

Presentation
to



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TOPIC

THE SECOND TRANSITION...
ELECTORAL REFORM

10 MARCH 2026

PRESENTER | DR MICHAEL LOUIS

THE NEIL DE BEER LIBERTY INDABA



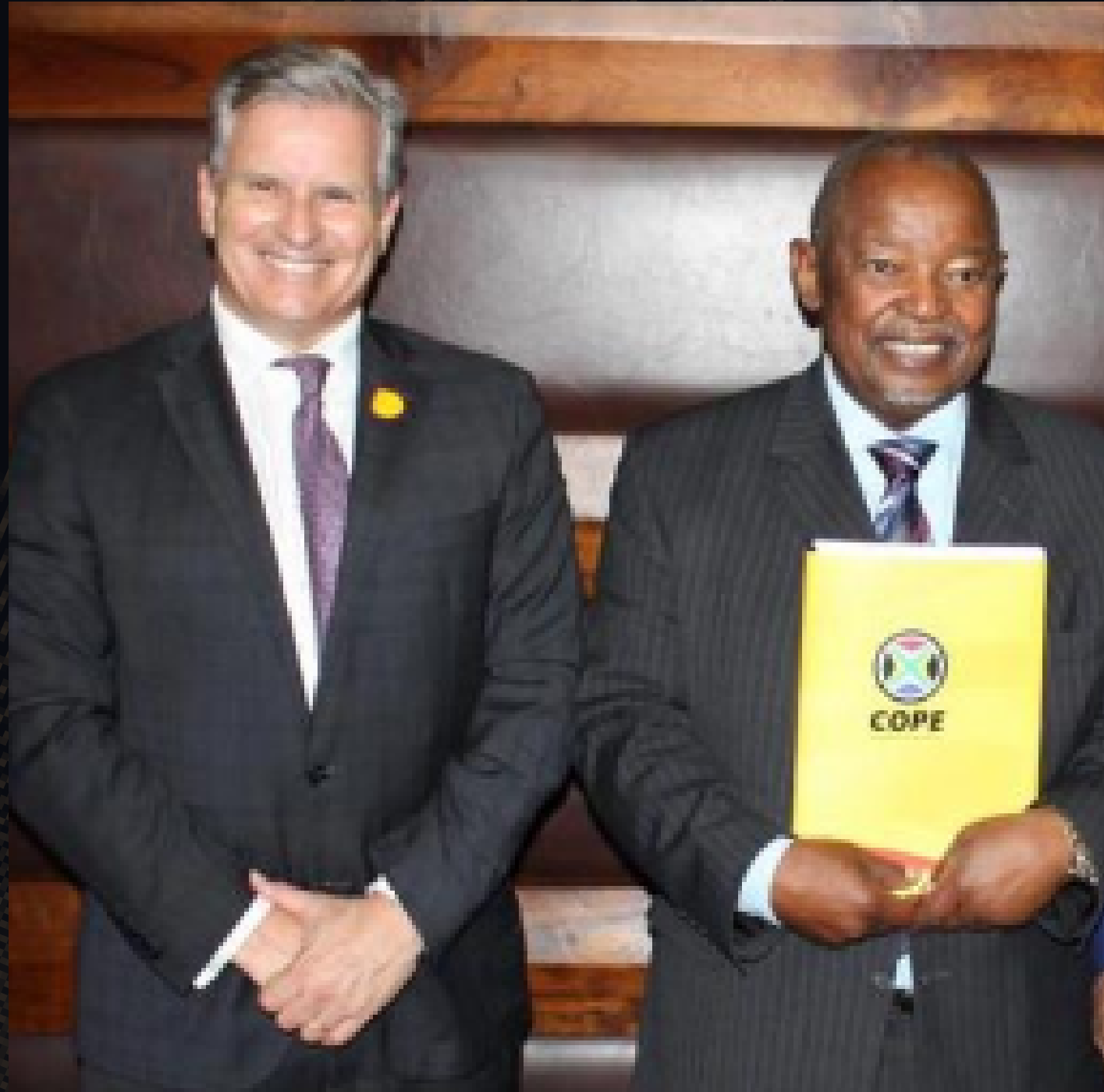
“LITTLE DID I KNOW OR EXPECT THE IMPACT THAT YOU HAD, NOT ONLY IN MY LIFE, BUT THE LIFE OF SO MANY OTHERS AND THAT OF OUR NATION THAT YOU TRULY CARED FOR SO DEARLY.

YOU GAVE IT YOUR ALL, WITH SUCH PASSION, INTEGRITY AND KNOWLEDGE COMMUNICATING TO THE NATION THE CHALLENGES WE FACE SO THAT NEVER, NEVER AGAIN CAN WE SAY THAT WE WERE NOT TOLD THE TRUTH.”

YOUR FRIEND
MICHAEL LOUIS

HONOURING NEIL DE BEER

HONOURING: HON. MOSIUOA LEKOTA



“WILL FOREVER HONOUR YOUR
CONTRIBUTIONS TO THE
ELECTORAL REFORM JOURNEY
AND REMAIN COMMITTED TO THE
IDEALS YOU SO PASSIONATELY
PURSUED.”

“ONE DAY WE WILL WITNESS
POWER TO THE PEOPLE.”

MY MOUNTAIN TOP EXPERIENCE

SOUTH AFRICAN CONSTITUTION

WE, THE PEOPLE OF SOUTH AFRICA,

RECOGNISE THE INJUSTICES OF OUR PAST;

HONOUR THOSE WHO SUFFERED FOR JUSTICE AND FREEDOM IN OUR LAND;

RESPECT THOSE WHO HAVE WORKED TO BUILD AND DEVELOP OUR COUNTRY; AND

BELIEVE THAT SOUTH AFRICA BELONGS TO ALL WHO LIVE IN IT, UNITED IN OUR DIVERSITY.

