

2019

# Election Observers Report on NPE



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5/13/2019

## Contents

Introduction and Background .....	1
Purpose .....	3
On the Environment: .....	5
Violence Monitoring Mission .....	5
Service Delivery and Industry-related Protests .....	6
Changes to legislation .....	8
Challenges IEC .....	8
Key Issues arising from observers .....	8
Political Party Agents .....	8
Positives on Elections .....	9
Preliminary suggested recommendations to the IEC .....	9
Endorsement of Election Process .....	10
On voter turnout: .....	12
The results: .....	13
Implications for governance... ..	14
References: .....	15
Acknowledgements:.....	15

## Introduction and Background

There were various observer missions deployed across South Africa, both on Election Day, May 8<sup>th</sup> 2019 and the special voting days preceding this. Even before this period, the Democracy Development Program had been engaged in a number of programs intended to create a conducive environment for the exercise of people's rights to vote. Chief among these, was the institution and training of Violence monitoring cohort, and the implementing part for this engagement having been the KwaZulu Regional Christian Council. An overview of the levels of violence related to politics and the election then guided the DDP's efforts in the process, and in conduction 4 Multiparty Dialogues in 4 areas in KZN (Durban Central, Pietermaritzburg, KwaMashu and Mkhambathini).

This culminated in a collective effort to monitor the 2019 National and Provincial Election. This was done through institutional collaboration between Democracy Development Program, Activate! and Independent Lawyers, Ngidi and Company (who were deployed by the KZN Department of Community Safety and Liaison).

Given the above collaboration, DDP deployed 100 observers across KZN, and Activate! Deployed 200 observers across the country.



***DDP Election observers at a 2-day training in preparation for the 2019 National and provincial elections at Diakonia Centre.***

The role of the observers, deployed through civil society organizations was to enhance electoral integrity by deterring and exposing irregularities and fraud, deterring and mitigating potentials for election-related violence and offering recommendations for improving electoral and political processes. We sought to promote public confidence as the election process warrants and to promote citizen participation in government and public affairs through electoral processes that are free of proscribed discrimination and unreasonable restrictions.

The DDP and Activate! greatly appreciate the efforts of the various Community Based Organizations, Entrepreneurs, Inter-faith groups and academics for having provided their

services on a largely voluntary basis. This indeed shows the weight of the potential strength of Civil Society, when engaged meaningfully in partnership, towards the development of our communities and institutions alike.

Ngidi and Company, recruited and deployed 200 senior lawyers in KZN under the auspices of Xolile Ntshulana attorneys who had been accredited by the IEC. The attorneys were then deployed throughout the province, in various hotspots, as identified by South African Police Service.

The implementing agent of the observe mission, Ngidi and Company, wishes to thank the senior attorneys of KZN, who included, among others, Acting Judges, Magistrates, Prosecutors and Senior Attorneys, for their services. This is a contribution unique to lawyers in KZN, which is marvelled by all the provinces of the Republic and is a living proof of the maturing of our democracy as these lawyers provide instant legal quality assurance.

The role of this group of observer attorneys was amongst others, to monitor and assess whether there is a conducive environment to deliver free and fair elections within the purview of the Electoral Act and the Constitution of the Republic of South Africa, and to provide free legal advice to the community operating within the VD (election officials, voters, party agents). They also had to identify potential inadequacies in the electoral regulatory framework.

## Purpose

Genuine democratic elections are the peoples' collective expression of sovereignty and an inalienable right of citizens. These precepts are recognized in national constitutions the world over and in international human rights instruments of the United Nations, regional intergovernmental organizations and other bodies.

The Universal Declaration of Human Rights article 21 states that:

*“The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret ballot or by equivalent free voting procedures.”*



***IEC officials at a DDP Media briefing in preparation for the elections.***

Article 25 of the International Covenant on Civil and Political Rights (ICCPR, a treaty among 165 countries at this date) states that: *“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 [that is, race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status] and without unreasonable restrictions: ... To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors...”* The election related rights set forth and opportunities called for in those two articles are based on their explicit recognition that every citizen has the right to take part in government and public affairs, either directly or through freely chosen representatives.

