation, voter education, political campaigns, party nomination and voter registration and noted the following:

## 3.1.1 Boundaries Delimitation

Prior to the 2014 national and provincial elections, the Independent Electoral Commission of South Africa (IEC) inspected maps of municipality voting districts in order to align voting districts with local geographic, demographic and political changes that may have occurred since the previous election. A voting district – which is established by the Electoral Act under sections 60 to 57 - is a geographical area that has been drawn by the IEC to serve the dual purpose of minimizing electoral fraud which might be caused by registered voters voting more than once in an election, and ensuring electoral administrative efficiency.

The delimitation of voting districts and electoral stations is carried out by the Delimitation Directorate with the assistance of a geographical Information System or GIS- a mapping system managed by the IEC.

Urban voting districts contain about 3 000 voters located within a radius of some 7.5 km of the voting station. On the other hand, rural voting districts accommodate to about 1 200 voters located within a radius of some 10 km of the voting station.

During the 2014 electioneering period, the Delimitation Directorate with the assistance from the IEC delimitated the boundaries to about 22,263 voting districts.

### 3.1.2 Party Nomination

The IEC is responsible for managing the candidate nomination process as well as the set of other political party activities in accordance with the elections timetable. To receive clearance, Political parties must comply with the legal requirements as stipulated in the Election Act.  There were about 29 political parties that participated in both the national and provincial election. However some parties, specifically four parties were not able to participate due to late submission of their deposits with the IEC.

During the candidate nomination process, the bigger parties such as the African National Congress (ANC) had relatively elaborate processes, anchored in forms of internal democracy, while the smaller parties that often nominally work through formal party structures, nominated their candidates through direct nomination.

### 3.1.3 Voter Registration

The South African Independent Electoral Commission (IEC) started registering new voters as well as those voters who had sought re – registration because of moving to a new voting district on the weekends of 9th –10th November 2013 and 8th –9th February 2014

At the end of the registration period, there were 25,388,082 voters on the principal register, the number showed a 5% increase in voters from 2009. The regional/provincial number of voters as per the IEC was as follows: Gauteng has the highest number of voters, with just over 6 million, followed by KwaZulu-Natal with 5.1 million, the Eastern Cape with 3.24 million and the Western Cape with 2.9 million. It was noted by IEC that the aforementioned provinces constituted about 68% of all voters occasioned by rural to urban migration.

During the 2014 electioneering period, there was an increment of women registered voters who superseded men by 13.94 million (54.9%) to 11.45% (45.1%) on the voters' roll. Further, many youth were able to be registered resulting to 49.57% of total registered voters.

The above numbers of high voter registration can be attributed to the recent amendment of the Electoral legislation for instance **Act no. 18 of 2013 Electoral Amendment Act.** The Amendment involved, inter alia, an insertion into **section 33 of the Electoral Act** that prescribes that the Commission must allow a person who lives in another country the opportunity to vote and those who may happen to be in another country on Election Day the chance to cast a vote as well. A registered voter either living abroad or who will be abroad on

Election Day in South Africa (7 May 2014) must have a valid South African ID and a valid South African passport to be eligible to vote abroad.

The IEC together with the Department of International Relations and Cooperation (DIRCO) were able to register South Africans in Diaspora either at the embassy or the consulates-general available in the countries they lived in. Consequently, IEC was able to register **9,863** eligible voters in UK, **2,079** eligible voters in UAE, **1,243** in Australia, **773** in DRC, **667** in Netherlands, **604** in USA, **557** in Qatar, **466** in Ireland, **458** in Sudan and **9,991** in other countries; totaling to **26,701** registered voters.

Special Votes regulation provided under **chapter 3** for any South African national who was not in the country at the day of the election with a chance to vote by notifying the chief electoral officer of the IEC also provided an excellent platform for eligible voters to register.

Further, the utilization of technology[4] by the commission to disseminate information on the registration process as well as encourage the youth to register saw an increment in the number of registered voters especially the youth. Indeed, the IEC Chairperson noted that the commission had made efforts to put in place capacity on the commission's social media platforms, namely: Facebook, Twitter and Mxit, to deal with queries from the commission's technology-savvy youth in a medium that they are familiar with.

### 3.1.4 Voter Education

IEC conducted voter education through several drives including meeting with the agricultural representatives such as farmers.

IEC was able to utilize technology which included the creation and use of mobile apps to rely voter education information and materials as part of its effort to unlock the free flow of electoral information on the information superhighway and bringing voting information to the masses on the devices that the majority of people still use. Further, the IEC utilized social media sites such as Facebook, Twitter and You Tube to disseminate voter information especially to the youth.