WE THEREFORE, THROUGH OUR FREELY ELECTED REPRESENTATIVES, ADOPT THIS CONSTITUTION AS THE SUPREME LAW OF THE REPUBLIC SO AS TO –

HEAL THE DIVISIONS OF THE PAST AND ESTABLISH A SOCIETY BASED ON DEMOCRATIC VALUES, SOCIAL JUSTICE AND FUNDAMENTAL HUMAN RIGHTS;

LAY THE FOUNDATIONS FOR A DEMOCRATIC AND OPEN SOCIETY IN WHICH GOVERNMENT IS BASED ON THE WILL OF THE PEOPLE AND EVERY CITIZEN IS EQUALLY PROTECTED BY LAW;

IMPROVE THE QUALITY OF LIFE OF ALL CITIZENS AND FREE THE POTENTIAL OF EACH PERSON; AND BUILD A UNITED AND DEMOCRATIC SOUTH AFRICA ABLE TO TAKE ITS RIGHTFUL PLACE AS A SOVEREIGN STATE IN THE FAMILY OF NATIONS.

MAY GOD PROTECT OUR PEOPLE.

NKOSI SIKELEL' IAFRIKA. MORENA BOLOKA SETJHABA SA HESO.

GOD SEËN SUID-AFRIKA. GOD BLESS SOUTH AFRICA.

MUDZIMU FHATUTSHEDZA AFURIKA. HOSI KATEKISA AFRIKA.

CONSTITUTION OF THE WESTERN CAPE PREAMBLE

UNDER HUMBLE SUBMISSION TO ALMIGHTY GOD,

WE, THE PEOPLE OF THE WESTERN CAPE, THROUGH OUR ELECTED REPRESENTATIVES –

RECOGNISING AND STRIVING TO HEAL THE INJUSTICES OF THE PAST,

RECOGNISING THE NEED FOR PEACE, RECONCILIATION AND JUSTICE,

ENDEAVOURING TO PROMOTE THE DEVELOPMENT OF THE WESTERN CAPE AND A BETTER

QUALITY OF LIFE FOR ALL ITS PEOPLE THROUGH JUST AND

EFFECTIVE GOVERNMENT; AFFIRMING THAT THE WESTERN CAPE, A PROVINCE OF THE

REPUBLIC OF SOUTH AFRICA, IS FOUNDED ON – DEMOCRATIC VALUES,

THE RECOGNITION OF HUMAN RIGHTS, THE RECOGNITION OF THE FAMILY,

RESPONSIBLE AND ACCOUNTABLE GOVERNMENT, THE RULE OF LAW,

THE PRINCIPLES OF MUTUAL TRUST AND CO-OPERATION, AND

LOYALTY TO THE NATIONAL CONSTITUTION;

DO NOW ADOPT THIS CONSTITUTION FOR THE WESTERN CAPE.

MAY GOD PROTECT OUR PEOPLE.

GOD SEËN SUID-AFRIKA, NKOSI SIKELEL' IAFRIKA, GOD BLESS SOUTH AFRICA.