In South Africa, the Electoral Act gives effect to the principles embodied in our constitution, as it relates to democratically elected government. The Electoral Act contains an Electoral Code of Conduct aimed at promoting “conditions that are conducive to free and fair elections” and that create a climate of tolerance, free political campaigning, and open public debate.

## On the Environment: Violence Monitoring Mission:



*DDP election violence monitoring training at Diakonia Center in preparation for the 2019 elections.*

**D**uring 2016 local government elections more than 20 councilors were assassinated and to date only one person has been arrested as a result of that. As the country is preparing for the provincial and national elections politicians fear for their lives as the history might repeat itself.

It also emerged during the monitoring review meetings with the monitors in 2016 that KZN violence wasn't necessarily electoral in nature. Reasons behind the killings were said to be associated with candidate lists more especially with the ruling party. That was echoed by the report of the Moerane Commission which had been deployed by the Premier to investigate factors behind the political killings in the province. The election monitoring was one of the structures that informed the report by giving testimony based on reports from monitors. The report of the Commission ruled out the notion that violence in the province was politically motivated. Rather, it was more of power and economic reasons amongst the politicians in municipalities and districts.

In view of the above, the election monitoring mission was therefore deployed in potentially hotspot areas since August 2018 to investigate and report on incidences that will affect the credibility of the upcoming elections. The electoral cycle consists of an ongoing voter and democracy education which enables people to see the need to vote and understand why they need to vote anyway.

From 2016 local government elections we learnt that conflicts were mainly from within. Very few incidences that were disturbing were fueled by the inter political conflicts. Even the

killings of the ANC councilors were said to be from within. That was intra party conflict. In view of that the desk had to look at the deployment in the context of that in mind. That `s the curriculum of the monitors made a clear distinction between electoral violence and violence fueled by the socio-economic factors. Unlike in the late 90s when killings were mainly about which political party you belonged to, today that is no longer an issue. Our democracy has shown signs of maturity. We hardly hear of peopled assassinated as a result of their political affiliation. Therefore, this mission keeps on being updated to suit the socio-political climate of that time.

### Service Delivery and Industry-related Protests

- eThekweni Industrial Action
- Bergville, Estcourt (Okhahlamba)
- Umlazi protest
- Lindelani/Ntuzuma protest



***Service delivery protest at Masiphumelele a township in Cape Town (picture: Nic Bothma/EPA)***



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## **KZN's troubles spill over into elections - 6 arrested, voting stations closed due to protests [Kaveel Singh 2019-05-08 17:04]**

Scores of voters in parts of KwaZulu-Natal have still not been able to cast their ballots as the province emerged as one of the most troublesome on Wednesday, numerous protests disrupting voting.

Four voting stations remained closed by the afternoon in Bergville due to protests with five people arrested in the area, said police spokesperson Brigadier Jay Naicker. He said another protester was arrested in Ntuzuma.

Naicker said residents showed a blatant disrespect for election processes by blockading several roads, restricting access to voting stations.

The party that wins the elections has a responsibility to live up to people's expectations, former president Thabo Mbeki says. Mbeki cast his vote at the Holy Family College in Killarney on Wednesday afternoon. Many of the protests emerged in the early hours of Wednesday, he said.

He said police were now focusing on maintaining order this afternoon. Voting closes at 21:00.

"We are gearing up for the afternoon session. From our previous experience, we know that people drink during the day and become disorderly at voting stations during the afternoon," said Naicker.

KZN acting provincial election officer Ntombifuthi Masinga said while the majority of voting stations were opened in the province, at least 80 in eThekweni had been temporarily closed on Wednesday morning due to service delivery protests. She said voting stations affected included Umbumbulu, Adams and Folweni. Masinga said trenches were dug up on roads leading to voting stations in Estcourt, Bergville and Masinga.