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[4] See: http://www.economicfreedomfighters.org/will-social-media-influence-election-campaigning/

## 3.1.5 Electoral/Political Campaigns

South Africa is among the few African countries that provide public funding for political parties which is regulated and closely monitored[5]. However both public and private funding is allowed[6].

The Public Funding of Represented Political Parties Act (No 103 of 1997) provides for the management of the Represented Political Parties' Fund (the Fund) by the Electoral Commission and the administration of the Fund form an integral part of the Electoral Commission's systems,

Further amendments to The **Public Funding of Represented Political Parties Act 103 of 1997** provide that the funds allocated to the political participation must be announced by the electoral commission at the beginning of every financial year. Section 53 of the mentioned act prohibits use of the public fund for any other purpose other than which it is prescribed to.

Even though the election date had not yet been announced, most political parties began their political campaigns in mid-September of 2013. This was led by ANC which unveiled its strategy on the weekend of 14th September 2013 for citizens to get registered as voters so they can be able to vote.

The political campaign was endorsed by the state-owned media South African Broadcasting Corporation SABC[7] which conducted weekly election debates from February to May 2014. The debates were on different topics such as: Free and fair elections in a highly charged atmosphere of violent protests, Youth & unemployment, Education, etc.

Use of technology in campaigning was more evident as political parties used 'sms' to convey their messages to the masses.

Campaign advertisements were very evident during the 2014 electioneering period. Such advertisements are governed by Independent Broadcasting Authority Act which mandates the Independent Communications Authority of South Africa (ICASA) to enforce the 'Party Elections Broadcasts and Political Advertisements Regulations'.

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[5] The Audit of the 2014 General Elections: http://www.elections.org.za/content/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3192

[6] See more: http://www.elections.org.za/content/Parties/Party-funding/

[7] See more: http://www.sabc.co.za/news/f1/4d21318043028761b614bf895990ad13/Elections-2014-Debates-20140222

## 4.0 Polling stage

The KHRC's observers noted that the political environment prior the voting day was generally peacefully with few sporadic violence being reported in areas such as Limpopo where protestors prevented IEC officials from administering special voting that took place 2 days before the general elections. To ensure that the E-day was peaceful, the Electoral Commission deployed adequate security personnel in hot spot areas such as Limpopo.

### 4.1 IEC preparedness and management of E-day Procedures

- The IEC demonstrated a commendable degree of openness and transparency in the management and conduct of the 5th South Africa democratic elections. In all the voting stations that we visited the IEC official performed their duties professionally and in accordance with the law. Most of the Officials especially the presiding officers appreciated the work of the observers and party agents and were willing to share information with the observers freely.

- We observed that all polling stations were clearly demarcated and marked with the IEC posters at the entrance, bearing the voting station name, code, the Province name and the Ward Number making it easier for voters and observers to easily identify the voting stations. We also noted that the IEC officials were easily identified since they all wore IEC branded jackets as well as name tags.

- In Sandton fire Station, we observed that all set up and opening procedures e.g. ensuring that all the ballot boxes are empty before being sealed as well as party agents appending seals on the ballot boxes were carried out excellently by the presiding officer.

- We observed that most of the electoral materials necessary for the exercise (indelible ink, ballot boxes, ballot papers, stamps, voter register, and other necessary stationery) were adequate and delivered to, and available at the respective voting centres.

- In all the polling stations that we visited, we observed that IEC officials only allowed eligible voters to vote by ensuring that the details/documents presented by the voters appeared in the voter roll and that voters had valid identification documents.

- We observed that the voting procedures were generally well followed according to the law and the secrecy of the ballot was generally well safeguarded in all stations we

visited and in the case of the assisted voters; assistance was provided based on the law.

## 5.0 Post- Polling stage

During the post polling stage, KHRC collected information on the counting procedures, result transmission, vote tabulation, dispute resolution, and transition and handover.

- Regarding the counting procedures, KHRC observed that the Presiding Officer displayed the ballot papers for the political party agents and observers present during counting to see and verify the ballots and this was the case for all voting stations as reported by other observer groups present such as AU. The political parties present were very keen during counting and made enquiries on any event that they did not clearly understand. The counting of votes was done peacefully without any hitches in the voting stations observed.



On the left, 3 screens displaying results as they come in. On the right, one of the station in the National tallying centre that dealt with outreach issues.

The national tallying centre known as the Result operation centre located in Pretoria was excellently organized, with stations for all the 29 political parties equipped with working computers and telephones, information desks, media stations etc. housed at the centre. The provisional results (received in real time) were displayed on big screens. We observed that the electronic transmission of the results was very efficient with very minimal hitches.

## 6.0 Conclusion and Best Practices

- Based on the aforementioned observations, our conclusion is that the 5th South African democratic Elections were held in a fairly stable and peaceful environment which enabled electorate and other stakeholders such as observers and the media to effectively participate in the electoral process.