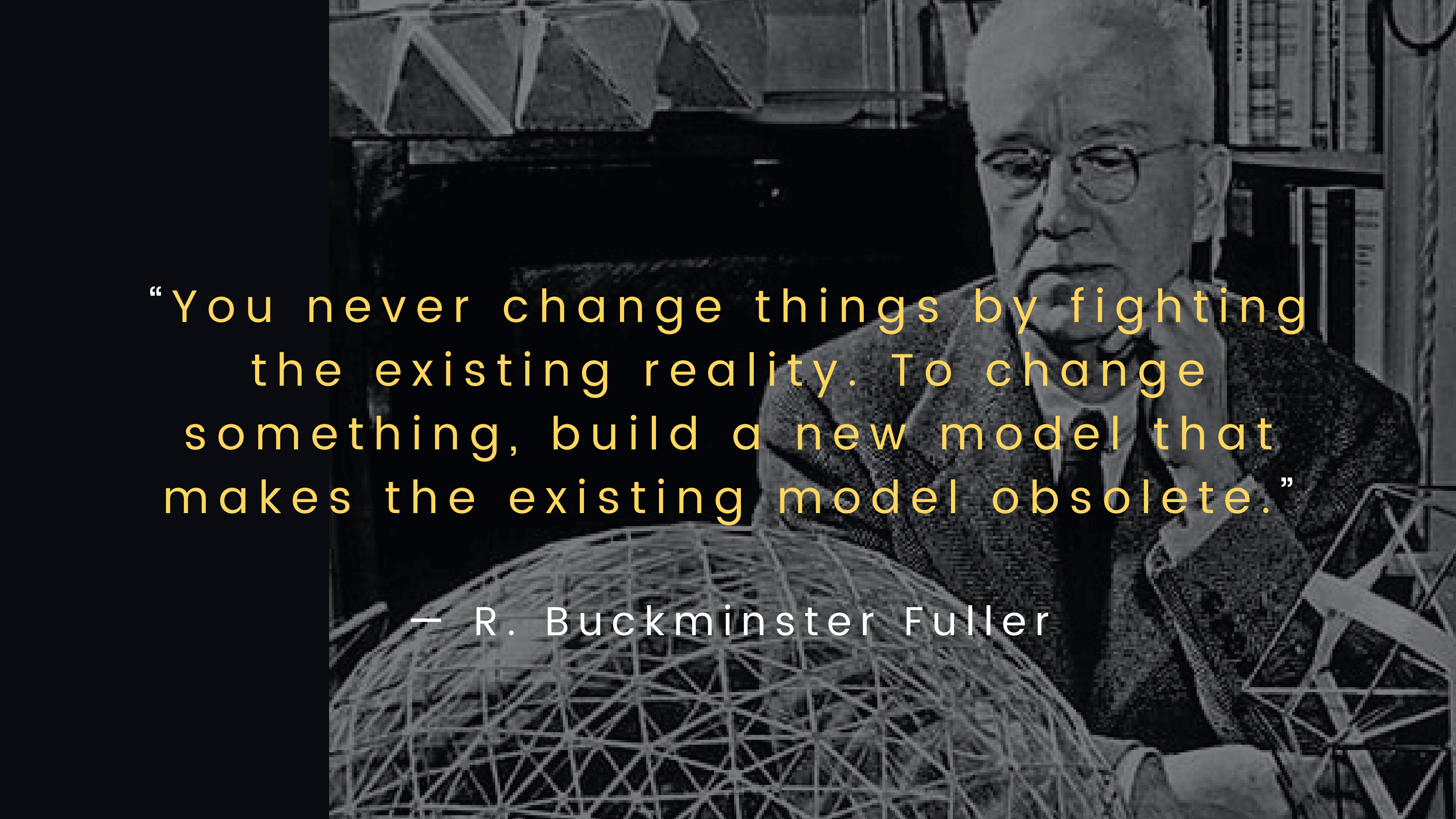


returning power back to the people

*Nelson Mandela's words in his farewell speech to
the National Assembly, 26 March 1999*

“But even as we do so, we do need to ask whether we need to re-examine our electoral system, so as to improve the nature of our relationship, as public representatives, with the voters!

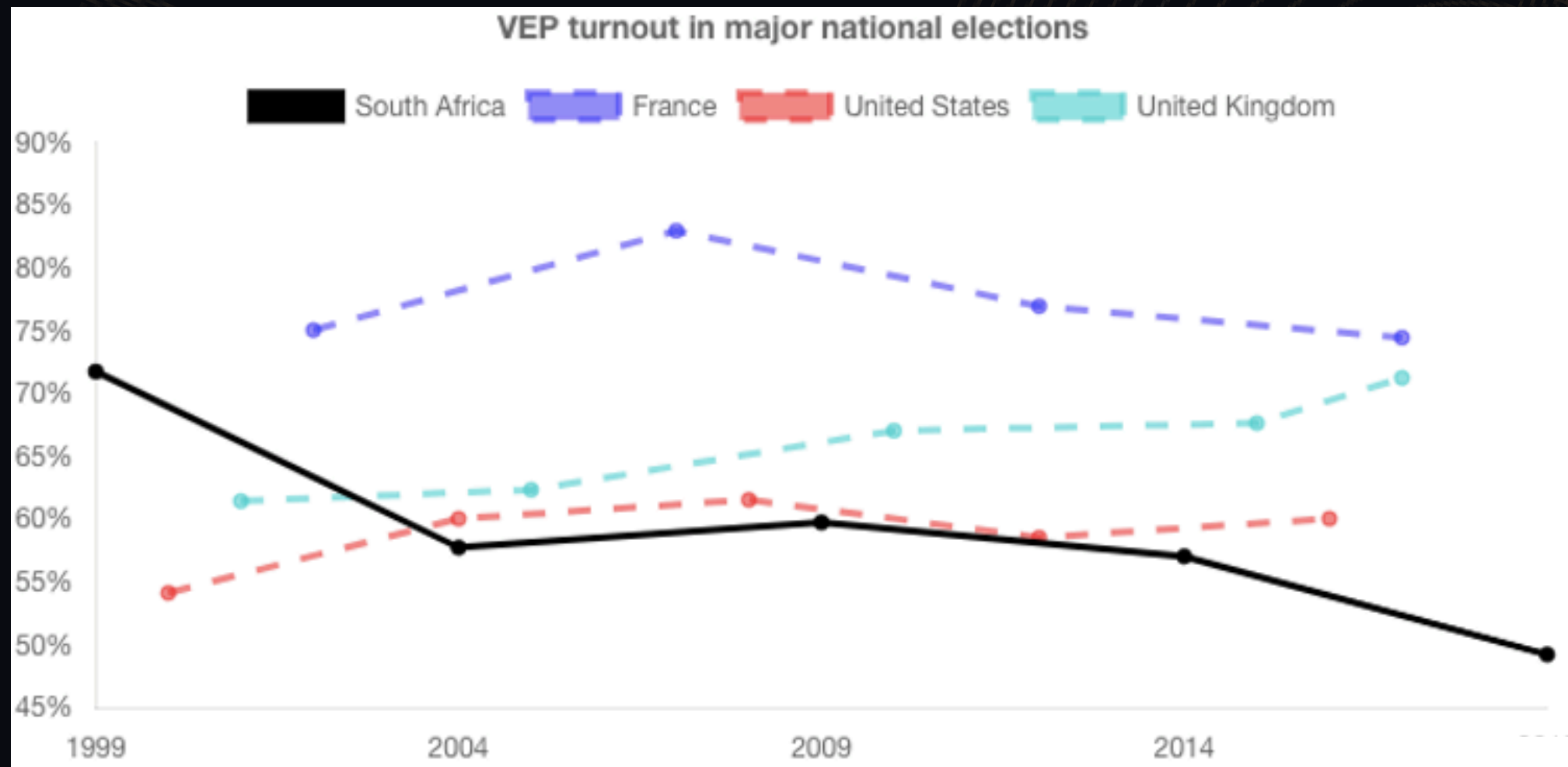
Questions have been raised, we know, as to whether this House is not a carriage on the gravy train, whose passengers idle away their time at the nation's expense.”



“You never change things by fighting
the existing reality. To change
something, build a new model that
makes the existing model obsolete.”