The trenches were filled by police and KZN department of cooperative governance and traditional affairs officials.

Masinga said protesters in the Mdoni municipality allegedly used the same modus operandi as those in Estcourt and Bergville, affecting three voting stations in the Okhahlamba district. She said a special team of Electoral Commission of South Africa (IEC) officials and police had been sent to the area. By late morning Masinga said that 14 of the 17 voting stations that remained unopened throughout SA were in KZN.

Majority of the voting stations were located on the southern coast of KwaZulu-Natal.

"The Electoral Commission is working closely with security agencies supported by government departments to open these stations as soon as possible and safe for voters and election staff."

[Article originally appeared on News24]

### Changes to legislation

- Party Funding Bill
- Functioning of Electoral Court
- Eligibility of Individual Candidates to contest national and provincial elections

### Challenges IEC

- Budget Cut towards the functioning of IEC (hence a single voter registration drive in 2019)

### Key Issues arising from observers

1. In some stations presiding officers did not have identification garments
2. Some stations ran out or had not received voting material at the time of opening
3. Some electoral staff were not properly trained as it was observed that some don't know the difference between an observer and a party agent.
4. Some stations reported malfunctioning scanners
5. People were seen leaving voting stations because they have been waiting for too long for material
6. IEC representatives were not adequately clued up on the process of Section 24(A). Some of the officials either dismissed the intended voters, or as they ran out of materials, wrote on scraps of paper. This document compromised the nature of what an affidavit is meant to be (Differentiation between National and Provincial votes)
7. Official IEC vehicles

### Political Party Agents



***Political party agents outside voting station at Inanda, Durban.***

1. Party agents were overwhelming by their presence at some stations;
2. In other stations party agents were seen intimidating voters and observers;
3. Some parties did not adequately train and deploy their agents, which made it difficult for them to accept some of the results emerging from the various voting districts
4. Party colours

### Positives on Elections

1. Most stations opened on time;
2. There seemed to be a strong presence of police officers in voting stations;
3. Continuous flow of information from the IEC on the media – both print and electronic;
4. Accessibility of senior election officials from the provincial electoral commission in responding to challenges and queries relayed to them by observers;
5. Visible coordination between the electoral officials and security agencies (SAPs) in responding to incidences of violence and voter intimidation;
6. Rapid response by the IEC towards the elections rigging complaints in parts of KZN

### Preliminary suggested recommendations to the IEC

1. Hiring and recruitment of staff
2. Presiding officers should be trained on how to handle queries from voters and observers, especially regarding voting processes.

3. Presiding officers should wear identifiable garments all the time so that voters and observers easily identify them.
4. The IEC should ensure that all voting stations are adequately provided with scanners, stationary and INK.
5. Infrastructure that is conducive for the physically challenged persons should be provided including suitable voting venues where such persons can access with ease;
6. The IEC should create better mechanisms for live capturing of whether a voter has cast their vote or not. The current mechanism has created multiple complications related to the issue of Section 24(A).
7. Vetting processes to be heightened (Party political appointments)
8. Staffing: Voting and Counting – Change of shift/ 17/24 hr work day

## Endorsement of Election Process

The quality of an election process typically reflects the democratic character of governance leading to an election and can be an important indicator of the nature of government that results from an election. The skills and networks developed in non-partisan election observation and monitoring have allowed citizens across the globe not only to sustain their on-going electoral integrity activities, but also to strengthen and expand their monitoring, advocacy and accountability efforts to promote representative, transparent and accountable democratic governance.

***Voters were generally highly satisfied with their voting experience in the 2019 national and provincial elections and overwhelmingly believed the election procedures to be free and fair.***

This is according to the results of the election satisfaction survey conducted on election day on May 8 by the Human Sciences Research Council (HSRC), the Electoral Commission of SA (IEC) said in a statement on Thursday.

The survey was conducted at a sample of 300 voting stations countrywide selected to be nationally representative. At each voting station, 50 voters were interviewed across four different time slots to ensure a fair reflection of the different conditions during the day.

