

How our democracy works

The Constitution

South Africa is a constitutional democracy. The Constitution is the highest law. No person can go against it, not even the President. Parliament cannot pass any laws that go against it. The courts and the government must also make sure that what they do is constitutional. The Constitution guarantees democracy through giving every person over 18 the right to vote and ensuring one voters' roll for all adult citizens, regular elections, and a multi-party system of government. These important parts of the Constitution can only be changed if 75% of the members of the National Assembly and six of the nine provinces agree. All aspects of how our democracy works are explained in the Constitution.

What is democracy?

The word 'democracy' comes from the Greek word *demokratia* which means 'government by the people'.

- Democracy is a balance between 'might' and 'right'. The state takes all the power (it has all the 'might'), but its power must be limited so that it does not abuse this power (to make sure it does 'right'). The Constitution guarantees the independence of the courts and establishes six independent institutions to protect citizens: the Public Protector, the Human Rights Commission, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Minorities, the Commission for Gender Equality, the Auditor General and the Independent Electoral Commission.
- Democracy is about balancing rights and responsibilities. Citizens can expect the government to do things for them like providing protection, health services, education and housing. Citizens also have responsibilities like obeying the law and paying tax to the state.
- Democracy is about balancing the rights of the majority with protection for minorities.
- Democracy is about achieving a greater balance in society so that there is greater equality for all over a period of time.

The first democracy was established in Athens in Greece around the 5th century BC. This was a *direct* democracy in which the citizens participated directly in the government of their city. This system would not be called a democracy today because women and slaves were not regarded as citizens. South Africa is a *representative* democracy. This means citizens do not govern the country themselves, they elect (vote for) other people to *represent* them in government. The Constitution says there are three spheres of government: national, provincial and local. The citizens choose their representatives in elections for national government (Parliament), provincial government (the nine provincial legislatures), and local government

(municipalities and district councils). Elected representatives are said to 'hold seats' in these bodies.

The state

The state includes the government of the day, Parliament, the courts, the police, the army and the various government departments. The state is permanent - it remains in place even if the government changes.

The government

The political party that wins the majority of seats in an election for Parliament (more than 50%) has the right to form the government. It is called the majority or ruling party. The other parties are called minority parties or opposition parties. The government is not permanent - the citizens give it the right to rule the country for five years. The Constitution explains that the President is elected by Parliament after an election. He or she forms the government by appointing the Deputy President and the Cabinet. The Cabinet is made up of the President, the ministers and the deputy ministers. Each minister leads a government department. For example, the Minister of Finance leads the Department of Finance.

Elections

The Constitution says elections for Parliament must be held once every five years. Every citizen over the age of 18 who is registered can vote. The group of people who are entitled to vote is called the electorate. If the majority of voters are not satisfied with what the government has been doing, they will be able to vote it out of power. The party, which wins the next election, will become the majority party and will therefore be able to form a new government.

Electoral systems

There are two major kinds of electoral systems in the world's democracies:

- *Constituency-based* systems in which the voters in each local area (constituency) elect an *individual candidate*. The person who wins the majority of votes in each constituency becomes a member of Parliament (MP). The party with the majority of MPs forms the government. In this kind of system the individual MP holds the seat, not the political party he or she belongs to. This means MPs can 'cross the floor' to join another party and still keep their seats.
- *Proportion representation* systems in which the electorate in a large area (for example, a country or a province) vote for *political parties*. The political party chooses the people who will become its MPs. Each party is allocated a number of seats, which is proportional to how many votes it got in the election. Here the political party holds the seat, not the individual MP. MPs in this kind of system cannot 'cross the floor' to join another party and still keep their seats.

Before 1994 South Africa used a constituency-based electoral system. Since then national and provincial elections have used proportional representation

and party lists. Local government elections use a mixture of proportional representation and constituency-based representation.

How our Parliament is elected

Parliament is elected using proportional representation and party lists. Before the election each political party submits a list of its candidates in a *numbered order of preference*. This means the most popular candidate will be no. 1, the next no. 2 and so on. After the election the percentage of votes cast for each party is worked out. The seats in Parliament are allocated in proportion to the number of votes cast in the election. This means a party that won 10% of the votes will get 10% of the seats. If a party wins 20 seats, the first 20 people on its party list will become MPs.

The separation of powers

Another important way that the Constitution protects democracy is by separating the power of the state into three parts or 'arms': the legislature (Parliament, the nine provincial legislatures and local councils), the executive (the part of government which runs the country from day to day), and the judiciary (the courts).

- The most important work of the legislature, especially Parliament, is to make the laws of the country and to monitor the executive. Parliament is elected to represent the people and ensure government by the people under the Constitution. Parliament elects the President and can remove him or her from office.
- The work of the executive is to make policy, to propose laws to enable this policy to be carried out, and to implement the laws passed by the legislature. The majority party which forms the government was elected on the basis of its policy and as a government it has a duty to carry out this policy. The executive is the President, the Deputy President, Cabinet ministers (for example, the Minister of Education) and deputy ministers. The President appoints the Cabinet.
- The work of the judiciary is to try cases and to administer justice. The Constitution says the courts must apply the law impartially (without bias). The judiciary is made up of the Constitutional Court, the Supreme Court of Appeal, the High Courts, magistrate's courts and any other courts established by Parliament. Judges are appointed by the Judicial Services Commission.

In a democracy the power of the state is limited, separated and controlled so that:

- the legislature does not administer laws and does not function as a court of law
- the executive does not exercise legislative or judicial power
- the judiciary does not have legislative or executive powers.

This separation of powers makes sure that citizens are protected from abuses of state power. Each arm of the state holds the powers of the others in check. The courts can judge the actions of the legislatures and the executive but it

cannot make laws or take executive action. The executive can run the affairs of the country but it cannot make court judgments or pass laws. The legislatures can make laws but they cannot make court judgments or take executive action.

How you can participate in Parliament

The Constitution says that there must be public participation in what goes on at Parliament. You have the right to attend the meetings of parliamentary committees, the sittings of the National Assembly, and the sittings of the National Council of Provinces. You also have the right to contact any MP or parliamentary committee to tell them what you think about an issue they are discussing or to tell them about what you think they should be discussing. Parliament has a duty to take the views of the public into account when it passes a law. The word 'Parliament' comes from the word meaning 'to speak'. Make sure that you use your right to speak on an issue you feel strongly about.