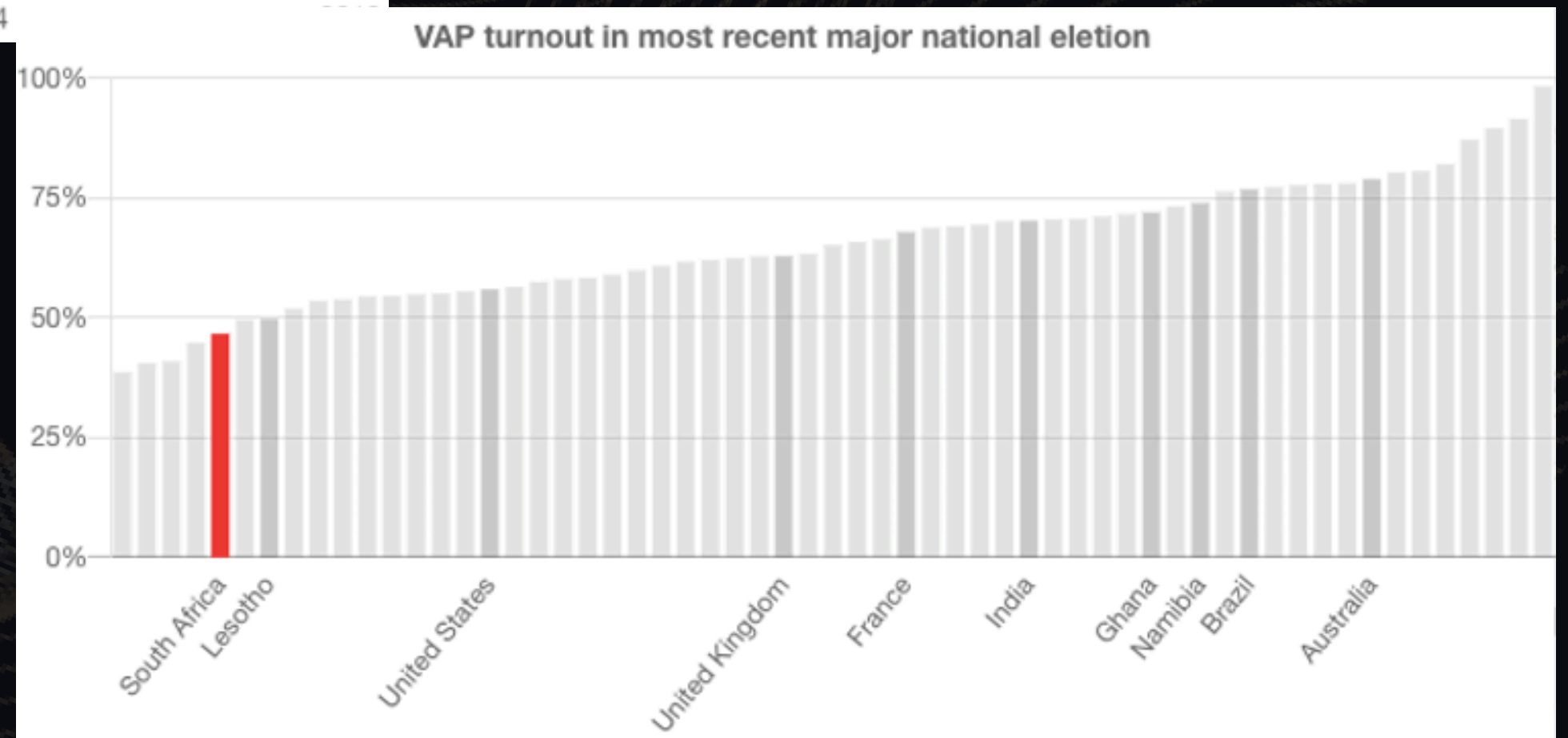
— R. Buckminster Fuller

SA VOTING PATTERNS: DEMOCRACY IN DECLINE

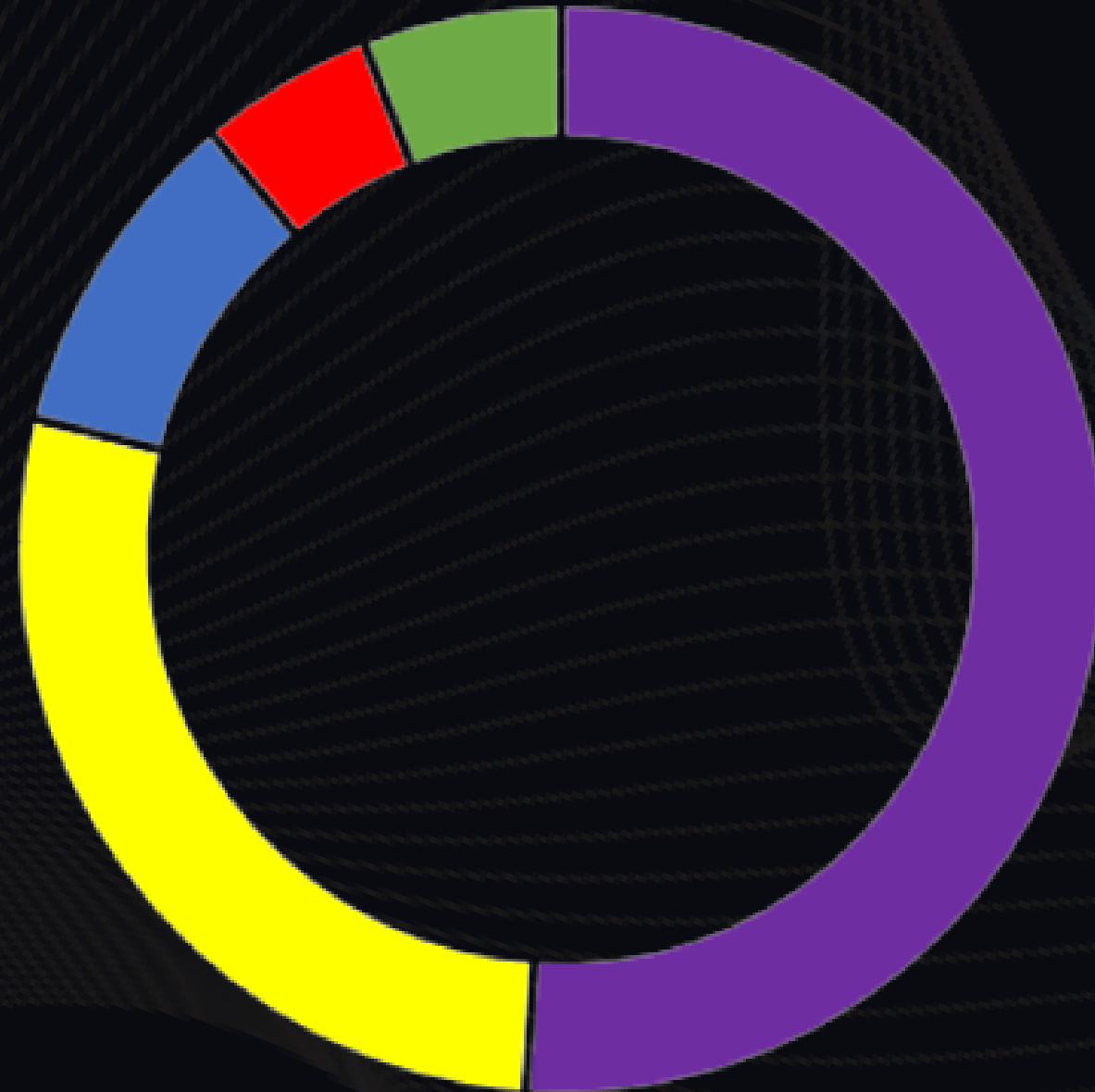


- **LOW VOTING TURNOUT COMPARED TO THE REST OF THE WORLD**

- **VOTING IN SA ON THE DECLINE**



VOTING VS NON-VOTING IN SOUTH AFRICA



■ Didn't Vote ■ Voted ANC ■ Voted DA ■ Voted EFF ■ Voted Other

MORE PEOPLE IN SA DO NOT VOTE
IN ELECTIONS THAN THOSE WHO
DO VOTE:

NON-VOTERS – 19.7 MILLION
VOTERS – 17.6 MILLION

THERE NEEDS TO BE A NEW
WAY!

Introduction to the Direct Elections Bill

"THE STARTING POINT FOR AMENDING THE ELECTORAL ACT WAS TO CONNECT WITH THE PLEDGE GIVEN BY THE ATTENDEES OF THE CONGRESS OF THE PEOPLE IN 1955, NAMELY, TO BIND THEMSELVES AND THEIR SUPPORTERS TO "STRIVE TOGETHER, SPARING NEITHER STRENGTH NOR COURAGE, UNTIL THE DEMOCRATIC CHANGES HERE SET OUT HAVE BEEN WON."

.....
THE FOLLOWING WAS THE VERY FIRST PRINCIPLE IN THE FREEDOM CHARTER TO BE FOUGHT FOR AND WON:

THE PEOPLE SHALL GOVERN!

EVERY MAN AND WOMAN SHALL HAVE THE RIGHT TO VOTE FOR AND TO STAND AS A CANDIDATE FOR ALL BODIES WHICH MAKE LAWS;

.....
WE ALSO FELT EQUALLY BOUND TO THAT PLEDGE IN 2019 AND 2020. MOREOVER, OUR CONSTITUTION IN SECTION 19(3)(B) UNEQUIVOCALLY STATES:

Every adult citizen has the right to stand for public office and, if elected, to hold office.

.....
OUR ELECTORAL SYSTEM, DEVISED IN LATE 1993, WAS MEANT TO MEET THE EXIGENCIES OF THE TIME. IT WAS EXPLICITLY AGREED BY ALL THE PARTIES IN THE NEGOTIATIONS TO DEFER THE FINALISATION OF THE ELECTORAL SYSTEM TO A LATER DATE. THE UNFINISHED WORK HAD TO BE UNDERTAKEN AND COMPLETED

SCHEDULE 6

Introduction to Direct Elections Bill

[Schedule 6 amended by s. 3 of Constitution First Amendment Act of 1997, by s. 5 of Constitution Second Amendment Act of 1998 and by s. 20 of Constitution Sixth Amendment Act of 2001.]