The findings of the survey showed that:

97% of voters expressed satisfaction in the secrecy of their vote;

95% believed that the election procedures were free and fair;

96% expressed general satisfaction with the quality of services rendered by election officials;

96% expressed satisfaction with safety and security at voting stations;

95% were satisfied with the ballot papers and found it easy to find their party of choice;

and

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*“A further 9-million eligible citizens chose not even to register as voters”*

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84% were confident or completely confident that their vote would be accurately counted. In terms of overall confidence in the electoral commission, 92% of voters indicated that they trust or strongly trust the Electoral Commission in general.

The results are generally in line with the findings in both the 2014 and 2016 elections. "Encouragingly, the number of voters who said they were very satisfied with the secrecy of the vote grew from 62% in 2016 to 68.5% in 2019," the IEC said.

In terms of political party tolerance, 64% of voters said parties were "very tolerant" of one another and 21% said they were "somewhat tolerant". This is a slight increase over 2016 (61% very tolerant and 21% somewhat tolerant).

In terms of accessibility, the survey found that 68% of voters took less than 15 minutes to reach their voting stations (64% in 2016) with 22% taking between 16-30 minutes (23% in 2016), 7% taking between 31-60 minutes (8% in 2016) and 3% more than an hour (same in 2016). On average, voters waited 16 minutes to vote (17 minutes in 2016 and 16 minutes in 2014).

In its report, the HSRC said that based on the 13 750 interviews conducted on election day it found that the public was overwhelmingly confident that the elections were free and fair.

"These voters evaluations point firmly to the continued integrity of elections in the country," the HSRC said.

<https://www.polity.org.za/article/most-voters-satisfied-following-elections-survey-finds-2019-05-16>

#### Limitations:

- Low voter Turnout of registered voters
- Non-registration of significant amount of young people

Since 1994, voter turnout percentages in SA have been between 89%, the highest, and 73% in 2014. Last week's turnout of 65.9% was exceptionally low (excluding municipal elections). By comparison in elections held last year, Brazil had a voter turnout of 79.6% and Italy 73%. These non-voters in SA sent a clear and serious message to all the political parties, and unless they take heed and act progressively upon it, it could have serious implications for South Africa's political engagement.

Of the total of 26,779, 025 registered voters in SA, 9.15 million chose not to vote; a further 9-million eligible citizens chose not even to register as voters; and 235,472 voters spoiled their ballot papers by accident or design. Together these 18.35 million non-voters represent by far the biggest bloc of voters in the election – a million more non-voters than the little over 17 million voters who voted for the ten parties that will now be in Parliament. This creates opportunity for us to engage the current parliament as possibly not being wholly legitimate.

As a collective of over 300 observers deployed across KZN, and 200 nationally, we endorse the elections as having been demonstrating the will of those who engaged in the voting process.

## 2019 National and Provincial Elections: A brief look into the results

On voter turnout:



***Voters queuing to vote at Wesritch Sport Ground on the 08<sup>th</sup> May 2019***

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the biggest bloc of voters in the election – a million more non-voters than the little over 17 million voters who voted for the ten parties that will now be in Parliament. This creates opportunity for us to engage the current parliament as possibly not being wholly legitimate.

### The results:

The African National Congress(ANC) maintained its overall dominance by winning more than 57% of the national vote, while the Democratic Alliance(DA) came second with 20% and the Economic Freedom Fighters(EFF) received 10% (Elections.org.za, 2019). The ANC also maintained its dominance in most rural areas. The DA maintained its urban (and rural) appeal in Western Cape as well as its urban appeal in Gauteng, winning 27% while slightly increasing its voter share in Northern Cape to 25% (Elections.org.za, 2019). The EFF gained in all provinces and overtook the DA to become the official opposition in Mpumalanga.