- The Election Management body took time to organize and plan for the elections as well as train their officials, who together effectively managed the voting process admirably.

- The Elections were transparent and credible with Human Rights such as the right to vote through secret ballot, the right to vote and the right to freely choose representatives stipulated in article 25 of the International Covenant of Civil and Political Rights (ICCPR) and other international mechanisms being upheld admirably.

## 6.1    Best Practices and Lessons learnt
### 6.1.1 Use of technology

The use of technology to enhance the integrity of the electoral processes has been a discussion that has picked momentum in Africa in the past years. Countries Such as Ghana and Kenya have been instrumental in the use of technology during voter registration, voter identification and transmission of results. The challenge however, has been the effective utilization and management of such technology by the election management bodies which has

seen Countries Such as Kenya fail miserably; conversely countries like South Africa have managed to effectively employ technology to enhance integrity in their electoral processes, casing point being the 2014 National and Provincial elections.  It is therefore important for countries that have already employed such technologies but failed in the management and those that are planning to utilize technology to learn from South Africa.

Technology played a huge and important role in the 2014 South Africa Elections. The IEC employed such technology as a way of improving credibility and transparency in the electoral processes such as voter registration, Voter education, Voter Identification and most importantly in the Election Day procedures such as tallying and transmission of results. Additionally, the Commission took important strides in ensuring that their officials are adequately trained on the use of the technology. The subsequent paragraphs discuss how the Electoral Commission of South Africa utilized technology during the 5th Democratic Elections.

The Electoral Commission launched an Elections Mobile app known as *IEC South Africa* that enabled users/voters to view their registration details, locate their voting stations on a map, view the latest Elections news, and Electoral results as and when they are availed by the Commission. By employing APIs[8], the Commission was able to avail important information to the media, political parties and other stakeholders in real time.  At the voting stations, the Commission used hand-held scanners which were used to scan the Bar coded identification document which bring up the profile of the voter. Further in each voting Station, the Commission had equipment that scanned a form which provided the commission with information regarding the residence of the voters that went into the station hence enabling the Commission to segment the voters' roll based on voters' residence.

During tallying and transmission of the results the Commission utilized electronic transmission of result platform which was well managed and maintained. Further the Commission used the Elections result slip scanning device which has previously won the Commission many accolades including an *Award for preventing and combating corruption in the Public Service* and *an award for Innovative Management.*

Utilization of Social media platforms such as Facebook, twitter; informative and functional website that provided valuable information to voters, political parties, observers and other stakeholder on the electoral process as well as utilization of an call centre where the

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[8] Application Programming Interfaces

public could be helped with whatever information they sought regarding the electoral process enabled the Commission to sets itself above par other Electoral management bodies.

## 6.1.2 Participation of Marginalized groups

The participation of women, persons with disabilities and other marginalized groups and the extent in which the Commission came up with measures to ensure that the elderly and persons with disabilities effectively participated in the 5th Democratic Elections was commendable and provides invaluable lessons where countries such as Kenya can learn from.

In all the polling stations we visited we noted a high number of women engaged as IEC officials, Party agents and Observers. Further women turned out in large number to vote, demonstrating the interest of women to participation in the electoral processes.

The measures that IEC took to carry out the special voting are one of the most progressive and egalitarian in Africa. According to South Africa's Election Act 73 of 1998, if a person cannot vote at a voting station in the voting district due to disability, physical infirmity or pregnancy, such person can apply for and cast a special vote. During the 2014 South African Election, the Commission carried out special voting on 5th & 6th May (2 days before E-day) where the IEC officials went to the homes of the voters who are unable to travel to the voting stations for such voters to cast their votes.

To ensure the Secrecy of the ballot for the visually impaired voters was maintained, the Commission utilized a bigger universal ballot paper template that included all the 29 participating parties known as the *cardboard ballot template*. In Countries such as Kenya that don't utilize such technology the secrecy of the ballot for the visually impaired voters who are forced to use assistants is compromised.

## 6.1.3 Voter Identification document

The identification of voters at the voting stations is one of the practices that many countries ought to emulate. To participate in the voting process in South Africa Elections, one needs to be a registered voter of 18 years above.

*Bar – coded identification book with stamped information on how the voter has been voting including a confirmation slip that is generated by the zip – Zip machine.*

Upon arrival at the voting station one needs to present a bar-coded identification book or special ID which is then scanned with a machine known as *Zip – Zip*. After confirmation by the IEC officials that one is indeed registered in the voting station and has not voted yet, the Identification book is stamped on the 2nd page. Such identification documents that are in a form of book and resembles most passports provides sustainability, transparency and credibility since it is stamped only once for each election that a voter has participated in. Further it has unique code which cannot be copied.

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