DEFINITIONS

1. In this Schedule, unless inconsistent with the context— “homeland” means a part of the Republic which, before the previous Constitution took effect, was dealt with in South African legislation as an independent or a self-governing territory; “new Constitution” means the Constitution of the Republic of South Africa, 1996; “old order legislation” means legislation enacted before the previous Constitution took effect; “previous Constitution” means the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993).

CONTINUATION OF EXISTING LAW

2. (1) All law that was in force when the new Constitution took effect, continues in force, subject to— (a) any amendment or repeal; and (b) consistency with the new Constitution.

2) Old order legislation that continues in force in terms of subitem (1)—

(a) does not have a wider application, territorially or otherwise, than it had before the previous Constitution took effect unless subsequently amended to have a wider application; and

(b) continues to be administered by the authorities that administered it when the new Constitution took effect, subject to the new Constitution

Right to stand for Public Office

Political rights

19. (1) Every citizen is free to make political choices, which includes the right—
- (a) to form a political party;
 - (b) to participate in the activities of, or recruit members for, a political party; and
 - (c) to campaign for a political party or cause.
- (2) Every citizen has the right to free, fair and regular elections for any legislative body established in terms of the Constitution.
- (3) Every adult citizen has the right—
- (a) to vote in elections for any legislative body established in terms of the Constitution, and to do so in secret; and
 - (b) to stand for public office and, if elected, to hold office.