Rounding off the top 5, the IFP made impressive inroads in rural KwaZulu-Natal, most likely due to its historical strength in the Zululand area as well as its appeal to a section of Zulu-speaking people, particularly in northern KwaZulu-Natal. However, these inroads for the IFP came on the back of a drastic decrease in support for the National Freedom Party. Freedom Front Plus(FF+), another party with an ethnically defined base, also made inroads in northern rural areas where there is a high Afrikaner presence (Feketha, 2019). The party's gains could be attributed to its mobilisation against land expropriation without compensation.

The ANC experienced its biggest drop of support in the country in 2019 in KwaZulu-Natal, falling by almost 10 percentage points to its lowest ebb in over a decade. The big winners have been the Inkatha Freedom Party, taking over the position of official opposition from the DA, and the EFF, which quadrupled its vote.

The resurgence of the IFP in KwaZulu-Natal might in some ways seem mysterious, particularly if one considers that three of the 20 worst-performing municipalities in the country – according to Good Governance Africa's 2019 rankings – are in KwaZulu-Natal and controlled by the IFP.

Yet the IFP's success makes more sense if one takes into account the almost total collapse of the National Freedom Party (NFP), which dropped around five percentage points – almost exactly the margin gained by the IFP – in the provincial poll on 8 May.

As the NFP was a breakaway party from the IFP, it is reasonable to assume that its collapse led many of its former supporters to return to their original political home.

The reasons behind the NFP's decline, meanwhile, are not rocket science: the party failed to contest the 2016 local government elections after failing to pay its deposit in time, its leader has been virtually absent from public view for the last few years due to illness, and three other high-ranking party officials have defected in the last few months to other political homes.

In a province that has been viewed as impenetrable to the EFF, the Fighters took their support from less than 2% of the provincial vote in 2014 to close to 10% in 2019. In real terms, it was an increase of more than 250,000 votes.

## Implications for governance...



### ***Voting stations Inanda***

On the national picture, and ANC's continued role in governance, analyst Stef Terblanche argues that: *" if one accepts the ANC will now have to operate as 'just another ordinary political party', to do so effectively it will have to modernise and change its constitution, its decision-making processes and its chain of accountability. In its current format it is the ANC's NEC that governs the country, and not the president and his executive. The collective policy and decision-making function will have to become restricted to national conferences. The role of the NEC between conferences will have to be more of an advisory one, and one that is focused on internal organisational matters and issues like discipline, and it will have to be separated from matters of governance."*

Between national conferences, the state president and his executive should be given more decision-making and leadership autonomy, unfettered by the party's internal political processes, divisions and squabbles. The second big imperative for both the ANC and the economic reform agenda to succeed, will be an end to cadre deployment and rebuilding a professional, efficient and suitably qualified public service capable of implementing and delivering government programmes. That extends also to state-owned enterprise with their developmental mandate. In both instance corruption also needs to be rooted out fully.

When we look at the picture in KZN, the resurgence of the IFP as official opposition brings an interesting dynamic given the IFP's previous role in leading the province after 1994. Much of the IFP's contestation and campaigning in the run up to the 2019 elections (amongst others) has been the fact that they were central to the development of KZN, through the RDP process, and the building of other institutions such as the Mangosuthu University of Technology. It is that technical knowledge of the nature of governing in a largely rural and conservative province that the IFP will generally rely on. The IFP, will further need to show to new/potential voters that they have the capacity to successfully create succession of leadership within the party without impacting the popularity and visibility of the party. Much of it's detractors in the past, had spoken about the fact that the IFP has been reluctant to grow, and embrace internal democratic growth (hence the breakaway NFP), but with the insistence of Prince Mangosuthu Buthelezi that he will be stepping down in the upcoming election, as well as the voice given to the youth (through the deployment of relatively young persons quite high up on the party list), this demonstrates their intention to grow with the times.

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#### Acknowledgements:

**Konrad Adenauer Stiftung**

**Activate Change Drivers**

**KwaZulu Regional Christian Council – Mxolisi Nyuswa**

**Election WatchDesk - Lukhona Mnguni**

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