- Section 19(3)(b) of the Constitution gives every citizen the right to stand for election to public office
- This right is not a qualified right

Contradiction in the Electoral Act

Requirements for parties to contest election

26. A party may contest an election only if that party—

- (a) is a registered party; and
- (b) has submitted a list of candidates in terms of section 27.

Submission of lists of candidates

27. (1) A registered party intending to contest an election must nominate candidates and submit a list or lists of those candidates for that election to the chief electoral officer in the prescribed manner by not later than the relevant date stated in the election timetable.

(2) The list or lists must be accompanied by a prescribed—

- (a) undertaking, signed by the duly authorised representative of the party, binding the party, persons holding political office in the party, and its representatives and members, to the Code;
- (b) declaration, signed by the duly authorised representative of the party, that each candidate on the list is qualified to stand for election in terms of the Constitution or national or provincial legislation under Chapter 7 of the Constitution;
- (c) acceptance of nomination, signed by each candidate;
- (d) undertaking signed by each candidate, that that candidate will be bound by the Code; and
- (e) deposit.

(3) (a) The Commission may prescribe the amount to be deposited in terms of subsection (2)(e).

(b) The amount to be deposited by a registered party contesting an election of a provincial legislature, must be less than the amount for contesting an election of the National Assembly.

- Electoral Act as it currently stands contradicts Section 19 of the Constitution. It only empowers political parties to stand for office, who in turn choose citizens on a list system
- All laws in SA must be in line with the Constitution
- Therefore it was challenged in the Constitutional Court and on 11 June 2020, after a 4 year long legal battle, the Electoral Act was declared unconstitutional
- Parliament was ordered to change the Electoral Act to bring it in line with the Constitutional right of any citizen to stand for public office.

The Path to be followed was Clear!

THE PATH TO BE FOLLOWED HAD TO MAKE
PROVISION FOR:-

1. THE PEOPLE SHALL GOVERN;
2. EVERY PERSON SHOULD HAVE THE RIGHT TO STAND FOR ELECTION;
3. CONSTITUENCIES SHOULD BE CREATED;
4. PROPORTIONALITY SHOULD PREVAIL; AND
5. GREATER ACCOUNTABILITY TO THE VOTERS SHOULD BE MADE A CENTRAL FEATURE OF A NEW ELECTORAL SYSTEM.

THESE WERE THE BLOCKS USED TO AMEND
THE ELECTORAL ACT

EXECUTIVE PROCESS

NUMEROUS GOVERNMENT COMMISSIONS AND
COMMITTEES, A PRIVATE MEMBERS MOTIONS
AND A CALL FOR A REFERENDUM.

2003 The electoral task team 1994 (Van Zyl Slabbert Commission)

2006 The Govender commission led by Hon Member Pregs Govender (ANC)

2006 COSATU called for a referendum on Electoral reform.

2013 Private Member's Motion by Hon Member James Selfe (DA)

2017 High Level Assessment Key Legislation and acceleration of fundamental change by ex-President, Hon Kgalema Motlanthe

2020 Private Member's Motion of Hon Member Mosiuoa Lekota (COPE)

2021 Majority recommendation of the Valli Moosa Ministerial Advisory committee as appointed by the Minister of Home Affairs.

June 11 Judgement - The Trigger is Pulled

In delivering his judgment in the Constitutional Court on June 11, 2020, MADLANGA J made the following point:-

“A fully functional edifice that provided for exclusive party proportional representation was in place and worked perfectly for the first two democratic elections. Why dismantle it, if exclusive party proportional representation is what the Constitution requires?”

I think what this is indicating is that section 19(3)(b), read with section 18 and the other cognate rights, must be given its full effect. And I have indicated above what that effect must be.”

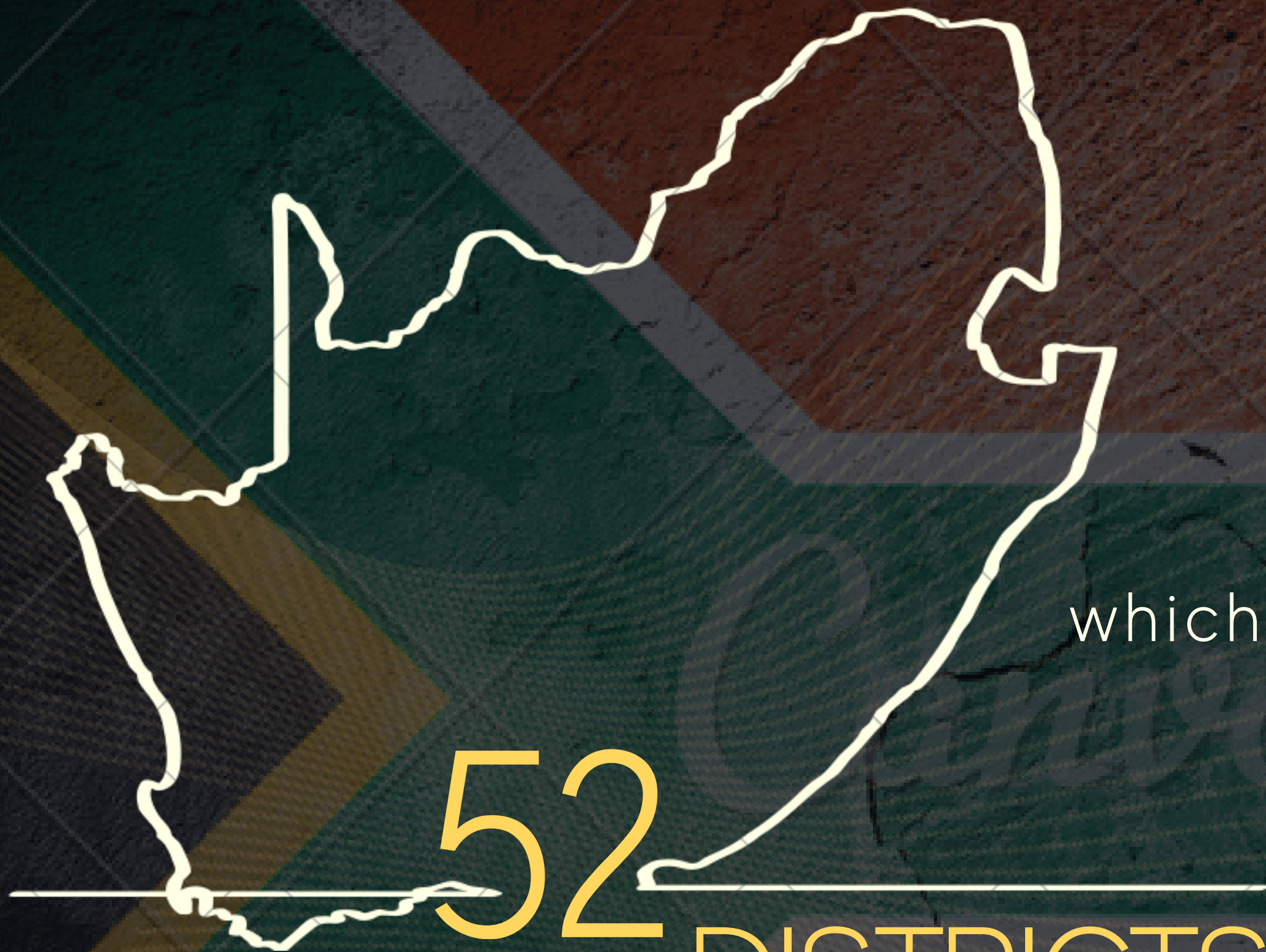
The Electoral Act was deemed, in part, to be unconstitutional and parliament was given two years to fix it. The trigger is pulled.

"– does it fulfil the sacred principle of the South African freedom struggle: One Person One Vote of Equal Value. On the face of it, the current bill does not fulfil the 'equal value' principle;

– in all of the public consultations held by the Ministerial Advisory Committee in 2021, not a single member of the public, academic expert, civil society organisation or political party had proposed the system that currently features the Bill. The Committee is urged not to take this fact lightly; "

– Valli Moosa

Chairman: Ministerial Advisory Committee

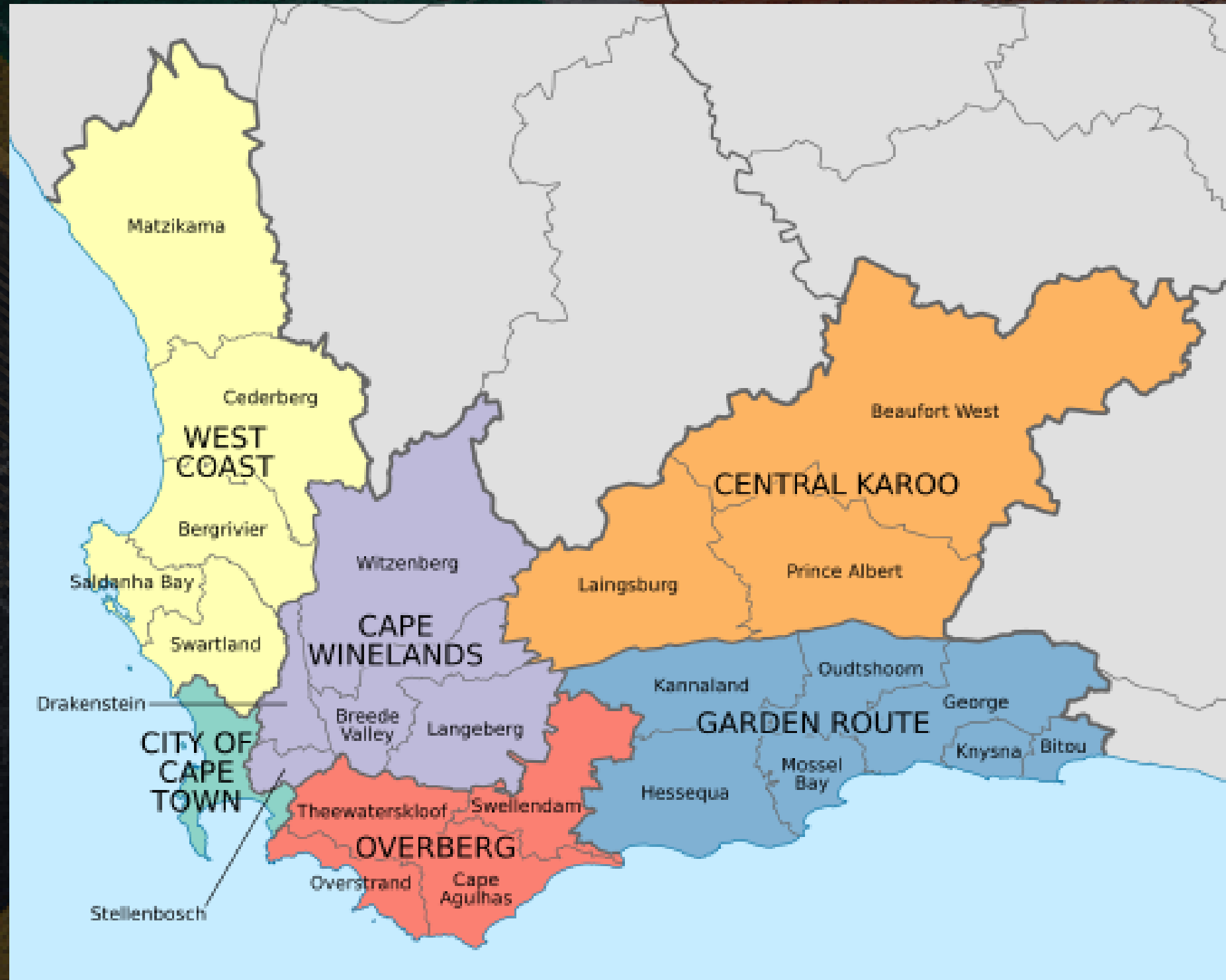


8 Metros +
44 District Councils
= 52 Districts

which could be used to create
52 constituencies

52
DISTRICTS CREATING
52 CONSTITUENCIES

for EXAMPLE - Western Cape



1. West Coast
2. Cape Winelands
3. Central Karoo
4. Overberg &
5. Garden Route +
Cape Town Metro

EXAMPLE – Final Number of Seats to be contested in WESTERN CAPE

DISTRICTS	REGISTERED VOTERS	PERCENTAGE	PROVINCIAL SEATS	PROVINCIAL FINAL	CONSTITUENCY TO NA SEATS	NA FINAL
WEST COAST	187 386	6%	2.1	2	2.1	2
CAPE WINELANDS	418 016	13%	4.55	5*	4.55	5*
CENTRAL KAROO	37 907	.2%		1		1
CAPE TOWN	2 019 755	64%	22.4	22	22.4	22
OVERBERG	139 338	4%	1.4	1	1.4	1
GARDEN ROUTE	326 165	10%	3.5	4*	3.5	4*

**VOTES REQUIRED BY INDEPENDENTS TO
OBTAIN NATIONAL ASSEMBLY SEATS,
BY REGION, IN THE CURRENT ELECTORAL
SYSTEM**

The Quota is the number of votes required by an independent candidate to guarantee a seat in each region.

The figure for Parties is an adjusted overall figure of the number of votes required by a political party across the whole country.

2024 – Independents Votes per Region

Region	Seats	Quota
Eastern Cape	25	69 000
Free State	10	75 000
Gauteng	47	82 000
KwaZulu-Natal	41	83 000
Limpopo	20	67 000
Mpumalanga	15	71 000
North West	13	63 000
Northern Cape	5	66 000
Western Cape	24	79 000
Parties	400	40 000

**ESTIMATED VOTES REQUIRED BY
INDEPENDENTS TO OBTAIN NATIONAL
ASSEMBLY SEATS, BY REGION, IN 300 /
100 CONSTITUENCY SYSTEM**

The Quota is the number of votes required by an independent candidate to guarantee a seat in each region.

The figure for Parties is an adjusted overall figure of the number of votes required by a political party across the whole country.

2024 – Independents Votes per Region

Region	Seats	Quota
Eastern Cape	38	46 000
Free State	16	49 000
Gauteng	72	54 000
KwaZulu-Natal	62	56 000
Limpopo	29	47 000
Mpumalanga	22	50 000
North West	19	44 000
Northern Cape	7	49 000
Western Cape	35	55 000
Parties	400	40 000

ELECTORAL SYSTEM PROPOSED

- Multi-Party constituency system
- Open nomination of candidates
- Proportional Representation
- Independant Candidates to be given equal chance
- 300 multi member constituency system
- 100 members proportional
- Direct election of President and Premiers
- Recall clause

ELECTORAL SYSTEM TO ACHIEVE

- One vote of equal value
- Multi party democracy
- Protection of minority rights
- More accountability to voters and not to party.

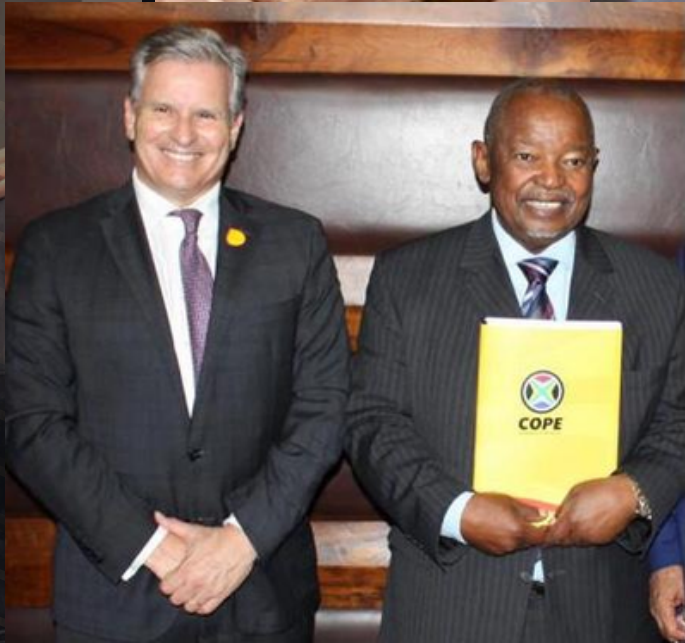
Current Status Quo of Electoral Bill:

Joint Briefing: PC on Home Affairs, PC on Cooperative Governance and Traditional Affairs and Select Committee on Security and Justice: Briefing by the Minister of Home Affairs and the Electoral Reform Consultation Panel (ERCP) on its Report on the Electoral System Options for National and Provincial Elections in South Africa.], Committee Room 2, 90 Plein st, CT

09:00 – 13:00

TUESDAY, 31 MARCH 2026

The Journey was long & hard - but the company was good



"The best time to plant a tree was 35
year ago - Now is the time for the
second transition"



THE IDEAL THAT "THE
PEOPLE SHALL GOVERN"
IS ONE WORTHY OF
ATTAINING.



END

thank you